



Guernsey Association of
Trustees
FATCA for Trusts - where are we now?

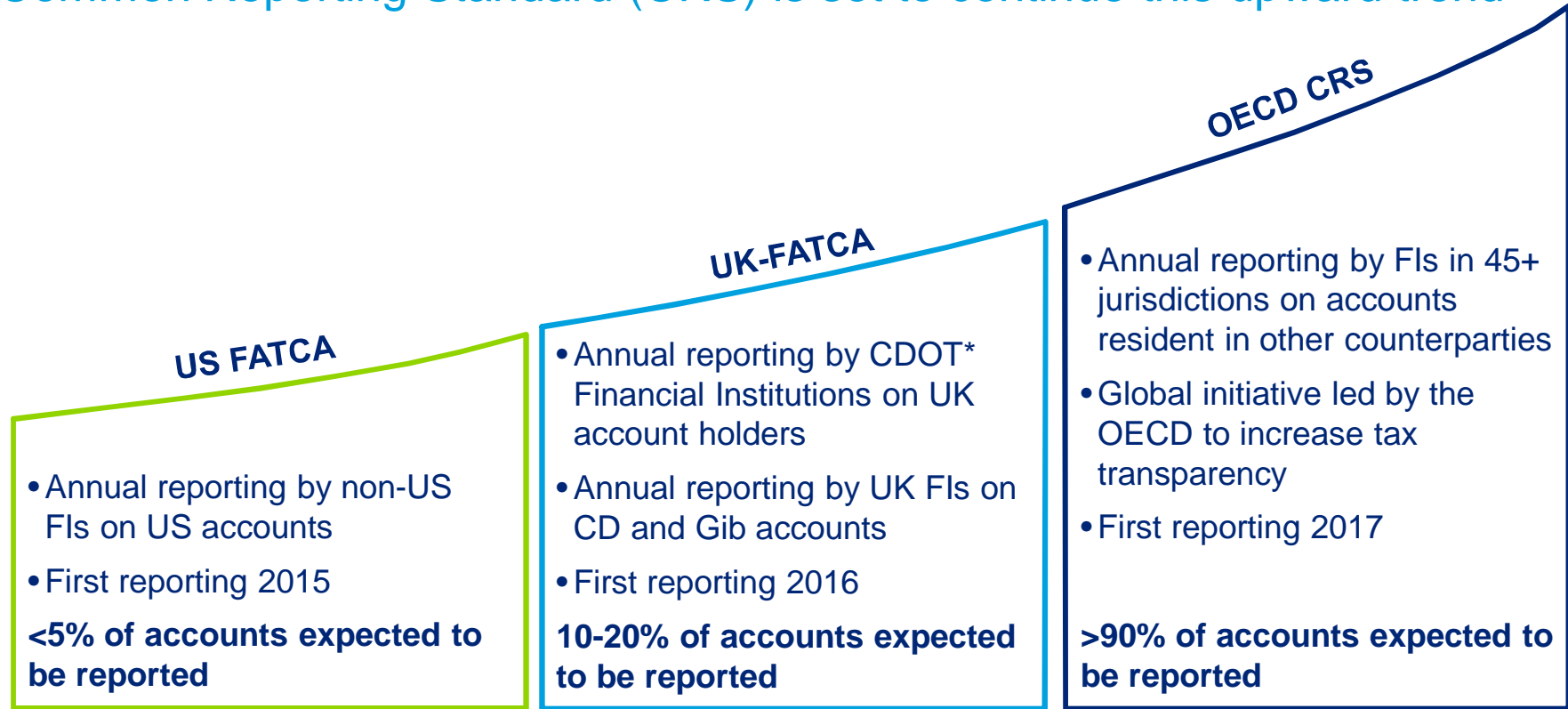


Martin Popplewell
Jo Huxtable

3 November 2014

Growth in information exchange regimes

Automatic exchange requirements have expanded rapidly and the Common Reporting Standard (CRS) is set to continue this upward trend



Increasing number of practical challenges

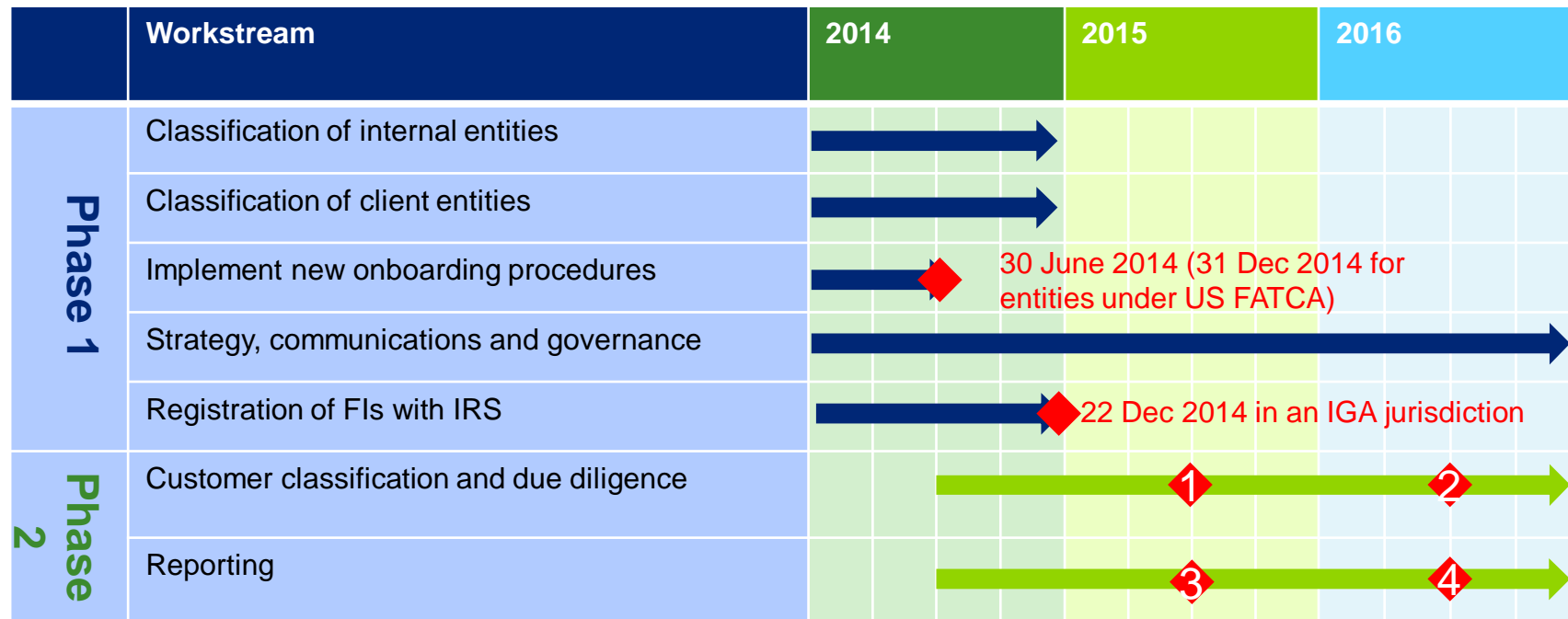
- Filing multiple returns covering reportable accounts
- Managing relationships with multiple authorities and complying with data privacy laws
- Ensuring reports are filed in respect of all FIs and in the correct format

*Guernsey, Isle of Man, Jersey, Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Gibraltar, Turks and Caicos Islands

FATCA overview

Relevant timings

- The timeline below highlights the key workstreams which form part of Phase 1 and Phase 2 of the FATCA project, with key deadlines highlighted in red.

