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# FATCA Update

# IRS Posts FAQ on IGA Registration Post-Announcement 2014-38

**Global Financial Services Industry**

On December 22, 2014, the IRS posted a new **FAQ regarding IGA Registration** to the FATCA website.

The original release of **Announcement 2014-38** extended Agreed-in-Substance Intergovernmental Agreements ("IGAs") beyond December 31, 2014. The IRS has now clarified that the announcement does *not* change any registration, due diligence, or reporting requirements or deadlines. Specifically, a reporting Model 1 Foreign Financial Institution ("FFI") should still register with the IRS and obtain a Global Intermediary Identification Number ("GIIN") in order to certify its Chapter 4/FATCA status and avoid withholding on certain payments made on or after January 1, 2015.

Consistent with the Regulations, if a reporting Model 1 FFI has registered and not yet obtained a GIIN, it may write "applied for" in the GIIN box on Form W-8. The withholding agent will then have 90 days to obtain and validate the GIIN. In an update to its FFI registration website, the IRS has stated that the closing date for Financial Institution registration approval and listing on the January 2015 FFI list is December 23, a day later than previously announced.

## IGA Registration

**Question 8:** Announcement 2014-38 provides that a jurisdiction that is treated as if it has an IGA in effect, but that has not yet signed an IGA, retains such status beyond December 31, 2014, provided that the jurisdiction continues to demonstrate firm resolve to sign the IGA that was agreed in substance. Given this additional time to sign the IGA, does a reporting Model 1 FFI in such a jurisdiction need to register and obtain a GIIN before January 1, 2015?

**Answer:** Announcement 2014-38 does not change the requirement in the Chapter 4 regulations that

for payments made on or after January 1, 2015, in order for withholding not to apply, a withholding agent may treat a reporting Model 1 FFI as a registered deemed-compliant FFI only if the withholding agent has a withholding certificate identifying the payee as a registered deemed-compliant FFI and the withholding certificate contains a GIIN for the payee that is verified in the manner described in those regulations. Thus, to avoid withholding on certain payments made on or after January 1, 2015, a reporting Model 1 FFI should register and obtain a GIIN to properly certify its status to a withholding agent required to document the FFI for chapter 4 purposes. A reporting Model 1 FFI that has registered but not yet obtained a GIIN should indicate to its withholding agent that its GIIN is "applied for," and in such case, the withholding agent will have 90 days from the date it receives the Form W-8 to obtain a GIIN and to verify the accuracy of the GIIN against the published IRS FII list before it has reason to know that the payee is not a registered deemed-compliant FFI. Announcement 2014-38 similarly does not change the timing of any other due diligence and reporting requirements in the Chapter 4 regulations.

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