

# FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA)

## Frequently Asked Questions (FAQs)

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### 1. What is FATCA?

The Foreign Account Tax Compliance Act (“FATCA”) is a United States (“US”) law that was signed on March 18, 2010. FATCA is aimed at foreign financial institutions (“FFIs”) and other financial intermediaries to prevent tax evasion by US citizens and residents through use of offshore accounts. FATCA was introduced by the United States Department of Treasury (Treasury) and the US Internal Revenue Service (“IRS”), to encourage better tax compliance by preventing US Persons from using Banks and other Financial Organizations to avoid US taxation on their income and assets.

The FATCA became effective from 30 June 2014.

### 2. What is a Foreign Financial Institution (“FFI”)?

A foreign financial institution (FFI) is any non-US entity that:

- accepts deposits in the ordinary course of a banking or similar business; or
- as a substantial portion of its business, holds financial assets for the account of others; or
- is engaged (or holding itself out as being engaged) primarily in the business of investing, reinvesting, or trading in securities, partnership interests, commodities, or any interest in such securities, partnership interests, or commodities; or
- an insurance company that issues annuities or cash value insurance policies,

Generally non- US entities such as banks, broker/dealers, insurance companies, hedge funds, securitization vehicles, and private equity funds will be considered FFIs.

### 3. What is an inter-governmental agreement (“IGA”)?

An IGA is an agreement or arrangement between the US or the Treasury Department and a foreign government or one or more agencies to implement FATCA by building FATCA compliance into the country’s legal framework.

An IGA will require FFIs to provide the information on US accounts which they hold either:

- to the local tax authority or relevant regulatory body of the resident country (Model 1 IGA); or
- directly to the IRS (Model 2 IGA)

### 4. For FATCA purposes, what does a US person mean?

The term “US person” means any person or corporate or entity that falls in any of the following category:

- A citizen or resident of the US;
- Any person who holds a US passport;
- Any person who holds a US citizenship (sole or dual);
- Any person who holds a US Green Card;
- Any person who was born in the US;
- Any person who is a non- US citizen or resident but has substantial presence in the US and meets the substantial presence test as contained in the Internal Revenue Code;
- Is a US tax payer for any other reason;
- A partnership created or organized in the US or under the law of the US or of any State, or the District of

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- A corporation created or organized in the US or under the law of the US or of any State, or the District of Columbia;
- Any estate other than a foreign estate;
- Any trust if (i) a court within the US is able to exercise primary supervision over the administration of the trust, and (ii) one or more US persons have the authority to control all substantial decisions of the trust.

### 5. **How do I know if I am affected? What do I need to do if I am affected by FATCA?**

FATCA legislation will affect both personal and business customers who are treated as a US Person for US tax purposes. The FATCA legislation will also affect certain types of businesses with US owners.

Over the next few months we will continue to review the impact of the legislation for our customers and will correspond with affected customers in due course.

Please note that you may receive more than one request for documentation if you have multiple relationships with different members of the GIB Group. It is important that you respond to all requests, even if you believe you have already supplied the requested information.

For more information regarding FATCA, please visit the IRS website or contact your professional tax advisor for advice.

### 6. **What does FATCA mean for me if I am a US person?**

If you are considered a US Person, you may be asked to supply GIB with additional information/ documentation including completing and submit any additional IRS forms, where required.

For most customers, FATCA will have minimal impact, and there will be no action required. However, GIB may still contact you to confirm your status as a non-US person if we have reason to believe you are potentially a US person for FATCA purposes.

### 7. **What is the impact of FATCA on me in case I am not a US person?**

Although for most customers, FATCA will have a minimal impact, we will need to ascertain and confirm your status as a non-US person if there is a reason to believe that you may be a potential US person for FATCA purposes. Based on your self-declaration, if it is determined that you are not a US person and do not hold any of the U.S indicia, there will be no further action required.

