



An Oracle White Paper  
January 2013

# Setting the Stage: FATCA Compliance

## Disclaimer

The following is intended to outline our general product direction. It is intended for information purposes only, and may not be incorporated into any contract. It is not a commitment to deliver any material, code, or functionality, and should not be relied upon in making purchasing decisions. The development, release, and timing of any features or functionality described for Oracle's products remains at the sole discretion of Oracle.

Executive Overview ..... 1

Introduction ..... 1

FATCA Facts..... 3

Compliance Hurdles and Decision Points ..... 4

    Entity Analysis ..... 4

    Existing Account/Customer Information Update..... 5

    Lack of Enterprise Customer View..... 7

    Transition Process..... 7

Start Today – But Where and How? ..... 7

The IT Connection ..... 8

Conclusion ..... 10

## Executive Overview

The Foreign Account Tax Compliance Act (FATCA) stands to transform the global tax framework and the way that financial institutions track and report on their clients' financial assets. With the law slated to begin to go into effect in 2014, financial institutions around the globe realize they can no longer drag their feet and must prepare for the changes ahead. Now comes the daunting task of assessing their current compliance architecture, including Know Your Customer (KYC) and Anti-Money Laundering (AML) procedures and systems, to define the new structures, roles and processes, as well as the IT solutions, required to ensure cost-effective and complete compliance. The stakes are high in terms of risk and costs, leading financial institutions in search of best practices and proven solutions.

## Introduction

For much of the last two years, the global financial community has been abuzz with discussion about FATCA, its timetable and its impact on the industry. FATCA is expected to have far-reaching implications for between 100,000 and 700,000 financial organizations around the globe, including those in the United States.

While speculation has swirled, many financial institutions are not entirely clear about what the legislation will mean for them. A June 2012 survey by Thomson Reuters<sup>1</sup> found that more than half of the 200 respondents – which included compliance, risk, audit and legal practitioners from financial services organizations around the globe - said that they were unsure of the impact that FATCA would have on their organization. And, more than 40 percent said they are unsure of their firm's approach for compliance.

---

<sup>1</sup> "Compliance Pros Face Gaps in FATCA Readiness," June 7, 2012.

[http://thomsonreuters.com/content/news\\_ideas/articles/tax/compliance-pros-face-gaps-in-facta-readiness](http://thomsonreuters.com/content/news_ideas/articles/tax/compliance-pros-face-gaps-in-facta-readiness)

With the deadline approaching, financial services organizations must prepare to take rapid action. This white paper is intended to help jumpstart the process, by:

- Providing an overview of key provisions and requirements
- Identifying the compliance challenges many banks will face
- Outlining best practices that will help to facilitate compliance in the short term and as the law evolves
- Defining the IT implications and requirements associated with FATCA and outlining considerations when selecting a solution

**How is an FFI defined under FATCA?\***

An FFI is any foreign entity that:

- Accepts 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; 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 (including a futures or forward contract or option) in such securities, partnership interests or commodities

\* Proposed regulation as of February 2012

## FATCA Facts

FATCA, enacted in 2010 as part of the Hiring Incentives to Restore Employment (HIRE) Act, is intended to improve tax compliance for financial assets held by U.S. persons in bank accounts and other financial vehicles outside the United States.

Under FATCA, all financial institutions – U.S.-domestic and foreign – must classify account holders as either U.S. or non-U.S. based. The act will also require foreign financial institutions (FFIs) to report directly to the United States Internal Revenue Service (IRS) specific information about financial accounts held by U.S. taxpayers or by foreign entities in which U.S. taxpayers hold a substantial ownership interest. As part of the compliance process, FFIs are required to enter into a special agreement with the IRS.

Under this agreement, FFIs must:

- Undertake identification and due diligence procedures regarding account holders; and
- Report annually to the IRS on account holders who are U.S. persons or foreign entities with substantial U.S. ownership.

FFIs not entering into an agreement with the IRS to reveal their U.S. clients' accounts, all relevant U.S.-sourced payments, such as dividends and interest paid by U.S. corporations, will be subject to a 30% withholding tax. The same 30% withholding tax will also apply to gross sale proceeds from the sale of relevant U.S. property.

