

**PHILIPPINE SAVINGS BANK**  
**PRIMER ON FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA)**

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**1. What is FATCA?**

FATCA stands for the **Foreign Account Tax Compliance Act**. It is a recent tax law which amended the United States (US) Internal Revenue Code as enacted by the US Congress and signed into law on March 18, 2010, as part of the Hiring Incentives to Restore Employment (HIRE) Act, in order to improve tax compliance by Specified US Persons with foreign financial assets or offshore accounts i.e. bank accounts and investments maintained outside the US such as those maintained in PSBank whether denominated in Philippine Peso, in US Dollar or in other foreign currencies. As far as the Philippines is concerned, this US legislation took effect on July 1, 2014.

**2. Who are these Specified US Persons that are subject to FATCA?**

As defined under the US federal tax laws, they are any of the following:

- a. An individual who is a **US citizen** or a **US resident alien**, as follows:
  - (1) US citizen by birth or naturalization; or
  - (2) Dual citizen where one country of citizenship is the US; or
  - (3) Non-US citizen but is a US permanent resident i.e. green cardholder; or
  - (4) Non-US citizen with substantial presence in the US i.e. greater than 183 days but not as a diplomat, teacher, student or an athlete (tax residents), to wit:
    - 31 days during current calendar year; and
    - 183 days during 3-year period including current year and 2 prior years, as follows:
      - ✓ All of the days present during current calendar year,
      - ✓ 1/3 days present during 1 year before current year, and
      - ✓ 1/6 days present during 2 years before current year.
- b. An entity which is a **US partnership, corporation, company or association** as created or organized in the United States or under the laws of the United States;
- c. An entity which is a **US estate**; or
- d. An entity which is a **US domestic trust**.

**3. How are these Specified US Persons, who are subject of FATCA, identified?**

They are identified via PSBank's Know Your Client (KYC) and due diligence procedures if and when any of the following **US Indicia** or indicators exists:

- a. Identified/known to be a US citizen or resident; or
- b. Was born in the US (US place of birth); or
- c. Has a U.S. residence or mailing address or US telephone number; or
- d. Has provided standing instructions to transfer funds to a US-based account; or

- e. Has granted power of attorney/signing authority over the account to a person with a U.S. address; or
- f. Has a “in care of” or “hold mail” US address that is the sole address of the accountholder; or
- g. Corporation or partnership where “specified US person” owns more than 10% of its ownership interest.

#### **4. What are the basic requirements of FATCA?**

FATCA requires all Participating Foreign Financial Institutions (PFFIs) around the world, such as PSBank, to: (1) conduct due diligence procedures to determine which of their clients are subject to FATCA using the FATCA documentary requirements, (2) report to the US Internal Revenue Service (IRS) certain required information about their Specified US Person-clients and their accounts, and (3) withhold 30% tax penalty on any US-sourced income payments and on gross proceeds from the sale of securities that generate US-sourced income made to the account(s) of “recalcitrant” accountholders or those determined as Specified US Persons or identified with US Indicia that do not comply with FATCA requirements.

#### **5. Why does PSBank need to implement the above requirements of FATCA?**

As with other banks and financial institutions in the Philippines, PSBank needs to implement FATCA because it has registered with the US IRS as a PFFI and certified its commitment to comply with the above FATCA requirements. If PSBank did not register with the US IRS as a PFFI and/or fails to implement or does not comply with the above requirements, it stands the risk of being imposed by the US IRS a penalty of 30% tax penalty withholdable on its US-sourced income payments such as interest income from US securities and on gross proceeds from the sale of such US securities.

