

FATCA MARKET UPDATE

FATCA transitional period extended but Lloyd's will be ready anyway

On 5 May 2014 the US Internal Revenue Service ("IRS") issued [Notice 2014-33](#) effectively delaying much of the administration and enforcement of the due diligence, reporting and withholding provisions of FATCA.

The IRS Notice treats 2014 and 2015 as transitional years for FATCA and will affect (re)insurance premiums paid before 1 July 2016 on a policy issued on or after 1 July 2014, but before 1 January 2015. The withholding agent (i.e. broker, coverholder or policyholder) can treat such a policy as a "pre-existing obligation for the purposes of implementing the applicable due diligence, withholding and reporting requirements ...".

Simplistically, this means that the effective date for FATCA has been deferred from 1 July 2014 until 1 January 2015, subject to one important condition: to take advantage of this transitional relief the taxpayer must have made "good faith efforts" (see below) to comply with FATCA.

Notwithstanding this relief, we will continue to undertake the due diligence required of us by FATCA and intend to be ready to comply by the original 1 July 2014 effective date. We remain confident that the approach to compliance we are discussing with the US authorities (a single W-8 certificate for the market) is consistent with the objectives of FATCA, the historic arrangements between Lloyd's and IRS, and is workable for members and brokers bringing (re)insurance business to the market. As soon as detail of the applicable arrangements is agreed with US Treasury and IRS it will be communicated to all market participants and stakeholders and we will make W-8 information available to withholding agents.

Good faith efforts

Lloyd's believes it meets this condition. We have been undertaking the due diligence necessary to meet our obligations under FATCA. Lloyd's has been in direct contact with US Treasury and IRS for many months, including recently, to conclude on the detail of FATCA arrangements for Lloyd's. We have already begun the process of collecting syndicate and member-level data to underpin the single market-level FATCA certification we have been working towards, even though the IRS has not yet issued final instructions for completion of some of the forms we need. We have been liaising closely with brokers and representative organisations about the work we have been doing. Should it be necessary to rely on the relief set out in the Notice, Lloyd's therefore believes it can do so.

Simon Claydon
Head of Tax, Lloyd's
simon.claydon@lloyds.com
+44 20 7327 6839