The act also has ramifications for U.S. financial institutions that are likely to grow in coming years. The U.S. Treasury announced an agreement with five European Union governments – France, Germany, Italy, Spain and the United Kingdom – for a reciprocal “partnership.” Under the agreement, FFIs in partner countries will report U.S.-owned assets directly to their own governments, instead of to the IRS. These governments, in turn, will pass the information to the U.S. government. The United States will reciprocate by requiring domestic American financial institutions to report to the U.S. Treasury on assets belonging to citizens of the partner and sending this information to each partner's respective government. While the partnership concept was originally intended to help FFIs avoid a breach of

*The term "U.S. person" means\*:*

- *A citizen or resident of the United States*
- *A domestic partnership*
- *A domestic corporation*
- *Any estate other than a foreign estate*
- *Any trust, if:*
  - *A court within the United States can exercise primary supervision over the administration of the trust; and*
  - *One or more United States persons have the authority to control all substantial decisions of the trust*
- *Any other person that is not a foreign person*

*\* Proposed regulation as of February 2012*

local laws, which might prohibit reporting of account holder information to another country, it may, ultimately, result in a broad, international financial information-sharing structure as additional countries join the partnership.

## Compliance Hurdles and Decision Points

Many financial organizations may be tempted to approach FATCA compliance as an extended reporting exercise. This approach is short sighted, however, as achieving compliance will, in most cases, require new roles and processes, extended information gathering, as well as new or updated information management systems, including reporting systems.

As organizations begin to plan their FATCA strategy, they will encounter several formidable challenges and decision points.

### Entity Analysis

FATCA follows the negative presumption rule, which means that all account holders are considered to be U.S. persons unless proven otherwise. While determining individual account holders is fairly straightforward for most institutions, the law also applies to their beneficiaries and family members, which introduces a new level of complexity.

In addition, the law applies to both traditional and non-traditional financial institutions (such as group companies and brokers). These non-traditional entities, in many cases, have not been required to gather extensive information, even through know your customer (KYC) and anti-money laundering (AML) processes, so they will be starting their compliance initiative at near ground level, in many cases.

The bottom line is that the entity and information review process for both traditional and non-traditional FFIs will be complex and can take months or upwards of a year to complete, as organizations extract information from various systems and take account of what data they have and what is missing.

## Existing Account/Customer Information Update

FATCA will require new protocols and data apart from existing KYC and AML requirements and other local mandates that FFIs use to vet new accountholders.

First, FATCA will require a full history or “certification” for every client, identifying indicia of possible U.S. status.

Under the law, there are six proposed indicia of U.S. status (as of February 2012), including:

- U.S. citizenship or lawful permanent resident status;
- U.S. birthplace;
- A U.S. residence address or correspondence address;
- Standing instructions to transfer funds to an account maintained in the United States or directions regularly received from a U.S. address;
- An “in care of” or “hold mail” address that is the sole address with respect to the client; or
- A power of attorney or signatory authority granted to a person with a U.S. address.

Having a single indicium does not mean that the account is owned by a U.S. person, only that it must be given closer scrutiny. For each customer with an indicium of U.S. citizenship, FFIs will be required to collect significant additional documentation. (See Table 1). Organizations must first assess what information they currently have on file and what information they need to gather, and then must update each file accordingly.

Once an accountholder has been determined to be a U.S. person, FFIs must then collect and report on additional information, including:

- The name, address, account number(s) and taxpayer identification number of each U.S. person accountholder
- That person’s account balance or value at year end
- Gross dividends, interest or other income paid or credited to the account(s)

They must also report the aggregate number and value of accounts held by recalcitrant accountholders at the end of the calendar year, grouped as those that have U.S. indicia, those that do not and those that are dormant.

Financial institutions face multiple challenges on this front. First, customer information can be spread across disparate systems and information silos, leaving FFIs struggling to accurately assess which information they have for customers across the enterprise. This, in turn, can lead to time-intensive and costly duplicate efforts, and multiple information requests to a single customer, as FFIs take an account-centric opposed to a customer-centric approach to U.S. person identification. As important, FFIs must then manage the customer and account update process. Again, if not managed centrally, the process of updating millions of customer files and accounts with new information can be onerous.

Moving forward, FFIs will also have to put in place new on-boarding requirements to ensure that they capture all required information. Given the scope of the indicia, existing AML, due diligence and customer on-boarding procedures will, in most cases, need to be expanded and updated to reflect increased identification requirements.

