

Foreign Account Tax Compliance Act – Frequently Asked Questions

1. What is FATCA?

FATCA refers to US legislation, namely Foreign Account Tax Compliance Act, with a view to prevent tax evasion by US taxpayers via non-US financial Institutions and offshore investment instruments. FATCA has a graduated implementation timeline. Financial institutions and its customers need to observe its requirements starting 1 July 2014.

2. What do financial institutions have to do to comply with FATCA?

Under FATCA, Foreign Financial Institutions (“FFIs”) are required to sign agreement with the US Internal Revenue Service (“IRS”) to identify accounts held directly or indirectly by US Person and to report the relevant account information to the IRS. In order to ascertain customers’ US (or non-US Person) status, FFIs are required to collect additional information or documentation from customers. FFIs are also required to report information about customers who do not provide the required information or documentation. In certain circumstances and where customers fail to provide the appropriate documentation or when doing business with non-compliant entities, FFIs are required to apply 30% US withholding tax on certain types of US income paid to such customers or entities.

3. Why are financial institutions in HK required to follow the legislation in US?

All financial institutions meeting the criteria of FFIs under FATCA including but not limited to banks are required to comply with the terms of the FFI agreement. Failing to do so, the financial institutions concerned will be subject to a 30% withholding tax on their relevant US-sourced payments.

4. When will FATCA become effective?

FATCA becomes effective from 1 July 2014.

5. Why should I concern about FATCA?

FATCA affects both personal and company customers. As a FATCA-compliant financial institution, Dah Sing Bank, Limited (“the Bank”) is required to identify customers with US Person status under FATCA. Generally speaking, customers are required to make declaration about his/her/its US Person status (for personal customer) or entity classification (for company customer) according to the FATCA requirements when it comes to (a) account opening, credit card or revolving loan application, (b) change of information and (c) setup of Power of Attorney or standing instruction. You may be asked to supply the Bank with additional documentation as required by FATCA to support your declaration. The Bank would also be reviewing its existing customer base to confirm FATCA statuses of its customers and may contact its existing customers for further information and documentation where necessary.

6. What is the definition of US Person?

A United States person is defined under FATCA as a person who is —

- (A) a citizen or resident (e.g. green card holder or meets substantial presence test) of the United States,
- (B) a domestic partnership,
- (C) a domestic corporation,
- (D) any estate (other than a foreign estate, within the meaning of paragraph (31) [See IRC Section 7701(a)(31)]),
- (E) any trust If—
 - (i.) a court within the United States is able to exercise primary supervision over the administration of the trust, and
 - (ii.) one or more United States persons have the authority to control all substantial decisions of the trust.
- (F) the United States government (including an agency or instrumentality thereof),
- (G) a State (including an agency or instrumentality thereof), or
- (H) the District of Columbia (including an agency or instrumentality thereof).

[See Treas. Reg. 1.1471-1(b)(132)]

7. What kind of customers and account types will be affected?

Effective from 1 July 2014, the Bank will request customers, including individuals, sole proprietors and financial institutions, to make declaration of US Person Status and to supply additional information (e.g. US Taxpayer Identification Number) and documentations, if applicable, during new account deposit or investment account opening, credit card or revolving loan application, change of customer information, setup of Power of Attorney or setup of Standing Instruction.

For other types of company customers, they are required to make the similar FATCA declaration and go through the FATCA checking with effect from 1 January 2015.

8. Why do I need to provide FATCA documents / disclose these information / make declaration? Will there be any differences if I am not a US person?

Since the Bank is committed to be fully compliant with FATCA, we will request our customers to make declaration about his/her US Person status and provide additional information and supporting documents.

If a personal customer is not a US Person and does not have such US indicia as US nationality, US address, US telephone number or country of birth in US, the customer is only required to make declaration as non-US Person during account opening, credit card or revolving loan application.

9. Will FATCA affect my account, card or loan application?

Customer declaration and provision of supporting documentations for FATCA checking are part of our account opening or application process. If a customer can provide the appropriate information and documentation as required, it will not affect the account opening or application.

10. Is Dah Sing Bank the only bank to be affected by FATCA?

All banks and other financial institutions in Hong Kong are affected by FATCA. However, their approach to implementing FATCA may vary. Customers may be asked for different documentation from the Bank. It may be different from other banks or financial institutions. Customers should contact other banks or financial institutions for details.

11. What is the consequence if customers do not provide the requested information or documentation to Dah Sing Bank?

The Bank may not be able to open new accounts or offer additional products and services to these customers. The Bank may also terminate these customer relationships. Besides, the Bank will be required to report information of these customers to the local authority or IRS.

In general, the Bank may not be required to apply a 30% US withholding tax on certain types of US source income paid to such customers according to the Intergovernmental Agreement (“IGA”) signed between Hong Kong and the US for FATCA implementation, unless under certain circumstances where required by those US Treasury Regulations.

12. Does FATCA replace existing US tax regulations I already follow?

You should contact a professional advisor for further advice on anytax matters.

13. How and where can customers get additional assistance regarding FATCA?

TheBank is unable to offerUS tax advice. For tax related questions, customers should seek advice from professional tax advisors or refer to the IRS website:

[http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-\(FATCA\)](http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-(FATCA))