

MEMO# 26778

December 19, 2012

UK Releases Draft FATCA Regulations and Guidance Notes

[26778]

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TO: BROKER/DEALER ADVISORY COMMITTEE No. 67-12
INTERNATIONAL MEMBERS No. 55-12
INTERNATIONAL OPERATIONS ADVISORY COMMITTEE No. 24-12
OPERATIONS MEMBERS No. 10-12
TAAC FATCA TASK FORCE No. 14-12
TAX MEMBERS No. 43-12
TRANSFER AGENT ADVISORY COMMITTEE No. 79-12 RE: UK RELEASES DRAFT FATCA REGULATIONS AND GUIDANCE NOTES

HMRC issued draft Regulations and Guidance Notes regarding the UK Intergovernmental Agreement. They also published a summary of responses to the September consultation document. Links to the documents on HMRC's website are below:

- [Summary of responses: Implementing the UK-US FATCA Agreement \[1\]](#)
- [Draft Regulations\[2\]](#)
- [Draft Guidance \[3\]](#)

Among other things, the draft guidance elaborates on the definition of Financial Institution and Financial Account. It goes on to discuss the relevant due diligence procedures to undertake once these classifications have been made.

Key features of the guidance include:

- The definition of Investment Entity will include collective investment vehicles, fund managers, investment managers, fund administrators, transfer agents, depositories and trustees of unit trusts, however only collective investments vehicles, will be required to report on Financial Accounts;
- In all other instances (e.g. for fund managers, investment managers and fund administrators), where an entity is an Investment Entity solely because of its relationship with a collective investment vehicle, no reporting will be required;
- Fund nominees/intermediaries and platforms will, in most instances, be regarded as Custodial Institutions, by virtue of holding assets on behalf of others;
- The only Financial Accounts relevant to a Collective Investment Vehicle will be that of

Debt or Equity interests in the Collective Investment Vehicle;

Ryan Lovin
Assistant Counsel – Tax Law

endnotes

[1] Available at:
http://customs.hmrc.gov.uk/channelsPortalWebApp/downloadFile?contentID=HMCE_PROD1_032480

[2] Available at: <http://www.hmrc.gov.uk/drafts/uk-us-fatca-regulations.pdf>

[3] Available at: <http://www.hmrc.gov.uk/drafts/uk-us-fatca-guidance-notes.pdf>

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