

COMPLYING WITH FATCA WITHHOLDING OBLIGATIONS

The Foreign Account Tax Compliance Act (FATCA) is a US regulation with global implications extending to Marsh in Australia and some local clients. Withholding obligations under FATCA came into effect on 1 January, 2015 for premium payments related to insurance and reinsurance policies with effective dates of 1 January, 2015 or later. The following outlines the obligations for Marsh and affected clients to comply with FATCA requirements.

BACKGROUND

FATCA was enacted to combat tax evasion by US taxpayers through the use of foreign accounts and companies. It was drafted with a very broad scope that includes the regulation of all insurance and reinsurance premium payments. In addition to the introduction of substantial requirements on “foreign financial institutions” (FFIs), including banks, broker/dealers, asset managers, insurers selling cash-value insurance or annuities, and private equity and other investment funds, FATCA also imposes other requirements, including withholding and reporting¹ requirements, on entities it defines as “withholding agents.”

Marsh is considered a withholding agent under FATCA because it pays in-scope insurance and reinsurance premiums to insurance companies and intermediaries. Marsh clients are considered withholding agents to the extent they make in-scope insurance and/or reinsurance premium payments.

WHAT PREMIUM PAYMENTS ARE IN-SCOPE?

Renewals from 1 January, 2015

Generally the requirements to withhold FATCA amounts from premium payments applies to payments for insurance and reinsurance policies with effective or renewal dates of 1 January, 2015 or later that contain an element of US risk, if those payments:

- are made by US entities;
- are made to US entities; or
- include premiums that originally came from the US.

Premium flows outside the US that relate to an element of US risk are not currently considered “in-scope” premium. However, this will be captured under the regulations in the future when the definition of “in-scope” is broadened with effect from 1 January, 2017.

Material modifications

If a material modification is made in 2015 to a 2014 (or prior) insurance policy that would fall within in FATCA’s scope were it not for the effective date, all premium payments made after the material modification are considered within FATCA’s scope.

¹ If no withholding is required, the reporting requirements are limited

The interpretation of what is regarded a material modification under the regulations is still being considered, as the regulations do not currently stipulate this. Marsh will provide further updates as they become available.

OUR OBLIGATIONS

As a withholding agent, Marsh must collect and validate certain required documentation from every legal entity to which we pay in-scope insurance premiums. If we are unable to collect the required documentation, a 30% withholding tax applies to Marsh, which would prevent remittance of the full premium amount to the insurer.

Marsh will therefore work closely with clients to use only FATCA-compliant insurers and companies for in-scope placements, and we are obligated to obtain FATCA forms from relevant insurers.

YOUR OBLIGATIONS

Marsh will provide appropriate FATCA documentation to clients upon request.

As most of the largest Marsh offices outside the US, including Marsh Pty Ltd in Australia, are “qualified intermediaries” (QIs) under FATCA, clients need only to obtain Marsh forms and not those from insurers.

Clients that pay in-scope premiums to Marsh should obtain and validate:

- Marsh’s W-9 form if paying a Marsh US office
- Marsh’s W-8IMY form if paying a non-US Marsh office

Obtaining forms: Clients can download a copy of the appropriate Marsh W-8 or W-9 forms via www.marsh.com. Go to About Us / About Marsh, click on the FATCA link and follow the instructions.

If you need a form that is not available on that website, please send a request to FATCAInformation@mmc.com.

The W-8 and W-9 forms collected from insurers are available to Marsh clients via www.marshmarketinfo.com. Interested clients, including US direct-bill clients, can log in to the website, select the insurers they are using, and access the appropriate forms.

MORE INFORMATION

If you have any questions about how FATCA could impact your insurance program, or more information about your insurers and their FATCA-compliance status, please contact your Marsh representative.

About Marsh: Marsh is a global leader in insurance broking and risk management. Marsh helps clients succeed by defining, designing, and delivering innovative industry-specific solutions that help them effectively manage risk. Marsh’s approximately 27,000 colleagues work together to serve clients in more than 130 countries. Marsh is a wholly owned subsidiary of Marsh & McLennan Companies (NYSE: MMC), a global professional services firm offering clients advice and solutions in the areas of risk, strategy, and people. With 57,000 colleagues worldwide and annual revenue exceeding \$13 billion, Marsh & McLennan Companies is also the parent company of Guy Carpenter, a global leader in providing risk and reinsurance intermediary services; Mercer, a global leader in talent, health, retirement, and investment consulting; and Oliver Wyman, a global leader in management consulting. Follow Marsh on Twitter @MarshGlobal, or on LinkedIn, Facebook, and YouTube.

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