

## **LHDNM Announcement (13 March 2015)**

### **Foreign Account Tax Compliance Act (FATCA)**

#### **Background**

FATCA, which affects Financial Institutions (“FIs”) worldwide, aims at reducing tax evasion by US persons. It requires Financial Institutions outside the US to provide information regarding their customers who are US persons to the US Inland Revenue Service (“US IRS”). A 30% withholding tax is imposed on the US source income of any FI that fails to comply with this requirement.

The US has developed Intergovernmental Agreement (IGA) models as tools to facilitate FIs' compliance with FATCA:

Model 1 establishes a framework for FIs outside the US to report account information of US persons to their relevant domestic authority, which will in turn provide the information to the US IRS;

Model 2 establishes a framework for FIs outside the US to directly report account information of US persons to the US IRS, which is supplemented by information exchange upon request between the US IRS and its relevant government counterpart.

More information on FATCA can be found on

<http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-FATCA>

#### **Malaysia-US IGA**

On 30-06-2014, Malaysia reached an agreement on a Model 1 IGA with the US to implement FATCA. Accordingly, Malaysia has been included in the US Treasury's list of jurisdictions that are treated as having an IGA in effect with the US.

The IGA is however still in the process of finalisation and is expected to be signed before 30-06-2015.

Under the terms of the Malaysia-US IGA (“Agreement”), Reporting Malaysia-based Financial Institutions (“MYFIs”) will provide Inland Revenue Board of Malaysia (IRBM) with the required account information of US persons. IRBM will then exchange that information with the US IRS.

#### **Overview of FATCA Filing Process**

For the purpose of FATCA reporting, US IRS has developed a platform called International Data Exchange Service (IDES). **Reporting MYFIs will be transmitting their FATCA reporting data to IRBM via the IDES.** IRBM will in turn authorise the onward transmission of such data held at the IDES to the US IRS.

Reporting MYFI should take the following actions to prepare for FATCA data reporting:

1. To prepare the FATCA reporting data file in XML format

- -Generate the FATCA reporting data file in accordance with the FATCA XML Schema.
- -Validate the FATCA reporting data file against the FATCA XML Schema.

## 2. To enroll with IDES

- -Acquire a digital certificate from an US IRS-approved Certificate Authority.
- -Register with IDES.

## 3. To prepare the FATCA reporting package for transmission

- -Digitally sign, compress and encrypt the FATCA reporting data file with the MYFI's AES-256 key.
- -Encrypt the MYFI's AES-256 key with the US IRS' public key, and encrypt a duplicate of the MYFI's AES-256 key with IRBM' public key.
- -Create the FATCA reporting package by zipping up the FATCA reporting data file, the AES-256 key for US IRS, the AES-256 key for IRBM and a transmission metadata file.

## 4. Transmit the FATCA reporting package to IRMB via the IDES

### **Guidance Notes on Compliance Requirements for Malaysia-US IGA**

To assist MYFIs to comply with the requirements under the Malaysia-US IGA, a Guidance Notes has been prepared. The draft is open for public comments from 15 March 2015 – 15 April 2015.

### **IRS FATCA webpage**

<http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-FATCA>

### **IDES User Guide**

<http://www.irs.gov/pub/fatca/p5190idesuserguide.pdf>

Draft [Guidance Notes](#) on FATCA compliance is available for [public consultation](#) **15 March - 15 April 2015**