

Byrnes and Perryman's Analysis of the FATCA GIIN Lists June 2014 - February 2015

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General Introduction



From 1 July 2014, U.S. withholding agents have imposed, with very limited exceptions, the new Internal Revenue Code (IRC) Chapter 4 withholding (a.k.a. FATCA) of 30 percent on 'withholdable' payments to foreign financial institutions (FFIs) that do not appear on the IRS' published GIIN list.

However, U.S. Treasury delayed the imposition of the 30 percent withholding six months, until 1 January 2015, upon FFIs that are resident in a country or jurisdiction that entered into (or at least signed) an intergovernmental agreement (IGA) with the USA. The FATCA IGAs smooth the protocols, procedures, and processes for foreign countries to impose FATCA within the context of their domestic tax information gathering and exchange systems. Now that this 1 January deadline passed, nearly all FFIs, all FFI group members, and all FFI branches, from IGA and non-IGA countries must be registered with the IRS via the U.S. Treasury [FATCA portal](#) in order to obtain a Global Intermediary Identification Number (GIIN).

In order to execute a withholdable payment from a U.S. source without FATCA's 30 percent withholding, a U.S. withholding agent (USWA) must have a valid tax certification form on file, known as a W-8. Generally, an FFI will provide a U.S. withholding agent (USWA) a W-8BEN-E, by examples: W-9 (U.S. persons), W-8BEN (foreign natural persons), W-8BEN-E (foreign entities), and W-8IMY (intermediaries). For the W-8 forms to be valid, an FFI recipient of a payment must include a valid GIIN. The USWA has the responsibility to match all GIINs included upon the W-8 forms against the GIIN information on the IRS website, such as name and country of resident. FFIs who registered for a GIIN but have not received one from the IRS can declare upon a W-8 that a GIIN has been "applied for", postponing the payment and withholding an additional 90 day grace period.

GIIN Lists Analysis: June 2014 through February 2015

Since the publication of the U.S. Treasury's original GIIN list 1 June 2014, Haydon Perryman (FATCA systems designer for several tier 1 financial institutions) and I (primary author, [Lexis Guide to FATCA Compliance](#)) have been analyzing on a monthly basis the list that the USA provides of "approved FFIs" (foreign financial institutions). On 1 February, the IRS published its second 2015 FATCA GIIN list of "approved FFIs" (a list of the financial firms that have registered on the IRS FATCA portal). Herein we present our updated monthly analysis.

FATCA IGA Scenarios	GIINs	Jurisdictions
Model 1A IGA	95,278	95
Model 1B IGA	33,855	3
Model 2 IGA	17,900	14
No IGA	5,871	131
US	828	1
US Territories	65	6
Total	153,797	250

GIIN List (2014/2015)	Total Registrations
June	77,354
July	82,994
August	95,239
September	99,861
October	104,344
November	116,104
December	122,881
January	147,043
February	153,797

The June 2, 2014 GIIN list contained 77,353 registrations from 205 countries and jurisdictions (see in-depth analysis of that list). Of the June registrations, 74 percent hailed from Model 1 IGAs that had been either signed or recognized by the IRS as agreed in substance. Approximately 20 percent of the initial FFIs registrations were Cayman Islands firms, and 37 percent of the total from the UK and its Crown dependencies and overseas territories. As of 1 February 2015, Cayman Islands, with 28,045, remains the clear FATCA FFI registration leader, which given its financial sector size relative to Germany (3,826 FFIs), Japan (3,627) and China (1,000), is quite surprising.

On July 1, 2014 the IRS published the second monthly GIIN list. This list contained only an additional 10,000 registrations, bringing the total to 87,993. 82,994 of this total, approximately 95 percent, were from the 98 countries with which, as of July 2014, the IRS signed IGAs. Only five percent (4,318) of the registrations derived from the remaining non-IGA countries upon which Chapter 4 withholding went into effect on the day of the list's publication. It is fair to conclude that as of that time, FATCA registration had not caught on globally.

After the first month of FATCA withholding that began 1 July, the [August 2014 GIIN list](#) experienced an unexpected decline in growth of registrations, with only 7,246 additional entities bringing the total registration to 95,239. Yet, as of this third GIIN list, the IRS increased the amount of IGAs with foreign countries to 101, from which 89,718 institutions (94 percent) registered (even though withholding was suppressed until January 1, 2015). (See [FATCA Resource Center](#).) Only 4,801 (approximately five percent) registered from the 143 countries and territories without an IGA, leaving multitudes of their FFIs exposed. [September's GIIN list](#) continued the downward trend in FFI registration growth and did not reach a 100,000 registration mark (99,861). It was not until after six months of the open registration window (the October 1, 2014 GIIN list) that FFI registration breached 100,000 (104,344 total).