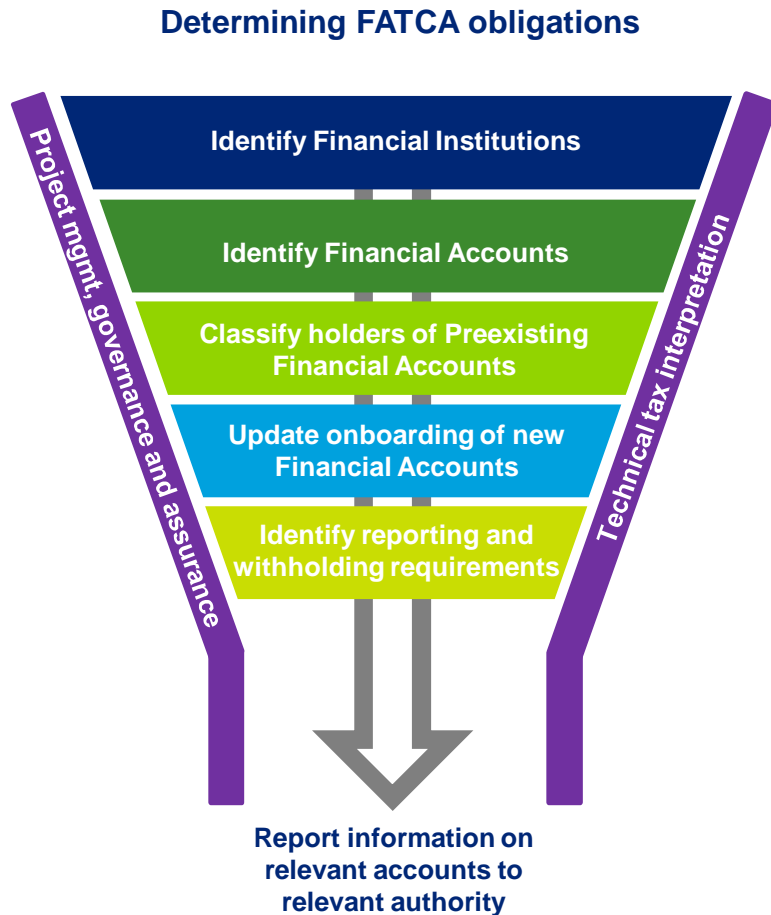


Notes

- 1 – 30 June 2015 – classification of pre-existing individual high value accounts completed
- 2 – 30 June 2016 – classification of all other pre-existing accounts
- 3 – 30 June 2015 – 2014 US FATCA reporting
- 4 – 30 June 2016 – 2015 US FATCA reporting, 2014 and 2015 UK FATCA Reporting

Achieving FATCA compliance

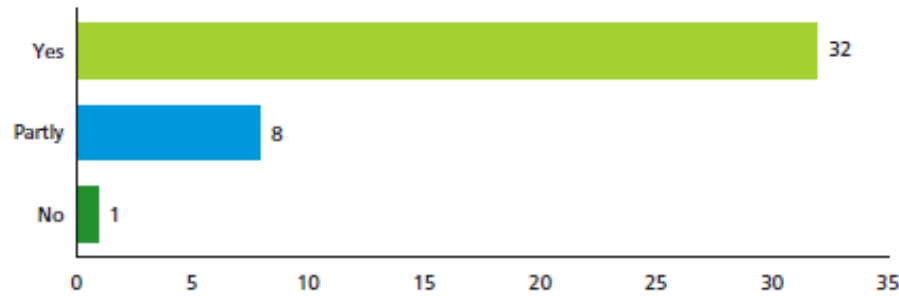
Overarching requirements



- The diagram opposite shows a structured funnel approach, which breaks down the requirements into logical steps aligned with the FATCA obligations.
- It is intended to ensure that efforts are focussed on those areas that are in-scope for FATCA and reach the ultimate reporting requirement in a streamlined manner.

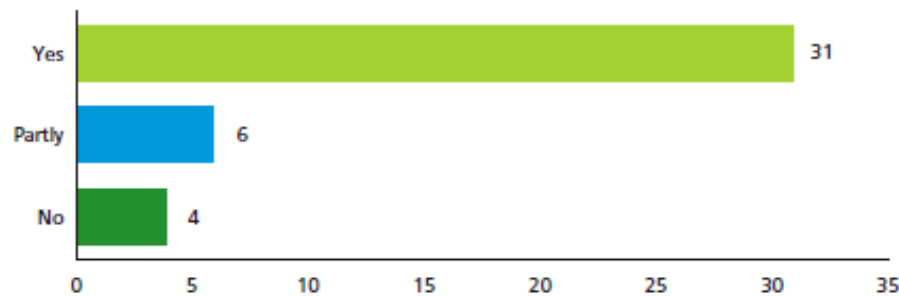
Industry status – classification and registration

1. Have you classified your internal entities (i.e. the trust company or other group companies)?

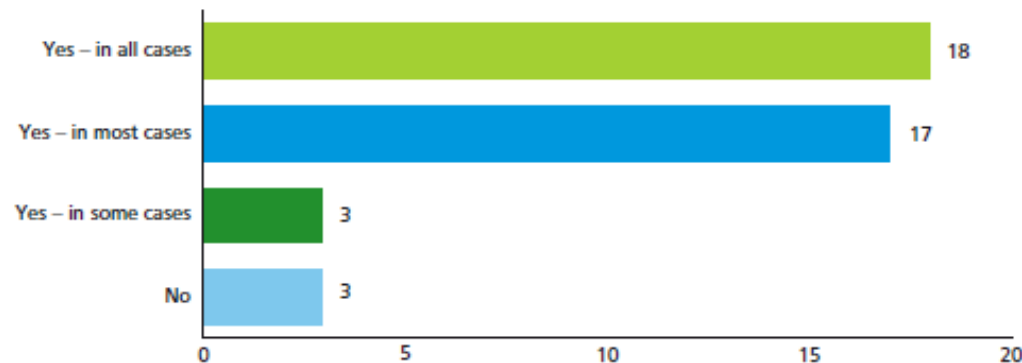


Jurisdiction of organisation	
Guernsey	14
Jersey	18
Isle of Man	7
Other	2

2. Have you registered your internal entities with the IRS?

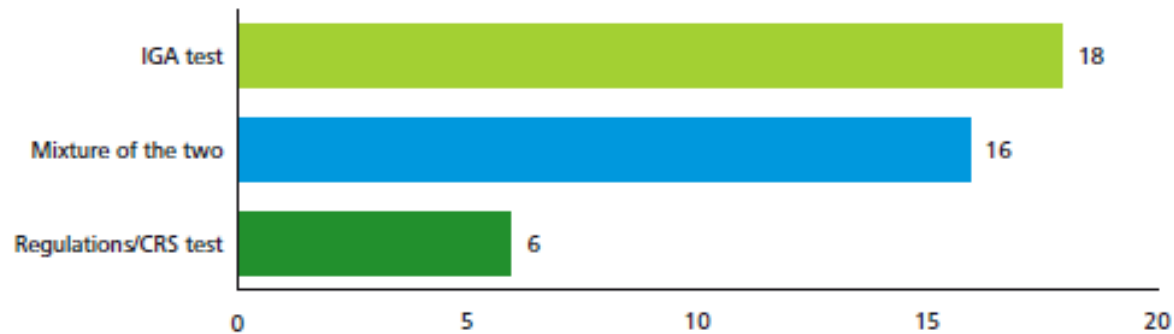


3. Are you providing a classification service to your client structures?

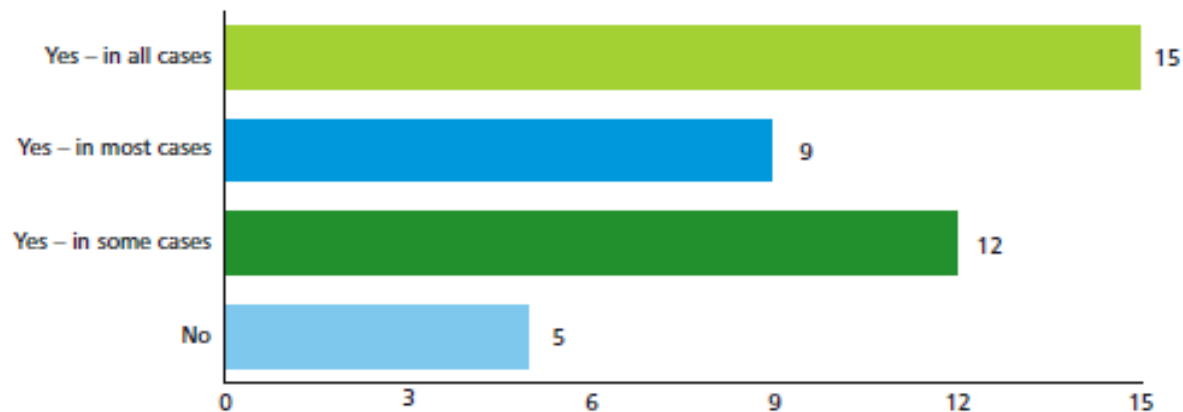


Industry status – classification and registration (continued)

4. If classifying client entities, are you adopting the "IGA" test and treating all entities that you "manage" as financial institutions, or are you applying the "regulations/CRS" test and looking to levels of income?