#### **6. Is compliance with FATCA a cause of concern for Specified US Persons or those with US Indicia?**

No. FATCA’s objective is just basically for the US IRS to be provided with a ready database about such Specified US Persons who maintain financial assets outside of US, wherever they may be. Such a database merely serves as a ready reference or source of information of the US IRS about Specified US Persons for whatever US taxation-related purposes. Therefore, please be clarified that a PFFI’s reporting of a Specified US Person’s offshore financial assets to the US IRS does not mean that such assets are to be subjected to US taxation (especially if arising from income or revenue sourced from within the country that are rather subject to Philippine taxation) nor a substitute of whatever income tax return or tax declaration required by the US IRS to be filed by its US taxpayers. This is rather just a mere reportorial requirement on PSBank’s part.

#### **7. So what should I do to comply with FATCA if I’m a Specified US Person or identified by PSBank as one with US Indicia?**

As may be required by your PSBank depository branch primarily for the protection of the Bank’s business interest in avoiding the significant 30% tax penalty that may be imposed by the US IRS, please:

- a. Accomplish, sign-off and submit the required **Certification, Consent and Waiver (CCW)** form, to wit:
- (1) Certify that you are a **“Non-US person”** (using [CCW-Individuals](#)) or the entity you are representing for is a **“Non-US person”** (using [CCW-Entities](#)) if indeed so despite having been identified with US Indicia per PSBank’s due diligence procedures; or
  - (2) Certify that you are a **“Non-US person”** (using [CCW-Joint Individuals](#)) if indeed you are not a US person or without a US Indicia but the account(s) you own/hold is(are) subject to FATCA being co-owned or jointly held also by Specified US Person(s), give your consent for PSBank to report the required information exclusively to the US IRS and your waiver with regard to the bank secrecy and data privacy laws; or
  - (3) Certify that the entity you are representing is a **“US-owned entity”** (using [CCW-Entities](#)) if it is a non-US entity but with one or more Specified US person-owners holding more than 10% each otherwise known as **“substantial US owners”**; or
  - (4) Certify that you are a **“Specified US person”** if you are a US Person (using [CCW-Individuals](#)) or the entity you are representing for is a US Person (using [CCW-Entities](#)), give your consent for PSBank to report the required information exclusively to the US IRS and your waiver with regard to the bank secrecy and data privacy laws.
- b. Accomplish, sign-off and submit the pertinent **official IRS forms**, as follows:
- (1) [IRS Form W-8BEN](#) if you are an individual who certified in the above CCW form as a **“Non-US person”**
    - **Note:** No need to submit **IRS Form W-8BEN** for those who are non-US persons or without US Indicia at all but are just merely required to submit the CCW form because of their co-accountholders who are US persons with respect to joint accounts as discussed in **#7.a.(2)** above.
  - (2) [IRS Form W-8BEN-E](#) if you certified in the above CCW form that the entity you are representing for is a **“Non-US person”** or a **“US-owned entity”** as defined in **#7.a.(3)** above
    - **Note:** If you certified that the entity you are representing for is a **“US-owned entity”**, you need to indicate the **Names, US Addresses** and **US TIN** of each of your entity’s **“substantial US owners”** under **Part XXX-Substantial US Owners of Passive NFFE** in page 8 thereof.
  - (3) [IRS Form W-9](#) if you certified in the above CCW form that you or the entity you are representing for is indeed a **“Specified US Person”**
- c. Submit the pertinent required **“CURING DOCUMENTS”** corresponding to the US Indicia identified by PSBank only if you certified in the above forms that you are or the entity you are representing for is a “Non-US person” in support/as proof thereof, to wit:

#	US INDICIA	CURING DOCUMENTS
<b>I. For Individuals</b>		
1.	US citizenship or lawful permanent resident, as may be	<ul style="list-style-type: none"> <li>▪ Non-US passport or other document such as government-issued ID evidencing</li> </ul>

