



## **FATCA, a new law for the Bank and its Clients**

### **Goal and legal framework of FATCA**

The **Foreign Account Tax Compliance Act (FATCA)** is a US law which provides for an annual disclosure to the US Tax authority (IRS – Internal Revenue Service) of accounts held by US taxpayers outside the United States.

This legislative framework relates to « **US persons** », being US citizens or persons resident in the United States. **FATCA requires financial institutions to transmit on a yearly basis the following information to the IRS: the identity of the account holder, its account balances, financial income and in the future the gross proceeds of the sale of securities.** The first reporting, in March 2015, will bear on 2014. This reporting will also pertain to the accounts of US legal entities or of patrimonial entities which are owned by US taxpayers. Thereafter, this reporting will take place on a yearly basis.

Existing US tax legislation compels US taxpayers to file their tax return irrespective of their place of residence. It should be noted that FATCA will have no impact on the reduced tax rates resulting from international tax treaties for the benefit of eligible clients.

In many cases, FATCA will be implemented through Intergovernmental Agreements (IGA's) being negotiated. The Intergovernmental Agreements allow for and make compulsory the transmission of tax and banking information between countries. A good number of countries including the Grand-Duchy of Luxembourg and a majority of European states are opting for the intergovernmental approach. These countries are committing to making FATCA compulsory in their national legislation. In those countries which are not opting for an Intergovernmental Agreement, FATCA will be implemented through a direct agreement between the IRS and each financial institution. Non cooperative financial institutions will be subject to penalties.

### **Consequences of FATCA for BGL BNP Paribas**

BNP Paribas will be FATCA compliant in all countries where local law will allow it or make it compulsory, with the view to obtaining the status of "**Participating Financial Institution**". BNP Paribas is taking appropriate measures in order to be FATCA compliant in all business lines and countries worldwide by July 1, 2014, in order to best support its customers. As member of the BNP Paribas Group, BGL BNP Paribas will adopt the same status.



**BGL  
BNP PARIBAS**

### **Consequences of FATCA for Clients**

BGL BNP Paribas will contact its clients who are individuals when their file contains one or several elements indicating they may be within the scope of this legislation. BNP Paribas will also contact legal entities when their FATCA classification needs to be clarified. This includes legal entities with a US ultimate beneficial owner, US corporations as well as non-US Foreign Financial Institutions.

During the on-boarding process, BGL BNP Paribas will be collecting information allowing to identify American residents and citizens (including persons with a dual citizenship) who will have to provide a Tax Identification Number towards the IRS. Patrimonial entities will have to identify their American ultimate beneficial owners.

Our counterparties and clients which are **financial institutions** (banks, life insurance companies, mutual funds, etc.) may register as a participating entity with the IRS since August 19, 2013. This will allow them to obtain a Global Intermediary Identification Number (GIIN) from the IRS. It will allow financial institutions which are based in countries not covered by an Intergovernmental Agreement to avoid the FATCA withholding tax on US source income from financial products. This registration will also be required by Intergovernmental Agreements for identification purposes.

If a financial institution is non-participating from a FATCA perspective, BGL BNP Paribas will have the obligation to levy a 30% withholding tax on payments from US source and will have to report to the IRS, through the intermediary of the Luxembourg tax authorities, the total amount of payments made during the year.