

Frequently Asked Questions on FATCA

1. What is FATCA?

FATCA is the Foreign Account Tax Compliance Act which is part of the Hiring Incentives to Restore Employment Act passed by the United States (US) Congress on 18 March 2010. The US Government has stated that FATCA is geared towards combatting tax evasion by US persons with US sourced income in Foreign Financial Institutions (*FFIs*) outside of the US.

2. Who is a US person?

The term “United States person” means a U.S. citizen (including dual citizens); a U.S. resident alien for tax purposes; a domestic partnership; a domestic corporation; any estate other than a foreign estate; Trusts:

1. That a court within the United States can exercise primary supervision over the administration of the trust, and
2. Where one or more United States persons have the authority to control all substantial decisions of the trust.

3. What is a Foreign Financial Institution (FFI)?

Foreign Financial Institutions (FFIs) are institutions that:

- accept deposits in the ordinary course of a banking or similar business.
- as a substantial portion of its business, holds financial assets for the account of others.
- are engaged (or holding itself out as being engaged) primarily in the business of investing.
- are involved in reinvesting, or trading in securities, partnership interests, commodities, or any interest in such securities, partnership interests, or commodities.

4. How will FATCA work?

FFIs would be required to register with the US Internal Revenue Service (IRS) and would be assigned a Global Intermediary Identification Number (GIIN). FFIs would be required

to submit information on persons with US indicia who hold accounts with them or own over 10 per cent (10%) of an entity that has an account with the FFI, where the accounts are valued over US\$50,000.00.

5. As a customer, how will FATCA affect me?

All customers will be subject to an electronic perusal of their account information. This perusal seeks to determine which accounts have US indicia. US indicia include whether a customer has US citizenship or permanent residency. It also includes the use of US address, Post Office Boxes and US telephone numbers. If these basic levels of indicia are identified, the customer will be required to disclose their legal name, address, and Tax Information Number (TIN). This information, as well as the account number, the account balance and the gross receipts and gross withdrawals or payments from the account will be sent to the IRS.

6. What are the consequences to customers for not disclosing the information required by FATCA?

Customers who do not disclose the requisite information to an FFI will have their accounts flagged as non-compliant. The FFI will be required to eventually close the account if the information is not received within a specified period of time. Until the closure of the account, a 30.0 per cent levy will be applied to any payment of interest, rents, royalties, salaries, wages, annuities, licensing fees, income, and profits derived from sources within the US.

7. When is the commencement date for FATCA?

The implementation of FATCA is slated for 1 July 2014. Customers holding accounts which predate the implementation date will be required to update their account information.

Please contact your financial institution for more information on the implementation of FATCA or visit

[http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-\(FATCA\)](http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-(FATCA))