

外國賬戶稅務合規法案 (FATCA)

重要提示：本文件須與當中所載的免責聲明一併閱讀。

免責聲明

1. 本文件僅為滙豐集團提供予客戶而非任何其他人士之用。本文件內容為資料摘要，僅供參考之用，並非鉅細無遺。客戶不應視此為稅務或法律意見。滙豐不保證文件內容的準確性和完整性，且概不對任何錯誤或因倚賴此等資料而導致的任何損失承擔任何責任。此等資料乃根據FATCA編製並截至2014年8月22日；
2. 如要了解FATCA法案詳情，閣下可參閱美國國家稅務局網站 (<http://www.irs.gov/>) 資訊；
3. 閣下全面負責確認閣下的FATCA身分及遞交相關文件；
4. 滙豐不能就此提供任何稅務及法律意見。如有相關疑問，請聯絡閣下的專業稅務及法律顧問。

一 · 背景資料

金融監管機構、政府及銀行正作出多項重要改變，以確保可長遠保障金融體系及閣下利益。當中一項變動為美國政府所頒布且成為1986年美國國稅法一部分的《外國賬戶稅務合規法案》（「FATCA」）。FATCA旨在向美國稅務機關申報由美國人士所擁有的金融資產。

FATCA對滙豐及閣下有何影響？

銀行及其他金融機構須每年申報美國人士直接或間接持有的金融賬戶資料。

滙豐致力在所有經營地點全面遵從FATCA法案。這意味著我們須向美國稅務機關申報受影響客戶的收入和利潤詳情。為此，我們需從閣下取得額外資料，以識別美國人士（USP）和外國金融機構（FFI）。就此而言，我們亦可能須識別其他客戶。

如我們無法從閣下取得所需資料或文件，滙豐今後可能需從支付予閣下或貴賬戶的特定類別款項中預扣美國稅項，這稱為「須預提款項」。我們也可能需要終止與閣下的關係。

為識別閣下是否需按FATCA進行申報，我們需根據FATCA列明的類別對閣下進行分類。

根據FATCA，滙豐需就哪些人士進行申報？

我們須就特定美國人士持有的賬戶申報若干資料。這包括由美國公民和美國居民、若干在美國創立或組成的公司或合夥公司以及某些股東為美國公民或美國居民的被動實體（請參閱「被動收入」一節及「根據FATCA何謂被動實體？」一節）所持有的賬戶。我們亦需就未向我們提供文件以確認其在FATCA項下稅務身分的客戶或金融交易對手申報若干資料。

何謂須預提款項？

簡單來說，須預提款項指：來源於美國的固定或可確定的年度或定期收入；或2016年後，出售或以其他方式處置（包括贖回）可產生美國來源利息或股息收入的資產所得款項總額。此定義或會變更，其範圍在日後可能會擴大。此等款項的預提將於2017年1月1日前分階段實行。

二 · FATCA身分

這是否適用於閣下？

雖然大部分FATCA類別毋須申報，但部分類別可能適用於閣下。為確保閣下與FATCA類別相對應，我們將要求客戶確認其在FATCA項下的身分、審閱適用條件並確認其符合條件。

A. 獨資經營商號

如果貴公司或公司持有人符合以下七個條件*中的任何一個，我們都可能需要向閣下了解及確定閣下是否FATCA所指的美國人士。

1. 為美國公民或美國居民
2. 出生地為美國
3. 擁有美國地址，包括美國郵政信箱
4. 擁有美國電話號碼
5. 重複設立將款項支付至美國地址或美國賬戶的付款指示
6. 將有效授權書或代簽權授予擁有美國地址的人士
7. 唯一地址是代收或代存郵件地址

* 所有均適用於公司持有人，只有第3及第4項同時適用於貴公司及公司持有人。



所需相關文件

請向我們提供相關文件，以確定閣下的FATCA稅務身分

假如閣下是...	請提供*
美國人士	W-9表格
非美國人士	W-8BEN表格及補充資料（如適用）

* 請於美國國家稅務局網站（<http://www.irs.gov/>）下載W-8BEN表格及W-9表格。

B. 所有其他實體

「美國人士」是指：

- 在美國境內或根據美國、任何州或哥倫比亞特區的法律設立或組建的公司或合夥
- 除外國遺產以外的任何遺產。外國遺產是指收入並非來源於美國、與在美國進行貿易或商業行為無實際聯繫及不包括在美國國稅法A分目項下總收入內的遺產
- 任何符合下列情況的信託：(i)美國法院能夠對信託的管理執行主要監督，及(ii)一名或多名美國人士有權控制信託的所有重大決定。

