FATCA & The 
Canadian IGA - 
Considerations for 
Canadian FIs

February 13, 2014
KPMG’s Speakers

Russell W. Crawford
Partner, National Service Line Leader, US Tax & Co-Leader National FATCA Practice in Canada

Carlene Hornby Allen
Partner, Financial Services - Tax & Co-Leader National FATCA Practice in Canada

Melinda T. Schmidt
Director, US Tax Information Reporting & Withholding Practice Co-US Lead of US Tax Withholding Matters in Canada
Agenda

■ Introduction

■ FATCA & IGA History

■ Key Points of Canadian IGA

■ Key Points of Canadian Draft Legislation

■ Comparisons & Observations of FATCA regulations and Canadian IGA

■ Registration

■ FAQ

■ Next Steps
A Foreward to Non-Financial Entities

Most of the discussion in this presentation centers on Financial Institutions, the primary focus of the IGA and draft Canadian legislation.

Non-Financial Foreign Entities will still be impacted as the IGA and draft Canadian legislation will impact the type of information requested from Non-Financial Foreign Entities.
FATCA & IGA
History
FATCA & IGA History

What is FATCA?

What is the reason for the US FATCA legislation?

Evolving worldwide reaction to FATCA

Imperialism

- FATCA reaches beyond the US
- Cost implications for little if no gain
- Removing investments from US
- Eliminating US account holders
- Disruption to world markets

A Model for Global Tax Enforcement

- IGAs
- Son of FATCA
- Local Tax Regulations
Chronological order of events

2010: US FATCA law enacted

- Notice 2010-60: preliminary guidance

2011: US Treasury issues guidance on FATCA

- Notice 2011-34: additional guidance
- Notice 2011-53: even more guidance

2012: Proposed Regulations Released and IGA Concept Announced

2013: Final FATCA regulations released

February 5, 2014: Canada announces Model I IGA with reciprocity, and releases proposed implementing legislation
Key Points of Canadian IGA
Canadian IGA: Overarching Goals of IGA

Governments of Canada and the US are supportive of applying the underlying policy goal of FATCA on a reciprocal basis to improve tax compliance.

Canadian FIs may not be able to comply with certain aspects of FATCA due to domestic legal impediments.

US collects information regarding certain accounts maintained by US FIs held by residents of Canada.

Both governments are committed to working together over the longer term towards achieving common reporting and due diligence standards for FIs.

The US acknowledges the need to coordinate the reporting obligations under FATCA with other US tax reporting obligations of Canadian FIs to avoid duplicative reporting.

An IGA approach to FATCA implementation will facilitate compliance by Canadian FIs while protecting the ability of Canadians to access financial services.

Both governments desire to enter into an IGA to improve international tax compliance and provide for the implementation of FATCA based on domestic reporting and reciprocal automatic exchange.
## Canadian IGA: Contents of Agreement

<table>
<thead>
<tr>
<th>Article</th>
<th>Subject</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Definitions</td>
</tr>
<tr>
<td>2</td>
<td>Obligations to Exchange Information with Respect to Reportable Accounts</td>
</tr>
<tr>
<td>3</td>
<td>Time &amp; Manner of Exchange of Information</td>
</tr>
<tr>
<td>4</td>
<td>Application of FATCA to Canadian FIs</td>
</tr>
<tr>
<td>5</td>
<td>Collaboration on Compliance &amp; Enforcement</td>
</tr>
<tr>
<td>6</td>
<td>Mutual Commitment to Continue to Enhance the Effectiveness of Information Exchange &amp; Transparency</td>
</tr>
<tr>
<td>7</td>
<td>Consistency in the application of FATCA to Partner Jurisdictions</td>
</tr>
<tr>
<td>8</td>
<td>Consultations &amp; Amendments</td>
</tr>
<tr>
<td>9</td>
<td>Annexes</td>
</tr>
<tr>
<td>10</td>
<td>Term of Agreement</td>
</tr>
</tbody>
</table>
## Financial Institutions: Comparison of Definitions in FATCA Regulations & Canadian IGA

