

# Kluwer International Tax Blog

## FATCA GIINs versus Legal Entity Identifiers (LEIs)?

William Byrnes (Texas A&M University Law) · Friday, September 25th, 2015

### William Byrnes and Haydon Perryman FATCA FFI GIIN List Monthly Update

The IRS released the sixteenth FATCA GIIN list of foreign financial institutions (FFIs) that have registered with the IRS through its FATCA portal. The IRS provides these FFIs a Global Intermediary Identification Number (GIIN). The FFI may then use its unique 19 digit GIIN to complete the IRS tax self certification forms, such as the W-8BEN-E, to avoid the 30 percent Chapter 4 (FATCA) withholding tax.

173,346 financial institutions registered for a GIIN as of September 2015, up 2,237 compared to August's 171,109. Thus, the month over month continues its steady low upward trend.

August: 2,237

July: 2,870

June: 2,778

May: 2,851

April: 2,600

March: 3,734

February: 2,479

We find the difference from the number of “**Legal Entity Identifiers**” (**LEI**) issued versus GIINs issued to be interesting and intend to issue follow up research for our FATCA subscribers. As of 19 September 2015, over 393,872 entities from 189 countries had obtained LEIs, twice as many than GIINs.

The LEI was established by the G-20 through the Financial Stability Board (FSB), the 2009 successor of the Financial Stability Forum (FSF). Regulators globally recognized the lack of transparency to identify parties to transactions across markets, products, and regions. G-20 authorities, through the FSB, working with the private sector, developed the framework of a Global LEI System (GLEIS) that, through the issuance of unique LEIs, unambiguously identify entities engaged in financial transactions. The LEI is a 20-character, alpha-numeric code, to uniquely identify legally distinct entities that engage in financial transactions.

1. the official name of the legal entity as recorded in the official registers;
2. the registered address of that legal entity;
3. the country of formation;
4. codes for the representation of names of countries and their subdivisions;
5. the date of the first LEI assignment; the date of last update of the LEI information; and the date of expiry, if applicable.

Additionally, for management of the identifiers a structured numbering system is used. This structural guideline requires:

- Characters 1-4: A four character prefix allocated uniquely to each LOU.
- Characters 5-6: Two reserved characters set to zero.
- Characters 7-18: Entity-specific part of the code generated and assigned by LOUs according to transparent, sound and robust allocation policies.
- Characters 19-20: Two check digits as described in the ISO 17442 standard.

In its FATCA FAQs (FFI #7), the IRS stated that it did not expect more than a half million entities will need to register as FFIs pursuant to the FATCA definition. Industry stakeholders disagreed stating that there are many more FFIs within the many foreign (non-US) countries that are caught by the IRS regulatory definition.

The UK HMRC estimated that, after the UK-USA FATCA IGA and its accompanying local regulations scaled back the definition of which entities are to be categorized as FFIs, 75,000 UK entities remain likely impacted by the definition of FFI. As of September 2015, 24,007 United Kingdom entities have registered as FFIs, of which 710 are lead FFIs. The UK and her Crown Dependencies and Overseas Territories account for 45% of the GIINs with The Cayman Islands representing 18.7% of the overall total.

The number of IGAs remains unchanged from last month. 90 countries and dependencies have entered into a FATCA IGA with the U.S. based on Model 1A (reciprocal), or are awaiting local ratification, accounting for 104,755 of the registrations. A further eight countries signed a Model 1B (non-reciprocal), accounting for a further 42,041 GIINs. A final 14 countries signed a Model 2 version IGA, adding 18,884 FFI registrations covered by an IGA. Of these 112 jurisdictions, 73 have actually signed the IGA, whereas the others have only agreed to sign it. The 131 countries and dependencies without an IGA have only registered 6,390 FFIs to date.

Breaking down the total GIIN registrations by region:

- EMEA 91,368 (53%)
- AMER 58,966 (34%)
- APAC 22,076 (13%)
- “Other” 936 (1%)

BRIC Countries represent 5% of the total and NAFTA represents 3% of the total. Thus, BRIC, APAC, the Middle East and Africa are under represented in terms of GIIN registrations.

The 34 OECD Members represent 47.3% of the overall total. Regarding the CRS, the number of CRS jurisdictions remains at 99, with 38 committed and 61 actually signed, with the US remaining the noticeable holdout. Of these 99 jurisdictions:

- 57 have an automatic financial information exchange in September 2017
- 37 have an automatic financial information exchange in September 2018
- 5 jurisdictions have yet to confirm the date of their information exchange.

FATCA IGA Scenarios	GIINs	Jurisdictions
Model 1A IGA	104,755	90
Model 1B IGA	42,041	8
Model 2 IGA	18,884	14
No IGA	6,676	131
US	911	1
US Territories	79	6
Total	168,239	250

### GIIN List (2014/2015) 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
March	156,276
April	160,010
May	162,610
June	165,461
July	168,239
August	171,109
September	173,346

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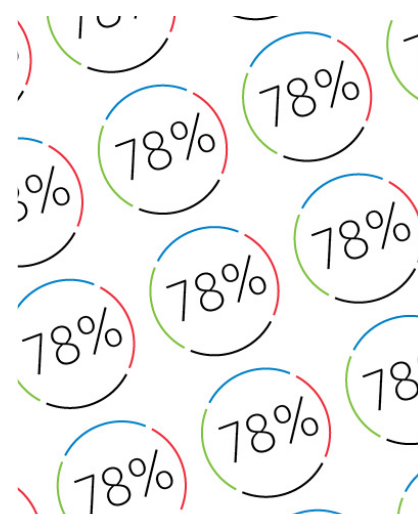
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