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Transparency and Inclusiveness Are Key to Addressing FATCA Challenges

By Keith Lawson

U.S. officials, their counterparts overseas, and representatives from the private sector continue to make impressive headway in implementing the [Foreign Account Tax Compliance Act](#) (FATCA). A milestone came in September, when the Organisation for Economic Co-operation and Development (OECD) and its Business and Industry Advisory Committee (BIAC) organized [meetings in Paris](#) to discuss FATCA implementation.

A key takeaway from those meetings: governments and business must continue to work openly and collaboratively for FATCA to be implemented in an efficient, cost-effective, and administrable manner.

BIAC's Business Advisory Group on FATCA, which I chair, brought together 60 business representatives from Europe, the Americas, the Middle East, and Asia to discuss FATCA with regulators from almost 30 countries. The meetings focused on the design and operation of the common systems that are necessary to reduce costs and increase the tax compliance benefits of FATCA. The discussion both was productive and illuminated the stark challenges that remain.

One particular challenge regards the rollout of [model intergovernmental agreements](#) (IGAs) that countries can adopt for FATCA implementation. Business leaders I have met in Brazil and in Europe since the first model IGA was released share the view of business leaders in the United States—that the IGAs are an extremely beneficial step toward making this law workable. It is equally important, however, that as countries enact legislation to adopt the IGAs, inconsistencies are minimized.

For example, in fashioning its rules, suppose Country X concludes that a fund manager located in Country X is to report details about the shareholders of the fund it is managing. Meanwhile, Country Y concludes that the distributors of the same fund's shares sold in Country Y are to report the details of the customers to whom it has sold the shares. This would lead to double reporting and entirely unnecessary audits of shareholders. Other consistency issues may occur such as investor self-certification requirements in different jurisdictions.

Fortunately, regulators and industry have been working cooperatively and transparently to address these concerns. This collaborative effort must continue. Transparency and inclusiveness are critical to addressing FATCA, given the law's extraordinarily challenging time deadlines. The massive educational, communications, and analytical efforts required to achieve an acceptable result cannot be overstated, and business must be a full partner in those efforts.

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