### 8. **What happens if I refuse to answer FATCA-related questions or complete FATCA-related forms?**

If you choose not to meet requests for assistance in determining your US tax status, we will be required to classify your account as a 'Recalcitrant Account' and treat your accounts as "reportable accounts".

### 9. **What does FATCA mean for me as a Non-Individual customer?**

As a non-individual customer, you may be required to provide certain information/documentation to determine your status under FATCA. As the impact of FATCA is wider than just US institutions, we will be required to

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establish your FATCA status based on self-declaration forms and/or additional IRS forms. As a non-individual customer, we will need to ascertain the following based on the information/documentation provided:

- (a) Financial Institutions - Participating status under FATCA or applicability of exemptions if any;
- (b) Non-Financial Institutions - Presence of substantial US owners (i.e. more than 10%) based on the nature and type of business.

As part of our account-opening and due-diligence process, you will be asked to complete a Self-Certification and Declaration form to declare your FATCA status as well as any additional IRS forms, if so required.

Based on the information provided, if your account is determined to be a 'US reportable account', GIB will be required to report information about you and your account to the relevant local authorities or to the IRS on an annual basis.

Further if there is any change in your circumstances or update to your account information, GIB may be required to contact you to obtain additional information in order to update your account classification under FATCA.

**10. If I have an account in US Dollars (USD), would this mean that my account will be a "reportable account" under FATCA?**

No, the currency of an account has no impact on whether or not it is treated as a 'reportable account'.

"Reportable accounts" are individual and non-individual accounts that are:

- held by one or more US persons; or
- held by certain entities in which one or more US persons hold a substantial ownership or controlling interest

**11. Is GIB the only bank to be affected by FATCA?**

No. All banks and other financial institutions will be affected by FATCA, however, their approach to adopting FATCA may differ. GIB is committed to becoming fully FATCA compliant in all countries where we operate.

**12. Does FATCA replace existing tax rules I already follow?**

FATCA does not replace the existing US tax regimes, it may however add additional requirements and complexity to the existing tax rules you may already follow.

Should you need further advice on your tax status or FATCA classification, you should contact a professional tax advisor.

**13. Why has my other bank asked for different documentation than GIB?**

The way in which banks and financial organisations collect information from their customers in order to confirm their tax status under FATCA may vary.

**14. How frequently will I have to provide information for FATCA purposes?**

FATCA is an on-going process. If your account information changes, we may be required to contact you to obtain

# FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA)

## Frequently Asked Questions (FAQs)

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additional information/documentation so that we are able to update your account classification under FATCA.

**15. What information will GIB report to the local tax authority or the IRS?**

The information reported to the IRS or the local tax authority will depend on the FATCA classification of the customer. This information will typically be of a personal nature in relation to the substantial US owners of a business (for example, Name, Address, US Taxpayer Identification Number), and of a financial nature (e.g. Account number, Account balance/Value). We will be communicating with the affected customers in detail on these requirements.

**16. What types of information and/or documents can I expect to supply to GIB?**

We will be communicating with the affected customers and provide full details of the information / documentation GIB needs for FATCA purposes. Documents may include US tax forms (also referred to as withholding certificates or W-forms) or self-declarations of FATCA status.

**17. Will GIB supply me with all the forms I need to complete?**

Yes. If GIB requires further information from you we will either send you the relevant forms or direct you to a website where you can download them.

**18. When do I have to provide the requested information and/or documentation for FATCA?**

In general, customers should supply the requested documentation and information by the date contained within the communication.

**19. What will GIB do if I do not provide the information required under FATCA?**

GIB is committed to be fully compliant with FATCA. GIB Group may not open new accounts or offer additional products and services to customers who choose not to comply with GIB's requests for documentation to establish a customer's status under FATCA.

In accordance with the FATCA regulations, GIB may exit the relationship with customers who decide not to provide the necessary information and documentation within the regulatory timeframe.

GIB may also need to report information about customers who do not provide the required documentation to us.

In addition, we may also be required to withhold tax on certain US-source payments coming into your account. (Please see the glossary for further information on Withholding tax).