<table>
<thead>
<tr>
<th>FATCA Regulations</th>
<th>Canadian IGA</th>
</tr>
</thead>
<tbody>
<tr>
<td>FIs: financial institutions</td>
<td>FIs: financial institutions</td>
</tr>
<tr>
<td>USFIs: FIs – including branches of non-US FIs – that are treated as US (does not include US branch of NPFFI)</td>
<td>Canadian FIs: FIs – including branches of non-Canadian FIs – that are resident/ located in Canada</td>
</tr>
<tr>
<td>FFIs: non-US financial institutions</td>
<td>Partner Jurisdiction FIs: FIs located in a country that has an IGA with the US</td>
</tr>
<tr>
<td>PFFIs: Participating FFIs, are those FFIs entering into an agreement with the US IRS under the FATCA Regulations</td>
<td>Reporting Canadian FIs: Canadian FIs that are not Non-Reporting Canadian FIs</td>
</tr>
<tr>
<td>DCFFIs: Deemed Compliant FFIs are those FFIs that meet specified criteria allowing them to avoid entering into an agreement with the US IRS under the FATCA Regulations but must remain in compliance</td>
<td>Non-Reporting Canadian FIs: Canadian FIs, or other entities resident in Canada, that are identified in Annex II as a Non-Reporting Canadian FI or that otherwise qualifies as a deemed compliant FI or an exempt beneficial owner under the FATCA Regulations</td>
</tr>
<tr>
<td>NPFFIs: are those FFIs choosing not to enter into an agreement with the US IRS under the FATCA Regulations</td>
<td>NPFFIs: For non-IGA countries, FIs that do not participate in FATCA; can include a Canadian FI only if the Canadian FI falls into significant non-compliance with its obligations under the IGA 18 months after notification of significant non-compliance is first provided</td>
</tr>
</tbody>
</table>
Information to be reported by Reporting Canadian FIs

On an annual basis, for each US Reportable Account:

- Name, address, and US TIN of each Specified US Person (USP) that is an Account Holder
- For a Non-US Entity that, after application of the due diligence procedures provided in Annex I, is identified as having one or more Controlling Persons that is a Specified USP: the name, address, and US TIN of such Entity and each such Specified USP
- Account number
- Name and identifying number of the Reporting Canadian FI
- Account balance or value

For Custodial Accounts:

- Total gross amount of interest, dividends, and other income generated with respect to the assets held in the account
- Total gross proceeds from the sale or redemption of property paid or credited to the account during the calendar year with respect to which the Reporting Canadian FI acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder

For Depository Accounts:

- Total gross amount of interest paid or credited to the account during the calendar year

For Any Other Account:

- Total gross amount paid or credited to the Account Holder during the calendar year with respect to which the Canadian FI is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the reporting period
Time & Manner of Reporting by Canadian FIs

Canadian IGA timetable for reporting:

- 2014: name, address, TIN, account number, name & GIIN or reporting FI, balance or value
- 2015: name, address, TIN, account number, name & GIIN or reporting FI, balance or value, PLUS gross income amounts
- 2016: name, address, TIN, account number, name & GIIN or reporting FI, balance or value, gross income amounts PLUS gross proceeds

Currency must be identified

Documentation of Accounts Maintained by a Reporting FI as of June 30, 2014

Reporting FIs are not required to obtain and include in the exchanged information the US TIN of any relevant person if the TIN is not in the Reporting FI’s records. Instead, the birth date should be used for the relevant person, if the Reporting FI has it.

By 2017:

- The US commits to establish rules requiring Reporting USFIs to obtain and report the Canadian TIN of each Account Holder of a Canadian Reportable Account as required under the IGA’s reporting requirements and
- Canada commits to establish rules requiring Reporting Canadian FIs to obtain the US TIN of each Specified US Person as required under the IGA’s reporting requirements
Application of FATCA to Canadian FIs: Treatment of Reporting Canadian FIs

Each Reporting Canadian FI shall be treated as complying with, and not subject to withholding under the FATCA regulations if it:

- Identifies US Reportable Accounts and reports annually to CRA the information required to be reported
- For 2015 and 2016, reports annually to the CRA the name of each NPFI to which it has made payments and the aggregate amount of such payments (Due Date: May 2 of following calendar year)
- Complies with the applicable registration requirements on the IRS FATCA registration website

To the extent that a Reporting Canadian FI is:

- Acting as a QI that has elected to assume primary withholding responsibility
- A foreign partnership that has elected to act as a withholding foreign partnership, or
- A foreign trust that has elected to act as a withholding foreign trust