何謂「主動非金融外國實體」？

主動非金融外國實體一般是指屬於主動經營式但非從事金融業務的實體。根據FATCA，只要符合以下條件，毋須就主動非金融外國實體或其股東申報資料：

- 該實體並非美國人士（請參閱以下美國人士的定義）。
- 該實體並非金融機構。詳情請參閱「根據FATCA何謂金融機構」一節。
- 該實體在前一個日曆年的被動收入佔總收入少於50%。詳情請參閱「何謂被動收入」一節。
- 可產生或持作產生被動收入的資產佔該實體所持有資產少於50%（按季度以被動資產加權平均百分比計算）。該實體的資產價值按公允市值或其資產負債表所反映的資產賬面值（按美國或國際會計準則計算）釐定。

何謂被動收入？

被動收入一般包括：

- 股息，包括等同股息的收入（又稱替代股息）
- 利息，包括等同利息收入和若干保險合約投資回報
- 並非產生自主動經營式業務的特定租金和特許權使用費
- 年金
- 來自交易的淨收益，包括與特定類型商品交易有關的遠期及類似交易
- 特定匯兌收益
- 來自名義本金合約的淨收益
- 根據具有現金價值的保險合約收取的款項，或保險公司就其保險儲備和年金合約所賺取的款項
- 出售可產生上述特定類別收入的資產的淨收益

被動收入不包括：

- 來自關連人士的已收或應計利息、股息、租金或特許權使用費收入，而該等款項可適當地分配到該關連人士的非被動收入。
- 特定商品交易商及證券交易商在日常業務過程中產生的收入。

有關被動收入的詳細定義，請參閱美國國稅法及FATCA第1.1472-1(c)(1)(iv)(A)-(B)條。

根據FATCA何謂「被動實體」（被動非金融外國實體）？

FATCA所界定的被動實體定義相當廣泛，包括收取被動收入或持有被動資產而不屬於任何其他FATCA類別的實體、機構或公司。這些實體並非從事金融機構業務。

滙豐需了解此等實體的擁有權，以確定FATCA申報規定是否適用於被動非金融外國實體的實際美國擁有人。

有關被動實體的詳細定義，請參閱美國國稅法及FATCA第1.1472-1(c)(1)(iv)(A)-(B)條。

根據FATCA何謂非牟利機構？

「非牟利機構」一般指專門從事宗教、慈善、科學、藝術、文化或教育事務的非牟利性質實體或機構。根據FATCA，滙豐毋須就非牟利機構申報資料。

FATCA設定若干條件，實體或機構必須滿足此等條件方合資格成為FATCA界定的非牟利機構。此等條件旨在確保在美國境外成立的實體或機構是真實本著慈善目的，而非用於方便逃避美國稅項的工具。

有關非牟利機構的詳細定義，請參閱美國國稅法及FATCA第1.1471-5(e)(5)(vi)條。

根據FATCA何謂金融機構？

FATCA所界定的「金融機構」定義較為廣泛，一般涵蓋所有銀行、建屋貸款社、託管金融資產的實體、若干類型的保險公司、資產管理公司及若干投資基金或投資公司。委任受託人公司的實體、第三方資產管理公司、從事金融業務的公司集團的控股公司以及若干類型的財資公司及集團融資公司，亦可能符合金融機構的定義。

有關金融機構的詳細定義，請參閱美國國稅法及FATCA第1.1471-5(e)(1)至(6)條。

所需相關文件

請向我們提供相關文件，以確定閣下的FATCA稅務身分

假如閣下是...	請提供*
美國人士	W-9表格
主動非金融外國實體	主動非金融外國實體的FATCA聲明或W-8表格
非牟利機構	非牟利機構的FATCA聲明或W-8表格
其他實體	W-8表格

* 請於美國國家稅務局網站 (<http://www.irs.gov/>) 下載W-8表格及W-9表格。閣下可向我們索取《主動非金融外國實體的FATCA聲明》，以及《非牟利機構的FATCA聲明》標準表格。

Foreign Account Tax Compliance Act (FATCA)

Important: This document must be read with the Disclaimer which forms part of it.

