

# Foreign Account Tax Compliance Act (FATCA)

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## What is FATCA?

On 1 July 2014 the Foreign Account Tax Compliance Act, commonly known as FATCA, has come into effect, with implications for financial institutions operating within the U.S., as well as abroad. FATCA expands the existing documentation, reporting, and withholding requirements related to U.S. taxpayers investing outside the U.S., in an effort to minimize U.S. tax evasion.

In accordance with current guidance, many countries (Germany, Italy, the UK, Switzerland, and Japan, for example) have already signed so called Intergovernmental Agreements (IGAs) with the U.S., allowing foreign financial institutions (FFIs) in those countries to comply with FATCA obligations without breaching national data protection laws.

## What is the intent of FATCA?

The objective of FATCA is to detect, deter and discourage offshore tax evasion by U.S. citizens or residents by requesting information about U.S. persons to increase transparency for the U.S. Internal Revenue Service (IRS) and imposing a withholding tax where the applicable documentation and reporting requirements are not met. FATCA's provisions are designed with incentives for FFIs to provide information to the IRS on financial accounts held by U.S. persons:

- Directly investing outside the U.S. or
- Indirectly investing through a non-U.S. entity

## Who does FATCA impact?

FATCA is far-reaching and can impact any individual or entity (U.S. or foreign), to the extent that such person is involved in making or receiving payments that fall within the scope of FATCA.

## How does FATCA impact Baader Bank and its clients?

Baader Bank has to collect and verify appropriate client information. Baader Bank must then report to the local government. The FATCA regulations require Baader Bank to review existing onboarding and withholding processes and enhance them where necessary to satisfy FATCA regulations.

## What are the consequences to a Foreign Financial Institution of having an account that has indicia of U.S. status?

If an account has indicia of U.S. status, such as U.S. mailing address, Baader Bank has to obtain documentation to confirm the US or non-U.S. status of the account holder. If documentation is not obtained to establish that the account is not an U.S. account, Baader Bank will be required to report the account to the IRS as an U.S. account.

## What are the deadlines?

### Client Due Diligence:

FATCA will enforce new account opening processes and procedures effective July 1, 2014. A phased approach will be taken to enforce remediation on pre-existing accounts based on whether the accounts are (1) prima facie FFIs whereby the deadline is December 31, 2014, (2) high-value individual accounts whereby the deadline is July 1, 2015 and (3) all remaining accounts whereby the deadline is July 1, 2016.

### Reporting:

Effective September 30, 2015, FATCA reporting will begin for a Participating FFI's U.S. accounts identified by December 31, 2014 for calendar year 2014 activity.