

ALERTS

FATCA Registration and Compliance Requirements — Updated Guidance for UK Investment Managers

6 May 2014

In a previous *Alert* dated 8 April 2014, we described certain registration and compliance requirements for hedge funds and hedge fund managers under the US Foreign Account Tax Compliance Act (“FATCA”).

On 22 April 2014, HM Revenue & Customs (“HMRC”), the UK tax authority, issued a supplementary update to its guidance on the position of UK investment advisers and investment managers under FATCA. This updated guidance clarifies that UK investment managers will generally *not* be required to register with the US Internal Revenue Service (“IRS”) and obtain a Global Intermediary Identification Number (“GIIN”) for purposes of FATCA.

Under the updated guidance, a UK investment manager — including a UK subsidiary or affiliated entity of a US investment manager — whose only role is either: (i) to render investment advice to, and act on behalf of; or (ii) to manage portfolios for, and act on behalf of, a customer for the purposes of investing, managing or administering funds deposited in the name of the customer with a Financial Institution will be regarded as a certified Deemed-Compliant Financial Institution, unless that Financial Institution is a Nonparticipating Foreign Financial Institution. So long as the UK investment manager ensures that the investment funds that it manages and the other foreign financial institutions that hold such investment funds’ assets are in compliance with FATCA, this certified deemed-compliant status should be available to UK investment managers.

Certified deemed-compliant status will mean that a UK investment manager will not be obliged to register with the IRS and obtain a GILIN, but instead will be able to self-certify its FATCA-compliant status to US withholding agents and other counterparties so as to avoid the imposition of US withholding taxes upon payments made to the UK investment manager.

This updated guidance aligns the position of UK investment managers with that of investment managers in jurisdictions (such as the Cayman Islands) that have, like the United Kingdom, entered into a Model 1 intergovernmental agreement (“IGA”) with the United States for purposes of FATCA.

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If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

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