The [November 2014](#) list saw a jump in registration, led by a significant surge of United Kingdom financial firms, achieving a global total of 116,104 FFIs and branch registrations. As of November, 43 percent of all registered FFIs were from the U.K., her Crown Dependencies, and Overseas Territories. The December GIIN list released grew by another 6,000 global registrations to 122,881, of which only 6,094 were from non-IGA countries. Global FFI Registration as of 1 February 2015 stands at 153,797.

153,797 FFI registrations must be viewed in the context that the IRS stated that "... the full FFI list is expected to be less than 500,000 records" ([IRS FFI List FAQs, FFI List Q7](#)). Moreover, based on upon industry discussions and a review of industry literature of financial institution compliance officers, the Big 4, and upon other revenue authority estimates such as the U.K., it is reasonable to state that more than 500,000 entities are required to register with the IRS, closer to 800,000.

Thus, as of February 2015, it is likely that only an amount of 20 percent to 30 percent of potential FFIs have registered with the IRS to obtain a GIIN. The primary reason for lack of FFI registrations appears to be one based upon ignorance of the requirement. Based upon interviews, industry polls, and workshops, many countries' financial communities still do not have an understanding of FATCA. As withholding is imposed upon more types of payments from U.S. sources that are currently not included as "withholdable payments", such as the full amount of a bond redemption, upon the sale price of equities, and upon the sale price of immovables, then the FFIs currently unaware of FATCA will rush to register for a GIIN and move to become compliant with the data collection and reporting requirements.

NAFTA Registrations

The initial June 1 GIIN list contained 2,264 FFIs registered from Canada and Mexico at 418. By November 1, 2014 NAFTA has barely inched forward. Canada's November 1 GIIN list included an additional 143 registrations, at least breaching the 3,000 mark (3,043, where it remained as of the [December list](#)) but with a sizable jump to 4,107 for the 1 February 2015 list. Mexico, on the other hand, has a lethargic 639 FFI registrations as of 1 February.

BRIC Registrations

BRIC FATCA registration remains disappointing. For the initial June list, Brazil led the BRIC countries with 2,258 FFI registrations, followed by Russia (514), India (246) with China only having 211. Based upon the most recent data, the BRIC countries continue to shrug off FATCA. India and China compete for FATCA lethargy with only 1,000 current China FFIs registered but still more than India that has only 698. Brazil experienced the largest amount of registration jump to 5,082 as of February 2015, whereas Russia registered 1,072, similar to China's effort.

European Financial Centers Registrations

For the first GIIN list, Switzerland had 4,040 registered FFIs, Luxembourg had 3,560, Austria 2,978, Guernsey 2,395, Jersey 1,618, Isle of Man 312, Lichtenstein 239 and Gibraltar only 96. As of February 2015, Gibraltar reached 2,043, Switzerland increased to 4,747, Luxembourg 7,023, Austria 3,051, Guernsey 3,419, Jersey 4,088, Isle of Man 970, and Lichtenstein 828.

Major OECD Countries Registrations

The major OECD trade partners of the U.S. such as France which entered the June GIIN list with only 2,290 registrations have not yet seen robust FATCA registration compliance relative to the size of their financial services industry, but in general experienced significant jumps in the last month of the year for GIIN registrants.

By the end of 2014, France reached 3,730 (3,755 as of 1 February), Germany went from 2,254 to 3,751 (currently 3,826), Ireland 1,756 to 3,661 (currently 3,764), Netherlands 2,053 to 3,103 (currently 3,204) and Australia 1,864 to 3,067 (currently 3,145).

Caribbean and Atlantic Financial Centers Registrations

The Cayman Islands remain the global FATCA compliance registration leader with 28,045 FFIs on the GIIN list, 6,000 more registered FFIs than the next country for GIINs, U.K. with 22,022. The June 2014 GIIN list included 1,837 BVI FFI registrations, now at 4,904. Bahamas has increased from 610 to 906, Bermuda 1,242 to 2,102 and Panama 450 to 795.