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FATCA

HIGH-COST INITIATIVE TO CURB TAX EVASION

By The Business Research Desk

The US Foreign Account Tax Compliance Act (FATCA) promises to cut off the routes that a lot of investors and corporations usually take to evade taxes.

Facilitating greater reporting compliance and information sharing among multiple tax jurisdictions, FATCA may compel investors and institutions to reconsider investments and ways of doing business.

However, the cost of compliance, implementation, and other legalities may prove to be an impediment to collecting taxes from offenders.

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EXECUTIVE SUMMARY

FATCA, a US federal law for deterring tax evasion, is arguably one of the most controversial acts in recent times. It was enacted to identify US taxpayers having accounts at foreign financial institutions (FFIs) and enforce reporting of those accounts through 30% withholding tax. Although its primary goal is to curtail offshore tax evasion by US citizens, the law is expected to have far-reaching effects.

In this paper, we focus on the US government's diplomatic success in implementing FATCA across the world after four years of its introduction in 2010. We look at how the US has partnered with 112 countries to develop two intergovernmental agreement (IGA) models to expedite the process. Additionally, we try to analyze the impact of FATCA on various stakeholders in the value chain, including governments, banks, financial institutions, IT and consulting firms, and US citizens.

Although FATCA expects to raise billions over the next decade, we have tried to analyze the high compliance costs borne by the entire banking system. We have discussed how this would lead to a ripple effect, causing escalation of banking fees and breach of customer privacy by FFIs. Furthermore, we have shed light on the increase in capital flight and US citizenship renunciation.

This paper presents the position of major countries on FATCA. It outlines how countries such as Canada, the Cayman Islands, and Panama pioneered the implementation of FATCA, while India, China, and Hong Kong eventually decided to join the bandwagon despite heavy criticism. In contrast, Russia, which considered the act an illegal intrusion on its sovereignty, had to finally relent to share information with the IRS on client approval.

The paper also highlights how a few tax-haven countries exploited banking secrecy laws by declining to reveal data about offshore bank accounts held by foreigners to the corresponding national tax authorities. We see how the implementation of FATCA would result in tax havens directly coming under its purview. Several countries have followed the footsteps of the US, enforcing their own laws to combat tax evasion.

Hence, we can infer that the implementation of FATCA, along with similar laws, although costly, would help curb banking secrecy and tax evasion. It would ensure transparency in financial information exchange among nations. Although financial institutions would be hard-pressed to implement FATCA-friendly systems and procedures, the US government as well as IT and consulting firms would stand to gain. However, this is just the tip of the iceberg. The efficacy of FATCA would be really tested in the coming years.

The quest to curb foreign tax evasion began in 2010 with the enactment of FATCA, which came into effect on July 1, 2014.

The Foreign Account Tax Compliance Act requires:

- US taxpayers to report foreign financial accounts and asset details.
- FFIs to enter into information-sharing agreements with the Internal Revenue Service (IRS) to report details of US account holders with assets exceeding USD 50,000, directly or through the home country tax authority[1].
- Non-financial foreign entities to disclose identities of their US owners to the IRS.