U.S. INDICIA*	DOCUMENTATION REQUIRED*
U.S. citizenship or lawful permanent resident	Obtain W-9
U.S. birth place	<ul style="list-style-type: none"> <li>• Obtain W-9 or W-8BEN; and</li> <li>• Non-U.S. passport or similar documentation establishing foreign citizenship; and</li> <li>• Written explanation regarding U.S. citizenship</li> </ul>
U.S. address (residence, correspondence, or P.O. box)Cell content	<ul style="list-style-type: none"> <li>• Obtain W-9 or W-8BEN; and</li> <li>• Non-U.S. passport or similar documentation establishing foreign citizenship</li> </ul>
Instructions to transfer funds to U.S. accounts or directions regularly received from a U.S. address	<ul style="list-style-type: none"> <li>• Request W-9 or W-8BEN; and</li> <li>• Documentary evidence establishing non-U.S. status</li> </ul>
Only address on file is "in care of" or "hold mail" or U.S. P.O. Box	<ul style="list-style-type: none"> <li>• Request W-9, W-8BEN; or</li> <li>• Documentary evidence establishing non-U.S. status</li> </ul>
<i>Notice 2011-34 excludes foreign P.O. Box as U.S. Indicia</i>	
Power of Attorney or signatory authority granted to person with U.S. address	<ul style="list-style-type: none"> <li>• Request W-9, W-8BEN; or</li> <li>• Documentary evidence establishing non-U.S. status</li> </ul>

\* Proposed regulation as of February 2012

## Lack of Enterprise Customer View

As referenced above, disparate systems and multiple views of a single customer can multiply FATCA challenges, introducing unnecessary complexity and costs, as well as bothering clients with duplicate requests for documentation. FFIs are quickly realizing the need for a single view of the customer as a foundation for effective and efficient compliance and timely reporting. This is an objective, however, that many financial institutions are struggling to achieve across their enterprises – just ask any customer who has tried to ask a teller at a retail branch about their mortgage or car loan with the same company.

## Transition Process

FATCA compliance will not be a once-and-done process. The law is structured to phase in new requirements in the years ahead. In addition, many in the financial community predict that FATCA will eventually lead to a global tax framework. Flexibility will be required as financial institutions seek to address changing reporting requirements for each year while minimizing operational disruption.

## Start Today – But Where and How?

FATCA compliance will require careful planning and systemic change. FFIs will need to address, and in many cases, retool onboarding procedures, information management processes and systems, as well as reporting mechanisms.

There is no time to waste, especially when the initiative requires a unified view of clients across the enterprise, and industry estimates for implementing the new processes, structures and systems required range from 12-18 months.

Following are considerations and best practices to help to jump start the compliance initiative:

- **Don't underestimate the burden of FATCA.** It is much more than a new reporting requirement. Instead, it will impact the entire value chain and will require new organizational structures, processes and systems. Above all else, FATCA is a data-driven initiative and must be treated as such.
- **Determine who will own the compliance initiative.** FFIs should begin by appointing a leader, whether the chief compliance officer or equivalent-level officer, to guide and sign-off on the FATCA compliance plan, as required under the legislation. In addition, institutions should create a FATCA task force that will shape and drive the compliance initiative.
- **Communicate the initiative, its importance and objectives, and what will be required of individuals and groups across the enterprise,** preparing them for requests and changes in the months ahead. Keep internal stakeholders and affected teams apprised of progress.
- **Keep clients in the loop,** apprising them of the new regulations and the impending deadlines, as well as letting them know that the FFI may be reaching out to some of them for additional information in the months ahead.

- **Determine if FATCA compliance will create any legal issues for the FFI**, for example, are there restrictions on sending account holder information outside the country without the client's permission? If so, plan to address in customer communication.
- **Prepare and maintain an inventory of affected business lines, products and services**, including the number of accounts within each legal entity that will be affected.
- **Identify the types of customer information currently being collected** across affected lines, as well as in non-affected lines. Then, identify where gaps exist.
- **Review onboarding and data gathering processes and update as needed**, setting up a structure to manage this information from a central location. This should include:
  - Assessing the current status of the firm's KYC and Customer Identification Program data capture processes
  - Building FATCA best practices tailored to the organization
  - Comparing data currently captured by the financial institution to FATCA best practices
  - Developing a project plan
- **Assess ability to achieve an enterprise-wide view of customers**. How much information can be consolidated without having a negative impact on end systems? How easily can authorized personnel get to the information they need for reporting and compliance?
- **Determine which IT systems will be impacted and how**. Begin to assess legacy systems and identify solution requirements in the following areas: KYC/AML processes, customer information management, product origination and transaction processes, document/records management, payments and transaction processing, information clearing operations, regulatory reporting and customer accounting and taxation.

