FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA)

- Importance, Implications and concerns

A brief overview of the legislation that affects the global financial service industry

What?

- FATCA requires most financial service institutions to disclose and report certain information on US account holders to the US Internal Revenue Service (IRS)

Why?

- FATCA enhances the IRS's ability to collect tax imposed on income earned by US persons through non- US investments and/or non-US accounts.

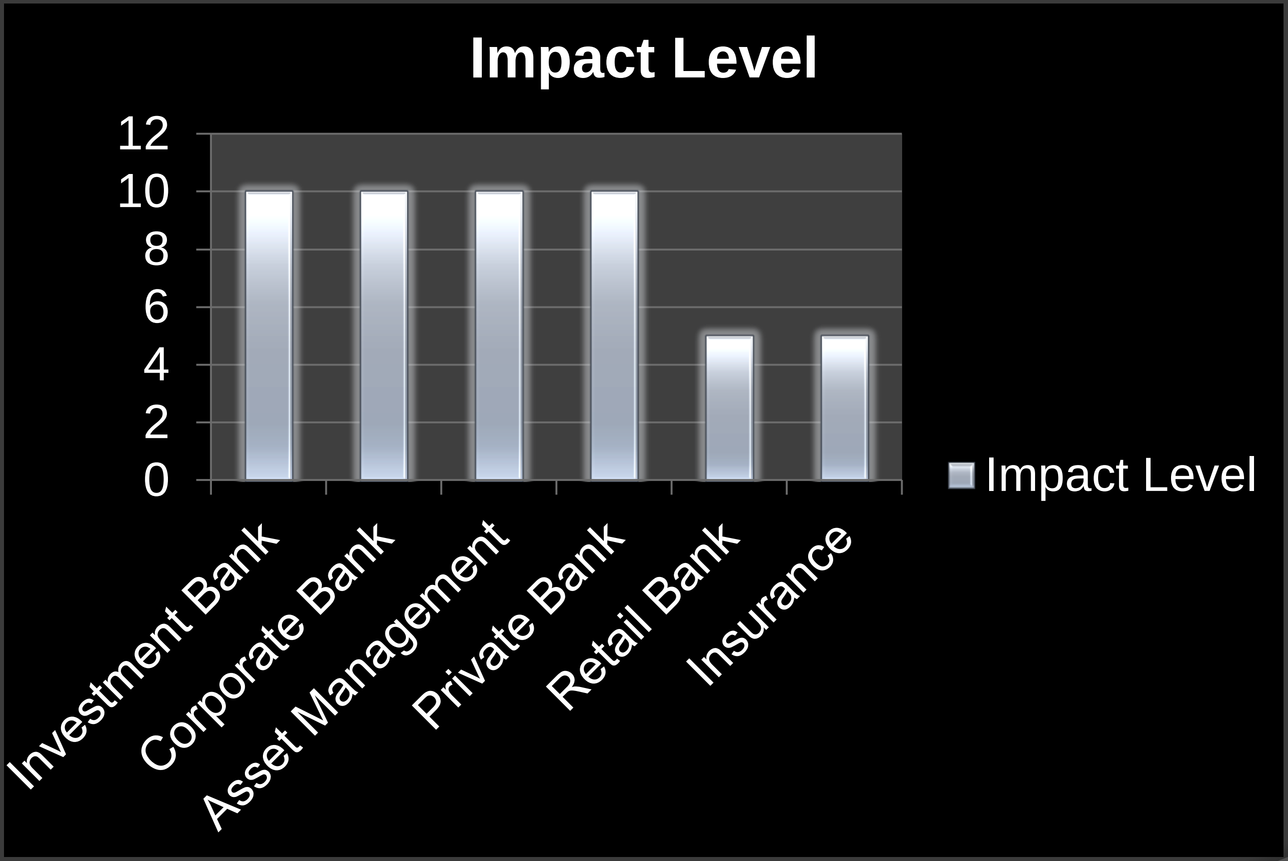
Who?

- FATCA affects a wide range of non-US financial institutions: banks, hedge funds, private equity funds, broker-dealers, clearing organizations, trust companies and insurance companies.

How?

- Affected institutions will be required to comply with specific due diligence and verification procedures.
- Certain information on US account holders must be submitted to the IRS on an annual basis.

How does FATCA impact different institutions?



Can an institution choose not to implement FATCA?