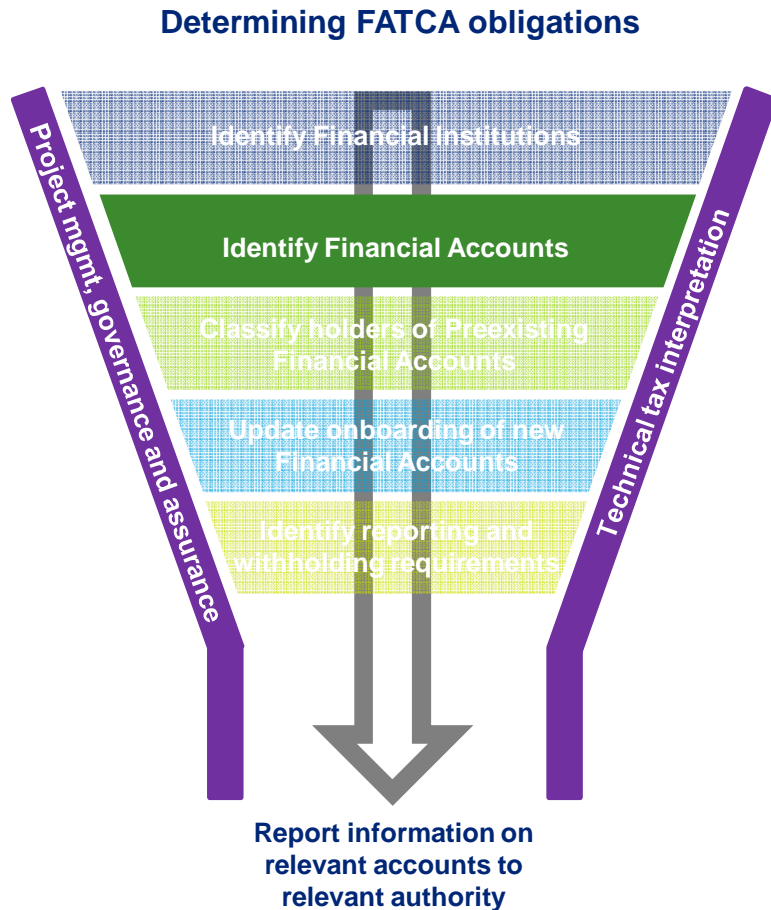


5. Are you providing a registration service to your client structures?



Identify Financial Accounts

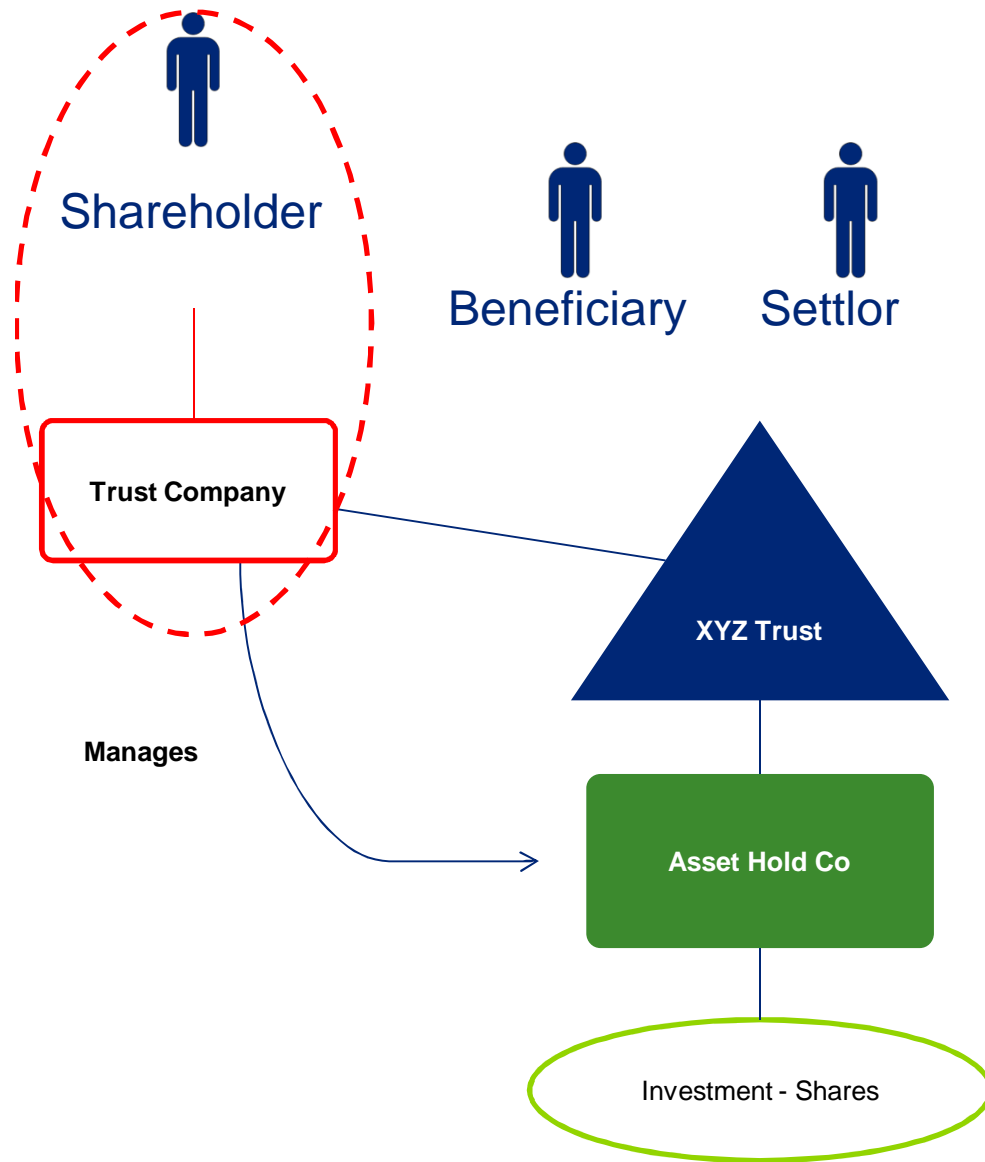
Required tasks



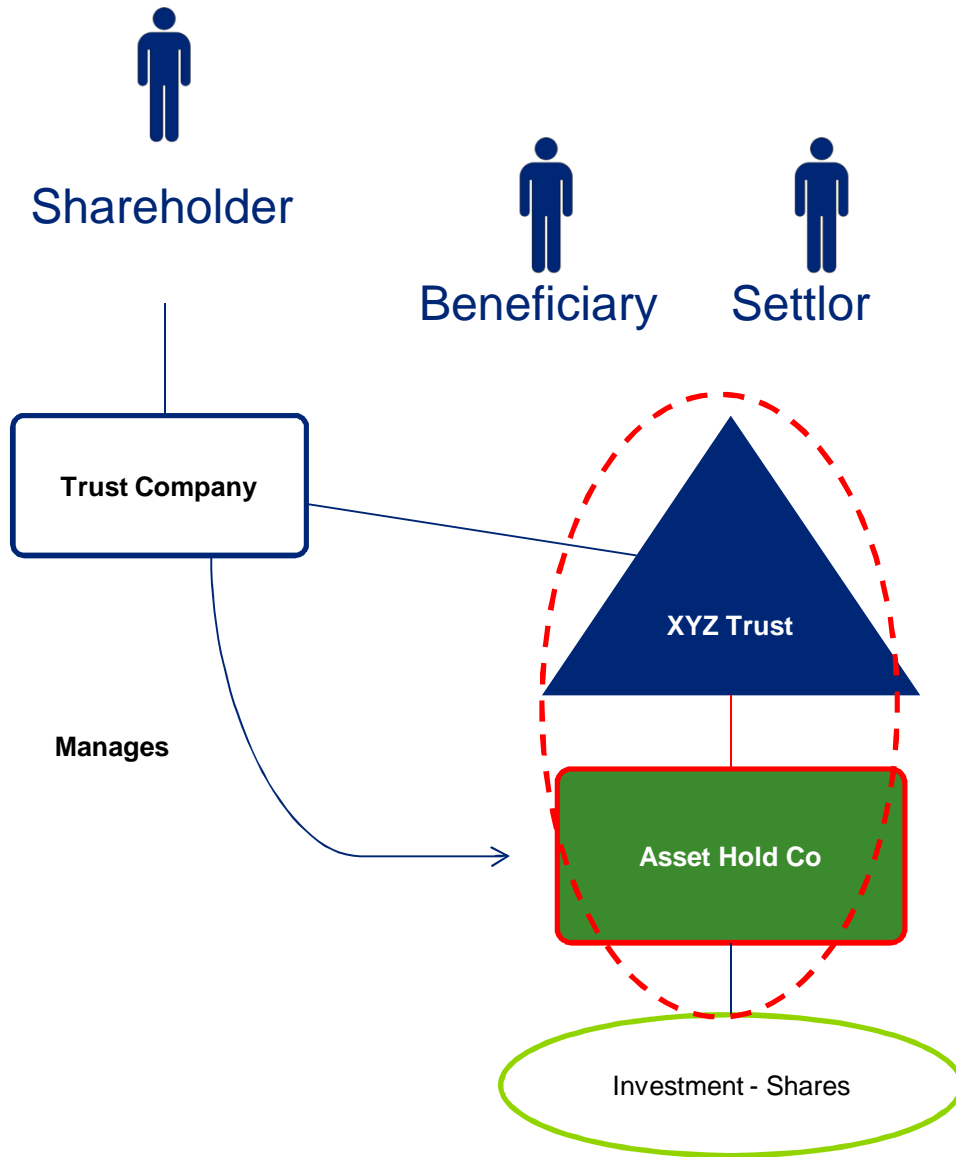
Required tasks

- Following the identification of Financial Institutions, you will need to identify all your different accounts.
