Bloomberg

U.S. Millionaires Told Go Away as Tax Evasion Rule Looms

By Sanat Vallikappen - May 8, 2012

Go away, American millionaires.

That's what some of the world's largest wealth-management firms are saying ahead of Washington's implementation of the Foreign Account Tax Compliance Act, known as Fatca, which seeks to prevent tax evasion by Americans with offshore accounts. HSBC Holdings Plc (HSBA), Deutsche Bank AG, Bank of Singapore Ltd. and DBS Group Holdings Ltd. (DBS) all say they have turned away business.

"I don't open U.S. accounts, period," said Su Shan Tan, head of private banking at Singapore-based DBS, Southeast Asia's largest lender, who described regulatory attitudes toward U.S. clients as "Draconian."

The 2010 law, to be phased in starting Jan. 1, 2013, requires financial institutions based outside the U.S. to obtain and report information about income and interest payments accrued to the accounts of American clients. It means additional compliance costs for banks and fewer investment options and advisers for all U.S. citizens living abroad, which could affect their ability to generate returns.

"In the long run, if Americans have less and less opportunities to invest overseas, it would be a disadvantage," Marc Faber, the fund manager and publisher of the Gloom, Boom and Doom report, said last month in Singapore.

The almost 400 pages of proposed rules issued by the U.S. Internal Revenue Service in February create "unnecessary burdens and costs," the Institute of International Bankers and the European Banking Federation said in an April 30 letter to the IRS, one of more than 200 submitted to the agency. The IRS plans to hold a hearing May 15 and could amend how and when some aspects of the rules are implemented. It can't rescind the law.

Bank Transparency

The government needs to be tougher on offshore tax crimes than it has been, said U.S. Representative Richard Neal, a Massachusetts Democrat and one of the original sponsors of the legislation. Fatca, introduced after Zurich-based UBS AG (UBSN) said in 2009 that it aided tax evasion by Americans and agreed to pay $780 million to avoid prosecution, is already helping to improve banking transparency, he said.

"People should know, and the IRS should know, what money is being held offshore and for what purpose," Neal said. "I don't think there's anything unreasonable about that."

UBS, the world's biggest non-U.S. private bank according to London-based industry tracker Scorpio Partnership Ltd., said in 2008 it would discontinue offshore accounts for U.S. citizens. The firm now refers them to its wealth-management offices in the U.S., or to its Swiss Financial Advisers unit, which complies with U.S. and Swiss regulations, said Serge Steiner, a spokesman for UBS. The company continues to provide Americans outside the U.S. with services other than securities investments, including consumer and commercial loans, foreign-currency spot trading and precious-metals transactions, he said.

‘Too Complex’

Investments in products offered by third parties that non- U.S. citizens can purchase through UBS or other banks also may be restricted.

“Most of the hedge funds I know in Asia won’t take American clients,” said Faber.

Bank of Singapore, the private-banking arm of Oversea- Chinese Banking Corp. (OCBC), ranked strongest in the world for the last two years by Bloomberg Markets magazine, has turned away millions of dollars from Americans because it doesn’t want to deal with the regulatory hassle, according to Chief Executive Officer Renato de Guzman. The bank had $32 billion under management as of the beginning of the year.

“It’s too complex, too challenging,” de Guzman, who at 61 has more than 35 years of banking experience, said in an interview in Singapore in March. “You probably should have a dedicated team to handle them or to understand what can be done or what cannot be done.”

Rejecting Americans

At industry meetings he attends in Singapore, not accepting U.S. clients is “quite a prevailing sentiment,” de Guzman said. There are 18 private banks operating in Singapore, including units run by UBS, Credit Suisse Group AG, Deutsche Bank (DBK) and HSBC, he said.

“We have enough business in Asia, so we don’t want to make our lives too difficult,” de Guzman said.

Asia has the world’s fastest-growing number of people with more than $1 million in investable assets, according to a report last year by Bank of America Corp. (BAC) and Capgemini SA. Its number of millionaires climbed 9.7 percent in 2010 to 3.3 million people, higher than the 8.6 percent growth in North America. The combined wealth of Asian millionaires increased to $10.8 trillion, topping Europe for the first time, the report said.