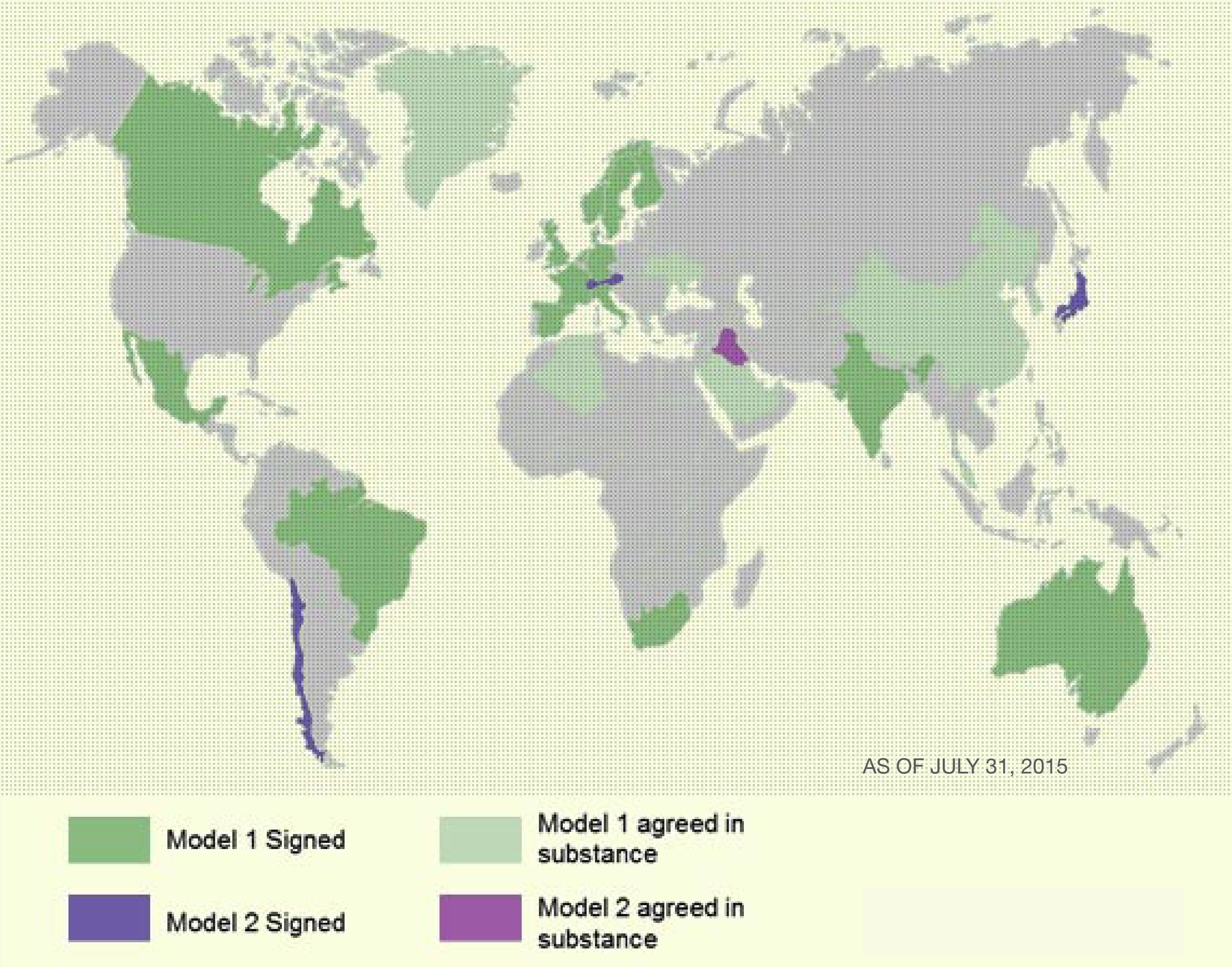
If institutions and individuals fail to meet IRS reporting standards, a high penalty (i.e., 30% withholding tax) is imposed on their US-sourced income and sales proceeds.

The first information exchange under FATCA is expected to take place by 2017[2].

FFIs are expected to treat accounts that have an average monthly balance over USD 1 million and fail to provide documentation as recalcitrant accounts by 2015. By 2018, this threshold is expected to fall to USD 50,000, bringing more accounts under the law's purview[3].

To expedite implementation of FATCA, the US government has collaborated with several countries and developed two models of IGAs[4]. These would help overcome domestic legal compliance barriers and lighten the burden of FFIs based in partner countries.

1. http://www.tcs.com/SiteCollectionDocuments/White%20Papers/BFS_Whitepaper_Ensuring-compliance-FATCA_0113-1.pdf
2. http://www.internationaltaxreview.com/Article/3365015/OECD-answers-your-questions-about-the-global-automatic-exchange-standard.html
3. http://www.thehindubusinessline.com/features/mentor/article2155828.ece
4. http://fatca.thomsonreuters.com/about-fatca/intergovernmental-agreement/



The two IGA models are based on reporting processes and entities involved.