It withholds 30% of any US Source Withholdable Payment to any NPFI; and

In the case of a Reporting Canadian FI that is not described above:

- That makes a payment of, or acts as an intermediary with respect to, a US Source Withholdable Payment to any NPFI

It provides to any immediate payor of such US Source Withholdable Payment the information required for withholding and reporting to occur with respect to such payment.
Application of FATCA to Canadian FIs

- Suspension of rules related to recalcitrant accounts

- DCFI or EBO treatment of Canadian retirement plans (as defined in Annex II)

- Identification and treatment of DCFIs and EBOs

- Special rules regarding related entities and branches that are NPFIs allowing Canadian FI to remain in compliance with IGA

- Coordination of information exchange between countries

- Permission to use definitions in US FATCA regulations in lieu of corresponding definitions in Canadian IGA
Canadian IGA: Annex I
DUE DILIGENCE OBLIGATIONS FOR IDENTIFYING AND REPORTING ON US REPORTABLE ACCOUNTS AND ON PAYMENTS TO CERTAIN NONPARTICIPATING FIs

<table>
<thead>
<tr>
<th>Subject</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>Apply IGA Annex I due diligence procedures to identify US reportable accounts and accounts held by NPFIs (reporting Canadian FIs can elect to apply due diligence procedures from FATCA regulations instead of IGA)</td>
</tr>
<tr>
<td>Preexisting Individual Accounts</td>
<td>Similar requirements and limits to FATCA regulations for accounts not required to be reviewed and search requirements for US indicia; self certification permitted to remediate status</td>
</tr>
<tr>
<td>New Individual Accounts</td>
<td>Similar requirements and limits to FATCA regulations for accounts not required to be reviewed and search requirements for US indicia; self certification required to establish US status</td>
</tr>
<tr>
<td>Preexisting Entity Accounts</td>
<td>Similar limits to FATCA regulations for accounts not required to be reviewed and search requirements for accounts held by one or more specified USP, by passive NFFEs with one or more controlling USP, or by NPFIs; information to be reviewed is Canadian AML/KYC; self certification permitted to remediate status</td>
</tr>
<tr>
<td>New Entity Accounts</td>
<td>Similar limits to FATCA regulations for accounts not required to be reviewed and search requirements for accounts held by one or more specified USP, by passive NFFEs with one or more controlling USP, or by NPFIs; information to be reviewed is Canadian AML/KYC; self certification required to establish US status</td>
</tr>
<tr>
<td>Special Rules &amp; Definitions</td>
<td>Reason to know standards apply; additional definitions; aggregation</td>
</tr>
</tbody>
</table>
## Canadian IGA: Annex II
### NON-REPORTING CANADIAN FIs AND PRODUCTS

<table>
<thead>
<tr>
<th>Category</th>
<th>IGA Treatment</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>To define entities, accounts, and products that present a low risk of being used by USP to evade US tax</td>
</tr>
<tr>
<td>Exempt beneficial Owners</td>
<td>Entities treated as non-reporting Canadian FIs and classified as exempt beneficial owners</td>
</tr>
<tr>
<td>Deemed-Compliant FIs</td>
<td>FIs treated as non-reporting FIs and classified as deemed-compliant FIs</td>
</tr>
<tr>
<td>Accounts Excluded from Financial Accounts</td>
<td>Accounts and products established in Canada and maintained by a Canadian FI will be treated as excluded from the definition of financial accounts</td>
</tr>
</tbody>
</table>
Canadian IGA: Annex II – Exempt Beneficial Owners

- Central Bank of Canada

- International Organizations – as defined under paragraph (1) of Section 2 of the Foreign Missions and International Organizations Act

- Retirement Funds - Any plan or arrangement established in Canada and described in paragraph 3 of Article XVIII (Pensions and Annuities) of the US-Canada Treaty, including any plan or arrangement that the Competent Authorities may agree under subparagraph 3(b) of Article XVIII is similar to a plan or arrangement under that subparagraph

- Investment Entity Wholly Owned by Exempt Beneficial Owners - An Entity that is a Canadian FI solely because it is an Investment Entity, provided that each direct holder of an Equity Interest in the Entity is an exempt beneficial owner, and each direct holder of a debt interest in such Entity is either a Depository Institution (with respect to a loan made to such Entity) or an exempt beneficial owner.
Canadian IGA: Annex II –
Deemed-Compliant FIs (non-reporting FIs)
NON-REPORTING CANADIAN FIs AND PRODUCTS

