FATCA and the intergovernmental agreement

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The American law of 2010

The decisive external impulse came from the United States. The Foreign Account Tax Compliance Act was enacted as part of the Hiring Incentives to Restore Employment Act, which President Obama signed on 18 March 2010.[1] FATCA required foreign financial institutions to identify accounts held by US persons and to report them to the Internal Revenue Service. An institution that did not comply faced a withholding tax of 30 per cent on certain payments from the United States. Since no bank with a dollar business could accept that risk, the law reached every financial centre in the world.

FATCA was unilateral. Its reporting obligation also collided with the confidentiality laws of many countries, Singapore included, since a bank in Singapore could not lawfully send client data directly to a foreign tax authority. The American Treasury resolved the conflict through intergovernmental agreements. Under the Model 1 agreement, financial institutions report to their own tax authority, which forwards

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the information to the United States. Under the Model 2 agreement, adopted by Switzerland, institutions report directly to the IRS with the consent of the account holder or through group requests.

Negotiation and the Model 1 agreement of 2014

Singapore chose Model 1 early. On 9 November 2012 the Ministry of Finance announced that it was in talks with the US Treasury and that a private sector advisory panel would advise on them. The agreement was initialled on 5 May 2014 and signed on 9 December 2014 by Ng Wai Choong, Deputy Secretary (Policy) at the Ministry of Finance, and the US Ambassador Kirk Wagar. The ministry explained that, without it, each Singapore institution would have had to enter into its own agreement with the United States. The US Treasury had treated Singapore as having an agreement in effect from 30 June 2014, before the signature.[2]

The preamble of the agreement records why it was needed. Singapore was "supportive of the underlying policy goal of FATCA", but Singaporean institutions "may not be able to comply with certain aspects of FATCA due to domestic legal impediments". Under Article 2, Singapore undertook to obtain information on all US reportable accounts and to exchange it annually with the United States on an automatic basis.[3] The obligation ran in one direction only. The United States did not commit to send equivalent information to Singapore.

Implementation through IRAS

The agreement was implemented by the Income Tax (International Tax Compliance Agreements) (United States of America) Regulations 2015, in force from 18 March 2015. They were replaced for reporting years from 2021 by regulations of 2020. Reporting Singaporean financial institutions file annual returns, or nil returns, with IRAS by 31 May, and Singapore has reported US account information since 2015.[4]

The legal basis is Part 20B of the Income Tax Act, headed "International Agreements to Improve Tax Compliance", which was introduced for this purpose in 2013 and extended in 2016. Section 105L obliges financial institutions to provide the

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information to the Comptroller. Section 105PA provides that this duty prevails over any duty of secrecy. The Minister for Finance confirmed in Parliament in November 2017 that the override extends to the Banking Act, the Personal Data Protection Act 2012, contracts and rules of professional conduct.[5] Section 47 of the Banking Act therefore remains in force, but it no longer protects any account that falls within the scope of FATCA.

The reciprocal agreement of 2018

Singapore did not accept the asymmetry permanently. On 13 November 2018 Singapore and the United States signed a Tax Information Exchange Agreement and a reciprocal Model 1 agreement, which was to supersede the first agreement on its entry into force. It entered into force on 1 January 2021.[6]

Reciprocity remains limited. Under the new agreement, US financial institutions report to the IRS, for transmission to Singapore, the name, address and Singaporean tax number of Singapore residents holding accounts. They also report the account number, the gross interest paid on deposit accounts and the gross US-source dividends and other US-source income credited. The information on the Singaporean side is broader, since it includes account balances and the identity of controlling persons. In a separate article, the United States "acknowledges the need to achieve equivalent levels of reciprocal automatic information exchange" and commits to pursue regulations and legislation to that end. The United States has not joined the Common Reporting Standard and receives data from other jurisdictions without generally reciprocating in full.[7] Among the major financial centres, it alone obtains automatic information from Singapore on terms more favourable than those it grants.

