

MEMO# 26996

February 8, 2013

Final FATCA Regulations - a Summary

[26996]

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TO: TAX MEMBERS No. 9-13

INTERNATIONAL MEMBERS No. 10-13

INTERNATIONAL OPERATIONS ADVISORY COMMITTEE No. 4-13

TRANSFER AGENT ADVISORY COMMITTEE No. 18-13

BROKER/DEALER ADVISORY COMMITTEE No. 9-13

ICI GLOBAL MEMBERS RE: FINAL FATCA REGULATIONS - A SUMMARY

The attached memorandum summarizes final regulations (hereafter “the Final Regulations”) issued by the Treasury Department and Internal Revenue Service (“IRS”) on January 17 [\[1\]](#) to implement the Foreign Account Tax Compliance Act (“FATCA”). [\[2\]](#) The Final Regulations address many of the concerns raised by ICI and ICI Global in our comment letters. [\[3\]](#) Also discussed is the interaction of the Final Regulations with the intergovernmental agreement (“IGA”) approach to improving international tax compliance and implementing FATCA. [\[4\]](#)

The Final Regulations reflect an effort on the part of the IRS to strike a more appropriate balance between the burdens placed on business with the tax compliance benefits sought by the legislation. ICI Global is pleased that many of the global fund industry’s concerns have been addressed in the Final Regulations as a result of the decision to follow a risk-based regulatory approach. Despite all of these welcome improvements, the global fund industry still must undertake a massive effort to meet all of FATCA’s compliance requirements.

The many improvements made by the Final Regulations that ICI Global called for and support strongly include:

- phasing in FATCA’s requirements over the next several years;
- simplifying the account opening process and documentation procedures;
- allowing a fund sponsor to act on behalf of all funds it manages; and
- relaxing restrictive rules that would have prevented some funds and retirement accounts from being deemed compliant.

The regulations also incorporate the substantial improvements being made in the IGAs that the U.S. is negotiating with more than 50 countries.

We look forward to continuing to work with the governments of the U.S. and its IGA partner countries to ensure that tax compliance initiatives can be administered in the most cost-

effective way for fund investors. In that regard, the Organization for Economic Cooperation and Development (“OECD”), in cooperation with the Business and Industry Advisory Committee (“BIAC”) to the OECD, will hold the next meeting of its Treaty Relief and Compliance Enhancement (“TRACE”) initiative at the OECD Conference Centre in Paris on 11-12 February. At the meeting representatives from the U.S., other governments and business interests will continue to discuss FATCA implementation issues.

Keith Lawson
Senior Counsel - Tax Law

Ryan Lovin
Assistant Counsel – Tax Law

[Attachment](#)

endnotes

[1] See Institute [Memorandum # 26906](#), dated January 17, 2013; [#26932](#), dated January 18, for highlights from the final regulations.

[2] See Institute [Memorandum # 24186](#), dated March 17, 2010.

[3] See Institute [Memoranda # 26602](#), dated October 23, 2012; [# 26113](#), dated April 30, 2012; [# 26096](#), dated April 30, 2012; and [# 25267](#), dated June 9, 2011.

[4] See Institute [Memoranda #26344](#), dated July 26, 2012; [#26508](#), dated September 17, 2012; [#26694](#), dated November 16, 2012.