- FIs with a local client base

- Local bank

- FI with only low-value accounts

- Sponsored investment entity and CFC

- Sponsored, closely held investment vehicle

- Restricted fund
Canadian IGA: Annex II –
Deemed-Compliant FIs (non-reporting FIs)
NON-REPORTING CANADIAN FIs AND PRODUCTS

Special rules for investment entities

With respect to interests in an Investment Entity that is a collective investment vehicle described in paragraph J of this section, the reporting obligations of any Investment Entity (other than an FI through which interests in the collective investment vehicle are held) shall be deemed fulfilled.

With respect to interests in:

- An Investment Entity established in an IGA country that is regulated as a collective investment vehicle, all of the interests in which (including debt interests in excess of $50,000) are held by or through one or more exempt beneficial owners, Active NFFEs, USP that are not Specified US Persons, or FIs that are not NPFIs; or
- An Investment Entity that is a qualified collective investment vehicle under FATCA Regulations;
- The reporting obligations of any Investment Entity that is a Canadian FI (other than an FI through which interests in the collective investment vehicle are held) shall be deemed fulfilled.

With respect to interests in an Investment Entity established in Canada that is not described above, the reporting obligations of all other Investment Entities with respect to such interests shall be deemed fulfilled if the information required to be reported by the first-mentioned Investment Entity under the IGA with respect to such interests is reported by such Investment Entity or another person.
Canadian IGA: Annex II –
Accounts Excluded from Financial Accounts
SHALL NOT BE TREATED AS US REPORTABLE ACCOUNTS

- Registered Retirement Savings Plans (RRSPs)
- Registered Retirement Income Funds (RRIFs)
- Pooled Registered Pension Plans (PRPPs)
- Registered Pension Plans (RPPs)
- Tax-Free Savings Accounts (TFSAs)
- Registered Disability Savings Plans (RDSPs)
- registered Education Savings Plans (RESPs)
- Deferred Profit Sharing Plans (DPSPs)
- AgrilInvest accounts
- Eligible Funeral Arrangements

An account maintained in Canada and excluded from the definition of Financial Account under an agreement between the US and another IGA country to facilitate the implementation of FATCA, provided that such account is subject to the same requirements and oversight under the laws of such other IGA country as if such account were established in that IGA country and maintained by an FI in that IGA country.
Escrow Accounts: An account maintained in Canada established in connection with:

- A court order or judgment

- A sale, exchange, or lease of real or immovable property or of personal or movable property, provided that the account satisfies specific requirements

- An obligation of a FI servicing a loan secured by real or immovable property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the property at a later time

- An obligation of a FI solely to facilitate the payment of taxes at a later time
The Canadian IGA and corresponding proposed legislation differ in several key areas:

- Financial Institution definition

- Penalties for non-compliance

- Dealer accounts

- Responsible Officer (not to be confused with Responsible Officer for registration purposes)

- Due diligence on accounts held by individuals

- Account thresholds apply only to “designated” accounts

- Reporting Dates
Canada IGA: Differences to Canadian Proposed Legislation

Financial Institution definition:

- Industry groups had recommended that the Canadian government scope out from the definition of the term “financial institution” certain entities that were considered to have a low risk of US tax avoidance.

- KPMG to seek further clarification from the Department of Finance in the form of comments to the proposed legislation.
Dealer Accounts:

- Industry groups had discussed with the Canadian government which party (the dealers or the fund managers) should most appropriately be responsible for FATCA responsibility for mutual fund accounts held in client name.