Model 1 IGA

Under this model, FFIs report FATCArelated information to domestic tax authorities. The information is thereafter provided to the IRS by local authorities. In a few cases, reciprocal IGAs have been signed, wherein the US provides financial information about other country's citizens.

Model 2 IGA

Under this model, FFIs directly report to the IRS and are liable to register with the IRS. As no domestic tax authority is involved in this model, no reciprocal IGA can be enacted.

As of April 2015, 55 countries (Model 1 IGAs: 48; Model 2 IGAs: 7) have signed IGAs with the US, while 57 others (Model 1 IGAs: 50; Model 2 IGAs: 7) have reached an agreement in substance[5]. Countries that have signed an agreement in substance indicate their willingness to sign IGAs in the near future; they could avoid the penalty by signing IGAs.

5. http://www.kpmg.com/ch/en/industry/banking/fatcacompetencecenter/pages/igastatus.aspx

Additional Tax Revenue, but Higher Reporting and Compliance Costs

The US government enacted FATCA to address the deficiencies in its existing anti-money laundering regime. According to reports, less than 7% of seven million US citizens holding foreign accounts file tax returns[6]. The Association of Certified Financial Crime Specialists, a global organization for private and public sector professionals who work in diverse financial crime disciplines, expects FATCA to add USD 800 million[7] to annual revenues for the US Treasury and generate USD 8.7 billion over 2014–2024[8]. However, the act is likely to adversely impact the global banking system, which would incur significant compliance costs of USD 190–220 billion during this period.[9]

FFIs have started discontinuing services to US clients and divesting US assets to ease the cost pressure as well as counter related legal and financial risks. For instance, in 2014, VTB, Russia's second largest bank, planned to discontinue services to 2,000 customers of US origin before the country enacted a last minute law[10]. ICICI Bank, India's largest private bank, has declared that it would no longer entertain US customers.[11]

Overseas US citizens are feeling the impact of FATCA; thousands are contemplating renouncing their US citizenship owing to banks closing accounts or charging higher fees. In 2014, a record 3,415 overseas US citizens renounced their citizenship despite a 400% hike in renunciation fees[12,13]. Moreover, FATCA is negatively affecting "accidental Americans"[14] as their accounts are being closed and mortgages annulled in their native countries.

Concerns also persist regarding the 30% withholding tax, leading to some countries, especially those that have not entered into IGAs with the US, to sell US Treasuries. The sale may adversely affect interest rates and dent the greenback's position as the de facto global currency.

The American Citizens Abroad Association has received multiple testimonies from overseas US citizens who have closed their foreign bank accounts and been disallowed from entering into foreign pension fund or insurance contracts.

In a few cases, US citizens have become unemployable as they cannot participate in company pension funds or insurance contracts. This could have serious ramifications on the global growth of US businesses, as overseas US employees have to cope with limited access to foreign banks, pension funds, and insurance coverage[a].

FATCA may also affect people with no links to the US, as FFIs are likely to hike banking fees of account holders to offset high operational and compliance costs related to the act. Moreover, a financial institution lacking money, time, or means to identify US citizens may disclose details of all account holders to the IRS, thereby raising privacy concerns.

6. http://www.tcs.com/SiteCollectionDocuments/White%20Papers/BFS_Whitepaper_Ensuring-compliance-FATCA_0113-1.pdf
7. http://www.rjkoehler.com/2014/03/20/facta-has-arrived-and-what-it-means-for-americans-in-south-korea/
8. http://www.tcs.com/SiteCollectionDocuments/White%20Papers/BFS_Whitepaper_Ensuring-compliance-FATCA_0113-1.pdf
9. http://freedomandprosperity.org/files/fatca/OffshoreInv-FATCA.pdf
10. http://www.themoscowtimes.com/business/article/russia-s-no-2-bank-vtb-to-stop-servicing-russia-based-u-s-clients/501636.html
11. http://businesstoday.intoday.in/story/us-foreign-account-tax-compliance-act-fatca-purpose-impact/1/210816.html
12. http://blogs.wsj.com/expat/2015/02/10/record-number-of-u-s-citizenship-renunciations-in-2014/
13. http://www.theguardian.com/money/2014/sep/24/americans-chased-by-irs-give-up-citizenship-after-being-forced-out-of-bank-accounts
14. Accidental Americans: Individuals who are green card holders living overseas. They include individuals who were born in the US to non-American parents and left as infants, but are considered US persons for the rest of their lives for taxation issues. They also comprise non-American spouses of overseas Americans and other countries' expats living in the US, with bank and investment accounts & mortgages in their respective home countries.
a. http://businesstoday.intoday.in/story/us-foreign-account-tax-compliance-act-fatca-purpose-impact/1/210816.html

