

To Avoid FATCA (Foreign Account Tax Compliance Act) Withholding, Foreign Financial Institutions Must Register With IRS by April 25, 2014

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The Foreign Account Tax Compliance Act (“FATCA”) requires foreign financial institutions (“FFIs”) to disclose the foreign accounts of U.S. taxpayers to the **Internal Revenue Service (“IRS”)**. FFIs that fail to comply with FATCA will be subject to a 30% withholding tax on certain U.S. source income starting July 1, 2014. The definition of an FFI is very broad and includes hedge funds and private equity funds, banks, investment advisors, and other financial institutions. To comply with FATCA reporting obligations, an FFI can enter into an agreement with the IRS or provide the required information in accordance with an **Intergovernmental Agreement (“IGA”)**, provided an IGA has been signed between the FFI’s home country and the U.S. In addition, the FFI must register with the IRS to obtain a Global Intermediary Identification Number (“GIIN”). Starting in June 2014, the IRS will publish a monthly online list of registered FFIs. The purpose of this list is to allow withholding agents to verify the GIINs of their payees in order to establish that withholding is not required on payments to those payees.

In order to avoid 30% withholding, the FFI must be compliant on July 1, 2014. Compliance can be established by inclusion of the FFI on the IRS’s first list of registered FFIs, which will be published online in June. An FFI will be included on this list if it completes its registration with the IRS no later than April 25, 2014.

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