- Outstanding issues that KPMG will clarify with the Department of Finance:
  - Dealers to have flexibility in alleviating the account due diligence for fund managers
  - Possible duplicative reporting
Comparison of Key Points
<table>
<thead>
<tr>
<th>Key Consideration</th>
<th>FATCA Regulations</th>
<th>Canadian IGA/ proposed legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required to Participate</strong></td>
<td>No, FIs can opt not to participate, i.e., can be an NPFI</td>
<td>Yes, all FIs must be participating FIs, unless they meet non-reporting FI definitions in Annex II</td>
</tr>
<tr>
<td><strong>Required to enter into an FI Agreement</strong></td>
<td>Yes, unless specifically exempt, <em>i.e.</em>, deemed compliant</td>
<td>No</td>
</tr>
<tr>
<td><strong>Consent / Waiver Required</strong></td>
<td>Yes, consent or waiver required where local laws restrict ability to report</td>
<td>No, information is reported to the government under domestic law</td>
</tr>
<tr>
<td><strong>Required to Appoint Responsible Officer (Not to be confused with Registration RO)</strong></td>
<td>Yes, a responsible officer would need to be appointed in line with the FFI agreement, as well as to register on IRS portal</td>
<td>No, a responsible officer is not required although concept could still be introduced under Canadian law (still need a Registration RO)</td>
</tr>
<tr>
<td><strong>Minor Non-Compliance</strong></td>
<td>No, FIs are expected to have a compliance program that manages the policies, procedures and processes to satisfy the requirements</td>
<td>Yes, competent authorities will work together to cure administrative or minor errors in FI reporting</td>
</tr>
<tr>
<td>Key Consideration</td>
<td>FATCA Regulations</td>
<td>Canadian IGA/ proposed legislation</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>------------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Significant Non-Compliance</strong></td>
<td>Responsible officer will be required to certify that the FI has effective internal controls, and that material failures/events of default have been corrected</td>
<td>Competent authorities will work together when determination is made that significant non-compliance has occurred by Reporting FI. If not resolved within 18 months, FI will be reclassified as NPFI.</td>
</tr>
<tr>
<td><strong>Prevention of Avoidance</strong></td>
<td>FFI Agreement requires Responsible Officer to certify that controls exist to prevent avoidance of the FATCA requirements</td>
<td>Both governments will implement requirements to prevent FIs from adopting practices intended to circumvent the reporting required under the IGA</td>
</tr>
<tr>
<td>Will a PFFI be withheld upon</td>
<td>No, provided registered and compliant PFFI</td>
<td>No, provided registered and compliant Reporting FI</td>
</tr>
<tr>
<td>Reporting on US Accounts</td>
<td>Yes, report directly to the IRS</td>
<td>Yes, report to CRA, who reports to the IRS</td>
</tr>
<tr>
<td>Withholding on US accounts</td>
<td>No, US accounts need only be reported</td>
<td>No, US accounts need only be reported</td>
</tr>
<tr>
<td>Reporting on Recalcitrants</td>
<td>Yes, report as three aggregated pools (US indicia, no US indicia and dormant)</td>
<td>Yes, report to CRA, who reports to the IRS</td>
</tr>
</tbody>
</table>
## Comparison of Key Points (3 of 7)

<table>
<thead>
<tr>
<th>Key Consideration</th>
<th>FATCA Regulations</th>
<th>Canadian IGA/ proposed legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Need to exit recalcitrants</strong></td>
<td>Yes, exiting recalcitrants is contemplated</td>
<td>No, recalcitrants need only be reported</td>
</tr>
<tr>
<td><strong>Reporting on NPFIs</strong></td>
<td>Yes, report aggregate payments to each NPFI directly to IRS (only for 2015 &amp; 2016)</td>
<td>Yes, report to CRA, who reports to the IRS</td>
</tr>
<tr>
<td><strong>Withholding on NPFIs</strong></td>
<td>Yes, 30% on US source withholdable payment</td>
<td>Yes, 30% on US source withholdable payment</td>
</tr>
<tr>
<td><strong>Substantial US Owners</strong></td>
<td>Generally, 10% owners for NFFEs</td>
<td>Generally, 25% owners for NFFEs (Aligned with local AML/KYC procedures)</td>
</tr>
<tr>
<td><strong>Limited FI Grace Period</strong></td>
<td>Can only be a Limited FI until December 31, 2015</td>
<td>No limit on the time period allowed for Limited FIs</td>
</tr>
</tbody>
</table>
## Comparison of Key Points (4 of 7)

