

# A Comprehensive FATCA Solution



**End-to-end automated legal, technology and software solution facilitates global compliance with U.S. Foreign Account Tax Compliance Act requirements**

Financial institutions, non-financial foreign entities, withholding agents and qualified intermediaries around the world will soon become subject to the U.S. Foreign Account Tax Compliance Act (FATCA)<sup>1</sup> legislation, which was enacted to assist U.S. regulators to combat offshore tax evasion by U.S. taxpayers using offshore financial accounts and investment vehicles. FATCA will impose significant due diligence, reporting, withholding, verification and record-keeping burdens on both U.S. and non-U.S. financial institutions.

The U.S. Department of the Treasury (U.S. Treasury) and the U.S. Internal Revenue Service (IRS) utilize both unilateral and bilateral approaches to encourage FATCA compliance. As initially drafted, FATCA leverages the U.S. capital markets by requiring U.S. and non-U.S. Withholding Agents (WAs) to withhold and pay-over to the IRS a 30% FATCA tax on payments of income from U.S. sources and gross proceeds from U.S. investments if foreign financial institutions (FFIs) and non-financial foreign entities (NFFEs) recipients are not compliant with FATCA.

<sup>1</sup> Subject to transition rules

In comments to the IRS and U.S. Treasury, banking organizations have estimated it will cost each large foreign bank \$250 million to diligence its accounts and identify those held by U.S. parties—a total of \$7.5 billion spent by the top 30 foreign banks<sup>2</sup>.

Compliance with FATCA could result in FFIs and NFFEs breaching local laws—for instance, bank secrecy, privacy, data protection and human rights. Therefore, the U.S. Treasury has adopted a bilateral approach to collaborate with foreign governments to implement FATCA through intergovernmental agreements (IGAs), whereby FATCA partner jurisdictions agree to enact local laws to implement FATCA, including requiring local FFIs to comply with FATCA due diligence, reporting, withholding, verification and recordkeeping obligations, thereby eliminating most legal conflicts and alleviating some administrative burdens and costs. To date, several countries have signed IGAs and over 40 countries are in negotiations with the U.S. Treasury for, or considering, IGAs.

FATCA guidance is complicated. On January 17, 2013 the U.S. Treasury and IRS issued 540 pages of FATCA regulations. IGAs, while modestly less complicated, reference the regulations and add complexity for global FFIs that conduct business both in and outside of FATCA partner countries. Virtually every type of cross-border financial transaction is impacted by FATCA. Practically speaking, it will take finely choreographed coordination of U.S. and local legal, tax, risk and compliance professionals—supported by technology, operations and software experts—to design, implement and sustain a defensible FATCA compliance program.

In 2014, FATCA enters into force and certain actions will need to be taken before then. A robust, future-proof FATCA compliance system will need to be designed and implemented to:

- Comply with local and U.S. requirements;
- Automate applicable FATCA exemptions;
- Manage complex rules across multiple jurisdictions, lines of business and products;
- Manage and automate pre-existing account due diligence requirements;
- Sustain reporting, withholding, verification and recordkeeping protocols; and
- Include strategic flexibility to build on your institution's existing Know Your Customer (KYC) systems.

In particular, existing Know Your Customer systems require flexibility to adapt to FATCA requirements changes; business change; other FATCA-like regimes; and other regulatory requirements such as anti-money laundering (AML), bank secrecy, data management, customer due diligence/enhanced due diligence, KYC privacy, sanctions management, tax and other reporting.

In connection with FATCA implementation, we may also recommend strategic planning opportunities to lessen FATCA impact by, for instance, ring-fencing certain businesses and conducting an entity review to streamline corporate secretary functions.

## 5 Things to Know When Planning for FATCA

**1**

**It's not just for banking and capital markets.** FATCA doesn't only affect banks, brokers, dealers, custodians or investment firms. Insurance companies must also plan for FATCA since it may impact cash value insurance products, pensions and annuity contracts.

**2**

**It will add time and cost.** Complying with FATCA requirements is likely to increase the time required for investment managers to onboard a new client; currently this often takes 30 to 60 days. Rules-based technology combined with FATCA expertise can significantly reduce costs and time to revenue while streamlining operations.

**3**

**It may overlap with current compliance requirements.** In some cases, the U.S. Treasury will allow participating foreign financial institutions to rely on existing AML and KYC programs, allowing FATCA compliance to fit under the same protocols as existing regulatory requirements. By leveraging existing KYC data and systems for pre-existing account due diligence, financial institutions can automate exemptions to automate FATCA due diligence and classification to gain efficiency and achieve cost savings, without negatively impacting the customer experience.