## The IT Connection

Since FATCA is largely data driven, IT is a critical part of the compliance equation. FFIs, therefore, must look carefully at their current systems and determine where changes are needed to ensure that they can capture, manage, analyze and report on critical information required for compliance.

- **Identification: Know Your FATCA Customer** – Organizations require a comprehensive view of each customer, as well as the ability to access and assess required data. And, they must be able to capture and document all relevant data/consent from prospective clients.
- **Withholding** – New withholding responsibilities require additional capabilities and infrastructure to track for transactions producing withholdable or pass through payments and ensure that necessary business rules for withholding are applied.
- **Reporting** – Regulations and reporting go hand in hand. For FATCA, FFIs will report on several different fronts, including annual submissions to the U.S. IRS or local regulators. They also must be prepared for ad-hoc reporting to the IRS or local regulators, audit firms, management and clients.

Systems must enable rapid report capability by lines of business, as well as flexibility to adapt to changing regulatory requirements.

- **Compliance Management** – FFIs will be required to annually re-certify their agreement with the IRS, and to do so, will need to provide documentation of activities, milestones and processes. For example, they will need to document FATCA policy sign offs and their affiliates' FATCA management, as well as provide information on how they are vetting all customers to assess status as a U.S. person. As such, many FFIs will require comprehensive compliance management solutions.

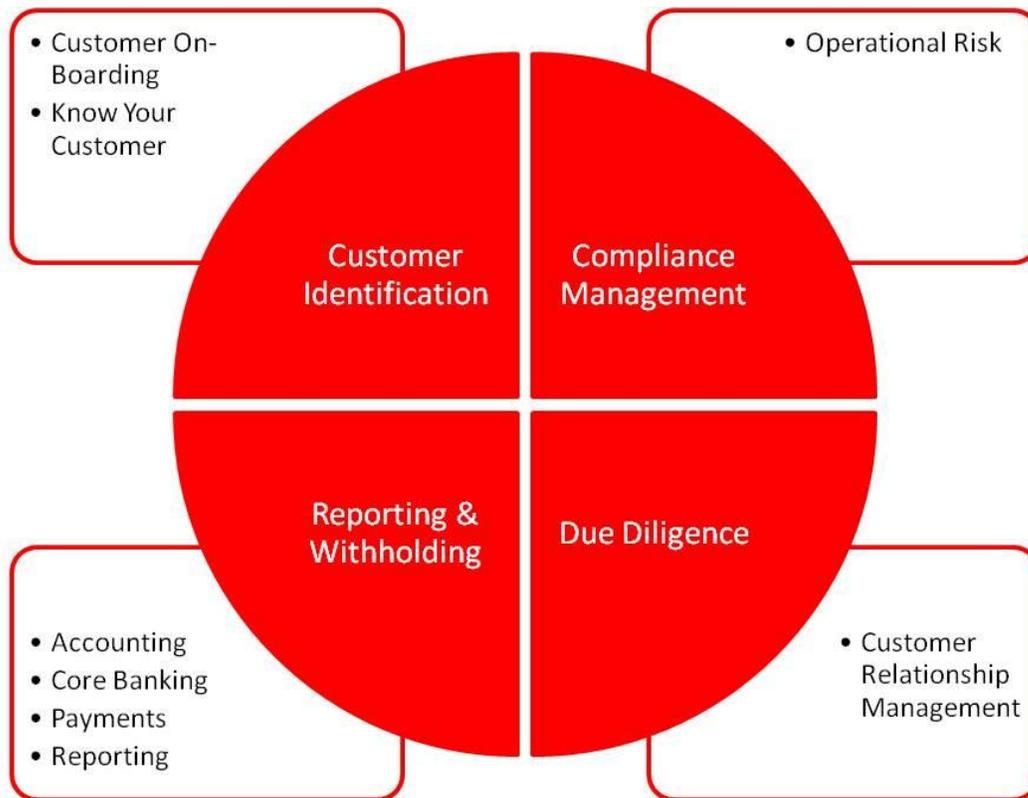


Figure 1: IT's role in FATCA Management

When evaluating FATCA IT requirements, financial organizations should consider several factors to ensure a comprehensive solution that can meet their immediate needs, hold down compliance costs and evolve with changing requirements.

