



## PARI PASSU ADVISORY

### FATCA

#### **Answers for frequently asked questions for financial institutions**

##### **1. What is FATCA?**

FATCA stands for The Foreign Account Tax Compliance Act (FATCA) that was enacted as part of the Hiring Incentives to Restore Employment (HIRE) Act on March 18, 2010. The Act is aimed to combat tax evasion by taxpayers of the United States with foreign accounts.

##### **2. Who does FATCA impact?**

While FATCA certainly affects U.S. withholding agents and U.S. multinational companies, the greatest impact will likely be to on Foreign Financial Institutions (FFIs).

FATCA will have impact on particular legal entities and individuals. FATCA mainly affects U.S. taxpayers living abroad and U.S. multinational companies. Moreover Foreign Financial Institutions (FFIs) will be affected significantly.

##### **3. What is FFI?**

Foreign Financial Institutions, i.e. a financial institution located abroad of the United States. In general they are banks, insurance companies and other financial companies.

##### **4. Why a local bank should comply with FATCA?**

FATCA has extraterritorial effect. The requirement to report and withhold 30% of the particular payment is applicable for local banks as well. In case a local bank decides not to comply with FATCA the payments of such bank are subject to 30% withholding by a corresponding banks.

##### **5. What to do to comply with FATCA?**

FFIs have to adjust client identification and know your client procedures and processes in order to identify U.S. taxpayers' accounts. Some client account monitoring processes has to be implemented.

*Moreover it will be necessary to withhold 30% of the income received by owners of recalcitrant accounts.*

##### **6. What is recalcitrant account?**

Recalcitrant account is an account, which holder fails to provide required documentation and information. 30% withholding is applicable for such accounts.



## PARI PASSU ADVISORY

### **7. What should FFIs do in accordance with agreement with the IRS?**

Identification and documentation of U.S. taxpayers' accounts, withholding of 30% of recalcitrant accounts and NPFPI accounts.

### **8. What kind of payments is impacted by FATCA?**

Payment on U.S. source income might be subject to 30% withholding.

### **9. What is a withholdable payment?**

A withholdable payment is a payment of either: U.S. source income that is fixed or determinable, annual or periodical (FDAP) income; or gross proceeds from the sale or other disposition (including redemption) of property that can produce U.S. source interest or dividend income.

### **10. What should FFI do to prepare itself?**

This depends on the company's business. It is better to consult with your lawyers and consultants to determine your obligations. It is necessary to determine the scope of responsibilities and establish appropriate procedures and systems to meet the new requirements for the identification of accounts. Importantly, implementation and documentation will take time, so you should begin to act in advance.