The IGAs and agreements in substance signed by the US and 112 countries as well as over 80,000 FFIs have faced criticism, legal complications, and reciprocal deals[15].

RUSSIA

Heavy criticism of FATCA followed by last-minute law

Russia has been one of the most vocal critics of FATCA since its enactment in 2010. The Russian Ministry of Finance and Rosfinmonitoring, the country's financial intelligence unit, expressed concerns over the ramifications of FATCA on the independence of the domestic financial sector. In April 2012, the ministry declared FATCA violates the sovereign equality of states. Information sharing by Russian banks is against the country's laws as it entails divulging bank secrets. Yury Chikhanchin, Head of Rosfinmonitoring, compared FATCA to a sanction, deeming it a serious risk to the Russian economy as it would convert the country's financial entities into tax informants for the US[16].

While criticizing FATCA, Russian agencies began negotiations with the IRS. However, Russia's annexation of Crimea in March 2014 resulted in the US Department of the Treasury abandoning negotiations. The Russian Banking Association had planned to discontinue services to US clients if no information-sharing agreement was signed before July 1, 2014. However, a day before the deadline to register with the IRS, Russian President Vladimir Putin signed a law permitting Russian financial institutions to share information with the IRS only after obtaining approval from clients. Financial institutions can discontinue services to clients that do not want their information disclosed to the IRS.

Experts foresee many complications and cost burdens arising from the law permitting Russian institutions to share information with the IRS. Complications include refusal of service to US clients, withholding tax legalities, developing alternative payment systems, and de-dollarizing the Russian economy[b].

The introduction of FATCA in Russia could lead to complications due to the following reasons:

Withholding penalty conundrum

Russian laws disallow banks to withhold money from client accounts without consent or court order. However, FATCA requires banks to act as withholding agents on behalf of the IRS. This could lead to affected clients claiming compensation for payment damages and interest charges on amounts unduly withheld by Russian banks.

Long-winded information-sharing process

Russian institutions need to inform Rosfinmonitoring, the Federal Taxation Service, and the Central Bank of their registration with the IRS within three days post registration. Foreign tax authorities need to contact these agencies for information on overseas client accounts held in Russia; information that has to be disclosed to the IRS would have to be sent 10 days in advance to these agencies.

Additional costs

Russian banks could incur additional costs, as they would have to hire tax and compliance consultants for installing internal monitoring and compliance systems as well as requisite software for the implementation of FATCA.

15. http://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA-Archive.aspx

16. http://www.themoscowtimes.com/business/article/fatca-threatens-russia-s-financial-system-official-says/506452.html

b. http://www.themoscowtimes.com/business/article/putin-signs-last-minute-law-to-satisfy-fatca/502732.html

FATCA could dent Russia's economy and trade ties with the US. Russia holds a significant number of US Treasuries and engages in oil transactions with the US, which significantly contribute to its GDP and are processed in the US dollar. Such transactions are required to be reported to US financial organizations. US organizations processing Russian oil transactions can charge a 30% withholding tax to institutions not complying with FATCA. Uncertain of the US reaction to the Crimean annexation and to avoid losses from further sanctions, Russia sold about 20% of its US Treasuries in March 2014. To reduce dependence on the US dollar for oil transactions, Russia has adopted the de-dollarization strategy, which includes:

Acceptance of alternative currencies for oil sales

In May 2014, Russia signed a 30-year USD 400 billion gas supply agreement with China. It inked another deal with China in November 2014[17].

