



Japan Securities Dealers Association

Tokyo Shoken Kaikan Bldg., 1-5-8, Kayaba-cho,
Nihombashi, Chuo-ku, TOKYO 103-0025, JAPAN
Phone: +81-3-3667-8451 Fax: +81-3-3666-8009

May 2, 2013

Office of Information and Regulatory Affairs
Office of Management and Budget
Attention: Desk Officer for Treasury
New Executive Office Building
Room 10235
Washington, D.C. 20503

Mr. Steven T. Miller
Acting Commissioner
Internal Revenue Service
1111 Constitution Ave., N.W.
Washington, D.C. 20224

RE: Comments/Requests on the external audit procedures under the QI agreement
and the draft Form 8957

Dear Sir/Madam:

I. Background

The Japan Securities Dealers Association (hereafter “JSDA”) appreciates the opportunity given to submit comments in connection with the external audit procedures under the QI agreement pursuant to the preamble to the final regulations on the Foreign Account Tax Compliance Act (hereafter “FATCA”), which was announced on January 28, 2013 and the draft Form 8957 published on April 4, 2013 by the Internal Revenue Service (hereafter the “IRS”).

JSDA is a hybrid association functioning as a self-regulatory organization (“SRO”) for trading of financial products in Japan and as a trade association for the Japanese securities brokerage industry. Today, JSDA comprises about 500 members consisting of all securities firms doing business in Japan and other financial institutions operating securities businesses in Japan.

JSDA understands the importance of international cooperation to prevent and eradicate tax evasion, which is one of the objectives of FATCA and QI system in the United States. However, JSDA also believes that it is very important to ensure the feasibility of the operational practice of FFIs in each jurisdiction, in order to maximize the regulatory effects of the implementation of FATCA.

II. Comments on external audit procedures under the QI agreement

1. Repeal of external audit procedures

The QI agreement currently covers accounts of JSDA's member institutions that handle U.S. source income, while the FFI agreement would cover almost all accounts held by the member institutions. Because all account holders covered by the QI regime are also covered by FATCA, JSDA believes that verification procedures under the both QI agreements and FFI agreements should be integrated and thus only certifications of periodic reviews be required in the future.

The FATCA final regulations require the responsible officer, on behalf of the participating FFI, to periodically certify to the IRS that the FFI is in compliance with the requirements of the FFI agreement. Furthermore, the final regulations suggest that the IRS may also request the performance of specified review procedures by a person (including an external auditor or third-party consultant) that the IRS identifies as competent to perform such procedures for removing the FFI's potential failure to comply with the FFI agreement.

Accordingly, the compliance and verification procedures under the FFI agreement appear to have the control mechanism as effective as the current external audit procedures under the QI agreement. JSDA believes that the associated compliance cost to be incurred by FFIs under the compliance program and certification procedures would be smaller than the external audit costs currently incurred by QIs.

2. Merits of certification procedures

While the results of external audits under the QI agreement are currently reported to the IRS, certifications required under the FFI agreement would also be reported to the IRS. On the IRS side, if the certification procedures are used for the QI agreement, those FFIs who have both QI agreement and FFI agreement may be able to integrate their certification and this would lead to an increased efficiency and a reduced administrative burden for the IRS.

On the FFIs side, the use of certification procedures for QIs would make the program more user-friendly and would contribute to remove a barrier to enter the QI and FATCA regime. JSDA feels that such changes would also invite more investors (and the financial institutions serving them) to the U.S. capital market. Additionally, the uniform compliance and certification procedures for both QI and FFI will allow financial institutions efficient and timely

reporting to the IRS.

3. Future directions of the two programs

JSDA requests that the existing QI program be integrated into the FATCA regime, since both rules share many common aspects, such as customer due diligence, withholding, and reporting. Furthermore, as discussed above, the accounts and institutions covered under FATCA would virtually cover most, if not all, of the accounts and institutions covered under the QI program.

4. Other requests

JSDA further requests that Form 1099 reporting currently required under the QI agreement be eliminated after 2015, since it would be a duplicate reporting with the annual FATCA reporting. At the minimum, JSDA requests that same account balance threshold be introduced for QI agreements as allowed under FATCA, so that the accounts exempt from reporting under FATCA can also be exempt under the QI agreements.

In addition, certain dividends paid by U.S. corporations may be exempt from reporting under the QI agreements if it can be established that such U.S. corporations meet limited exceptions for the sourcing rules under the U.S. tax law. However, in practice, it is generally very difficult for QIs to make such determination due to the limited access to the factual information. JSDA requests that the IRS shares and makes available to QIs regarding certain information of the U.S. securities or issuers, so that QIs can make better judgments regarding whether certain exceptions are met for U.S. tax purposes.

III. Comments/Requests on the draft Form 8957

1. Consolidated Registration by the parent company of expanded affiliated groups, etc.

We have noted that the draft Form 8957 appears to require that each member of an expanded affiliated group register using this form. JSDA requests that a group-based consolidated registration by a parent FFI (or an otherwise designated lead FFI) on behalf of all group members be permitted as an alternative. It is important to note that JSDA requests the consolidated registration be an option, rather than a requirement, so that each FFI or an expanded group of FFIs may use whichever the option that is most convenient to them.

Specifically, JSDA proposes that the draft form be revised to allow, if the consolidated registration option is selected, the parent FFI or other designated lead FFIs to enter all required information for member FFIs on Part 2 of the form, where currently only the list of the members of the group is to be entered. Even if the consolidated registration option is selected, JSDA understands that a responsible officer of the parent FFI may not necessarily be in a situation to sign the FFI agreement on behalf of all the members. In such circumstances, a simplified certification process should be made available for responsible officers of member FFIs to separately sign as part of the consolidated registration, only for purposes of providing signature of responsible officers.

2. Japanese Language Capability for the Registration Portal

JSDA requests that the IRS FATCA registration portal be made available in multiple languages, including Japanese language. JSDA has approximately 500 member institutions and the use of English language would be a significant burden for many of our members, such as smaller institutions focusing on local business. JSDA is concerned about potential errors and miscommunications arising from the use of English language that could undermine the effectiveness of FATCA. JSDA sincerely requests that the IRS consider the multi-language version of the portal, at minimum, for the languages used by FATCA partner countries, in light of the fact that various U.S. customs and immigration forms are made available in multi-language versions today.

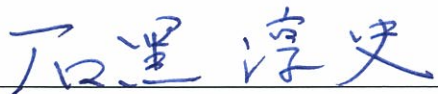
3. Other (Question)

JSDA wonders what the “FATCA ID” in the item 1 of Part 1 of the draft Form 8957 practically means, and if it is identical to GIIN used in the final regulations. In case the FATCA ID is a separate and distinct number that requires any additional procedures for participating FFIs, JSDA urges that further clarification and guidance be provided as soon as possible.

IV. Conclusion

JSDA requests your further thoughts by considering our comments and requests explained above to ensure the feasibility in implementing FATCA for FFIs and to maximize the effectiveness of FATCA in deterring tax avoidance. Lastly, we would be willing to meet with you to discuss any alternative solutions on this matter.

Sincerely yours,



Atsushi Ishikuro
General Manager, Planning Division
Japan Securities Dealers Association

CC:

Treasury PRA Clearance Officer
Suite 8140
1750 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Mr. Michael Danilack
Deputy Commissioner (International)
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Mr. Steven A. Musher
Associate Chief Counsel (International)
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

John Sweeney
Office of Associate Chief Counsel (International)
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20024