Disclaimer

1. This document is intended solely for the customers of HSBC to whom it is provided and not for any other person. It is a summary for information purposes only and general in nature. It should not be considered as tax or legal advice. HSBC makes no guarantee of its accuracy and completeness and is not responsible for any errors, nor shall HSBC be liable for any loss that results from reliance upon this information based on FATCA legislation as at 22 August 2014.
2. You are advised to refer to the US IRS website (<http://www.irs.gov/>) for details in respect of FATCA.
3. You are fully responsible for confirmation of your FATCA status and submission of relevant documentation.
4. HSBC is unable to offer any tax and legal advice. For related questions, please contact your professional tax and legal advisors.

I. Background

There are a number of substantial changes being made by financial regulators, governments and banks to ensure the protection and long-term safety of both the financial system and your interests. One of these changes is the Foreign Account Tax Compliance Act (FATCA), which has been introduced by the US government as part of the United States Internal Revenue Code of 1986 (together with regulations made under the Code). The purpose of FATCA is to report financial assets owned by United States persons to the United States tax authorities.

How does FATCA affect HSBC and you?

Every year banks and other financial organisations will be required to report information on financial accounts held directly or indirectly by US Persons.

HSBC has made a commitment to being fully FATCA compliant in all countries where we operate. This means we have to report affected customers' income and profit details to the US tax authorities. In order to do so, we will need to obtain additional information from you to identify US Persons (USPs) and Foreign Financial Institutions (FFIs). There may also be other customers who we have to identify for this purpose.

Where we are not able to obtain the required information or documentation from you, we may be required to apply U.S. withholding taxes in respect of certain types of payments we make to you or your accounts in the future and these are known as 'withholdable payments'. We may also be required to end relationships with you.

In order to identify whether reporting under FATCA applies to you, we need to match you against certain categories set out in the FATCA legislation.

Who does HSBC need to report under FATCA?

We are required to report certain information on accounts held by *Specified US Persons*. This includes accounts held by U.S. citizens and U.S. residents, certain corporations or partnerships created or organised in the United States, as well as accounts held by certain passive entities (*please see the section on Passive Income and the section What is meant by a passive entity (Passive NFFE) under FATCA?*) with shareholders who are U.S. citizens or U.S. resident persons. We will also be required to report certain information on customers or financial counterparties who do not provide us with documentation to establish a tax status under FATCA.

What is a withholdable payment?

In the simplest of terms, a withholdable payment is a payment of either: US source income that is fixed or determinable, annual or periodical (FDAP) income; or, after 2016, gross proceeds from the sale or other disposition (including redemption) of property that can produce US source interest or dividend income. This definition is subject to change and may be widened in the future. Withholding on these different types of payment is phased in over a period to 1 January 2017.

II. FATCA Status

Does this apply to you?

Whilst most FATCA categories set out in the legislation are not reportable, some may be applicable to you. In order to make sure that we are able to match you against the FATCA categories, we are asking you to provide confirmation of your FATCA status, review the conditions that apply, and confirm that they are satisfied.



A. Sole Proprietorship

If the owner/company holds any of the following seven criteria*, we may engage you to establish whether you are United States Person in accordance with FATCA.

1. US citizenship or US residence
2. US place of birth
3. US address including US PO boxes
4. US telephone number
5. Repeating payment instructions to pay amounts to a US address or an account maintained in the US
6. Current Power of Attorney or signatory authority granted to a person with a US address
7. In care of or hold mail address which is the sole address for the account holder

*All applicable to the owner, item 3 & 4 apply to both the owner and the company.

Documentation Required

Please provide us with relevant documentation to establish your tax status under FATCA.

If you are...	Please provide* ...
United States Person	Form W-9
Non-United States Person	Form W-8BEN and supplementary information (if applicable)

* Please download Form W-8BEN and Form W-9 from the US IRS website (<http://www.irs.gov/>).

B. All Other Entities

The term 'United States Person' generally refers to:

- A corporation or partnership created or organized in the United States or under the law of the United States or of any state, or the District of Columbia
- Any estate (other than foreign estate, i.e. an estate the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A of the United States Internal Revenue Code)
- Any trust if – (i) a court within the United States is able to exercise primary supervision over the administration of the trust, and (ii) one or more United States persons have the authority to control all substantial decisions of the trust.

What is an Active Non-Financial Foreign Entity (Active NFFE)?