Alternative payment system

Russia is looking at developing an alternative payment system to reduce its dependence on US payment providers Visa and MasterCard, which account for nearly 95% of payments in the country[18].

The only silver lining for Russia is the introduction of annual reporting by FFIs on overseas accounts held by Russian citizens and legal entities to the Federal Tax Service. FFIs would have to disclose these details by September 30 every year.

"In some ways it is more secure than Visa; at least the Americans can't reach it."

Russian billionaire oligarch Gennady Timchenko on his plans to shift all his credit card accounts to China's UnionPay from Visa and Mastercard.

Mr. Timchenko has been adversely affected by travel bans and asset freezes by the US government[c].

CHINA

Clambers aboard FATCA bandwagon, introduces own version

China has signed an IGA with the US. It decided to go one step ahead by taxing citizens living and working abroad, as part of a crackdown on tax evasion by individuals and companies. China has had its own version of FATCA since 1993, when it had undertaken an in-depth study of the US tax system. Currently, China imposes tax on citizens irrespective of the country they reside in. Under China's tax regime, citizens and entities are required to pay tax on their worldwide income, not just on what is earned in China. This tax policy was introduced as more Chinese are heading overseas to earn money.

China has been gearing up for the implementation of FATCA. In January 2015, the Guangzhou government summoned executives from 150 of the largest corporations based in the region to a meeting to discuss tax obligations of their overseas employees. Also, the governments in Beijing and other big cities are contacting major firms in their jurisdictions and requesting for detailed information on foreign employees' incomes. The State Administration of Taxation in Beijing has launched a separate campaign to curb tax evasion by Chinese companies as they begin to make large overseas investments.

17. http://sputniknews.com/columnists/20140725/191441744.html

18. http://rt.com/business/228883-mastercard-national-payment-system/

c. http://www.zerohedge.com/news/2014-08-01/russian-oligarchs-wave-goodbye-visa-switch-chinese-credit-card

With these rules, effective February 1, 2015, various international investments deemed tax shelters have been banned. The rules are expected to indirectly affect many wealthy Chinese individuals who invest overseas through specially created companies, often located in the Caribbean.

The Chinese version of FATCA, targeted mainly at wealthy citizens who stash money away in Hong Kong and other tax havens, is expected to ruffle feathers worldwide. Some firms may discontinue providing services to Chinese clients.

Maseco, a wealth management firm catering to US and French expats, had to address many client concerns over FATCA. Cofounder James Sellon believes, "There will be a lot of screaming voices concerning the Chinese regulation. The unintended consequence is the cost to the average Chinese citizen living and working in a local jurisdiction who suddenly has to spend more time and effort considering their personal investments and taxation. They have to file two tax returns: a domestic plus a home country one. That adds to the complexity, time, and uncertainty. That also adds to an increase in professional service and accountancy practices to account for this.[19]"

"At present, Chinese nationals represent a smaller opportunity set for UK financial services firms than their American equivalent, although given the size of the country and the pace of wealth creation there is undoubtedly scope for this to grow in the future. Those businesses with the necessary language and legal expertise may well decide that the additional burden is worthwhile, although smaller firms could opt not to participate if the costs of so doing were unlikely to be matched by a corresponding increase in revenue[d]."

Richard List
Director at Waverton Investment Management, UK

HONG KONG

Costly route to mainland China

Hong Kong has forever been a famous entry route to China for foreign businesses due to its proximity to mainland China. Additionally, Hong Kong has a modern, friendly banking environment and a transparent legal system. US citizens particularly have favored the region as a platform to expand operations into the mainland. However, since the enactment of FATCA, many Hong Kong-based banks have been refusing to open accounts for, and are instead closing existing accounts of, US individuals and corporations.

A major Hong Kong bank has revealed that the costs of locating, monitoring, and reporting on a US-held or -controlled account is at least USD 7,000 a month[e].

According to sources, once the costs and benefits of catering to clients are weighed, only accounts with about USD 3 million as balance are worth a bank's time. Thus, it is easier and more cost-effective for Hong Kong institutions to simply close the accounts of, or reject applications from, US clients instead of incurring high compliance costs or paying penalties.

