

FATCA 常見問題

1	甚麼是 FATCA?
	<ul style="list-style-type: none">• FATCA 是外國賬戶稅務合規法案。• FATCA 是一項美國法案，主要旨在防止美國納稅人利用非美國金融機構、離岸投資工具逃避美國稅項。• 金融機構將受到 FATCA 分階段實施之影響，而其客戶於 2014 年 7 月 1 日起首次受到 FATCA 的影響。
2	• 哪些客戶會受到影響?
	<ul style="list-style-type: none">• FATCA 主要會影響在美國納稅法案下被定義為”美國人”¹的客戶及對有表徵顯示與美國有關聯(例如擁有美國國籍、在美國出生、顯示美國的郵寄地址或美國的電話號碼)的客戶。• 此外，由美國人持有重大權益的非美國機構客戶均會受到 FATCA 影響。
3	金融機構會做甚麼以遵守 FATCA?
	<ul style="list-style-type: none">• FATCA 要求金融機構識別由美國人直接或間接持有的賬戶，並向美國國稅局申報相關賬戶信息。²• 為確定客戶之美國或非美國稅務身份，FATCA 要求金融機構收集客戶額外信息或文件。• 如客戶未能提供所需的額外信息或文件，金融機構在支付指定的源自美國收入予該類客戶時，需按 30% 稅率扣繳美國預提稅。
4	金融機構將提供甚麼客戶賬戶資料予美國國稅局?
	<ul style="list-style-type: none">• 金融機構須直接或通過本地的相關機構向美國國稅局申報某些客戶賬戶信息，包括姓名、地址、美國稅編碼、賬戶號碼及賬戶餘額予美國國稅局。³• 對於由美國人持有重大權益的非美國機構，金融機構須申報其美國擁有人的資料。
5	如客戶不願意提供金融機構所需信息或文件，會有什麼後果?
	<ul style="list-style-type: none">• 在不抵觸本地適用法律的情況下，金融機構需按匯總的方式直接申報或通過本地的相關機構申報該類客戶的賬戶資料予美國國稅局。• 當金融機構支付指定的源自美國收入予客戶時，或需按 30% 稅率扣繳美國預提稅。• 金融機構或會不接受其開戶申請或終止其服務。
6	金融機構會要求客戶提供甚麼類型的信息或文件?
	<ul style="list-style-type: none">• 金融機構或會要求客戶提供美國稅務表格(W-8/W-9 類表格)或客戶 FATCA 身份的自我聲明書以確定其非美國或美國的稅務身份。 客戶可從以下網址瀏覽或下載 W-8/W-9 表格： https://apps.irs.gov/app/picklist/list/formsInstructions.html?value=w8&criteria=formNumber&submitSearch=Find

	<ul style="list-style-type: none"> 此外，(如適用)金融機構或會要求客戶提供同意書，容許金融機構申報其賬戶信息予美國國稅局。
7	客戶如何及可在那裡得到有關 FATCA 的進一步協助？
	<ul style="list-style-type: none"> 金融機構不能向客戶提供美國稅務意見。就有關稅務問題，客戶應自行向專業稅務顧問尋求意見或參考美國國稅局網頁。

¹ 根據 FATCA “美國人” 之定義:

- (A) 美國公民或居民(如美國綠卡持有人或通過 “逗留美國實際天數測試” 人士)，
- (B) 美國法律上生效的合夥，
- (C) 美國註冊的公司，
- (D) 任何不確定為非美國的遺產 [見 IRC Section 7701(a)(31)]，
- (E) 任何符合以下兩個條件的信托：
 - (i) 美國法院能夠對該信託的管理行使主要監管，及
 - (ii) 有一個或多個美國人士有權控制該信託的所有重大決策
- (F) 美國政府(包括其機構或部門)，
- (G) 美國州份(包括其機構或部門)，或
- (H) 哥倫比亞特區(包括其機構或部門)。

[見 Treas. Reg. 1.1471-1(b)(132)]

² 本資料便覽的資訊是依據最終法規。

³ 符合提交同意書(如有必要)及其他適用的當地法律。

FATCA FAQ

1	What is FATCA?
	<ul style="list-style-type: none">• FATCA stands for the Foreign Account Tax Compliance Act.• FATCA is a United States (“U.S.”) legislation that primarily aims to prevent tax evasion by U.S. taxpayers by using non-US FIs (“Financial Institutions”) and offshore investment instruments.• FATCA impacts FIs on a graduated implementation timeline. Customers of FIs will be first impacted on 1 July 2014.
2	Which customers are affected by FATCA?
	<ul style="list-style-type: none">• FATCA will mostly affect customers who are treated as U.S. Persons¹ for U.S. tax purposes and customers who have been identified as having links to the U.S., such as with U.S. nationality, place of birth in U.S., a U.S. mailing address or a US telephone number.• FATCA will also affect non-U.S. entity customers who are substantially owned by US Persons.
3	What do FIs have to do to comply with FATCA?
	<ul style="list-style-type: none">• FATCA requires FIs to identify accounts held directly or indirectly by U.S. Persons and to report the relevant account information to the U.S. IRS.²• In order to ascertain customers’ U.S. or non-U.S. tax status, FATCA requires FIs to collect additional information or documentation from customers.• Where customers fail to provide the requested information or documentation, FIs are required to apply a 30% U.S. withholding tax on certain types of US source income paid to such customers.
4	What information may FIs report to the IRS?
	<ul style="list-style-type: none">• FIs are required to report information on certain account holders, including name, address, U.S. Taxpayer Identification Number, account number, account balance to the IRS directly or through the local competent authority.³• For a non-U.S. entity substantially owned by U.S. Persons, FIs are required to also report information of the entity’s U.S. owners.
5	What is the consequence if customers do not provide the requested information or documentation to the FIs?
	<ul style="list-style-type: none">• Subject to applicable local laws, FIs would be required to report such account information on a pooled basis to the IRS directly or through the local competent authority.• FIs would be required to apply a 30% U.S. withholding tax on certain types of US source income paid to such customers.• FIs may decline account opening applications or terminate services to such customers.

6	What types of information or documentation that the FIs may request from customers?
	<ul style="list-style-type: none"> • FIs may request customers to provide U.S. tax forms (W-8/W-9 Forms) or a self-certification form to support the customers' claim of their non-U.S. or U.S. tax status. Customers can view or download U.S. Forms W-8/W-9 from the URL below: https://apps.irs.gov/app/picklist/list/formsInstructions.html?value=w8&criteria=formNumber&submitSearch=Find • Where applicable, FIs may also request customers provide a consent form that enables the FIs to report relevant account information to the IRS.
7	How and where can customers get additional assistance regarding FATCA?
	<ul style="list-style-type: none"> • Please note that the FIs are unable to offer US tax advice. For tax related questions, customers should seek advice from professional tax advisors or refer to the IRS website.

¹ 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)]

² The information of this fact sheet is based on final regulations.

³ Subject to submission of consent form if necessary and other applicable local laws