- Classify these accounts to identify the 'Financial Accounts'. Financial Accounts include:
 - Depository accounts;
 - Custodial accounts;
 - Equity or debt interests;
 - Cash value insurance contracts.

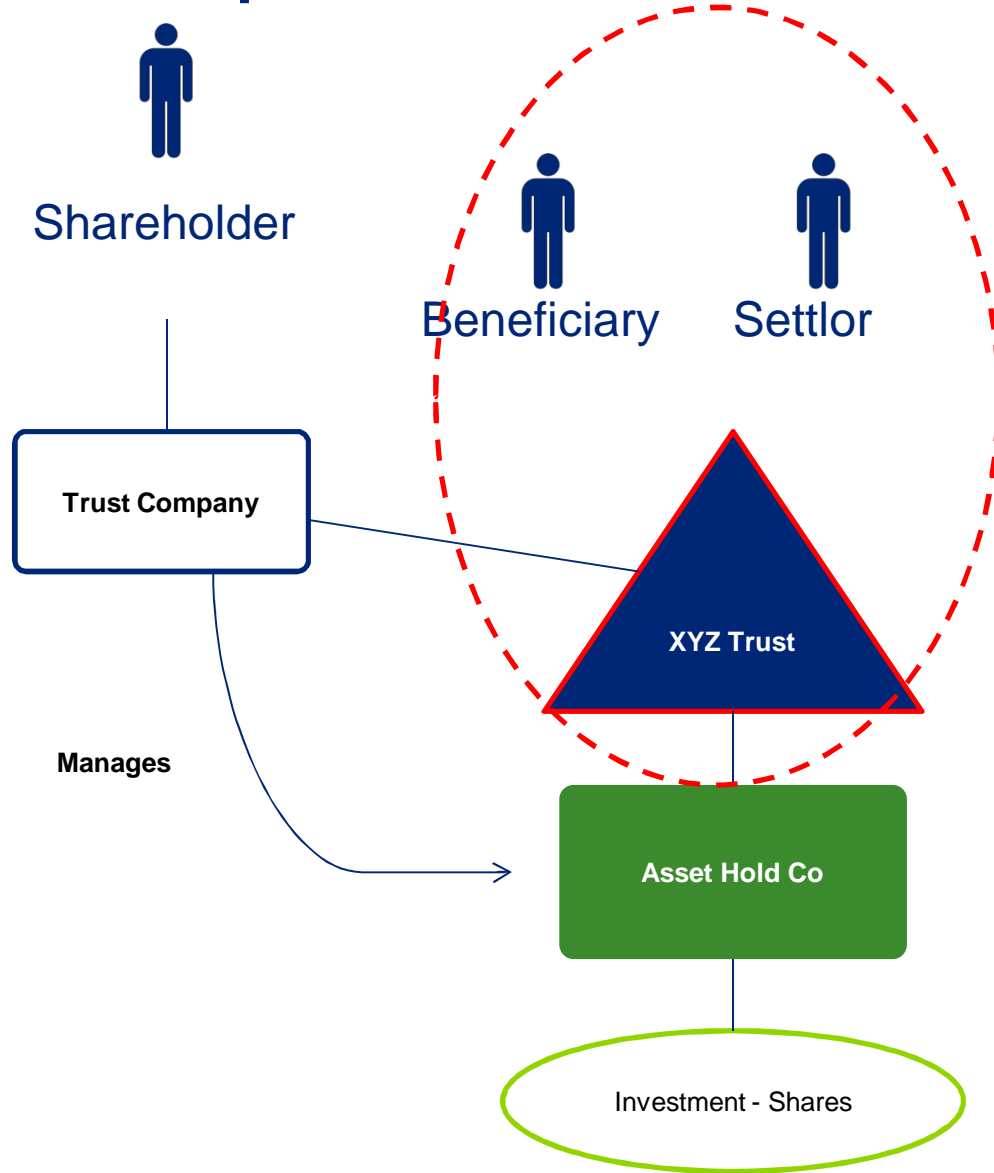
Example Financial account – Trust company



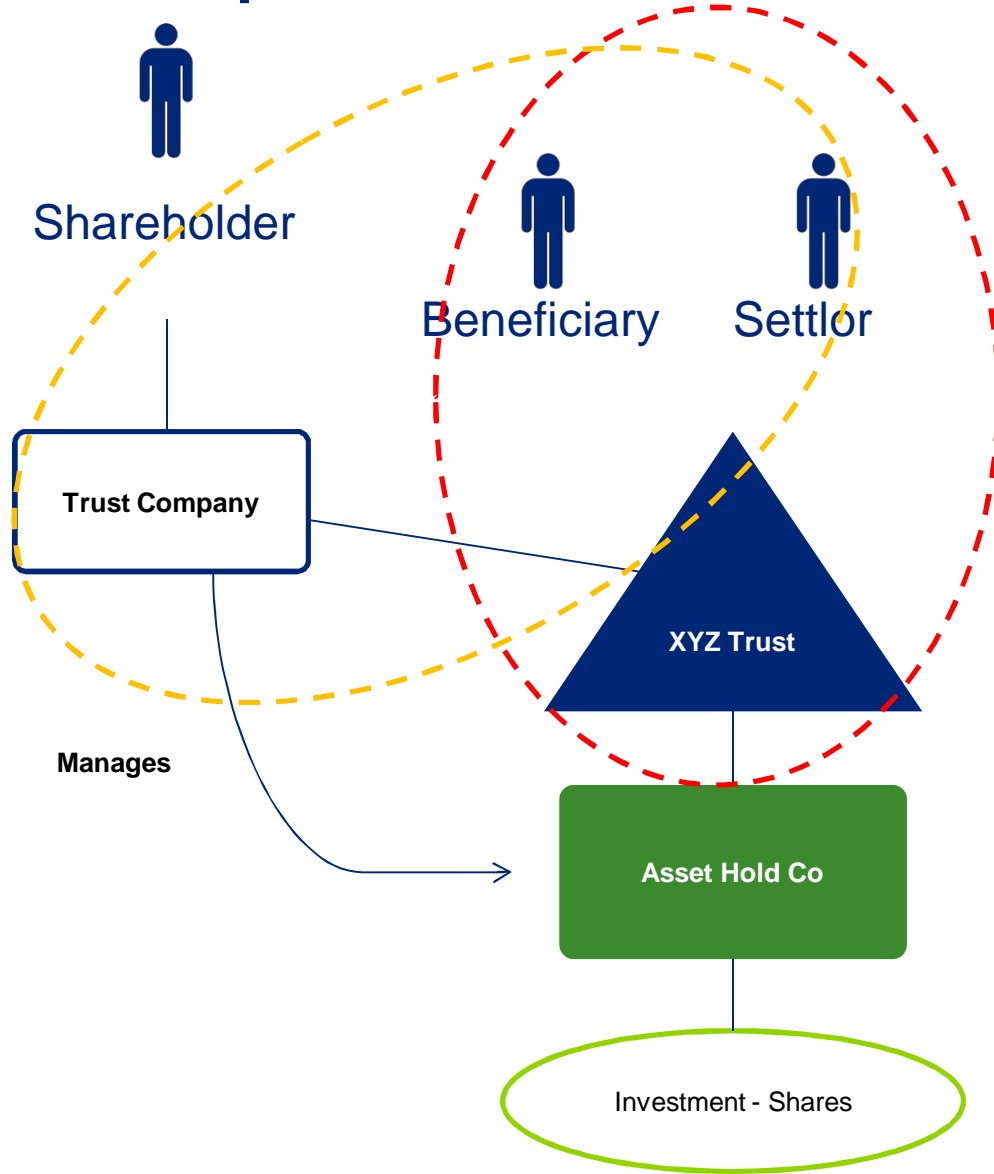
Example Financial account – Asset Hold co



