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LET'S TALK ABOUT...
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FATCA

Among the many new regulations doomed to affect the Swiss financial market, a special concern comes from the FATCA-*Foreign Account Tax Compliance Act*, promoted in the US and signed by President Obama in March 2010. Its details and application guides are still being elaborated and are expected to become fully operational in 2013.

In the financial world the contribution of regulations may be positive, in that they increase transparency and fuel trust between clients and institutions, so benefiting the area of portfolio management too. However some “asymmetric” situations may arise, when newly imposed accomplishments burden differently on various types of actors – e.g. the big banks and the independent portfolio managers – or when the costs-benefits ratio becomes disputable. In the case of FATCA indeed all expected benefits are for the US Tax Administration, whilst the many charges for new procedures, compliance, information supports, new communication tools and relative added employees, rest on the Swiss financial operators. It would not be odd that, once more, costs were largely to exceed actual benefits. The FATCA widens the range of rules which are already in place aiming at monitoring the assets that US taxpayers hold abroad, both personally and through offshore companies. The new regulations involve not only foreign banks, but also brokers, fund managers and investment institutions. They have to accept a sort of agreement with the US tax administration, committing themselves to report operations carried on by their US clients: should they not fully comply they face heavy penalties, up to 30% of the transactions’ amounts. The related files are pretty detailed and complicate, as is the annual report to be sent to the IRS, Internal Revenue Service, while the proof of evidence in doubtful cases is up to the Swiss institutions.

Thus two problems arise: whether to go on managing assets of US fiscal subjects and, more relevant, to even still operate with US financial products and the American market itself, due to the strong financial and legal risks that the new rules involve, not to say about the increased costs of identification, documentation and processing the related financial instruments. - *GLT*