Hong Kong has fully implemented FATCA since the signing of its IGA with the US in November 2014. However, besides the 30% withholding tax, financial institutions in Hong Kong are subject to penalties from local authorities. Hong Kong-based banks are encountering hurdles in identifying US accounts and, therefore, significantly changing their processes and technologies.

Excluding green card holders, nearly 50,000 US citizens reside in Hong Kong; they are required to file US tax returns[20]. Law firms in the region have received a record number of enquiries for renouncing US citizenship or green card status.

All of these factors have implications for Hong Kong's future as the preferred gateway to China. Singapore has already replaced Mauritius as the leading source of foreign direct investment into India. Investors have long been comparing the advantages of the city state, its independence from China's regulatory regime, and political stability against Hong Kong's proximity to and strong trade links with the mainland. FATCA could tilt the scales toward Singapore as the preferred entry route to the mainland.

19, d. http://citywire.co.uk/wealth-manager/news/what-will-a-chinese-fatca-mean-for-financial-institutions/a793098
20, e. http://beforeitsnews.com/alternative/2014/12/hong-kong-banks-shut-down-us-accounts-rather-than-deal-with-fatca-3079728.html

CANADA

Not easy to tax your neighbor

Much to the chagrin of Canadian banks, financial entities, and dual passport holders, Canada signed an IGA with the US government on February 5, 2014[21]. The law obliges financial institutions to report accounts of US citizens to the Canada Revenue Agency, which discloses this data to the IRS.

Many Canadian citizens have filed lawsuits against the Canadian Attorney General in Federal Court to prevent the government from transferring private banking details of more than 1 million US citizens living in Canada[22]. The case is being fought based on the provisions of the Canadian Charter of Rights and Freedom, which declares the "principle that Canada will not forfeit its sovereignty to a foreign state".

With over 1 million US citizens residing in Canada, including retired ones, the cost of hiring an additional accountant to file separate US tax returns may become burdensome[23].

Experts estimate the cost of implementing FATCA compliance and reporting systems for Canadian banks at over USD 693.5 million, as banks need to incur additional costs on employee training, technology, and other processes.

Moreover, many Canadian citizens born in the US fear they may come under US tax scrutiny[f].

Citing high compliance and operational implementation costs, Canadian banks were among the most vocal opponents of FATCA. Since the signing of the IGA, Canada's five largest banks have spent over USD 693.5 million on the initial launch of FATCA reporting standards, with a requirement to spend more on ongoing compliance costs[24]. Besides FFIs, FATCA has a negative impact on US citizens conducting business in Canada. Most US citizens in Canada would not owe US tax. Therefore, even if the IRS did engage in aggressive enforcement, which it currently does not, the amount it would collect is uncertain.

PANAMA

Yes to FATCA, no to Colombian equivalent

Panama has a thriving financial sector and is primarily driven by foreign investments and privacy policies. Panamanian banks, until recently, did not collect sufficient information on non-residential investors and did not check if foreign residents evaded domestic taxes. However, this changed when Panama signed the IGA with the US in May 2014. Therefore, local banks started keeping records of account holders.

Panama's neighbor Colombia has expressed dissatisfaction with the US-Panama FATCA agreement. Colombia currently loses USD 2–7 billion annually in tax revenues due to Panama's banking policy[25]. To collect lost tax revenues, Colombia planned to introduce its own version of FATCA and sign a tax information exchange agreement (TIEA) with Panama. Panama refused to sign the TIEA, fearing the closure of bank accounts held by many Colombian citizens in the country.

21. http://www.cba.ca/en/consumer-information/40-banking-basics/597-fatca-and-the-canada-us-intergovernmental-agreement-iga-information-for-clients
22. http://www.forbes.com/sites/robertwood/2014/08/12/canadians-file-suit-to-block-fatca-and-prohibit-handover-of-u-s-names/
23. http://www.wsj.com/articles/canada-banks-tally-their-tax-compliance-tab-1406504252
24 f. http://www.taxsamurai.com/2015/01/canadian-banks-are-facing-significant-compliance-costs-due-to-fatca

INDIA

FATCA provides teeth to the fight against black money

Providing a boost to India's efforts to crack down against unaccounted wealth (also known as "black money"), India signed a Model-1 IGA with the US (with a reciprocity clause) in July 2015[26]. This would allow both the countries to exchange information about bank accounts and investments held by US taxpayers in India and Indian taxpayers in the US. This coupled with implementation of the OECD automatic exchange of information (AEoI) agreements with multiple countries (beginning October 2015)[27] and the country's own Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act would provide a much needed boost to the developing economy whose black money estimate stands at USD 440 billion[28], greater than the country's all-time high forex reserves of USD 355 billion[29].