Notes

1. Wikipedia, "Foreign Account Tax Compliance Act" (accessed November 2026): FATCA was signed into law on 18 March 2010 as Subtitle A of Title V

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of the HIRE Act; 26 U.S.C. §§ 1471–1474; Model 1 and Model 2 intergovernmental agreements. ↩

2. Ministry of Finance, "Inter-Governmental Agreement (IGA) on the US Foreign Account Tax Compliance Act (FATCA)", 9 November 2012: Singapore in talks with the US Department of the Treasury to conclude an IGA; a private sector advisory panel to be formed. Ministry of Finance, "Singapore and the United States sign agreement to facilitate FATCA compliance by Singapore financial institutions", 9 December 2014: Model 1 IGA signed after initialling on 5 May 2014, by Ng Wai Choong and Ambassador Kirk Wagar; 30 per cent withholding for non-compliant institutions; FIs report to IRAS, which transmits to the IRS; discussions on a reciprocal arrangement. US Department of the Treasury, "Foreign Account Tax Compliance Act", table of jurisdictions (home.treasury.gov, accessed November 2026): Singapore, Model 1, treated as having an IGA in effect from 30 June 2014; first agreement in force from 28 March 2015 to 31 December 2020; superseding agreement in force from 1 January 2021; total of 114 jurisdictions listed. ↩

3. Agreement between the Government of the United States of America and the Government of the Republic of Singapore to Improve International Tax Compliance and to Implement FATCA (2014), text published by the US Treasury (FATCA-Agreement-Singapore-12-9-2014-Model-1.pdf), preamble and Art. 2(1): Singapore "shall obtain the information … with respect to all U.S. Reportable Accounts and shall annually exchange this information with the United States on an automatic basis"; Art. 12(1) on entry into force upon Singapore's notification. ↩

4. IRAS, "FATCA Overview and Latest Developments" (iras.gov.sg, accessed November 2026): Income Tax (International Tax Compliance Agreements) (United States of America) Regulations 2015 in force from 18 March 2015; Regulations 2020 in force from 1 January 2021; annual or nil returns due by 31 May; Singapore has reported financial account information to the US since 2015; amendment of the 2020 Regulations on 11 August 2026. ↩

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5. Income Tax Act 1947, Part 20B (ss. 105I–105Q), as reproduced by LawPlayer (lawplayer.com/sg/act/ITA1947/section/part-20b, accessed November 2026): s. 105L, provision of information to Comptroller; s. 105M, offences; s. 105MA, anti-avoidance; s. 105P, regulations; s. 105PA, "Duty to provide information under regulations prevails over duty of secrecy". Ministry of Finance, "Personal Data Protection on Automatic Exchange of Financial Account Information", parliamentary reply by Heng Swee Keat of 6 November 2017: the Income Tax Act was amended in 2013 and 2016; the duty to provide information prevails over secrecy under "the Banking Act, the Personal Data Protection Act 2012, any contract, or rules of professional conduct" and falls within the exceptions to banking secrecy under the Banking Act. ↩

6. Ministry of Finance, "Singapore and the United States of America Signed Agreements for Exchange of Information", 16 November 2018: TIEA and reciprocal FATCA Model 1 IGA signed in Singapore on 13 November 2018 by Yee Ping Yi and the US Chargé d'Affaires Stephanie Faye Syptak-Ramnath; the reciprocal IGA to supersede the non-reciprocal one. Ministry of Finance, "Entry into Force of Reciprocal FATCA IGA with the United States of America", 28 August 2020: the reciprocal IGA signed on 13 November 2018 "will enter into force on 1 January 2021" and supersede the non-reciprocal IGA. ↩

7. Agreement between the United States and Singapore to Improve International Tax Compliance and to Implement FATCA (2018), text published by the US Treasury (FATCA-Agreement-Singapore-11-18-2018-Superseding-Model-1.pdf), Art. 2(2)(b), information to be exchanged by the United States, and Art. 6(1), the United States "acknowledges the need to achieve equivalent levels of reciprocal automatic information exchange with Singapore"; Art. 10(1) on entry into force. Wikipedia, "Common Reporting Standard" (accessed November 2026): the United States is not part of the CRS and uses FATCA; it receives data from other countries but generally does not reciprocate automatically. ↩

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