Example Financial account – XYZ Trust

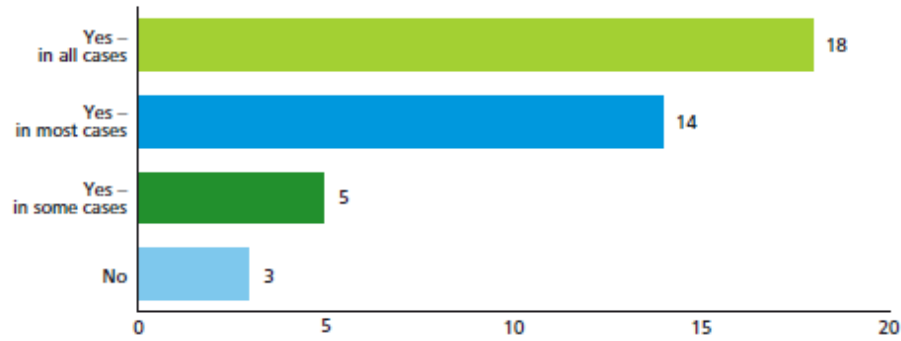


Example Financial account – Trustees role

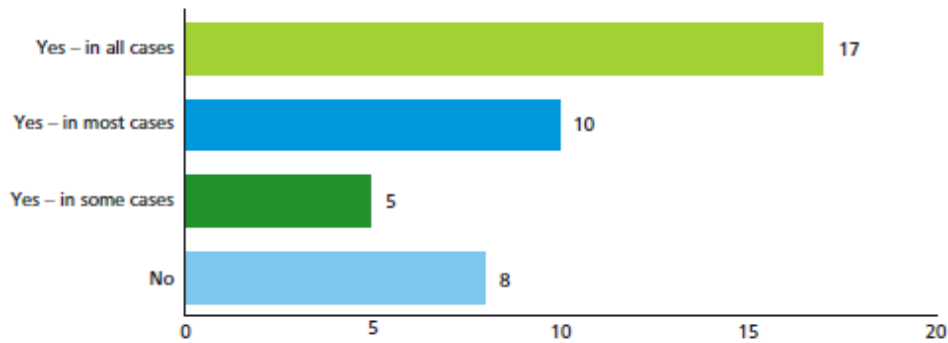


Industry status – Service provider options

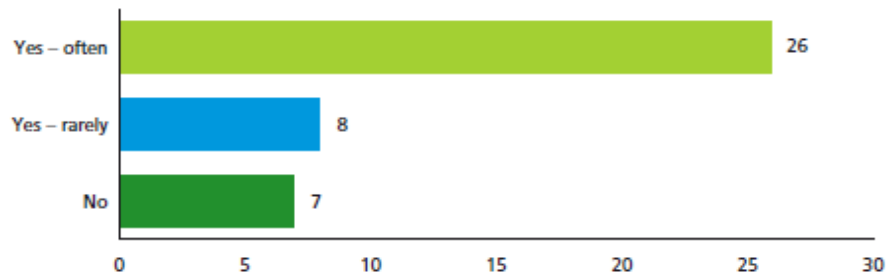
6. Are you offering your trust company GIIN to client trusts through the trustee documented trust regime?



7. Are you offering your trust company GIIN to client companies which are owned by trusts, through the trustee documented trust regime?

