



Discussion Forum – 8 March 2011



TISA

leading on tax incentivised savings

Ed Cole

Associate Director
Barclays Tax



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Foreign Account Tax Compliance Act (FATCA)

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Associate Director, Barclays Tax



“I am announcing a set of proposals to cut down on illegal overseas tax evasion, that’s what I am committed to doing as president”

US President - Barack Obama



Overview

- Implementation date **1 Jan 2013**
- **30% withholding on all US source income and gross proceeds paid to FFI unless FFI:**
 - enters into an Agreement with IRS
 - identifies and report all U.S. persons
 - withhold 30% on payments to recalcitrant or non-participating FFIs
- **FATCA has significant business and strategic implications**



Current position

- Notice 2010-60 proposes transitional arrangements for existing customer data for up to 5 years
- Large volume of industry comment provided to US Treasury
- US Treasury and IRS are currently working on the Regulations
 - these will be issued in draft for consultation
 - indications are that further guidance may be issued
 - final regulations may not be in place before mid or late 2011



Other issues

- HIRE Act also includes provisions in respect of
 - substitute dividend and dividend equivalent payments
 - foreign targeted bearer bonds (TEFRA C/D)
 - US taxpayer disclosures



FFI key obligations – identify US accounts

- **New Accounts**
 - Change all on-boarding processes to identify US persons
 - Either as direct account holders
 - Or through entities (>10% ownership or >0% for trusts)
- **Existing accounts**
 - Identify all US persons by “electronic search” and remediate
 - >\$1m within 2 years
 - >\$50k within 5 years
- **Obtain W-9/TIN and waiver to allow reporting**
- **Classify accounts for reporting or withholding purposes**



FFI key obligations – Report or Withhold

- **Report all US accounts**
 - annual report (format and details to be announced)
 - aggregated for all FFI (consider using TIN as unique identifier)
- **Withhold on payments to recalcitrant accounts and non-participating FFIs**
 - How treat FFIs who elect to be withheld upon?
 - Processes to deposit withheld tax



Issues

- Verification
- Additional data requests
- QI obligations and reporting continues unchanged



Challenges

- Inform key players
- Identify systems and processes that might/will be affected
- Assess potential range of costs/establish budgets
- Link to any existing change programmes



Final thoughts

Discussion

Formal period of consultation

Comment and redrafting

Interpretation

System and process changes

1st January, 2013

