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Foreign Account Tax Compliance Act policy

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Background

The Foreign Account Tax Compliance Act ("FATCA") is U.S. legislation which was signed into U.S. Law on 18 March 2010, as part of the U.S. Hiring Incentives to Restore Employment (HIRE) Act. The fundamental objective of FATCA is to identify those U.S. persons who may be evading tax through the use of offshore investment vehicles and to ensure that the Internal Revenue Service ("IRS") can identify and collect the appropriate amount of tax from all U.S. persons.

Although the primary purpose is prevention and detection of tax evasion by U.S. person, FATCA will have significant impact across financial markets and will affect non-U.S. companies and individuals. FATCA requires all foreign financial institutions ("FFIs") to register with the IRS, perform due diligence to identify U.S. accounts and report client data to the IRS directly or to their local government through an Intergovernmental Agreement ("IGA"). FFIs that do not comply will suffer a 30% withholding tax on all U.S. sourced income or payments remitted to them by U.S. paying agents or other FFIs.

Project management

TMF Group has taken several measures towards becoming FATCA compliant. The FATCA compliance project group for TMF Group entities bears responsibility for compliance with the full range of FATCA requirements of all TMF Group in-house entities (for the avoidance of doubt, not including any client entities we manage or otherwise provide services to). Having completed an in-depth impact analysis, this project group started a preliminary FATCA classification of all TMF Group in-house entities as of July 2013. Upon completion of this classification, having determined the registration requirements for all of the in-house entities, registration will commence the latest on 1 January 2014 on the IRS Registration Portal and is scheduled for completion by 25 April 2014, the GIIN Registration Deadline for inclusion on the first 2014 list. A GIIN is the identification number used to identify the FFI for FATCA registration purposes.

On-boarding

TMF Group has scheduled a review of its client on-boarding process for the first half of 2014. Upon completion of this review, the on-boarding process will enable TMF Group to collect all information required to comply with FATCA reporting obligations. This review will in any event be completed prior to the 1 July 2014 deadline. As of 1 October 2014, all new clients will be asked for their FATCA classification.

Current clients

TMF Group drafted a communication for all clients regarding the approach TMF Group is taking in respect of FATCA and their respective engagement. This communication will be sent to all clients by their respective service lines. Depending on the type of service provided, TMF Group may need to act on behalf of the client in order to ensure that the client is able to comply with its FATCA obligations. As part of this communication, each service line will mention what action is expected.



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Assistance to clients

Although TMF Group is not able to offer advice in relation to FATCA, we would be pleased to assist in engaging proper advisors in this respect for its clients. In addition, we can assist our clients with their classification and registration obligations in order to achieve FATCA compliance. The FATCA compliance project group for Client Entities bears responsibility for the assistance of clients with their classification and reporting obligations if so required.