SIX Financial Information

Q&A: FATCA

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Is the extension of the compliance deadline from January to July proving helpful to the industry? Are firms likely to complete what they need to do by July?

We are working with financial institutions that are in the final stages of implementation and with those that have just begun looking at data management solutions. In both cases, the delay has proven useful for a number of reasons. For one, the IRS has provided more clarity on the regulations, which will give all parties the chance to review, test and evaluate FATCA-related data and services. This will ensure better data quality, and will give firms the opportunity to fully understand the various compliance requirements within their organization. The extra six months also gives the industry more time for implementation of new compliance procedures such as updating due diligence processes and implementing withholding and reporting along with solid IT supporting systems. Lastly, the anticipated signing of additional Intergovernmental Agreements (IGA) will bring the financial industry some compliance relief by providing clarity around due diligence with country-specific provisions.

Will data gathering and integration processes, within client onboarding or otherwise, need to change and how?

In order to ensure full compliance with FATCA, the industry has to deploy optimal data gathering and integration. For example, capturing the relevant KYC data is essential for correct FATCA classification. Another crucial point is the financial data which ensures correct withholding on US income. This data has to be well integrated into the systems, and the "in scope" financial instruments have to be captured and continuously monitored in order to ensure ongoing accuracy. For example, instruments which lose their "grandfathered status" must be immediately flagged on the relevant systems. Thus, the IT systems need to be designed in a way to easily and automatically processes regulatory changes.

How do "client-centric" and "transaction-centric" views of key FATCA data compare?

Both approaches are essential for FATCA compliance. On the one hand, there is the need for correct identification and processes regarding the "US persons", while on the other hand there are the withholding and reporting processes; successful execution of both processes is necessary to achieve full FATCA compliance. The draft FFI agreement states, "A participating FFI program must include policies, procedures, and processes sufficient for the participating FFI to satisfy the due diligence, reporting, and withholding requirements for this agreement."*

Do differences in the sizes of firms working on FATCA compliance matter? If so, how and why?

No matter what size, all firms have to register with the IRS to ensure full FATCA compliance with the signed IGA (if applicable) or to get the Global Intermediary Identification Number (GIIN). The extent of FATCA compliance efforts differs from firm to firm, which influences the cost factor of the implementation. Costs could also be affected by the firm's business strategy, for example if the firm is active in more than one jurisdiction or if the firm has "US persons" as customers and so forth. Furthermore, it is very important to know whether the jurisdiction where the firm is located has signed an IGA (model 1 or 2) with the US Treasury.

Are we likely to see greater use of metadata for FATCA compliance? What are the advantages?

Granular, cross-referenced data is a key factor for FATCA compliance. Firms looking for data vendors should stress availability, accuracy and quality of the data. Just as important, firms have to design their systems in a way that will ensure the correct due-diligence, withholding and reporting related to the regulations. Down the line, these systems should also enable the firms to seamlessly comply with other regulations which the industry is facing – such as the EU Financial Transaction Tax and Solvency II. Furthermore, the amended and monitored KYC procedures and the on-going monitoring required by FATCA will ensure that the firms will be better protected against the risks of money-laundering, with the immediate result of reducing reputation risk.

*Source: IRS Notice 2013-69, Compliance Procedures, Section 8, Par. 01

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