

Ms Anu Talus - EDPB Chair
National DPAs (via EDPB Secretariat)
 Brussels

Africa House
 70 Kingsway
 London WC2B 6AH
 DX 37954 Kingsway
 T: +44 20 3321 7000
 www.mishcon.com

Cc: PETI, EU FATCA Petitioners

15 April 2026

London | Cambridge | Oxford | Hong Kong | Singapore

FATCA | US evidence confirms lack of "necessity"

The [decade long](#) tug of war between EU FATCA Petitioners and the EU is well-known:

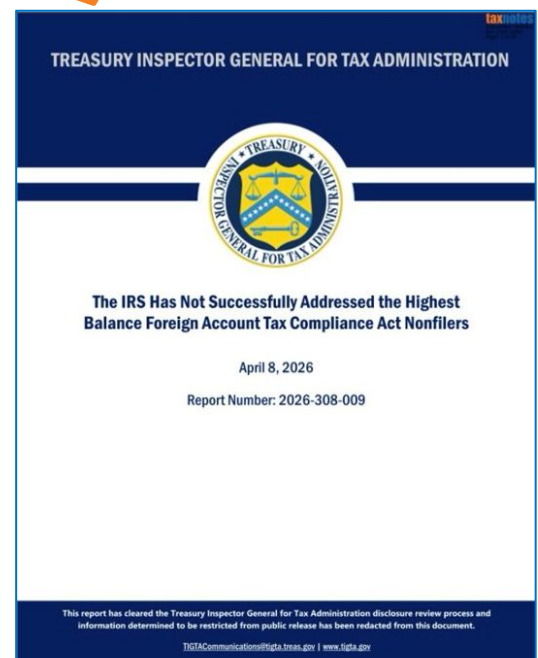
- Petitioners and other data protection campaigners lament the toll of FATCA over the daily life of compliant EU citizens who routinely get [debanked](#) and are led to renounce their US citizenship as a result of FATCA, as [acknowledged by the US State Department](#), while exposing them to unnecessary data protection and data security risks.
- These "worrying" data protection concerns have been routinely backed by the EDPB's predecessor (the [WP29](#)), the [European Parliament](#) (also [here](#)), the [previous European Commission](#), as well as the Belgian data protection authorities, whose [73-page long](#) decision in 2023 and more recent [96-page long](#) decision has finally led to the issue being referred to the European Court of Justice ([C-804/25](#)), amidst a [worsening legal data protection framework](#) in the US (a particularly relevant factor under [Art. 46](#) GDPR).
- In the other of the ring, the current European Commission and national governments contend that FATCA is necessary to fight tax evasion and routinely [deny access](#) to internal documents that discuss the data protection angle.

In reality, the evidence from the US shows that the IRS is [unable to use FATCA](#), has effectively [abandoned](#) its comprehensive FATCA strategy, and has [yielded very little](#) in terms of tax, while exposing millions of taxpayers to hacking and data loss.

Now, a report published by the US Treasury confirms that there is no measurement of FATCA's benefits, and a failure to enforce it, punching a hole in the official narrative that FATCA is "necessary". If it is not used, it is everything but.

The IRS Does Not Measure the Impact of Its Foreign Account Tax Compliance Act Program on Compliance

We found that the IRS has not established specific performance metrics to measure the effectiveness of its FATCA program, despite significant costs. The goal of FATCA is to encourage information reporting by U.S. taxpayers of their foreign bank and brokerage accounts. The IRS maintains that FATCA is a data source program, which it has integrated into its enforcement functions. For example, IRS officials state that the Small Business/Self-Employed Division Examination and Collection functions and Criminal Investigation use FATCA data for compliance purposes. However, IRS officials could not provide any data supporting this claim. IRS officials also continue to defend the deterrent value of the FATCA compliance campaigns, but can only provide subjective evidence, and not measurable statistics, to show the impact of its FATCA program.



The IRS Has Not Successfully Addressed the Highest Balance Foreign Account Tax Compliance Act Nonfilers



Amidst these opposing forces, the EDPB has kept a low profile, refusing to follow the lead of its predecessor, and [abdicating its duty](#) to ensure the [consistent application](#) of the GDPR¹.

While it is unlikely that the EDPB will do anything pending a decision from the CJEU, a positive outcome would have far-reaching consequences for the reputation and, frankly, usefulness of a body (and its Chair) created to enforce the GDPR's stated aim of "giving citizens back control over their data" through a ["high, uniform level of data protection across the EU"](#).

Best regards,

Filippo Nosedà
Partner

¹ See the inconsistent positions in [Belgium](#), [France](#), [Germany](#), the [Netherlands](#) (see also [here](#)), [Slovenia](#), [Slovakia](#) and [Sweden](#). The Swedish position is particularly interesting, because the IMY first took [one position](#), and then the [opposite](#) one, showing the lack of consistency even within single EU Member States. The Commission, too, took [conflicting](#) over time, showing the lack of a consistent application of the GDPR in relation to FATCA.