**4**

**It requires technology.** Using a technology approach is the best way to reduce costs and ensure compliance, and you may be able to use existing data captured for AML and KYC regulations.

**5**

**You'll need experienced legal advice.** Each company will need to understand local, regional and cross-border issues and risks before planning and building a FATCA compliance program.



# Capgemini + Pegasystems + DLA Piper

**Bringing together the right experience and technology to address and automate your global FATCA compliance**

To create a unique, end-to-end solution for FATCA compliance, Capgemini has partnered with DLA Piper, a premier global business law firm with more than 4,200 lawyers in over 30 countries, and Pegasystems, the recognized leader in business process management. Together, we can design, implement and assist you to sustain an end-to-end compliance solution that addresses business, legal and IT requirements for FATCA.

Our comprehensive offering includes three primary elements.

## **Legal Advisory Services from DLA Piper**

DLA Piper will review client businesses, products, customers and geographies and advise on an FFI's FATCA obligations under the unilateral regulatory approach and the bilateral IGA approach.

Since each company has uniquely different issues when considering FATCA compliance and implementation, you may require advice on local and cross-border law conflicts with FATCA and assistance with reputational risk and contract matters. In addition to legal advisory services, DLA Piper can also add customized legal advice to Pegasystems' Know Your Customer (KYC) solution.

## **Know Your Customer (KYC) Technology from Pegasystems®**

Our solution utilizes Pegasystems® KYC technology that includes:

- Core FATCA functionality including pre-existing account due diligence management and automation;
- New account rules and recordkeeping requirements;
- Periodic updates based on change of circumstances and annual requirements;
- Automated indicia identification;
- Ability to apply the right FATCA rule set based on product, line of business, and geography; and
- Straight through processing based on exemption criteria.

## **Integration and Configuration services from Capgemini**

Capgemini bridges the gap between defined business and legal requirements and technology. With our unique understanding of regulatory requirements and technologies that drive financial institutions, Capgemini works with Pegasystems to coordinate and configure client system interfaces into Pega's KYC solution.

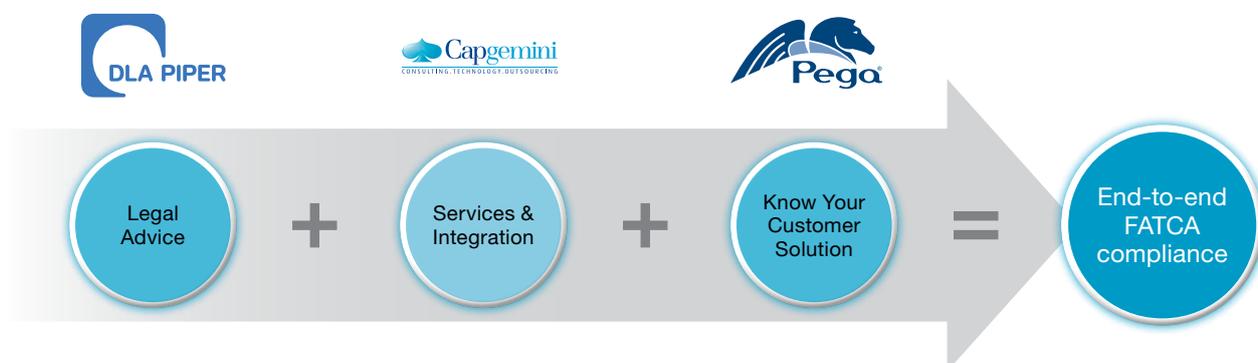
Together, we create proprietary IP on top of Pega's customizable KYC software that supports client-by-client compliance. We focus on guiding financial institutions through the process of becoming FATCA compliant through the development of a risk-based program that leverages your existing KYC program; improves and aligns your IT and legal capabilities specifically to meet new FATCA requirements; and builds efficiency into the process.

# Putting It All Together

Since every organization will have different requirements for diligence, processes and exemptions, Capgemini and DLA Piper will identify product, country and line of business-specific needs and add these to the Pega KYC and FATCA technology. The powerful combination of leading FATCA legal, business and IT knowledge built on Agile technology ensures accurate compliance controls, costs savings today, and flexibility for tomorrow. Our collaborative team can provide:

- A legally privileged and confidential review and testing of your institution's compliance with AML, KYC, disaster recovery, data management, records retention and other pre-existing regulatory requirements;
- Outsourced due diligence including enhanced due diligence requirements and training assistance;
- On-boarding procedures for new clients to ensure that necessary data is collected and retained to identify and categorize U.S. and non-U.S. account holders for purposes of FATCA;
- Drafting of terms and conditions including provisions to allow for:
  - Collection, use and transmission of relevant data to the IRS or local tax authority;
  - Data collection and reporting of recalcitrant and non-participating FFI account holders and tax withholding (if/when required);
  - Closure of accounts or termination of policies in the event of customer non-compliance;
  - Limit or exclude liability; and
  - Representations, warranties and covenants related to FATCA liability in transactional documents.
- Communications with the company's board of directors, the IRS, local revenue authorities and customers; and
- Development and maintenance of global and local, consistent compliance procedures and training programs.