#	US INDICIA	CURING DOCUMENTS
	classified as US person in customer files/records	non-US citizenship + either Certificate of Loss of Nationality of US citizenship <u>or</u> reasonable written explanation of renunciation of US citizenship/failure to obtain US citizenship at birth.
2.	US Residence Address or Mailing Address (including US post office box) or US Telephone Number	
3.	US Place of Birth	<ul style="list-style-type: none"> <li>▪ Written statement about no knowledge of any other US indicia associated with account + Certificate of Loss of Nationality of US citizenship; <b>or</b></li> <li>▪ Non-US passport or other document such as government-issued ID evidencing non-US citizenship + either Certificate of Loss of Nationality of US citizenship <u>or</u> reasonable written explanation of renunciation of US citizenship/failure to obtain US citizenship at birth.</li> </ul>
4.	Standing instructions to transfer funds to US-based accounts or directions regularly received from a US address	<ul style="list-style-type: none"> <li>▪ Certificate of Residence, government-issued ID or third party credit report evidencing non-US citizenship</li> </ul>
5.	Only address on file is “in care of” or “hold mail” or US post office box	
6.	Power of Attorney or signatory authority granted to a person with US address	
<b>II. For Entities</b>		
1.	Classified as US person in customer files	<ul style="list-style-type: none"> <li>▪ Certificate of Residence or any official documentation issued by an authorized government body establishing non-US status that substantiates entity is organized outside the US</li> </ul>
2.	US Residence Address or Mailing Address (including US post office box) or US Telephone Number	
3.	Standing instructions to transfer funds to US-based accounts or directions regularly received from a US address	

**Note:** No need to submit any “curing documents” for those who are non-US persons or without US Indicia at all but are just merely required to submit the CCW form because of their co-acountholders who are US persons with respect to joint accounts.

- d. Submit a duly executed [Secretary’s Certificate](#) or [Partnership Certificate](#), as applicable, duly authorizing you as signatory to the required **CCW** and **IRS forms** if ever you are

such an authorized representative of the company identified by PSBank as either a **“Specified US Person”**, a **“US-Owned Entity”** or an entity with **US Indicia**.

**8. What information is required by the US IRS to be reported by PFFIs about their Specified US Person-clients and US-owned entity-clients under the FATCA?**

The following information is required to be gathered by PFFIs and reported to the US IRS in accordance with its prescribed reporting guidelines:

a. **For “specified US persons” – individuals and entities:**

- (1) Name, US Address and US Tax Identification Number (TIN)\*\*;
- (2) Account Number;
- (3) Year-end account balance or value; and
- (4) Gross receipts and gross withdrawals or payments from the account.

b. **For “US-owned entities”:**

- (1) Name, US Address and US Tax Identification Number (TIN)\*\* of each of their substantial US owners; and
- (2) Account Number, year-end account balance or value, and gross receipts and gross withdrawals or payments from the account of the US-owned entities.

**\*\*Tax Identification Number (TIN)** is equivalent to **Social Security Number (SSN)** for individuals and sole proprietors or **Employer Identification Number (EIN)** for legal entities e.g. corporations, partnerships, etc.

**9. What will happen if I don’t comply with the above FATCA requirements even if I am subject thereto as advised and required by my PSBank depository branch?**

Because the US IRS may impose on PSBank significant penalties as discussed in #5 above and other sanctions for failing to comply with the required due diligence procedures and documentation as well as the required reporting of pertinent information arising from your non-compliance, we may refuse to open your applied account(s) or may be compelled to close your existing account(s) without further notice.

**10. What will I do if there is a change in circumstance that will affect the accuracy of my declaration such as a change in my status from a Specified US Person to a non-US person or vice-versa?**

You must notify PSBank within thirty (30) days and provide new CCW and IRS forms and, as applicable, the appropriate supporting “curing documents” corresponding to the US Indicia as defined under #7.c. above. We may also be required to contact you to obtain additional information so that we will be able to update your account classification under FATCA.

**11. Where can I go to get further information about FATCA?**

You can find more detailed information on FATCA by visiting the US IRS website at [www.irs.gov/FATCA](http://www.irs.gov/FATCA), or by visiting or contacting your PSBank branch of account for the detailed requirements or by consulting a tax adviser/consultant if you are seeking for tax advice as PSBank does not provide the same tax advisory services.