Singapore is Asia’s largest wealth-management center, with $512 billion in offshore assets in 2010, data compiled by the Boston Consulting Group show. Bank of America is the world’s No. 1 wealth manager, with $1.9 trillion under management, followed by Morgan Stanley and UBS, with $1.6 trillion, according to Scorpio.

HSBC, Deutsche Bank

HSBC decided last July that it would no longer offer wealth-management services to Americans from locations outside their home country after tax authorities stepped up a probe of the London-based bank’s U.S. clients.

Americans would be "better served" by private bankers in the U.S., Goh Kong Aik, a spokesman for the firm in Singapore, said in an e-mail. He declined to say whether those who already have private-banking accounts abroad will be allowed to remain customers, except that they would be helped through an undefined "transition process."

Deutsche Bank said it terminated securities accounts held abroad by people with U.S. residency as of mid-2011. The action didn't include checking or savings accounts and didn't affect citizens living outside the U.S. The Frankfurt-based bank said "only a small number of customers" were affected.

Spokesmen for Credit Suisse, France's BNP Paribas SA (BNP) and Amsterdam-based ABN Amro Bank NV, also among the top 10 non-U.S. global wealth managers, said their banks are studying the issue and haven't decided what to do with American account holders.

Collateral Damage

"Bank accounts, investment accounts, mortgages and insurance policies are being refused to American clients, and those with accounts are seeing them closed or have been threatened with closure," Marylouise Serrato, executive director of American Citizens Abroad, a Geneva-based organization, wrote in an e-mail.

U.S. citizens who live in countries that aren't served by U.S. banks may find themselves unable to bank at all, and implementation of the law in its current form could cause collateral damage to American businesses abroad, she said.

"Americans either will not be allowed to enter into international partnerships or live and work overseas, and will be replaced by foreign nationals who do not have these limitations," Serrato wrote. "The extensive reporting requirements of Fatca will be destructive to those who wish to do business internationally as well as to those Americans who are legitimately living and working overseas."

'Turned Away'

That view is shared by Richard L. Weisman, Hong Kong-based head of law firm Baker & McKenzie LLP's global tax practice.

"U.S. expatriates already face severe U.S. tax rules related to their non-U.S. income and investments," Weisman said. "Fatca will increase the extent to which they are turned away by non-U.S. financial institutions."

Tan of DBS said she refers Americans seeking private- banking services to U.S. institutions with operations in Singapore such as Citigroup Inc. (C), Bank of America, Morgan Stanley, Goldman Sachs Group Inc. (GS) and JPMorgan Chase & Co., which are able to open securities accounts for Americans because they're regulated by U.S. authorities. Such accounts allow purchases of investment products without restricting Americans to cash and time-deposit accounts.

While that may be easy for Americans in Singapore, those who live elsewhere face obstacles. Before Fatca, U.S. citizens in Bangkok or Manila could find investment opportunities through non-U.S. banks such as HSBC. Now their only option is to fly to cities where U.S. firms operate.

Limited Choices

If Americans choose to bank with a non-U.S. firm such as HSBC, their investment choices are limited. At the HSBC branch in the bank's Asia regional headquarters in Hong Kong, Americans can hold only savings deposits. They're prohibited from opening accounts to trade local stocks or buy products available to non- U.S. customers, including 45 equity funds investing in China or other geographies and industries. There's only one comparable emerging-markets equity option available on HSBC's U.S.-based investors' website.

Financial institutions that choose not to accept American customers still must determine whether new or existing clients are so-called U.S. persons in order to comply with Fatca, according to Michael Brevetta, director of U.S. tax consulting at PricewaterhouseCoopers LLP in Singapore.

The definition includes citizens, green-card holders and non-Americans deemed U.S. residents by being present in the country for at least 183 days over a three-year period, which makes them subject to U.S. tax on their worldwide income, according to the IRS.

Compliance Costs

The compliance costs for banks, asset managers and insurance companies "could stretch into the billions of dollars," Brevetta said. Private-banking firms in Hong Kong and Singapore already have operating costs between 88 percent and 90 percent of their revenue, compared with 70 percent at Swiss banks, PricewaterhouseCoopers estimated in a September report.

