

## CLIENT MEMORANDUM

# FATCA Update: FFI Filing Deadline Extended, Near-Final IGAs Treated as Effective, New U.S. Form W-8BEN-E Finalized

April 4, 2014

## AUTHORS

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On April 2, 2014, the Internal Revenue Service and the U.S. Department of the Treasury jointly issued Announcement 2014-17 regarding the U.S. Foreign Account Tax Compliance Act ("FATCA"). The Announcement extends to May 5, 2014, the deadline for foreign financial institutions to register with the IRS so as to be issued a FATCA identification number, known as the Global Intermediary Identification Number ("GIIN"), by the first FATCA withholding deadline of July 1, 2014.<sup>1</sup> The IRS plans to issue the first list of GIINs by June 2, 2014, and now believes that FFIs registering by the new May 5, 2014 deadline (a 10-day extension of the previous deadline of April 25, 2014) will be included on the June 2, 2014 GIIN list.

The Announcement also provides that non-U.S. countries that have nearly finalized FATCA intergovernmental agreements ("IGAs") with the U.S. Treasury Department will be treated for FATCA purposes as if such IGAs had been executed and are in effect. Foreign financial institutions will be able to rely on these IGAs for FATCA purposes, including for GIIN registration and for U.S. withholding tax purposes. The new countries that are now added to the FATCA IGA list are Australia, Belgium, Brazil, British Virgin Islands, Czech Republic, Gibraltar, Jamaica, Kosovo, Latvia, New Zealand, Slovenia, South Africa, South Korea and Romania (all with Model 1 IGAs). Austria is also on the list, with a Model 2 IGA.

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<sup>1</sup> Please see the Willkie Farr & Gallagher LLP Client Memorandum, "FATCA Update for Investment Funds" (February 10, 2014), available [\[here\]](#).



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The texts of these IGAs will not be released until the IGAs are finalized. The U.S. Treasury Department has reserved the right to remove a jurisdiction from the list if insufficient progress toward finalization of the IGA has been made.

FFIs in Model 1 IGA jurisdictions will generally not need to provide GIINs for payments made before January 1, 2015.

The jurisdictions that have already finalized their IGAs and are not affected by this Announcement include, with Model 1 IGAs, Canada, Cayman Islands, Costa Rica, Denmark, Finland, France, Germany, Guernsey, Hungary, Italy, Jersey, Luxembourg, Malta, Mauritius, Mexico, Netherlands, Norway, Spain and United Kingdom and, with Model 2 IGAs, Bermuda, Chile, Japan and Switzerland.

In a separate FATCA development, on March 29, 2014, the IRS released the final U.S. Form W-8BEN-E, which updates the Form W-8BEN for certain non-U.S. entities. The final Form W-8BEN-E requires non-U.S. entities that are not flowthrough entities, certain governmental entities, and entities earning income that is effectively connected with a U.S. trade or business to certify as to their FATCA statuses, and if applicable, provide their GIINs. The final Form W-8BEN-E is available on the IRS website at the following link: <http://www.irs.gov/pub/irs-pdf/fw8bene.pdf> and is available for immediate use. No instructions have yet been issued.

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If you have any questions concerning the foregoing or would like further information, please contact Joseph A. Riley at (212) 728-8715, [jriley@willkie.com](mailto:jriley@willkie.com) or the attorney with whom you regularly work.

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