

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

17 October – 18 October 2012

Question: SBT 90

Topic: Foreign Account Tax Compliance Act

Written: Received from Committee – 26 October 2012

Senator MILNE asked:

90. What progress has been made in negotiations between Australia and the US about an inter-governmental agreement on their *Foreign Account Tax Compliance Act*, aimed at reducing tax evasion by US residents? Is it likely to involve a significant compliance burden on all Australian financial intermediaries, or will small intermediaries such as credit union be exempt?

Answer:

Discussions between Australian and US Treasury officials on the possible content of an intergovernmental agreement (IGA) to facilitate Australian compliance with the US Foreign Account Tax Compliance Act (FATCA) are ongoing. The commencement of formal discussions was announced by the Deputy Prime Minister and Treasurer on 7 November 2012 and by the US Treasury on 8 November 2012.

The ongoing discussions aim to reduce FATCA's compliance burden for all Australian financial institutions — through an IGA which broadly follows the reciprocal 'Model Intergovernmental Agreement to Improve Tax Compliance and to Implement FATCA' published by the US on 26 July 2012. In particular, discussions are focussing on the exclusion from FATCA's reporting requirements of certain Australian entities and financial products which pose a low risk of being used for US tax evasion.

As demonstrated by the US-United Kingdom intergovernmental agreement signed on 12 September 2012, there is scope to exclude from FATCA's reporting requirements, among other types of entities, certain small financial institutions (for instance, credit unions) whose focus on the local market makes them unlikely vehicles for US tax evasion, provided that certain conditions are met. Australian negotiators are working on a suitable list of excluded Australian entities and financial products for the US's consideration, in consultation with Australian stakeholders.

An IGA would be a treaty-level agreement between Australia and the US. Its signature would require the approval of the Federal Executive Council. Following signature, it would be tabled in Parliament and be scrutinised by the Joint Standing Committee on Treaties.