

## Maitland's FATCA service offering

### The essence of FATCA

FATCA is US legislation requiring Foreign Financial Institutions (FFIs) to report on US account holders. The majority of participants in the investment, corporate and wealth management industries are affected by FATCA, even if they do not have US clients and do not hold US investments. Failure to comply may adversely affect the operation of accounts or entities, result in a 30% withholding on certain payments from the US, and also bring with it reputational damage. The UK has also concluded a series of FATCA style agreements with its Crown Dependencies and Overseas Territories that require similar reporting on UK account holders. The OECD is in the process of devising its Common Reporting Standard the effect of which will be to put FATCA on a global level. Further information on FATCA is set out at the end of this document.

### The impact of FATCA

A large number of Maitland client and other entities are likely to be FFIs. FATCA will require such entities to:

- register with the US IRS
- take the necessary due diligence steps to identify the accounts they maintain and who is behind those accounts
- report certain information relating to accounts held by US and UK persons to the relevant tax authority

Certain Maitland entities will also be FFIs and this may give rise to their having reporting obligations in relation to entities to which they provide services.

### The timing of FATCA

FATCA will come into operation as from 1 July 2014. The principal implementation milestones are the following, assuming that the country in question will have signed a Model 1 Intergovernmental Agreement (IGA) with the US. We expect this to be the case for most, if not all, of the countries with which we and our clients (existing and future) have a FATCA relevant connection.

**30 June 2014**

Systems in place to capture all data on accounts existing at that date

**1 July 2014**

FATCA due diligence requirements start for all new accounts

**22 Dec 2014**

Final date for registration as an FFI in Model 1 IGA country

**30 Sept 2015**

Final date for reporting on 2014 accounts maintained by Model 1 IGA FFIs

Where a country has signed a Model 1 IGA, the rules affecting FFIs in those countries will be as set out in local regulations and not as per the original US FATCA regulations. While the general thrust of all the regulations will be similar, there is scope for some significant differences and, in an ideal world, we would wait for the regulations to be finalised. However, of necessity the work to prepare for FATCA implementation has long since been started by Maitland and the time to act is now.

In the absence of final regulations, it is necessary to make certain assumptions as to how each country will implement its IGA. We shall monitor carefully the progress that each relevant country makes in settling and enacting its regulations and we shall make the necessary adjustments to accommodate any material and relevant deviation from the assumptions made.

### Immediate tasks

We are currently undertaking a general review of all of entities to whom we provide corporate or trust services. We shall be contacting clients once we determine that any account or entity connected to them may be affected. We shall at that point explain what action needs to be taken in order to verify the entity's FATCA status and to comply.

More generally, Maitland is in a position to assist any entity in complying with its obligations under FATCA, including the registration of an FFI, the required due diligence and, ultimately, the required reporting of account information to the relevant authorities.



**Solutions. Considered.**

## Our approach to FATCA and our FATCA services

For the past 18 months, Maitland's dedicated knowledge group, with participants from throughout our global office network, has been working with our operational teams and in a number of cases in conjunction with industry associations to understand the implications of FATCA for ourselves and for our clients.

We have combined all of our business lines in advisory, private client and corporate services, fund administration and investment services to put us in a position to provide practical FATCA solutions to anyone affected.

In particular, we continue to upgrade our technology, processes, policy and procedures to ensure that our client service platforms support our objective of ensuring that we and our clients are FATCA compliant in a smooth and cost-effective way.

## Maitland's FATCA services – the detail

Set out below is a description of the full range of our FATCA services

### Entity review / registration

- classification of entities and determination of FFI status
- registration of FFIs with the US IRS
- providing a "responsible officer"
- reporting on the impact of FATCA on FFIs and other entities

### Existing accounts

- data gathering and validation of all accounts existing at 30 June 2014
- FATCA indicia determination and verification
- classification of account holders
- ongoing maintenance of relevant FATCA records
- determining FATCA reporting requirements

### New accounts / on-boarding

- establishing procedures to ensure FATCA compliance for new accounts
- carrying out due diligence at point of on-boarding
- processing and verification of self-certification
- classification of account holders
- determining reporting requirements

### Reporting

- development of reports to meet the requirements of the relevant tax authority
- completion and submission of FATCA reports
- provision of FATCA management reports with an overall view of entities and FATCA compliance status

## Further more specific information on FATCA

Under US FATCA, FFIs are required to register with the US Internal Revenue Service (IRS) and to report on accounts maintained by the FFI for US account holders. Associated entities such as trustees, custodians, nominees and administrators are also required to register or report.

FFIs are required to assist in locating and reporting on the holdings and earnings of US account holders. Failure to comply may result in a 30% withholding on certain payments made from the US to the FFI in question. FFIs are required to review all of their clients, whether US or not, to identify individual accounts with a US connection ("US indicia") and report on any US linked accounts.

To protect their domestic investment industries from FATCA, many governments have signed, or intend to sign, Intergovernmental Agreements (IGAs) with the US. An IGA constitutes an undertaking to incorporate FATCA into the domestic law of the IGA jurisdiction. A Model 1 IGA country requires FFIs to register with the IRS but then to report to their domestic tax authorities, who will in turn pass the information on to the IRS. Under Model 2 IGA jurisdictions, the FFIs are required to register with and report directly to the IRS. The IGAs as well as the related domestic regulations and guidance have not yet been finalised in many countries. It is expected that most of Maitland's clients will be located in Model 1 IGA countries.

The US FATCA Model is spreading. The UK has concluded a series of bilateral agreements following the FATCA model with its Crown Dependencies and Overseas Territories, requiring identification and reporting of taxpayers located in those countries. The OECD is developing a Common Reporting Standard (CRS) for the global automatic exchange of Information. Under the CRS, financial institutions will need the tools to identify and report relevant information on many different account holders located in many different countries. Implementation of the Common Reporting Standard could be within 18 months of FATCA.

## Key contacts

### Richard Taylor

Tel: +44 1624 630 090

[richard.taylor@maitlandgroup.com](mailto:richard.taylor@maitlandgroup.com)

### Milou Scholte

Tel: +352 402 505 404

[milou.scholte@maitlandgroup.com](mailto:milou.scholte@maitlandgroup.com)

Should you wish to engage with us on our FATCA offering please feel free to contact your relevant KAM.

For further information on Maitland please visit our website at [maitlandgroup.com](http://maitlandgroup.com)