## Our end-to-end Solution and Services



# Capgemini's FATCA Compliance Offerings

Capgemini provides subject matter expertise and advisory services to support compliance functions for domestic and global financial institutions. We help financial services firms address Know Your Customer (KYC) requirements including customer due diligence, FATCA and anti-money laundering compliance requirements.

## **Compliance Department Support**

Effectively mitigate compliance risk by leveraging a unified process that provides scalability and sustainability. Capgemini can provide compliance support near shore or offshore using our Rightshore® model which puts the right people with the right skills in the right place.

## **System Implementation**

As financial institutions are rapidly upgrading to new FATCA compliant KYC systems, Capgemini can help plan and execute upgrades from first generation systems.

## **System Integration**

To enable FATCA compliance, financial services institutions must integrate legacy IT corporate information factory (CIF) and customer data and banking systems to normalize data and create a multi-use centralized data repository. This lets you turn data into knowledge.

## **Independent Verification and Validation**

Regulators are increasingly questioning whether financial institutions are validating the compliance solutions they have implemented and whether the rationality in the decision process is adequately documented. Capgemini can help validate and document your risk solutions by performing verifications such as process reviews or mapping.

## **Change Management Control Process**

Capgemini can review and develop change management policies and procedures and compliance program maintenance processes using industry best practices.

## **Analytics**

Data analytics and metrics generated from the KYC process can be significantly tuned through efficiency exercises and business intelligence efforts to better support the compliance function.

## **Remediation**

For regulatory and non-regulatory driven remediation, Capgemini can help you gather, review and provide quality control for KYC related information over a defined timeframe—often several years prior— to ensure compliance with regulatory requirements and quality of data.



# Comprehensive Coverage

Capgemini provides multi-disciplinary AML/KYC and FATCA compliance expertise with IT-based implementation and integration focus designed to deliver proven compliance solutions to organizations globally.

Our end-to-end program helps financial services institutions:

- Assess the FATCA impact and compliance across the enterprise
- Review and assess FATCA impact and compliance risk
- Design and develop a FATCA compliance program
- Extract and review customer data
- Implement Pegasystems software
- Plan governance and change implementation
- Establish KYC and due diligence remediation efforts
- Support tax reporting
- Gain legal advice and compliance support

For more information, contact us at: [riskmgmt@capgemini.com](mailto:riskmgmt@capgemini.com) or visit: [www.capgemini.com/risk](http://www.capgemini.com/risk).



## About Pegasystems

Pegasystems revolutionizes how leading organizations optimize customer experience and automate operations. Our patented Build for Change® technology empowers business people to create and evolve their critical business systems. Pegasystems is the recognized leader in business process management and is also ranked as a leader in customer relationship management software by leading industry analysts.

For more information, visit us at [www.pegasystems.com](http://www.pegasystems.com).

## About DLA Piper

In the U.S., DLA Piper represents many of the world's leading companies across industries, as well as financial institutions, emerging businesses and professional firms. We offer legal counsel on a wide range of issues in every major business, financial and technology center in the U.S., where our lawyers have both local and national experience. Globally, we have 4,200 lawyers in over 30 countries, enabling us to offer our clients comprehensive cross-border counsel wherever they need us. Our client commitment is also our brand - everything matters when it comes to the way we serve and interact with our clients.

For additional information, go to [www.dlapiper.com](http://www.dlapiper.com).



## About Capgemini

With almost 145,000 people in over 40 countries, Capgemini is one of the world's foremost providers of consulting, technology and outsourcing services. The Group reported 2014 global revenues of EUR 10.573 billion.

Together with its clients, Capgemini creates and delivers business and technology solutions that fit their needs and drive the results they want.

A deeply multicultural organization, Capgemini has developed its own way of working, the Collaborative Business Experience™, and draws on Rightshore®, its worldwide delivery model.

Learn more about us at  
[www.capgemini.com](http://www.capgemini.com)

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