"The mandatory reporting will be a huge operational inconvenience. We have over 900,000 clients. We will have to go back to them and seek updated KYC (know-your-customer) details. This will take some doing. This is just the tip of the iceberg[g]."

Trivikram Kamath,
CFO and Head, Operations and IT, Kotak Securities

Long before the FATCA IGA was signed, many Indian FFIs stopped accepting investments from US or Canadian residents to reduce their reporting burden. Few Indian financial institutions, including mutual fund (MF) houses, are still wary of accepting any investments from US or Canadian investors. MFs including SBI MF and Birla SunLife Asset Management are still trying to figure out ways to be compliant with FATCA reporting standards without escalating costs, before accepting money from the US or Canada[30]. As part of the reporting implementation stage, the Association of Mutual Funds of India (AMFI) has asked KPMG to help all 44 members comply with FATCA requirements[31].

To implement FATCA and AEoI Common Reporting Standards (CRS), Indian financial institutions need to change their systems, processes, and documentation to identify US account holders and report to the government. With more than 714 Indian FFIs having registered with the IRS[32], reporting and compliance could be a time-consuming and costly process as it would involve training people, changing existing systems and steps for onboarding new clients, and classifying entity accounts as defined by FATCA, among others. As the October 1, 2015 deadline for reporting comes closer, Indian FFIs are facing a race against time to get their reporting and compliance systems in place for reporting in coordination with FATCA requirements.

25. http://dollarvigilante.com/blog/2014/11/4/fatca-is-destroying-lives-and-its-going-global.html
26. http://articles.economictimes.indiatimes.com/2015-07-10/news/64282983_1_tax-evasion-fatca-revenue-secretary-shaktikanta-das
27. http://www.thehindubusinessline.com/economy/policy/india-notifies-rules-for-fatca-compliance/article7516555.ece
28. http://www.gfintegrity.org/wp-content/uploads/2014/12/Illicit-Financial-Flows-from-Developing-Countries-2003-2012.pdf
29. http://articles.economictimes.indiatimes.com/2015-06-27/news/63886190_1_foreign-exchange-reserves-gold-reserves-foreign-currency-assets
30. http://www.business-standard.com/article/companies/despite-fatca-clearance-mfs-shun-investment-from-us-canada-115072201113_1.html
31. http://www.business-standard.com/article/markets/mutual-funds-hire-kpmg-to-become-us-fatca-ready-114080501928_1.html
32. http://www.pwc.in/assets/pdfs/news-alert-tax/2015/pwc-news-alert-10-july-2015-fatca-update-india-and-us-signs-inter-governmental-agreement.pdf

Offshore Tax Havens
No Longer Asylum for Evaders

Offshore tax havens continue to pose a major challenge to governments worldwide. Economist Gabriel Zucman, a specialist in fiscal fraud, estimated that USD 7.4 trillion is stashed away in tax havens, depriving global authorities of USD 166 billion in annual revenues[33].

In the past, tax havens (e.g., Switzerland) used bank secrecy laws to refuse disclosure of information on bank accounts held by foreigners to their tax authorities. However, the international campaign to end banking secrecy has gained momentum in recent years, particularly following the enactment of FATCA in the US. For years, the Cayman Islands, Switzerland, and others have been famous for sheltering taxable US funds. However, new tax havens such as Hong Kong, Singapore, and Bahrain present opportunities for individuals to avoid tax information reporting responsibilities. Popular tax havens as well as the emerging ones have come under the purview of FATCA.

