

## ABOUT FATCA

- The Foreign Account Tax Compliance Act (FATCA) is a US tax regulation aimed at preventing tax evasion by US investors, who are liable to pay US taxes irrespective of their domicile
- Its objective is to request non-US "Foreign Financial Institutions" (FFIs) to identify US account holders as well as entities under US control and provide the IRS with information on their assets, income payments and trade flows during the fiscal year
- FFI definition includes almost all non-US financial entities: retail and private banks, custodians, broker dealers, investment banks, standard funds, hedge funds, private equity funds, collective investment schemes, insurance, CSDs and ICSDs
- An intergovernmental approach (IGA) for implementing FATCA has become the major legal basis for FATCA implementation worldwide. More than 50 countries have negotiated an IGA. Two models of the IGA have in the meantime been developed:
  - Under model 1, FATCA partner FI will be required to collect and report information required by FATCA to their local tax authorities, who will then pass that information to the IRS. Reciprocity is an option
  - Under the IGA model 2 (Japan, Hong Kong and Switzerland), FI will report information directly to the IRS
- FFIs were required to start due diligence on the 1 July 2014 for new and existing accounts

## INDUSTRY IMPLICATIONS OF FATCA

- FATCA compliance is required at group level. Non-compliance by one entity could make the entire group non-compliant

## SCOPE

- Identification of the accounts of US account holders and patrimonial entities under US control
- Implementation of related due diligence and controls
- FFIs incorporated in a Non Intergovernmental Agreement country or in a IGA model 2 country must obtain a waiver to be signed by account holders, relinquishing banking secrecy rights in connection with the reporting requirements imposed by FATCA
- Annual reporting on all compliant US accounts to the national tax authorities/IRS and compliance with requests for additional information with respect to any US account maintained
- Application of a 30% penalty tax on US revenues (dividends, interests, fees and US sales proceeds) paid to "non-compliant FFIs" or "recalcitrant" account holders (i.e. those not willing to disclose to the IRS)

## BNP PARIBAS SECURITIES SERVICES' VIEW

- ▶ The InterGovernmental Agreement approach was a FATCA game-changer as it added an important territorial dimension to the roll-out of FATCA and has become the major legal basis for FATCA implementation worldwide. It has eased program implementations and lowered running costs. Withholding tax should be marginal to apply
- ▶ Adapting and achieving tax compliance in a cost efficient manner through the tides of changing regulatory impediments are both the challenge and contribution of the FATCA community
- ▶ We registered with the IRS prior to April 2014 to be in the first IRS list and we are FATCA compliant within IGA and non-IGA countries
- ▶ We offer a complete range of services to assist our clients for which we are their transfer agent (such as provide raw extractions or assist in pre-qualification of existing investors to ease the registration process; provide reporting on status; calculation of the tax and transfer to IRS or local tax authorities)

For additional information, please contact your local relationship manager or email: [securiesservices@bnpparibas.com](mailto:securiesservices@bnpparibas.com)

## KEY DATES

- **MARCH 2010**  
President Obama signs the 'Hiring Incentives to Restore Employment Act', which includes the FATCA regime
- **SECOND SEMESTER 2012**  
Publication of the IGA model 1 and model 2 templates
- **AUGUST 2013**  
IRS registration portal opens
- **1 JULY 2014**  
Entry into force – FFIs required to start the due diligence for new clients
- **2015**  
Reporting on positions on US reportable accounts and due diligence completed for pre-existing high value individual accounts
- **2016**  
Reporting on positions and income and due diligence completed for all pre-existing accounts
- **2017**  
Reporting on positions, income and gross proceeds



## IN A CHANGING WORLD

We believe that changing regulations are a critical business issue for our clients and are shaping their priorities today. There is a huge cost in meeting new regulations, but perhaps a bigger one in getting it wrong. The pace of regulatory change calls for agility. Business models will need to be adapted and our insights help you address these issues.

## BRINGING YOU THE LATEST REGULATORY INTELLIGENCE

Created by our Public Affairs team, each concise memo covers a specific regulation, including its scope, implications for the industry and the key dates in the regulatory process. As a Bank that is actively engaged with regulators and keenly follows developments, we also include our point of view on each regulation.

Recent updates include key regulations such as EMIR on obligations for cash equities and fixed income clearing, the China Interbank Bond Market and MIFID II, the EU directive for markets in financial instruments.

Visit the full collection on our website: [bit.ly/regulatorymemo](https://bit.ly/regulatorymemo)

## NOTES

FOLLOW US



FIND US

[securities.bnpparibas.com](https://securities.bnpparibas.com)



The information contained within this document ('information') is believed to be reliable but BNP Paribas Securities Services does not warrant its completeness or accuracy. Opinions and estimates contained herein constitute BNP Paribas Securities Services' judgment and are subject to change without notice. BNP Paribas Securities Services and its subsidiaries shall not be liable for any errors, omissions or opinions contained within this document. This material is not intended as an offer or solicitation for the purchase or sale of any financial instrument. For the avoidance of doubt, any information contained within this document will not form an agreement between parties. Additional information is available on request.

BNP Paribas Securities Services is incorporated in France as a Partnership Limited by Shares and is authorised and supervised by the European Central Bank (ECB), the ACPR (Autorité de Contrôle Prudentiel et de Résolution) and the AMF (Autorité des Marchés Financiers).

BNP Paribas Securities Services, London branch is authorised by the ACPR, the AMF and the Prudential Regulation Authority and is subject to limited regulation by the Financial Conduct Authority and Prudential Regulation Authority. Details about the extent of our authorisation and regulation by the Prudential Regulation Authority and regulation by the Financial Conduct Authority are available from us on request. BNP Paribas Securities Services, London branch is a member of the London Stock Exchange. BNP Paribas Trust Corporation UK Limited (a wholly owned subsidiary of BNP Paribas Securities Services), incorporated in the UK is authorised and regulated by the Financial Conduct Authority.

In the U.S., BNP Paribas Securities Services is a business line of BNP Paribas which is incorporated in France with limited liability. Services provided under this business line, including the services described in this document, if offered in the U.S., are offered through BNP Paribas, New York Branch (which is duly authorized and licensed by the State of New York Department of Financial Services); if a securities product, through BNP Paribas Securities Corp. or BNP Paribas Prime Brokerage, Inc., each of which is a broker-dealer registered with the Securities and Exchange Commission and a member of SIPC and the Financial Industry Regulatory Authority; or if a futures product through BNP Paribas Securities Corp., a Futures Commission Merchant registered with the Commodities Futures Trading Commission and a member of the National Futures Association.

Printed on recycled paper with vegetable inks - Designed by the graphics department, corporate communications, BNP Paribas Securities Services.

170109U\_SFO\_FATCA\_RM\_EN