

FOREIGN ACCOUNT TAX COMPLIANCE ACT (“FATCA”)

What is FATCA?

Is a new piece of legislation to help counter tax evasion in the United States (U.S.). It was introduced by the U.S. Department of Treasury (Treasury) and the U.S. Internal Revenue Service (IRS) with the purpose to encourage better tax compliance by preventing U.S. persons from using banks and other financial organisations to avoid U.S. taxation on their income and assets. A significant number of countries worldwide including Malaysia is currently in the process of signing the inter-governmental agreements (IGAs) relating to FATCA compliance with the United States government.

What is the impact of FATCA?

All financial institution including Asian Finance Bank (“AFB”) is required to report information on financial accounts (e.g. current accounts, savings accounts, deposit accounts, custodial account and return in investment funds) held directly or indirectly by ‘U.S. person’ on an annual basis. The approach for handling FATCA matters may be different among financial institution.

Who are the affected parties?

FATCA legislation will affect both personal and business customers who are treated as a ‘U.S. Person’ for US tax purposes. The FATCA legislation will also affect certain types of businesses with US owners. The term ‘U.S. person’ includes the following (but is not limited to):

- A citizen of the U.S., including an individual born in the U.S. but resident in another country (who has not given up their US citizenship);
- A person residing in the U.S., including US green card holders;
- Certain persons who spend a significant number of days in the U.S. each year; and
- U.S. corporations, U.S. partnerships, U.S. estates and U.S. trust.

How do I know if I am affected?

AFB has committed to be FATCA compliant. In this regard, whenever you visit any of our Branches or Relationship Managers for products or facilities, we may request for further information and/or documentation about your FATCA status. As part of being FATCA compliant, we will also be reviewing our pre-existing customer base to confirm our customers’ FATCA status. Where necessary, we may have to contact our customers for further information and documentation. FATCA legislation will affect both Individual and Business customers who are treated as ‘US Person’ for tax purposes.

Definition of U.S. Person For Individual Customer

- U.S. citizenship or U.S. residence.
- U.S. place of birth.
- U.S. address including U.S. P.O. Box.
- U.S. telephone number.
- Standing instructions to transfer funds to an account maintained in the U.S.
- A U.S. “in care of” address or a “hold mail” address that is the sole address for the account

holder.

- A power of attorney or signatory authority granted to a person with a U.S. address.

Further information and documentation may be requested to determine whether you are a U.S. person under FATCA. If required, we may contact you for further information and documentation. If you are considered a U.S. person, we may request for further information and documentation. If required, you may be requested to complete and submit some relevant forms. FATCA will have minimal impact for most customers who are not a U.S. person. There will be no action required, but if necessary, AFB may still contact you for further information and documentation.

For Business Customer

If your FATCA status is a U.S. person, AFB may contact you for further information and documentation, if required. The aim of this exercise is to identify customers that must be reported under FATCA. If you are considered a U.S. company, we may request for further information and/or documentation. If required, our Relationship Manager may contact you to complete and submit some relevant forms. The impact of FATCA is wider than just for U.S. Companies. AFB may still contact our Business Customers to determine their status i.e. whether the Business is a U.S. person under FATCA. If required, we may contact you for further information and/or documentation.

What will AFB doing in order to comply with FATCA regulations?

To comply with FATCA, AFB will:

- Conduct a review of new and existing customers to identify those that are reportable under FATCA. Business customers will be classified according to the FATCA legislation (For example, as U.S. persons, foreign financial institutions or non-financial foreign entities).
- Report information to the IRS or local tax authority on all accounts held directly or indirectly by U.S. persons. In addition, AFB may also need to report information about customers who do not provide the required documentation to us.
- In certain circumstances and where customers fail to provide the appropriate documentation or when doing business with non-compliant entities, AFB may be required to apply 30% U.S. withholding tax on certain types of US income paid to such customers.

What are form and information needed?

You may be asked to complete some U.S. forms (whichever relevant) and if required to provide some appropriate documentation.

The forms are available in the U.S. IRS website.

- a) Form W9 <http://www.irs.gov/pub/irs-pdf/fw9.pdf>
- b) Form W8BEN <http://www.irs.gov/pub/irs-pdf/fw8ben.pdf>
- c) Form W8BENE <http://www.irs.gov/pub/irs-pdf/fw8bene.pdf>

What are the impacts on me if I do not provide the information and/or documents requested?

AFB may need to report certain information to the regulatory authorities about customers who do not provide required information and/or documentation. In some cases, certain U.S. source payments coming into your accounts may be withheld.

What happens if a joint account is held by a US person and a non-US person?