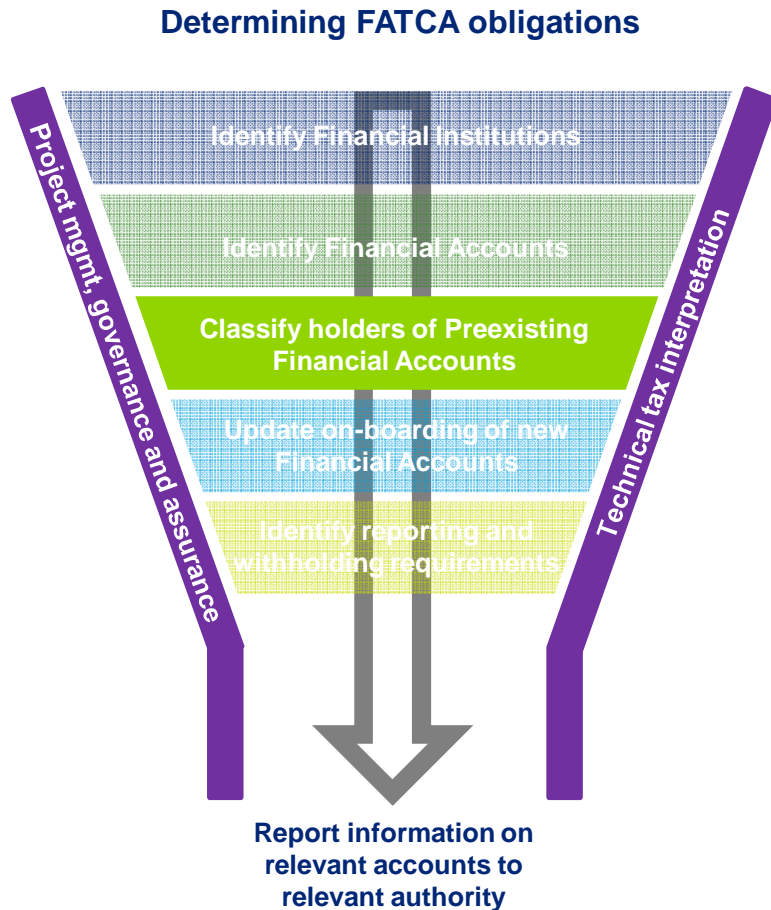


8. Are you acting as sponsor to client structures through the sponsoring entity regime?



Classify holders of Preexisting Financial Accounts

Required tasks

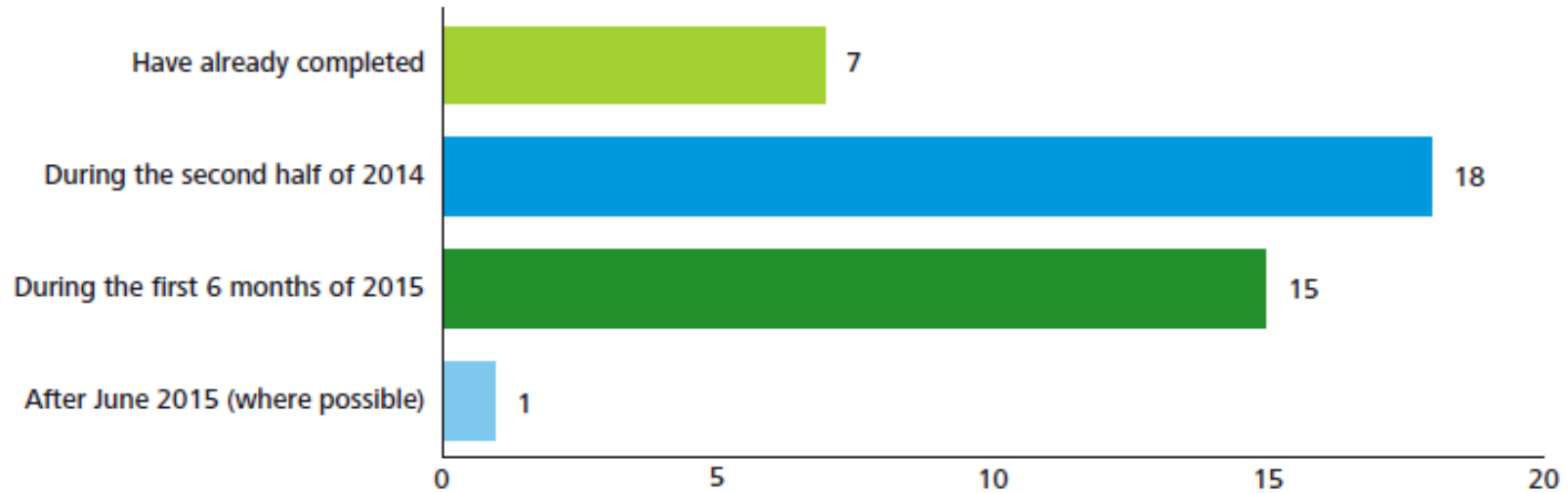


Required tasks

- Develop search process for identifying customers holding Preexisting Financial Accounts.
- Identify any Specified US/UK persons and Non Participating FIs.
- Flag any US/UK indicia discovered during searches of Preexisting Financial Accounts.
- Remediate account holder with US/UK indicia to determine their status.
- Document FATCA status of Financial Accounts held by entities.
- Document search results and obtain appropriate documentation.

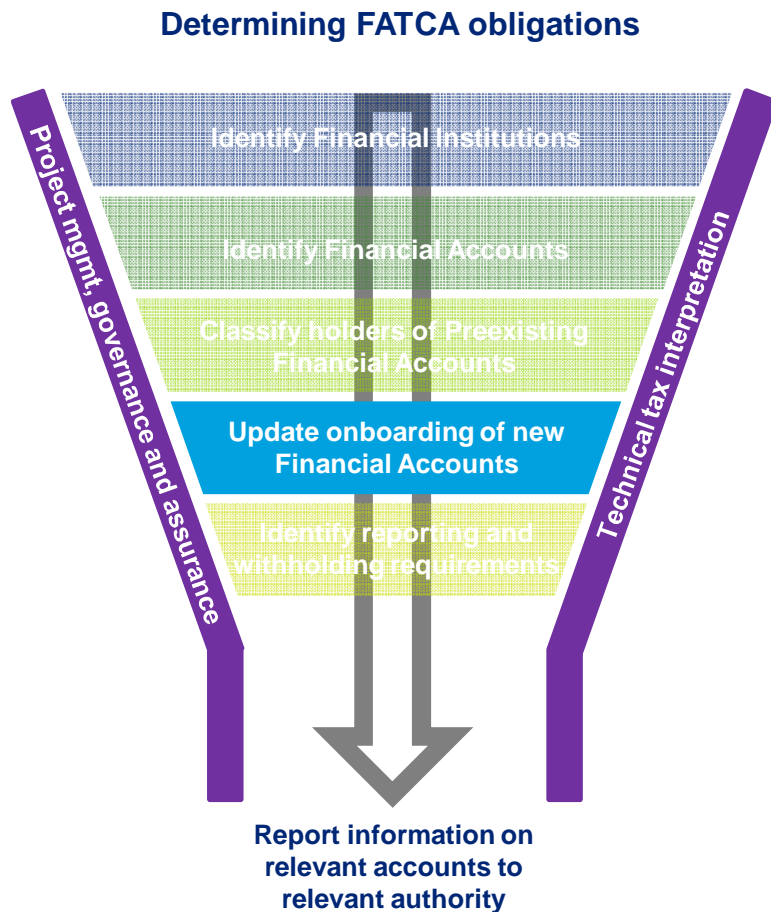
Industry status – Classification of pre-existing financial accounts

11. When do you intend to undertake the pre-existing account searches?



Update onboarding of New Financial Accounts

Required tasks

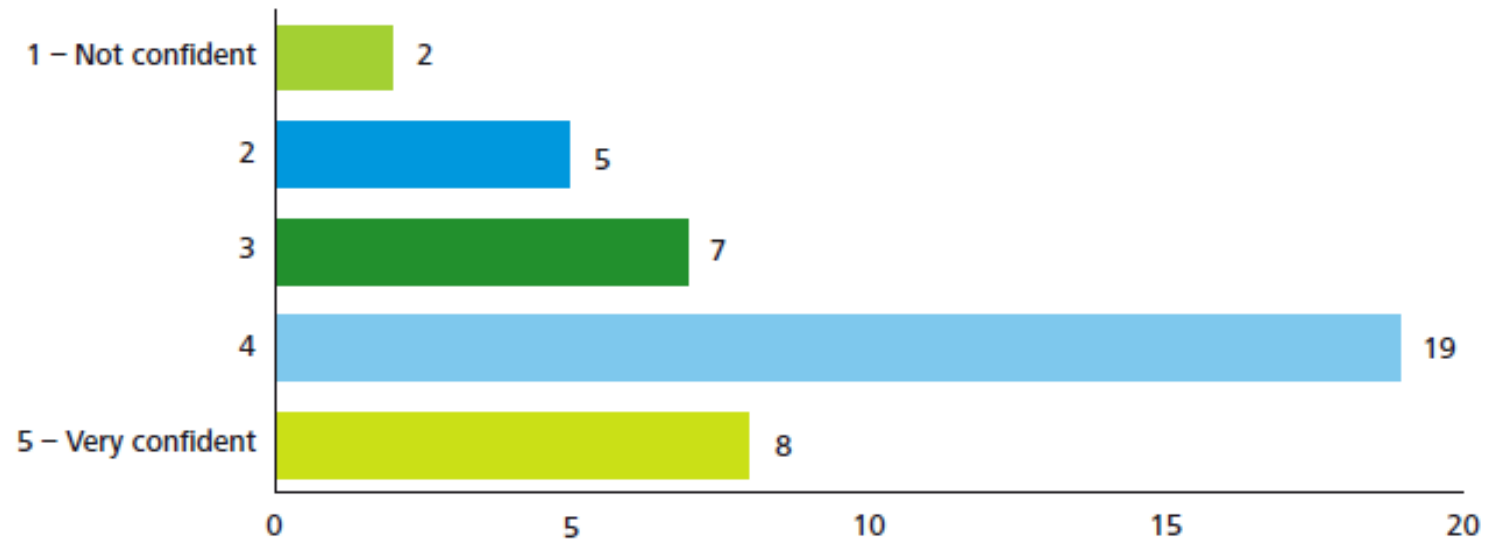


Required tasks

- Develop processes to ensure identification of US/UK persons opening New Individual and Entity Accounts (including self-certification).
- Develop reasonableness test for forms received.
- Develop monitoring to ensure that changes in circumstance requiring further documentation are flagged.
- Identify any commercial plans which might impact the timeline for implementing changes to on-boarding.