- **Who is the solution designed for?** The answer should be “the compliance team,” which is on the front lines of FATCA, and not for the IT department, which plays a supporting role. It should be easy for line of business professionals to use – from its user interfaces to its reporting capabilities.

- **Does it have a single FATCA data repository?** Gaining a single, enterprise-wide view of customers, as well as creating an environment in which to centrally document and manage onboarding data, the U.S. person list, due diligence processes, withholding, reporting and compliance management is essential to consistent and accurate FATCA-required information and compliance. A central repository, therefore, must be a primary, and non-negotiable, requirement.
- **Is the solution comprehensive?** A FATCA solution should span all functional areas covered by the new law, including customer identification, due diligence, withholding, reporting and compliance management. Also look for a solution that supports multiple jurisdictions with a single deployment without compromising data privacy requirements. A comprehensive solution unifies compliance initiatives, as well as helps to hold down IT acquisition and management costs.
- **Is it built on proven experience?** It would be very difficult for a customer or vendor to build a FATCA compliance solution from the ground up in time to meet impending deadlines. For individual FFIs, the cost and risk is simply too high. FFIs should look for solutions that build on a vendor's proven capabilities in the area of KYC, AML, operational risk and regulatory reporting.
- **How robust are the solution's analytical capabilities?** The ability to control compliance costs, as well as ensure accurate identification of U.S. persons and correct withholdings weighs heavily on FFI compliance teams. Analytics can and must play a vital role in achieving both objectives. When considering FATCA compliance solutions, look for robust and flexible analytical capabilities that put critical insight directly into the hands of compliance professionals.
- **Does the solution optimize use of legacy systems?** Streamlined integration, leveraging service-oriented architecture (SOA), should be foundational – enabling organizations to optimize existing IT investment while accelerating deployment and minimizing impact on business operations.
- **How flexible and scalable is it?** FATCA will continue to evolve, and new regulations will emerge. As such, an organization's FATCA solution must be able to adapt with the times. Look for modular architecture to address known FATCA requirements, as well as prepare for a global tax framework.

## Conclusion

While many financial institutions have yet to fully comprehend the short and longer-term impact that FATCA will have on their enterprises, they realize the urgent need to put a plan, as well as supporting systems, in place to ensure compliance when the law goes into effect. The focus is on rapid deployment, as well as reducing compliance costs. Allocating adequate resources to planning now, as well as choosing and deploying a comprehensive FATCA solution, will help to significantly reduce risk and costs, while streamlining deployment. In addition, a customer-centric versus account-centric approach to compliance management, coupled with a solution delivering comprehensive KYC, AML and risk management capabilities, stand to deliver benefits that extend far beyond FATCA, giving FFIs a competitive differentiator that can span their entire enterprise.



Setting the Stage: FATCA Compliance  
January 2012

Author: Don Ryu

Oracle Corporation  
World Headquarters  
500 Oracle Parkway  
Redwood Shores, CA 94065  
U.S.A.

Worldwide Inquiries:  
Phone: +1.650.506.7000  
Fax: +1.650.506.7200

oracle.com



Oracle is committed to developing practices and products that help protect the environment

Copyright © 2013, Oracle and/or its affiliates. All rights reserved. This document is provided for information purposes only and the contents hereof are subject to change without notice. This document is not warranted to be error-free, nor subject to any other warranties or conditions, whether expressed orally or implied in law, including implied warranties and conditions of merchantability or fitness for a particular purpose. We specifically disclaim any liability with respect to this document and no contractual obligations are formed either directly or indirectly by this document. This document may not be reproduced or transmitted in any form or by any means, electronic or mechanical, for any purpose, without our prior written permission.

Oracle and Java are registered trademarks of Oracle and/or its affiliates. Other names may be trademarks of their respective owners.

Intel and Intel Xeon are trademarks or registered trademarks of Intel Corporation. All SPARC trademarks are used under license and are trademarks or registered trademarks of SPARC International, Inc. AMD, Opteron, the AMD logo, and the AMD Opteron logo are trademarks or registered trademarks of Advanced Micro Devices. UNIX is a registered trademark licensed through X/Open Company, Ltd. 0113

**Hardware and Software, Engineered to Work Together**