



Insurance Division
Karachi

Circular No. 15 of 2014

June 24, 2014

Foreign Account Tax Compliance Act (FATCA)

The Foreign Account Tax Compliance Act (FATCA), a law of United States (US), is aimed at preventing tax evasion by US citizens and residents through use of offshore accounts. The FATCA requires Foreign Financial Institutions (FFIs) to take certain actions to obtain registration, identify accounts/ business relationships of US persons and report on periodical basis to the US tax authority, the Internal Revenue Service (IRS). Apparently, the non-compliance with FATCA may expose Financial Institutions to certain risks including reputational damage, loss of customers, loss of correspondent relationships along with the financial losses in the form of 30 percent withholding tax on the US-based source income and pass through payments. The FFIs not reporting the information will be deemed 'Non-Participating FFIs' (NPFFIs), and will be subject to 30% withholding on US source income, and gross proceeds from sale or disposal of investments in US securities and interest bearing assets starting from the 1st day of January 2017. More details about FATCA and its compliance requirements are available on the below mentioned links:

- i. [http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-\(FATCA\)](http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-(FATCA))
- ii. <http://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA.aspx>

2. In order to avoid the negative repercussions of the non-compliance with the provisions of FATCA, all insurers to whom the FATCA is applicable, in their own best interest, are advised to get themselves registered with the Internal Revenue Service (IRS) after determining their legal status according to the provisions of FATCA latest by June 30, 2014 so that they may be listed as Participating Foreign Financial Institution (PFFI) in the issuance by IRS on July 1, 2014.

3. Any decision to register with the IRS may be taken keeping in view the insurer's own status as per the evaluation exercise conducted by insurer itself, as FATCA Regulations may not be applicable on certain entities due to their local operations or small nature of their business. Insurers are advised to make briefing/presentation to their board of directors for obtaining necessary approval. Further, they are advised to seek appropriate legal and accounting advice from independent experts with respect to application of FATCA requirements and for determining their FATCA status, and registration as a PFFI or non-registration thereof. Please note that the IRS has provided useful explanations under the title of "FAQs" which are available at the following link:

<http://www.irs.gov/Businesses/Corporations/FATCAFAQs>

SECURITIES & EXCHANGE
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SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Insurance Division

4. With regard to the registration process, insurers are advised to observe the following points in letter and spirit:

- i. If they decide not to register due to small or local client base or if they do not receive any US sourced payments which are to be withheld, they shall do so on the sound basis of determination and will assume the responsibility of repercussions of such decision, whatsoever.
- ii. Foreign subsidiaries and branches, if any, shall immediately be advised about the registration process, as necessary, in order to meet the timelines.
- iii. Necessary due diligence measures, including identification of pre-existing accounts of US persons and acquisition of new customers should be undertaken as per requirements and timelines of FATCA.
- iv. Consent of US persons (for both pre-existing accounts of US persons as well as accounts of new customers being acquired) to share their accounts' information with US tax authorities may be re-verified by the insurers and all relevant documents be kept on record.

5. Any queries about the PFFI registration process should be directed to Mr. Faraz Uddin Amjad, Joint Director, SECP at faraz.amjad@secp.gov.pk

6. Report of action taken in the matter, whatsoever, shall be submitted to the SECP latest by July 4, 2014.

A handwritten signature in black ink, appearing to read 'Mohammed Asif Arif', is positioned above the name and title.

Mohammed Asif Arif
Commissioner (Insurance)

Distribution:

- All life and non-life insurers, including family and general takaful operators
- Insurance Association of Pakistan