

[38.03.18] Implementation of the *Agreement to Improve Tax Compliance and Provide for Reporting and Exchange of Information concerning Tax Matters (United States of America) Order 2013*

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The Foreign Account Tax Compliance Act (FATCA) requires financial institutions to register with the US Inland Revenue Service (IRS) and report account information with respect to US persons, including account balances, interest payments, value of insurance contracts and proceeds of sale of financial assets. Legislation was introduced in the Finance Act 2013 and Regulations were made in June 2014 compelling Irish financial institutions to collect and return the agreed information to Revenue. This information will then be transmitted to the IRS. Financial Institutions must begin reporting the required information to Revenue by the end of June 2015 for exchange with the IRS in September 2015. Revenue will receive similar information from the IRS regarding Irish taxpayers.

Following further guidance issued by the IRS, Revenue has revised the treatment of Holding Companies and Treasury Companies for the purposes of FATCA as outlined in [S.I. 292 of 2014](#) (FATCA Regulations), and the related [Guidance Notes](#) published on the Revenue website.

While Relevant Holding Company and Relevant Treasury Company have been included in the list of Financial Institution categories as outlined in Regulation 3 of the FATCA Regulations and Chapter 2 of the Guidance Notes, this is not consistent with the [Ireland / United States Inter Governmental Agreement](#) (IGA), which defines a Financial Institution as “a Custodial Institution, a Depository Institution, an Investment Entity or a Specified Insurance Company”. Accordingly a Holding Company or Treasury Company will only be considered a Financial Institution if it meets the definition of the four Financial Institution categories specified in the definition above.

Where a Holding Company or Treasury Company does not fall into one of the above-mentioned categories of Financial Institution it will be classed as a Non-Financial Foreign Entity (NFFE), and will fall into the category of 'active' or 'passive' in accordance with the criteria set out in Appendix 2 of the Guidance Notes.

However, where a Holding Company or Treasury Company of a financial group no longer meets the definition of Financial Institution and had previously identified itself as a Relevant Holding Company or Relevant Treasury Company and completed its FATCA registration as the lead Financial Institution of an Expanded Affiliated Group (EAG), Revenue will allow the entity to continue to treat itself as the lead Financial Institution for reporting purposes. While the entity may act as the lead Financial Institution for filing purposes, it will still not fall within the definition of Financial Institution and so will have no Irish reporting obligations in its own right.

While updated Regulations and Guidance Notes will issue to reflect these changes, as a transitional arrangement the position as outlined in this notice can be applied.

A more recent version of this manual is available.