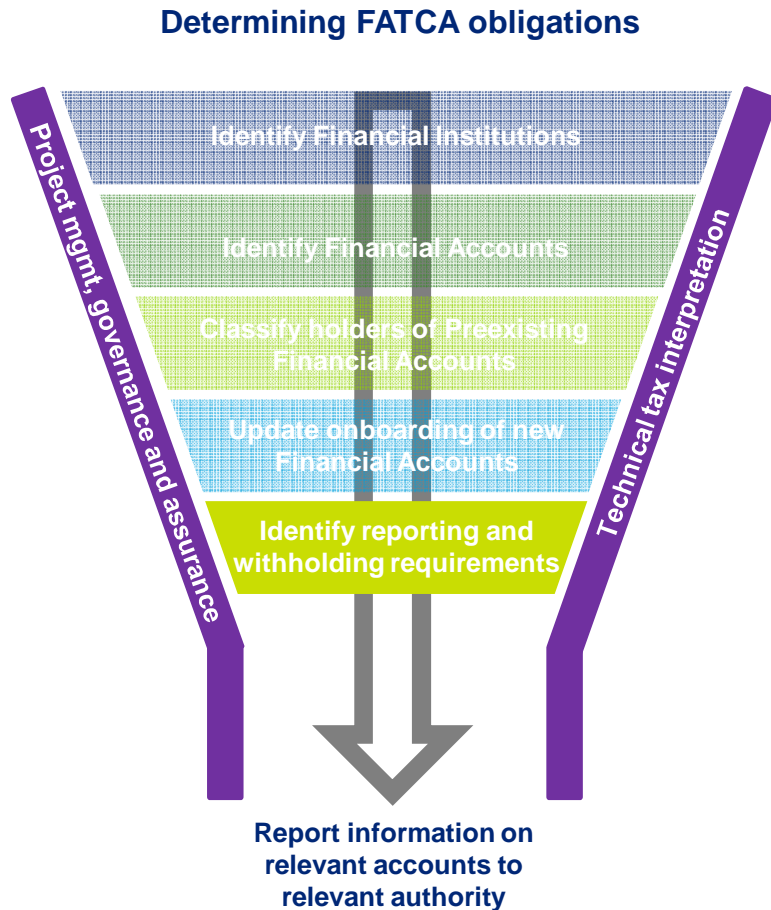
Industry status – Onboarding

9. How confident do you feel about the FATCA compliance of your onboarding procedures with effect from 1 July 2014?



Identify reporting & withholding requirements

Required tasks

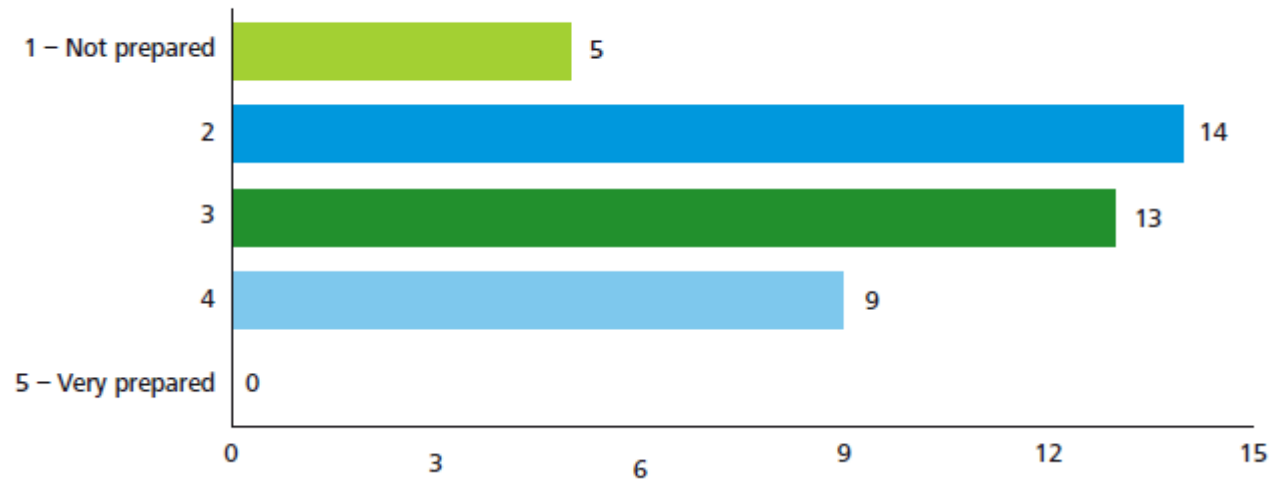


Required tasks

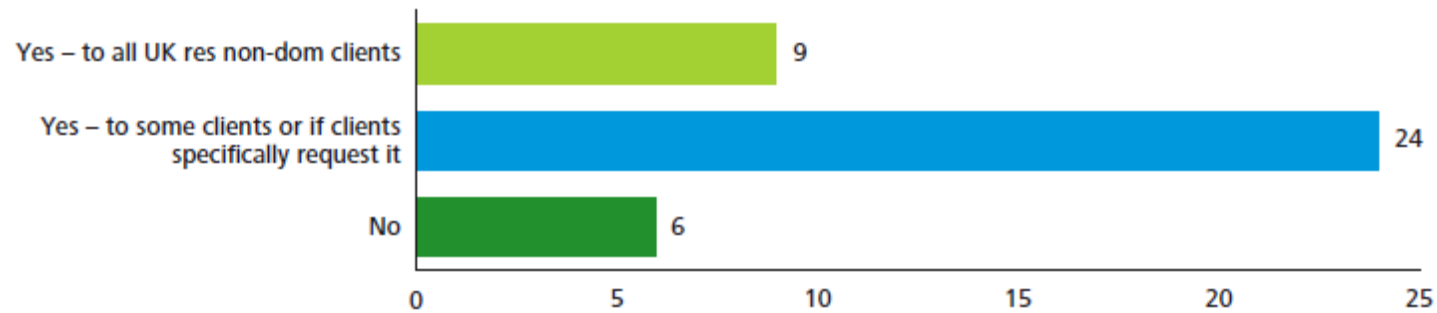
- Finalise the format for reporting Reportable Accounts identified in the previous steps.
- Define data to be included when reporting.
- Define the plan for systems changes.
- Confirm responsibilities where 3rd party agreements are in place.
- Identify relevant data on an ongoing basis as deadline for submission is June 2015.

Industry status – Reporting

10. How prepared do you feel for FATCA reporting commencing during 2015?

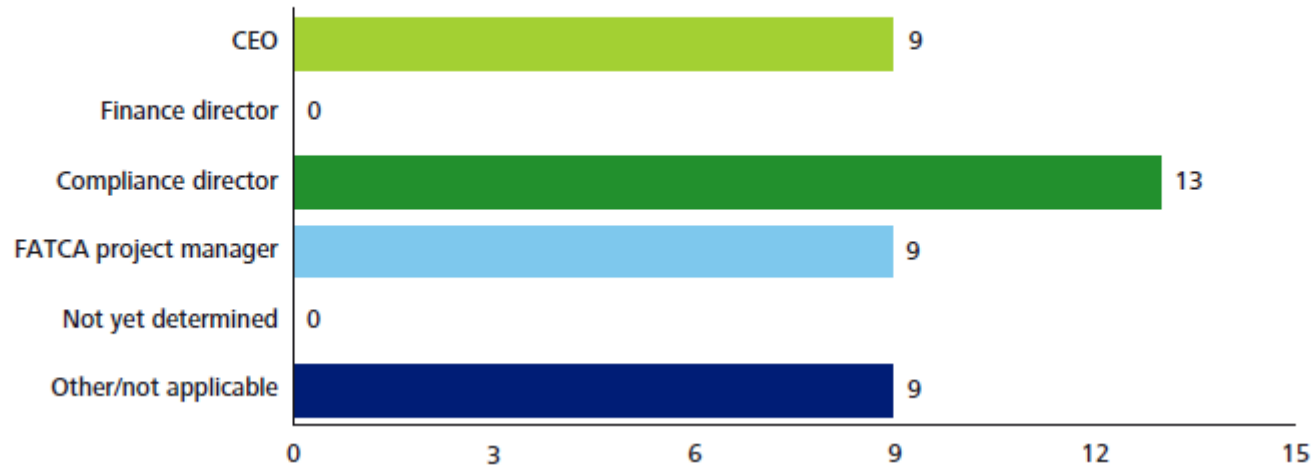


12. Do you intend to offer the Alternative Reporting Regime to UK resident non-domiciled clients under the UK FATCA regime?