<table>
<thead>
<tr>
<th>Key Consideration</th>
<th>FATCA Regulations</th>
<th>Canadian IGA/ proposed legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Documentation &amp; Due Diligence Procedures</strong></td>
<td>Complex documentation and due diligence procedures required under the Proposed FATCA Regulations</td>
<td>Documentation procedures in Annex I simplified with more reliance on publicly available information (due diligence is the same) and self-certification</td>
</tr>
<tr>
<td><strong>Definition of Related Entity</strong></td>
<td>More than 50% in both vote and value</td>
<td>More than 50% in either vote or value (but can generally also follow the “and” test provided by the US rules)</td>
</tr>
<tr>
<td><strong>Definition of FFI for Funds</strong></td>
<td>The FATCA Regulations define investment entities as FIs, including those entities that are managed by investment entities</td>
<td>The Canadian IGA defines investment entities as FIs, including those entities that are managed by investment entities. The proposed legislation might limit this to entities that fall under 11 specific categories</td>
</tr>
<tr>
<td><strong>Classification of Trusts</strong></td>
<td>Professionally managed trusts are generally FFIs, while trusts managed by an individual are typically NFFEs</td>
<td>The IGA may provide relief in certain circumstances, but further analysis and possible clarification may be required.</td>
</tr>
<tr>
<td><strong>Reliance on Third Party Service Providers</strong></td>
<td>PFFIs are permitted to use third party service providers to fulfill requirements under the FFI Agreement but the obligations remain the responsibility of the PFFIs</td>
<td>Reporting FIs are permitted to use third party service providers to fulfill the obligations imposed on Reporting FIs, but the obligations remain the responsibility of the Reporting FIs</td>
</tr>
</tbody>
</table>
### Comparison of Key Points (5 of 7)

<table>
<thead>
<tr>
<th>Key Consideration</th>
<th>FATCA Regulations</th>
<th>Canadian IGA/ proposed legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Dealer account as Financial Account</strong></td>
<td>The FATCA regulations define a financial account to include the accounts of a carrying broker, dealer or other FFI that maintains a financial account</td>
<td>Under the Proposed legislation, the definition of “Financial Account” subject to modification to include a client name account maintained by a dealer, portfolio manager, or investment advisor; Intention for financial accounts to include client name accounts</td>
</tr>
<tr>
<td><strong>Ability to Define Terms under Local Law</strong></td>
<td>No ability; US law governs</td>
<td>Any terms not defined in the IGA fall under Canadian law</td>
</tr>
<tr>
<td><strong>What if US Indicia is found</strong></td>
<td>Must ask for additional information to cure US Indicia, or treat as US reportable account</td>
<td>Must ask for additional information to cure US Indicia, or treat as US reportable account</td>
</tr>
<tr>
<td><strong>Prima-Facie FIs</strong></td>
<td>Must be remediated within 6 months of entering into the FFI agreement (December 31, 2014)</td>
<td>Concept of Prima-Facie FIs no longer used, remediation of all entity accounts required by December 31, 2015</td>
</tr>
<tr>
<td><strong>Terms/ Consistency</strong></td>
<td>None, can only apply the terms of the FATCA Regulations</td>
<td>May be granted the benefit of more favorable terms afforded to another Model I IGA jurisdiction</td>
</tr>
</tbody>
</table>
## Comparison of Key Points (6 of 7)

<table>
<thead>
<tr>
<th>Key Consideration</th>
<th>FATCA Regulations</th>
<th>Canadian IGA/ proposed legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Active NFFE</strong></td>
<td>An entity that has less than 50% of its gross income for the preceding calendar year is passive income or less than 50% of the assets held by the NFFE at any time during the preceding calendar year are assets that produce or are held for the production of passive income</td>
<td>All excepted NFFE categories from the FATCA regulations plus certain financing &amp; hedging entities &amp; exempt organizations</td>
</tr>
<tr>
<td><strong>Periodic Certification</strong></td>
<td>Required</td>
<td>Not yet required</td>
</tr>
<tr>
<td><strong>Penalties</strong></td>
<td>Imposed by the United States</td>
<td>Imposed by Canada (failure to provide tax identification numbers, to perform FATCA reporting, and to maintain FATCA documentation)</td>
</tr>
<tr>
<td><strong>Account Due Diligence</strong></td>
<td>Procedures prescribed by FATCA regulations</td>
<td>New procedures allowed for certain individual accounts.</td>
</tr>
<tr>
<td><strong>De Minimis Thresholds</strong></td>
<td>Thresholds apply unless election is made</td>
<td>Thresholds apply if “designation” is made</td>
</tr>
</tbody>
</table>
## Comparison of Key Points (7 of 7)