The term 'Active NFFE' generally refers to an entity that operates an active trade or business other than that of a financial business.

We are not required to report information on Active NFFEs or their shareholders under FATCA as long as the following criteria are met:

- The entity is not a United States Person (refer definition of United States Person below).
- The entity is not a financial institution. Please refer to the section 'What is meant by a Financial Institution under FATCA' for further information.
- Less than 50 percent of the entity's gross income for the preceding calendar year is passive income. Please refer to the section 'What is meant by Passive Income' for further information.
- Less than 50 percent of the assets held by the entity are assets that produce or are held for the production of passive income (calculated as a weighted average of the percentage of passive assets measured quarterly). The value of the entity's assets is determined based on the fair market value or book value of the assets that is reflected on the entity's balance sheet (as determined under either a U.S. or an international financial accounting standard).

What is meant by Passive income?

Passive income generally includes:

- Dividends including income equivalent to dividends (also known as substitute dividends)
- Interest including income equivalent to interest and certain returns from investments in insurance contracts
- Certain rents and royalties other than those derived from an active trade or business
- Annuities
- Net gains from transactions, including forwards and similar transactions relating to certain types of transactions in commodities

- Certain foreign currency exchange gains
- Net income from notional principal contracts
- Amounts received under cash value insurance contracts or amounts earned by an insurance company in connection with its reserves for insurance and annuity contracts
- Net gains from the sale of assets that give rise to certain of the above types of income

Passive income excludes:

- Any income from interest, dividends, rents or royalties that is received or accrued from a related person to the extent such amount is properly allocable to income of such related person that is not passive income.
- Income generated by certain commodities dealers and securities dealers in the ordinary course of business.

For a detailed definition of passive income, please refer to the United States Internal Revenue Code and FATCA regulations thereunder, §1.1472-1(c)(1)(iv)(A)-(B).

What is meant by a passive entity (Passive NFFE) under FATCA?

Very broadly, Passive Entities are defined under FATCA as entities, organizations, or companies that are in receipt of passive income or hold passive assets and do not fall under any of the other FATCA classifications. These entities do not carry on a business of a financial institution.

HSBC needs to understand the ownership of such entities to determine whether reporting under FATCA applies in respect of substantial US owners of a Passive NFFE.

For a detailed definition of Passive Entities, please refer to United States Internal Revenue Code and FATCA regulations thereunder, §1.1472-1(c)(1)(iv)(A)-(B).

What is a Non-Profit Organisation under FATCA?

The term 'Non-Profit Organisation' refers generally to an entity or organisation of a non-profit nature that exclusively engages in religious, charitable, scientific, artistic, cultural or educational activities. We are not required to report information on Non-Profit Organisations under FATCA.

The FATCA legislation imposes certain conditions which need to be satisfied in order for an entity or organisation to qualify as a 'Non-Profit Organisation' under FATCA. The conditions are aimed at ensuring that the entity or organisation is established outside of the United States of America, that it has a genuine charitable motive, and that it is not a vehicle to facilitate US tax avoidance.

For a detailed definition of Non-Profit Organisation, please refer to United States Internal Revenue Code and FATCA regulations thereunder, §1.1471-5(e)(5)(vi).

What is meant by a Financial Institution under FATCA?

The term 'financial institution' is broadly defined under FATCA and generally includes all banks, building societies, entities with custody of financial assets, certain types of insurance companies, asset management companies and certain investment funds or investment vehicles. An entity which appoints a trustee company or an entity that is a third party asset manager or acts as the holding company to a group of companies carrying on a financial business may also fall within the definition of financial institution, as well as certain types of treasury and group financing companies.

For a detailed definition of financial institution, please refer to United States Internal Revenue Code and FATCA regulations thereunder, §1.1471-5(e)(1) to (6).

Documentation Required

Please provide us with relevant documentation to establish your tax status under FATCA.

If you are...	Please provide* ...
United States Person	Form W-9
Active NFFE	FATCA Declaration for Active NFFE or Form W-8
Non-Profit Organisation	FATCA Declaration for Non Profit Organisations or Form W-8
Other entities	Form W-8

* Please download Form W-8 and Form W-9 from the US IRS website (<http://www.irs.gov/>). Standard forms "FATCA Declaration for Active NFFE" and "FATCA Declaration for Non Profit Organisations" can be obtained from us.