A joint account, which has one US owner, is treated as a US account and therefore, the entire account is subject to the FATCA legislation. For more information regarding FATCA, please visit the IRS website at <https://www.irs.gov/businesses/corporations/foreign-account-tax-compliance-act-fatca>

Enquiries

You may contact our Customer Service Department at the contact details below for any enquiries regarding your FATCA or to exercise any options provided to you under this Notice:

Chief Compliance Officer,

Asian Finance Bank Berhad

Level 2, Podium Block, Kenanga International, Jalan Sultan Ismail, 50250 Kuala Lumpur.

GL : +603-2079 1000 DL : +603-2079 1159 Fax : +603-2079 1177 Telephone: 1-300-88-8787

(Local) and 603-26005500 (International)

Or email to: feedback@asianfinancebank.com.my

Glossary

Foreign Financial Institution (“FFI”)

FFI is the abbreviation for foreign financial institution. It refers to a non-US financial institution. The FATCA legislation contains an extensive definition of FFI and includes entities such as banks, custodian institutions, investment funds and certain types of insurance companies.

IRS Forms

- Withholding certificates, also referred to as W-forms, are US IRS tax forms.
- Form W-9 – is a Request for Taxpayer Identification Number and Certification. This US Tax Form is provided by an account holder to confirm and certify their US status.
- The W-8 series – is currently used by foreign persons (including corporations) to certify their non-US status. The form establishes that one is a non-resident alien or foreign corporation, to avoid or reduce tax withholding from US source income.
- These forms will permit a non-US customer to self-certify their status under FATCA.
- Inter-governmental Agreement (“IGA”) - An IGA is an agreement between the US and specific countries to build FATCA compliance into the country’s legal framework so that the country can implement FATCA.
- An IGA will require financial institutions to provide the information on US accounts, which they hold either:
 - Directly to the IRS, or
 - To the local tax authority of the resident country.
 - Internal Revenue Service (“IRS”)

Non-financial Foreign Entity (“NFFE”)

A NFFE is a non-US incorporated/established entity that does not meet the definition of Foreign Financial Institution (FFI) and includes:

- Listed or privately held operating or trading businesses.
- Professional service firms.
- Certain entities with a passive (i.e. not an operating/trading business).
- Charitable organisations.

Tax Identification Number (“TIN”)

For an individual, this would be their US social security number; for an entity, their employer identification number.

Specified United States Person (“USP”)

The term specified United States person means any United States person other than:

- A corporation the stock of which is regularly traded on one or more established securities markets for a calendar year.
- Any corporation which is a member of the same expanded affiliated group as a corporation the stock of which is regularly traded on one or more established securities markets for the calendar year.
- Any organisation exempts from taxation under US federal tax law or an individual retirement plan.
- The United States or any wholly owned agency or instrumentality thereof.
- Any state, the District of Columbia, any US territory, any political subdivision of any of the foregoing, or any wholly;
- owned agency or instrumentality of any one or more of the foregoing;
- Any bank incorporated and doing business under the laws of the United States (including laws relating to the District of Columbia) or of any state thereof.
- Any real estate investment trust.
- Any regulated investment company, or any entity registered with the Securities Exchange Commission under the Investment Company Act of 1940.
- Any common trust fund.
- Any trust that is exempt from tax or is deemed a charitable trust.
- A dealer in securities, commodities, or derivative financial instruments that is registered as such under the laws of the United States or any state.
- A broker, and
- Any tax exempt trust under a tax exempt or public school annuity plan or governmental plan.

US Person (“USP”)

- A citizen or resident of the United States.
- A partnership created or organized in the United States or under the law of the United States or of any state, or the District of Columbia.
- A corporation created or organized in the United States or under the law of the United

States or of any state, or the District of Columbia.

- Any estate or trust other than a foreign estate or foreign trust. (See Internal Revenue Code section 7701(a)(31) for the definition of a foreign estate and a foreign trust).
- A person that meets the substantial presence test.
- Any other person that is not a foreign person.

US Citizen

- An individual born in the United States.
- An individual, whose parent is a US citizen.
- A former alien, who has been naturalized as a US citizen.
- An individual born in Puerto Rico.
- An individual born in Guam, or
- An individual born in the US Virgin Island.

Withholding Tax

A 30% withholding tax applies under FATCA on 'withholdable payments' in respect of financial institutions that do not comply with the FATCA requirements and/or customers who do not provide the requisite FATCA documentation.

The term withholdable payment means:

- Fixed or determinable, annual or periodical income, if such payment is from sources within the US - this will include any payment of interest and dividends from sources within the US. This will apply from 1 July 2014
- Any gross proceeds from the sale or other disposition of any property of a type which can produce interest or dividends from sources within the US. This will apply from 1 January 2017.
- Various exceptions apply, including for income connected with a US business.