<table>
<thead>
<tr>
<th>Key Consideration</th>
<th>FATCA Regulations</th>
<th>Canadian IGA/ proposed legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Account Due Diligence</strong></td>
<td>Procedures prescribed by FATCA regulations</td>
<td>New procedures allowed for certain individual accounts.</td>
</tr>
<tr>
<td><strong>De Minimis Thresholds</strong></td>
<td>Thresholds apply unless election is made</td>
<td>Thresholds apply if “designation” is made</td>
</tr>
</tbody>
</table>
Registration
Impact of IGA on Registration

Who must register?

Reporting Canadian FIs as RDCFIs

When should Reporting Canadian FIs register?

Canadian FIs have until December 22, 2014 to register to ensure inclusion on the IRS FFI list by January 1, 2015.

What about expiring QI Agreements?

All QI, WP or WT Agreements that would have expired on December 31, 2012/3 are automatically extended until June 30, 2014. These agreements need to be renewed in the registration process.
Frequently Asked Questions
Which institutions are covered by the Canadian IGA?

The Canadian IGA applies to the following Financial Institutions:

- Any FI that is a resident in Canada

- Branches or subsidiaries that are located outside of Canada are NOT covered by the Canadian IGA

- Any branch of a non-resident Canadian FI, if such branch is located in Canada
What about NFFEs?

NFFEs are impacted by the Canadian IGA in the following ways:

■ Specified US owner thresholds fall to Canadian law (i.e., 25% and not 10% as under FATCA regulations) if NFFE reports to a Reporting Canadian FI

■ Holding companies and Treasury Centers that are Related Entities to an FI are not currently at risk of being treated as FIs in their own right

■ Documentation less cumbersome
Multi-National Considerations

- What if a Canadian FI operates in multiple jurisdictions with multiple IGAs/regulations applicable?

- What is the appropriate level of documentation necessary for an entity to reasonably determine account holder status?

- What is an FI’s status when it operates in a jurisdiction that has signed an IGA but there is no final legislation?
Outstanding Issues

■ What about snowbirds?

■ What is the status of the harmonization regulations?

■ What is the status of QI audits?

■ What is the status of final IRS forms?

■ Will there be another delay?
Next Steps for the Canadian IGA and Canadian FIs

■ Canada must proceed with the implementation of the IGA into Canadian law

■ Draft Implementing Legislation released with 30 day comment period

■ Vocalize outstanding issues

■ The IGA must be ratified by Canada in order to come into force

■ Under the IGA, Canadian FIs will be required to begin due diligence procedures starting July 1, 2014, and to report information to the CRA beginning in 2015

■ The first exchange of information between the CRA and the IRS will be in 2015
Today’s Speakers

For more information, please visit, kpmg.ca/fatca

Russell W. Crawford
Partner, National Service Line Leader, US Tax
T. 604 691 3516
E. rwcrawford@kpmg.ca

Carlene Hornby Allen
Partner, Tax
T. 604 691 3097
E. chornby@kpmg.ca

Melinda T. Schmidt
Director, Tax - Information Reporting and Withholding practice
T. 302 827 4985
E. mtschmidt@kpmg.com
ANY TAX ADVICE IN THIS COMMUNICATION IS NOT INTENDED OR WRITTEN BY KPMG TO BE USED, AND CANNOT BE USED, BY A CLIENT OR ANY OTHER PERSON OR ENTITY FOR THE PURPOSE OF (i) AVOIDING PENALTIES THAT MAY BE IMPOSED ON ANY TAXPAYER OR (ii) PROMOTING, MARKETING OR RECOMMENDING TO ANOTHER PARTY ANY MATTERS ADDRESSED HEREIN.

You (and your employees, representatives, or agents) may not disclose to any and all persons, without limitation, the tax treatment or tax structure, or both, of any transaction described in the associated materials we provide to you, including, but not limited to, any tax opinions, memoranda, or other tax analyses contained in those materials.

The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.
Thank You

This information is current to February 12, 2014.

KPMG CONFIDENTIAL

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2014 KPMG LLP, a Canadian limited liability partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved.

The KPMG name, logo and “cutting through complexity” are registered trademarks or trademarks of KPMG International.