

## IRS Notice 2016-08 provides relief

### Closing the distance

Global Financial Services Industry



#### IRS Notice 2016-08 provides relief: extensions, consistency and clarity

The IRS released Notice 2016-08 providing relief with respect to some upcoming deadlines as well as guidance on the ability to accept electronically collected documentation from intermediaries. The key items in the Notice include:

##### 2015 Gross Proceeds Reporting for NPFFI Accounts Eliminated

A modification to the FATCA regulations eliminating the need for participating FFIs, reporting model 2 FFIs and registered deemed compliant FFIs to report gross proceeds paid to, or with respect to, an account held by an NPFFI for calendar year 2015. This modification provides substantive reporting relief for financial institutions by aligning reporting requirements between NPFFI accounts and US/ODFFI accounts. It is expected that this relief will also be adopted by Model 1 IGA countries as well, extending it to Reporting Model 1 FFIs.

##### Preexisting Account Certification Deadline Extended for PFFIs and Model 2 FFIs

In order to reduce compliance burdens and streamline the implementation of the certification requirements, the IRS intends to amend the FATCA regulations and the FFI agreement to provide that the required preexisting account certification must be submitted to the IRS at the same time that the participating FFI or reporting Model 2 FFI is required to submit its first periodic certification of compliance. In addition, the regulations will be modified to conform with the FFI agreement so that the periodic certification of compliance must be submitted on or before July 1 of the calendar year following the certification period, instead of no later than six months following the end of the certification period. This means that both certifications will be due to the IRS by July 1, 2018, for a participating FFI or reporting Model 2 FFI that has an FFI agreement with an effective date of June 30, 2014. The pre-existing account certification was originally due August 29, 2016. This change does not extend the deadlines for due diligence procedures for pre-existing accounts.

The compliance departments of financial institutions benefitting from this modification should be able to conduct more thorough, systematic due diligence measures and become more comfortable with the accuracy of initial preexisting account certifications.

### **Timeline Clarity on Certification Requirements for Registered Deemed Compliant FFIs**

The Notice establishes clear timeline parameters, with definitive start and end points, for the periodic certification by Registered Deemed Compliant FFIs. It also provides the deadline by which the first certification must be provided, which will now be synchronized with the first periodic certification and which did not exist for local FFIs. The first certification period will begin on the later of June 30, 2014 or the date the FFI registered as deemed compliant and end at the close of the calendar year of the third full calendar year after the start of the certification period.

As timeline was provided for periodic certification in the regulations this modification represents the relief of uncertainty and will provide compliance departments the ability to more effectively project resourcing requirements.

### **Guidance on accepting electronic tax forms**

Finally, the Notice provides guidance on the acceptance of beneficial owner tax Forms W-8 and W-9 that are collected electronically by an intermediary or pass-through. The Regulations will be amended to state that Withholding Agents may rely on such forms as long as they obtain a written statement confirming that the electronic documentation was generated from a system that meets the requirements in §1.1441-1(e)(4)(iv), §1.1471-3(c)(6)(iv), or Announcement 98-27, as applicable and the withholding agent does not have actual knowledge that such statement is incorrect.

This new standard should significantly enhance the customer experience of withholding agents, mitigate excessive compliance burdens and reduce unnecessary withholding and/or tax form rejection.

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