US companies are stashing their overseas profits in tax friendly jurisdictions, seeking to avoid high repatriation taxes.

In 2014, US companies added USD 154.5 billion to their overseas cash stockpile, which crossed the USD 2 trillion mark[h].

The US and the Cayman Islands entered into an IGA for the smooth implementation of FATCA in the country. This is pressuring other low-tax and no-tax countries to follow suit. The deal is expected to provide certainty to the Cayman Islands' significant fund industry with respect to FATCA implementation. The IGA would ease the FATCA compliance burden on the country's hedge funds, private equities, and mutual funds that favored the agreement to preserve their access to US markets. Moreover, the IGA would put pressure on other low-tax jurisdictions, including Luxembourg, Bermuda, and the British Virgin Islands, to hold FATCA-related talks with the US to stay competitive in the investment fund business.

Swiss banks, known for their service, prudence, discretion, and privacy, recently made headlines on refusing to disclose names and financial data of US clients suspected of using offshore accounts for tax evasion.

In 2009, UBS AG, the largest Swiss bank, settled criminal charges with the US for USD 780 million and, thereafter, disclosed the names of some of its 52,000 US clients[34]. Wakelin, a Swiss private bank, was convicted of money laundering in February 2012 and shut operations after selling off its non-US business in January 2013[35]. The US is investigating other Swiss banks, including Credit Suisse, Zuercher Kantonalbank, Julius Baer, and Pictet & Cie.

Although costly, FATCA would remove the risk of potential charges and other legal proceedings, including ultimately the exclusion from US dollar clearing. This would allow banks to refocus on core (non-US) private banking operations.

According to a Standard & Poor's research report published in June 2014, European banks would face renewed pressure, given proposals for a global standard on automatic exchange of tax-related information by end-2015. The report states that hiring requisite staff to identify a client's nationality as part of automatic data exchange is not cheap, especially in these countries, where the average annual salary for such a position would be about 25% more than the OECD average of USD 41,010[36]. Stiff regulatory requirements are expected to increase banking complexity, leading to significant investments in risk management and compliance infrastructure that would push up costs.

33. http://www.businessinsider.com/afp-tax-summit-in-berlin-aims-to-say-goodbye-to-banking-secrecy-2014-10?IR=T
34. http://www.thinkadvisor.com/2013/03/14/switzerland-and-fatca-broader-effects
35. http://www.thinkadvisor.com/2013/03/14/switzerland-and-fatca-broader-effects
h. http://www.bloomberg.com/news/articles/2015-03-04/u-s-companies-are-stashing-2-1-trillion-overseas-to-avoid-taxes
36. http://blogs.wsj.com/moneybeat/2014/07/01/swiss-banks-say-goodbye-to-a-big-chunk-of-bank-secrecy/

Outlook
Costly End to Tax Evasion

FATCA aims to curb money laundering and ensure transparency in exchange of financial information. However, the proposition is a costly, complicated one. Ensuring compliance would be tedious and complex, requiring strategic and operational procedures to be set up. Experts across the world opine that FATCA would lead to destabilization of the American financial system, triggered by runs on certain banks, taxpayer-funded bailouts, and devaluation of the US dollar. Nevertheless, it has become mandatory and stakeholders have to comply.

Numerous countries and FFIs had raised a hue and cry over the associated compliance costs and stringent reporting requirements. A few even considered the law a breach of privacy, terming it 'America's global tax law'. However, most large economies and multinationals have signed up with the IRS for FATCA reporting or have enacted laws to share certain information. A few have even replicated and introduced their own version of FATCA.

Several financial institutions are yet to assess the short- and long-term impact of FATCA. It is time they realize the urgency to chalk out a plan and deploy supporting systems to ensure compliance when the law comes into effect. These institutions would be required to identify new objectives, strategically redefine processes, build applications, and reduce compliance costs.

It is yet to be seen whether FATCA achieves its purpose or falls short. However, what seems pretty clear is that tax evasion is going to get tougher as more and more countries enforce laws to combat tax evasion. With multiple countries and organizations sharing customer tax and financial information, the days of tax evasion are coming to a quick, albeit costly, end.

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