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Fair and Accurate Credit Transactions Act (FATCA): Achieving Operational and Infrastructural Efficiency

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The Fair and Accurate Credit Transactions Act "FATCA" is amongst the biggest topics of debate in financial institutions across the globe. The effect that it will have on these institutions cannot be underestimated and its operational impact on the existing systems is set to be both time consuming and costly. The ability to successfully align all key stakeholders, including operations, technology, risk, legal and tax, will determine the ultimate cost of FATCA compliance.

Sulolit Mukherjee, *Tax Manager, Operations at E*TRADE Financial Corporation,* answered a series of questions before the Operational and Technical Changes for FATCA Compliance Conference. Sulolit shares his thoughts on how to understand the technology associated with new FATCA procedures within the infrastructure. *All responses represent the sole view of Mr. Mukherjee and does not, in any way represent views of E*TRADE Financial Corporation or any of its affiliated subsidies.*

From an operational perspective, what are the major challenges that financial institutions are confronting to become FATCA compliant?

Sulolit Mukherjee: Most institutions' current procedures for information collection and storage are inadequate to meet FATCA's mandate. The major changes financial institutions have to make to be compliant ranges from customer profile enhancements and additional Documentation Collection for new accounts and pre-existing accounts, to changes to tax withholding and remittance procedures, reporting and remitting tax to the IRS, managing timelines for Foreign Financial Institution [FFI] re-certifications and training internal staff to shield and reply to increased customer queries. Above all, financial institutions need to obtain upper management buy-ins to invest financial and human capital resources to comply with FATCA regulations.

How will technical systems have to change to accommodate FATCA?

SM: Current technical systems were not designed to collect and store data elements required by FATCA. For example, expanded US Indicia includes collecting supporting documentation to verify a customer's claim to be foreign [or seen in another light, not US]. The data-points for this type of documentation includes a person's phone number with country code, place of birth, document expiration, date input, etc. Institutions will either have to build-out these technology platforms or leverage services of vendors who already have built this type of information collection platform to address FATCA. In either case, technical systems will have to expand and improve to address these issues.

Additionally, technical systems will also have to address major expansions in customer classifications and related W8 validation systems. This requires multiple additional queues to ensure all correct decision trees are followed, that the data is collected and validated and customers are correctly classified. Incorrect classification and lack of documentation collection during the W-8 validation process would result in innumerable headaches later on in the process in withholding and reporting process, and can expose institutions to possibility of penalties from the IRS and poor customer experience.

How can the increased levels of client data that FATCA demands be used to positive effect in financial institutions?

SM: In the past Operations and AML have worked in two distinct paths towards verification of client data, often collecting the same data at two spots from the same customer. The cohesion of information verification required by FATCA means that these two groups can now better coordinate and leverage each other's data in an account opening or information validation process, thereby reducing resource spent and enhancing customer experience.

Although mandatory collection of additional data can be seen as extra burden and risk, proper methods and quality assurance processes put in place would ensure financial institutions have sound information on their clients to better shield themselves from both customer facing and related fraud and also be better prepared for audits conducted by taxrevenue authorities.

In the case that FATCA sets a global standard for information sharing agreements, what are the risks associated with this?

SM: Identity theft is the biggest and most prominent risk of information sharing, whether within the USA or at a global level. In today's world of electronic exchange of sensitive information, a customer's personal information is ever at risk of being hacked into when moved between systems and institutions. Proper procedures must be developed by financial institutions to guard against such scenarios.

Also, even though the global financial sphere is more cohesive now than ever before, there still exists many discrepancies in information collection, storage rules and procedures in different countries. Also, several countries have unique privacy laws that forbid personal customer information collection. In light of this, globalized standards threaten creation of multiple standards of information collection and can result in inconsistent application of FATCA regulations. This is already visible through amended information collection and certification requirements spelled out in the recently released FATCA Intergovernmental Agreement models (IGAs), where financial institutions in certain countries can avoid levels of scrutiny while others are not so fortunate.

Mr. Mukherjee currently works at ETRADE Financial Corporation as the Tax Manager, Operations & Compliance in charge of tax policy directives, FATCA implementation and information reporting. He began his career with the Human Capital Tax division of KPMG in DC. After that he worked with Ernst & Young in Chicago in the Human Capital Tax group, consulting with clients on both US tax implications of global entity organizations and employee movements. After E&Y, Sulolit moved to Greenwich, CT and worked as Tax Manager of Information Reporting at Interactive Brokers, LLC.

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