



ADVISORY CIRCULAR LETTER

TTSEC-EXEC-6160-TD-11/6/2014

June 11th, 2014

Dear Registrant,

Re: Foreign Account Tax Compliance Act

The Foreign Account Tax Compliance Act (FATCA) is US tax legislation designed to prevent US persons from avoiding US tax on their income from the Internal Revenue Service (IRS) through the use of foreign financial institutions.

In response to recent questions raised by some of the Commission's registrants with respect to FATCA, the Commission wishes to advise as follows:-

- a) What is Trinidad & Tobago's revised position and deadlines as the FATCA date of effect is near? Will Trinidad & Tobago be seeking to register into an Intergovernmental Agreement (IGA) with the IRS?

Trinidad & Tobago has confirmed that it will be entering into a Model 1 IGA with the IRS and the US Treasury, and that the Board of Inland Revenue (BIR) will be the local competent tax authority. To date, no country specific deadlines have been identified for the signing of the IGA. Trinidad and Tobago (T&T) is working assiduously towards finalizing the IGA with the IRS, however, the country is yet to reach an advanced stage of concluding same. What this in effect means, is that should T&T reach an advanced stage of concluding the IGA, and this is done before July 1, 2014, although unsigned, the country would be deemed to have reached an 'Agreement in substance.' This Agreement in substance, once reached, translates to T&T having in effect the relevant model provisions of an IGA and to have consented to be included on the US Treasury and IRS list. Should an agreement in substance be

reached on or after July 1, 2014, T&T will not be included in the list of jurisdictions that are treated as having an IGA in effect until the IGA is signed.

The IRS has extended many of the compliance dates in relation to FATCA. Some of the key compliance dates in relation FATCA are noted:-

- The IRS registration portal opened on August 19, 2013 for a Foreign Financial Institution (FFI) to commence the registration process;
 - By virtue of Announcement 2014-17, the IRS advised of the new dates for registering to ensure Global Intermediary Identification Number (GIIN) inclusion on the IRS FFI list. As such, registering FFIs GIINs will be included on the June 2, 2014, IRS FFI list if registrations are finalized by May 5, 2014, rather than April 25, 2014 as previously announced. The announcement states further that registering FFIs GIINs will be included on the July 1, 2014 IRS FFI list if their registrations are finalized by June 3, 2014.
 - FATCA withholding will commence from July 1, 2014;
- b) Will the Commission be implementing procedures for the required reporting under FATCA?

Please note that the Commission has not been designated a supervisory authority with respect to FATCA and as such any reporting and compliance requirements, do not fall within our remit.

- c) What is the Commission's guidance to its registrants with regard to FATCA registration in the absence of a signed IGA by our country?

This year, the Commission has hosted several market outreach initiatives. One such market outreach session was held on January 8, 2014, and targeted specifically to the Commission's registrants impacted by FATCA, and what these FFI's, such as broker-dealers, must do in order to prepare for FATCA. The message imparted at this and other similar FATCA seminars in T&T was that all FFIs should begin the process for ensuring compliance with FATCA. This includes revamping KYC processes; revising on-boarding requirements and continued customer due diligence; in addition to ensuring improved documentation standards and technology. **FFIs were advised that emphasis was not to be placed on the entering into an IGA by the T&T Government, since the necessary systems would have to be put in place by the FFI regardless of whether or not T&T entered into an IGA, as the only difference would be to whom the FFI would report, in other words, the IRS or the BIR.** Please note that while the Commission is committed to assisting and/or providing any information it may have with respect to FATCA, the onus for becoming and remaining FATCA compliant remains with the FFI.

d) What should a FFI FATCA classification be during registration?

FFIs should proceed to register on the FATCA website as a Participating Institution. Once T&T enters into an Agreement in substance with the United States, the FFI will then need to change its registration to a Model 1 Institution. Once the Commission has been apprised, it will advise when Trinidad and Tobago has entered into such an Agreement.

For further information, concerns or queries, kindly contact the Commission via fatca@ttsec.org.tt.

Yours Sincerely,

C. Wainwright Iton
Chief Executive Officer