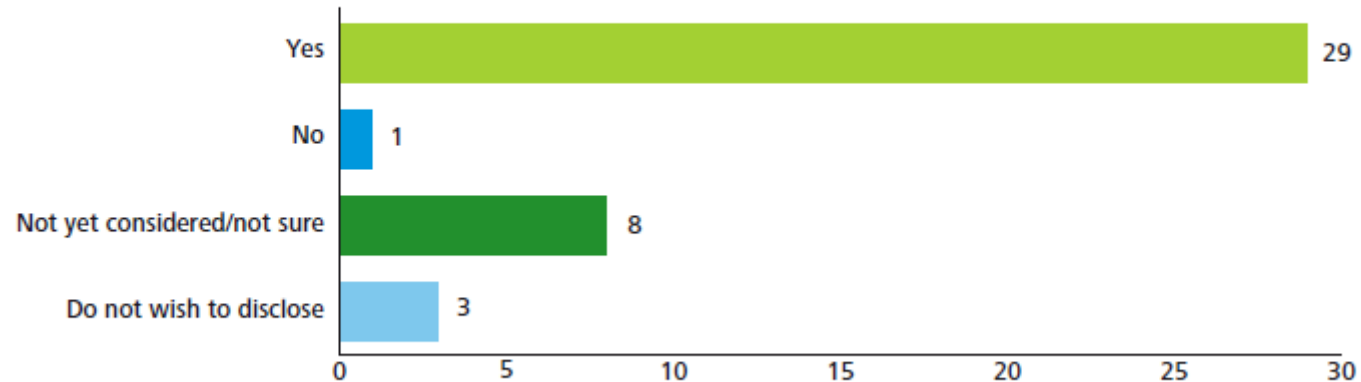


Industry status – Commercial considerations

13. For registered entities, who is the Responsible Officer within your organisation named on the IRS portal?

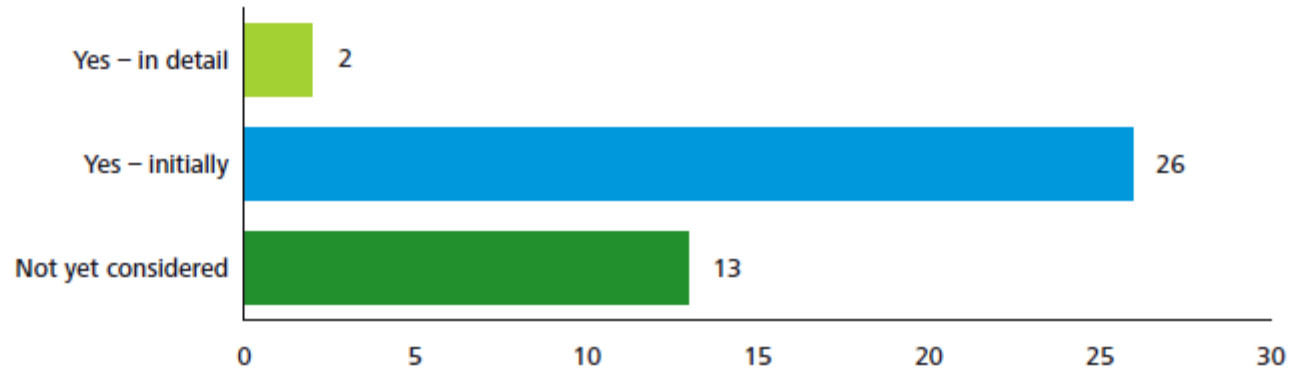


14. Do you intend to charge your clients for FATCA services provided?

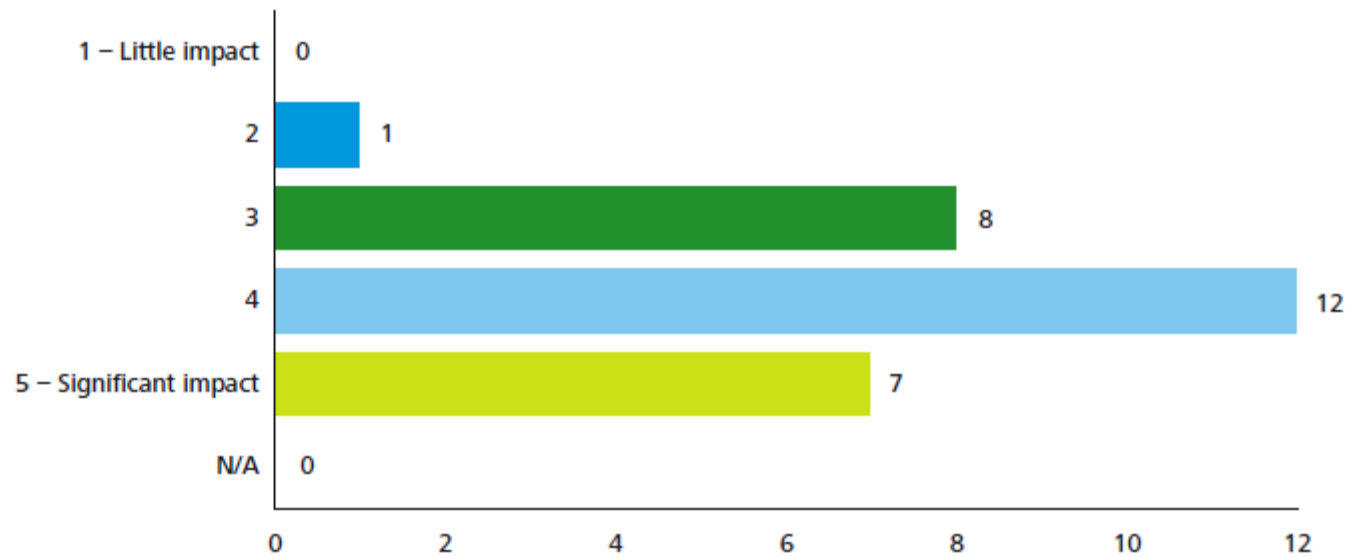


Industry status – Next steps

15. Have you considered the impact that the OECD Common Reporting Standard will have on your existing FATCA programme?



15a. What impact do you think this will have?



Industry concerns

What is your biggest concern in relation to the FATCA regime?

"Inconsistency between AML requirements for structures like EBTs versus the FATCA requirements."

"The fact that FATCA is expected to continue to change – causing uncertainty in some areas."

"In what form will the reporting take? We are hoping the Tax Office will provide a pro forma that we can complete."

"Constantly changing regs and guidance."

"That there is still unclarity about how some structures should be classified."

"That each bank or investment manager is taking a different approach which makes completing account opening forms time consuming."

"Constantly moving goalposts at times. We have a truly global reach with our business and keeping on top of all IGA, regulations and changes can be tricky at times. That said, I do like a challenge..."

"Significant investment in systems and procedures on evolving and (often) unclear legislation."

"Justification/explanation of cost/involvement to unaffected clients."

"Knowing which classification is most appropriate, especially when one or more could apply (depending on context)."

"From a Fiduciary service point of view – striking the balance between the impact on our organisation and the impact on clients. I.e. reducing the burden for our organisation may increase the burden/impact for the underlying client inadvertently through over-reporting."

"The reporting obligations. Only reporting what one is obligated to report and no more."

"Reporting and impact of CRS."

"I expect the same as most people – ensuring compliance and having the necessary resources and infrastructure in order to do so."

"It is ever changing and the concern is that we miss something or that the work done to date will need to be redone."

"Time, cost and communication to clients."

"Identifying precisely what information is being reported and that will be collated to make sure the information is correct."

"The cost of implementation is difficult to quantify and there is some thought as to whether additional permanent resources are required, this clearly has a financial impact on the business."

"None."

Contact



Jo Huxtable
Partner
+44 1481 703 308
jhuxtable@deloitte.co.uk



Martin Popplewell, Senior Manager
01481 703229
mjpopplewell@deloitte.co.uk



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.co.uk/about for a detailed description of the legal structure of DTTL and its member firms.

Deloitte LLP is the United Kingdom member firm of DTTL.

This publication has been written in general terms and therefore cannot be relied on to cover specific situations; application of the principles set out will depend upon the particular circumstances involved and we recommend that you obtain professional advice before acting or refraining from acting on any of the contents of this publication. Deloitte LLP would be pleased to advise readers on how to apply the principles set out in this publication to their specific circumstances. Deloitte LLP accepts no duty of care or liability for any loss occasioned to any person acting or refraining from action as a result of any material in this publication.

Deloitte LLP is a limited liability partnership registered in England and Wales with registered number OC303675 and its registered office at 2 New Street Square, London EC4A 3BZ, United Kingdom. Tel: +44 (0) 20 7936 3000 Fax: +44 (0) 20 7583 1198.

© 2014 Deloitte LLP. All rights reserved.

Member of Deloitte Touche Tohmatsu Limited