To comply

- Affected businesses will be required to: (1) enter into a documentation and reporting agreement with the IRS; (2) comply with specified due diligence and verification procedures to determine which account holders are US account holders; (3) report to the IRS certain information about US account holders on an annual basis; and (4) comply with other information requests made by the IRS.

Not to comply

- Affected institutions will be subjected to a 30 percent withholding tax on certain US-sourced payments received, irrespective of whether the income is received on a client's behalf.
- US-sourced payments include interest, dividends, rents, premiums, annuities and royalties, and gross profit from the sale of assets that produce US-sourced interest and dividends.
- Non-compliance could be perceive as an attempt to shield US tax evaders. This places an unnecessary risk on an institution's reputation in the marketplace.

To opt-out

- Some institutions may decide that complying with the due diligence and verification provisions may not be cost-effective and choose to discontinue making US investments or seeking US customers.

The concerns and loopholes in the law

Costs

- Financial Institutions are anticipated to be already racking up significant costs for scouring records of US citizens and reporting it back while also being in conflict with domestic laws.
- On non-compliance banks face 30% withholding tax on payments made to the financial institutions from the US, a significant fact that could affect participation in US capital market.

Hidden Accounts

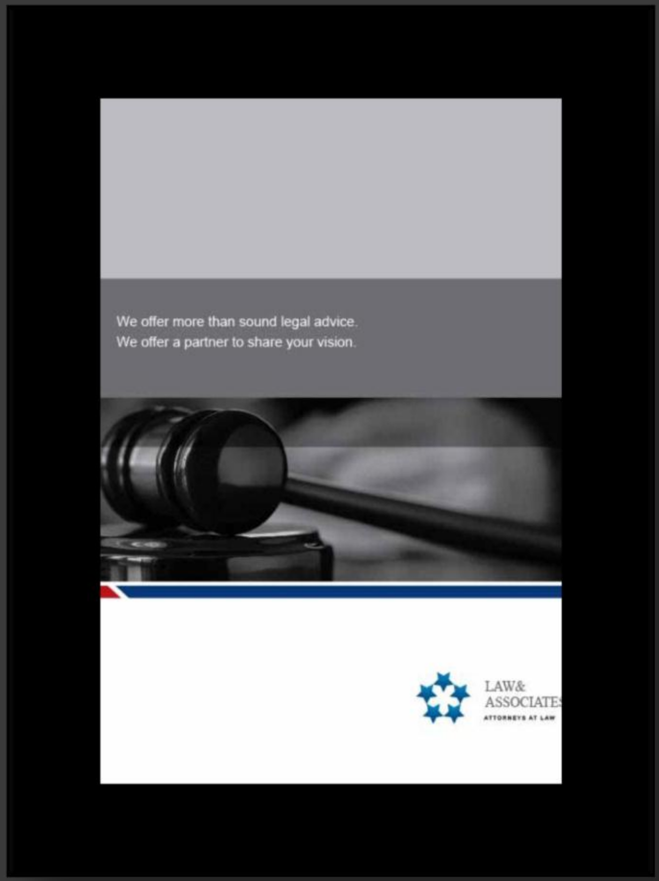
- Speculations are on that the act aims at conscripting financial institutions around the world to be arms of US tax authorities.
- The law faces a significant loophole as it does not prevent US tax payers from opening a hidden account that largely deals in foreign investment. There is thus the possibility of continued tax evasion if people sell their US direct and indirect assets or park their revenues.

Risk to Certain Companies

- German insurance companies could find FATCA compliance even more difficult than banks. Certain entities including some insurance companies are bound by stricter regulations making it illegal to reveal some customer data.

FBAR (Foreign Bank Account Reporting) and FATCA – a comparison

Consideration	FBAR	FATCA
Congressional Act	Bank Secrecy Act	HIRE Act
Legal Authority	Title 31	Title 26
United States Code	Section 5321	Section 6038
IRS Form	TD F 9—22.1	8938
Threshold Value Triggering Reporting Requirement	USD 10,000	USD 50,000
Penalties	No minimum. Maximum Unlimited	Minimum USD 10,000. Maximum USD 50,000
Reasonable cause exception	Yes	Yes
Persons required to fie	US Persons	Specified Individuals
What to report	“Interest” in a Foreign Financial Account	“Interest” in a Specified Foreign Financial Asset



Thank You

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