Penalties for not complying will be stiff. Non-U.S. firms that don't make required disclosures will be subject to 30 percent withholding of certain dividends, interest or proceeds from the sale of assets they or their customers receive from U.S. sources, according to Baker & McKenzie's Weisman, who has conducted workshops and seminars on the proposed rules for current and potential clients in Hong Kong and Singapore.

"Overwhelmingly, financial institutions outside the U.S. don't like it, for obvious reasons," Weisman said, calling the withholding tax a "stick" the U.S. is wielding. "The U.S. is outsourcing a tax-compliance function, which is enormously expensive."

Renouncing Citizenship

Americans who don't comply with Fatca are deemed "recalcitrant," and income they receive from U.S. sources also is subject to a 30 percent withholding tax, said Jason Choi, a Singapore-based tax lawyer with Latham & Watkins LLP.

Renouncing citizenship is an option chosen by increasing numbers of Americans. A record 1,780 gave up their U.S. passports last year compared with 235 in 2008, the IRS reported.

Royal Bank of Canada (RY), the sixth-biggest wealth manager with $435 billion under management as of the beginning of 2011, said it sees an opportunity as competition is exiting, including in emerging markets, where it manages $60 billion.

"We are one of the few wealth managers to hold a Securities and Exchange Commission license offering U.S.- compliant investment advice in Switzerland and London and see an opportunity in accepting tax-compliant U.S. persons as clients outside of the U.S.," said Barend Janssens, the Singapore-based head of the bank's wealth-management unit for emerging markets.

Tax Evasion

Coutts, the wealth division of U.K. government-owned Royal Bank of Scotland Group Plc, plans to comply with Fatca and to continue accepting tax-compliant U.S. persons, according to Tim Winter, associate director of the U.S. Competence Centre at Coutts. The London-based bank has invested since July 2010 in a "global program of work established to support the implementation of Fatca," he said in an e-mail.

The Swiss government has been in talks for more than a year with U.S. authorities, who, after obtaining data on about 4,700 UBS clients, are now investigating 11 other firms, including Zurich-based Credit Suisse (CSGN) and Julius Baer Group Ltd., for alleged assistance in U.S. tax evasion.

Credit Suisse continues to "work hard" to resolve the probe, CEO Brady Dougan said in an interview April 25. Julius Baer exited its U.S. private-client business between 2009 and 2011, said Jan Vonder Muehll, a bank spokesman in Zurich.

Wegelin Forfeiture

Wegelin & Co., a Swiss private bank established in 1741, became the first Swiss lender to face criminal charges in the U.S. crackdown on offshore firms suspected of abetting tax evasion. It had to sell its assets in January to Switzerland's Raiffeisen Group to save its non-U.S. business before the U.S. indicted the firm in February. The St. Gallen-based private bank helped Americans hide more than $1.2 billion in assets and evade taxes, wooing clients spurned by UBS, according to an indictment filed in federal court in New York.

U.S. District Judge Laura Taylor Swain ordered Wegelin to forfeit $16 million on April 24, allowing the U.S. government to take the amount from Wegelin's U.S. account, held at UBS in Stamford, Connecticut. Albena Bjoerck, a spokeswoman for Wegelin, declined to comment.

Spokesmen for Citigroup, Bank of America, Morgan Stanley, Goldman Sachs and JPMorgan all declined to comment on how Fatca is affecting their business, with some citing company policies not to discuss government regulation. Standard Chartered Plc (STAN), France's Societe Generale SA, Barclays Plc (BARC) and Hong Kong-based Hang Seng Bank Ltd., which all have wealth-management businesses, also declined to comment.

'Pain for Americans'

The restrictions on products available to Americans may not matter to a savvy investor, according to Hugh Young, who helps manage $70 billion in Asian equities in Singapore for Aberdeen Asset Management Plc.

"The financial institutions can restrict you from some of the best products, but you have others of the best," he said.

Still, the limitations create complications that act as an investment deterrent, said Philip Marcovici, a retired U.S. tax lawyer who advises wealthy families and governments.

“It’s a pain for Americans to invest in markets outside of the U.S.,” he said.

To contact the reporter on this story: Sanat Vallikappen in Singapore at vallikappen@bloomberg.net

To contact the editor responsible for this story: Chitra Somayaji at csomayaji@bloomberg.net