FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA)

The FATCA provisions, included in the US HIRE Act, 2010, impose a 30% withholding tax on most US-source income remitted to Foreign Financial Institutions (FFIs), unless these FFIs enter into an FFI Agreement with the US Internal Revenue Service (IRS), whereby FFIs agree to exchange information with the US Treasury Department on accounts held by US persons and accounts of non-US entities which are substantially owned by US persons (at least 10%).

Various countries have thus signified their intention of concluding an intergovernmental agreement (IGA) with the US since the latter would enhance cooperation and the exchange of information framework in place between these countries and the US. Furthermore, the conclusion of an IGA would not require major amendments to their existing laws and would minimize the compliance burden of financial institutions.

While FATCA would impact banks differently given their differing size and the specificity of each bank's banking business, the MBA has addressed the common, high-level issues which MBA members would face and lays down in an industry position paper, addressed to the Ministry of Finance and the Bank of Mauritius, some key recommendations from a legal and regulatory standpoint to ensure a smooth implementation of the FATCA provisions.

Banks would need to analyse FATCA's impact at client and product level, and need to design processes used to identify US accounts notably by updating existing processes and implementing new processes. Identification will also have to be carried out for the pre-existing US accounts. Operational systems would need to be designed in order to detect US clients when an account is opened.

Other jurisdictions are also considering the adoption of their own FATCA-style laws which would again require enhanced exchange of information among countries.

For further information, please click on the link below:
http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-(FATCA)

Mauritius Bankers Association Limited
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