INVESTMENT COMPANY INSTITUTE

MEMO# 28548

December 3, 2014

Deadline to Sign FATCA Intergovernmental Agreements Extended

[28548]

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TO: TAX MEMBERS No. 32-14
ICI GLOBAL TAX COMMITTEE No. 21-14
INTERNATIONAL MEMBERS No. 45-14
INTERNATIONAL OPERATIONS ADVISORY COMMITTEE No. 18-14
TRANSFER AGENT ADVISORY COMMITTEE No. 75-14
BROKER/DEALER ADVISORY COMMITTEE No. 56-14
TAAC FATCA TASK FORCE No. 10-14 RE: DEADLINE TO SIGN FATCA INTERGOVERNMENTAL AGREEMENTS EXTENDED
The U.S. Treasury Department and IRS, in Announcement 2014-38, [1] have extended again the deadline given to countries to sign a FATCA intergovernmental agreement (IGA) with the U.S. As we informed you in April, [2] the Treasury and IRS previously announced that a country would be treated as having an IGA with the U.S. through December 31, 2014 if an "agreement in substance" was reached before July 1, 2014.

Under Announcement 2014-38, any jurisdiction that has been treated as having an IGA in effect will retain that status so long as it continues to demonstrate firm resolve to sign the IGA as soon as possible. This treatment also will apply to 11 additional countries that reached an agreement in substance on an IGA by November 30, 2014. [3] At present, IGAs have been signed by only 42 of the 98 countries that have announced an intention to become Model 1 IGA countries and by only 6 of the 14 countries that have announced an intention to become Model 2 IGA countries. [4] Without this announcement, financial institutions in well over half of the countries that are seeking to sign IGAs with the US could have lost their "IGA-country-compliant status" in less than a month.

Beginning in January 2015, Treasury will review the list of jurisdictions having an agreement in substance on a monthly basis to assess whether it continues to be appropriate to treat such a jurisdiction as if it had an IGA in effect or whether a jurisdiction should be removed from the list. Treasury and the IRS note that the determination to allow a country to retain its IGA status will be based on, among other factors, the responsiveness of a jurisdiction to communications from the United States regarding the IGA and whether the jurisdiction has raised concerns regarding its ability to sign or bring into force the IGA as it was agreed to in substance. The IRS and Treasury also note that a jurisdiction that has signed an IGA may also be removed from the list of jurisdictions that are treated as having an IGA in effect if Treasury determines that the jurisdiction is not taking the steps necessary to bring the IGA into force within a reasonable period of time.

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endnotes

[1] Announcement 2014-38 can be found at: http://www.irs.gov/pub/irs-drop/a-14-38.pdf

[2] See ICI Memorandum #28013, April 4, 2014, available at: http://www.ici.org/my_ici/memorandum/memo28013

[3] See the list at the bottom of http://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA-Archive.aspx for these countries.

[4] See http://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA-Archive.aspx for the list of these countries.