Japan Securities Dealers Association
JSDA

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Internal Revenue Service
Room 5203
P. O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

RE: Comments on Foreign Account Tax Compliance Act Provisions

Dear Sir/Madam:

1. Preamble

Japan Securities Dealers Association (hereafter "JSDA") appreciates that the U.S. authorities shows the guideline of the Treasury Regulations in advance with regard to Notice 2011-53 released from the IRS in July 2011.

On the other hand, Notices 2010-60, 2011-34, and 2011-53 have not yet clearly addressed the identification procedures for entity accounts, which are the significant aspects of FATCA. Accordingly, securities dealers in Japan have found difficulty in measuring the impact that FATCA may have on their business. JSDA strongly requests that the IRS release a guideline of the procedures for entity accounts beforehand and provide foreign financial institutions (hereafter "FFIs") with opportunities to submit their opinions well in advance of the issuance of proposed regulations.

In light of consideration that FATCA contains requirements that is legally binding and deemed equal to an international treaty as the de facto extraterritorial application of the US laws, JSDA requests that the IRS does not hasten to implement the FATCA frameworks, and has more positive conversation with stakeholders such as foreign governments, various competent authorities, and financial institutions, in order to avoid imposing too much administrative burdens on securities dealers in Japan.

2. Transitional relief

JSDA welcomes that the IRS has addressed the transitional relief in Notice 2011-53, however, we believe that transitional relief should be decided considering the details of due diligence conducted by FFIs and work progress to deal with the IT system. Accordingly, JSDA would like the IRS to be flexible to consider further transitional relief by considering the time which is necessary for FFIs towards the year end.

Particularly, with regard to withholding tax responsibilities, FFIs need to be prepared sufficiently in terms of the significant impacts on customers. JSDA requests that a list of participating FFIs that have entered into FFI agreements with the IRS should be published at least three months before the effective date of the Chapter 4 withholding.

While, "European Savings Tax Directive" has already existed in European countries, which is a framework that financial institutions with non-resident customers can share customer-information with the tax authorities of other countries, we need to implement such frameworks for the first time in Japan and some other countries by trial and error to implement FATCA. Accordingly, JSDA requests that the IRS should consider the status in Japan and other similarly situated countries that do not have similar information collecting system to maximum extent, when the IRS establishes the transitional relief, rather than using the standards of European financial institutions which already have the developed frameworks.

3. Private banking accounts

We strongly request that the IRS set forth a threshold amount of one million dollars or more of account balance as part of the definition of "private banking accounts" to be consistent with the definition of private banking accounts under the USA Patriot Act, as we have already requested in JSDA's "Comments on Notice 2011-34" submitted as of June 7, 2011.

Per Section II. A. 2. b. i and ii of Notice 2011-53 (hereafter "the new Notice") , the definition of private banking accounts does not appear to include a threshold amount. However, it may become too burdensome for participating FFIs to classify their accounts based on the existing definition of private banking accounts, and the IRS should establish a threshold considering the purpose of FATCA, which is to prevent tax evasion by wealthy U.S. taxpayers.

Also, JSDA requests that the IRS seriously consider our comments with regard to private banking accounts explained in our "Comments on Notice 2011-34" in drafting the Treasury Regulations in order to ensure that ordinary practices at securities dealers in Japan to assign a employee in charge of specific customers would not constitute private banking accounts based only on the existence of a pre-assigned sales personnel.

4. Annual Reporting

Per Section Ⅱ.B.1.(i) of the new Notice, for accounts held by the US owned foreign entities, the substantial US owner's name, address, and other relevant information are required to be submitted. As JSDA explained in "Comments on Notice 2011-34" submitted as of June 7, 2011, securities dealers in Japan are performing strict due diligence procedures for entities as stipulated under relevant laws and regulations. However, such laws and regulations do not require collection of information regarding shareholders of entity account holders. As such, Japanese securities dealers do not possess such information. Even if Japanese securities dealers request such information (e.g., a list of shareholders), it is likely that, in accordance with the Corporation Law in Japan, entity customers may refuse to provide such information to protect the information of shareholders. Therefore, we request that verification of substantial U.S. owners not required with regard to preexisting entity accounts and that we perform identification procedures only for new entity accounts which declare such information themselves.

Furthermore, information with regard to the U.S. employer identification number should not be reported, notwithstanding required in Section Ⅱ.B.1.(i) of the new Notice, we firmly oppose to making it mandatory since securities dealers in Japan do not obtain it in the ordinary course of business practice.

Especially, it is expected to be extremely difficult to obtain such a number from customers who have already had accounts, and it is also impossible for securities dealers in Japan to verify such a number, even if customers present a number.

Moreover, Section Ⅱ.B.1(ii) of the new Notice provides a standard as "account balances as of December 31 of 2013". New Year's Eve is a national holiday in Japan, and also, it imposes too much burden for securities dealers in Japan to evaluate values of securities and assess balances only for the FATCA annual reporting. Therefore, at the minimum, participating FFIs should be allowed to report numbers on the statements which are sent to customers in general industry practice.

5. Passthru payments

As we mentioned in our "Comments on Notice 2011-34" submitted as of June 7, 2011, we regret that passthru payments are, as far as we find in Notice 2011-34, not practically workable. Especially, non-U.S. source income, such as interests, dividends, distributions from securities dealers, banks, funds in Japan are included in passthru payments and are considered to be subject to withholding tax. However, it cannot be legally justified in Japan to withhold tax on

non-US source income.

Furthermore, it is not practically workable and not acceptable to classify assets quarterly based on whether those assets are the U.S assets or not, issued by participating FFIs or non-participating FFIs, and to calculate passthru payment percentages.

We consider that the purpose of passthru payments is to expand the withholding tax base to non-U.S. source income and create a disincentive to non-participating FFIs, resulting in an increase in the number of participating FFIs. However, it is not appropriate to impose such serious burdens on participating FFIs that should be considered as "cooperating institutions" for implementing FATCA smoothly. Alternative measures should be highly appreciated for participating FFIs so that a positive incentive to become participating FFIs could be provided, such as allowing certain tax benefits to participating FFIs or sharing costs to implement FATCA.

We would like you to retract regulations on passthru payments to non-U.S. source income and consider those alternatives measures through discussion with FFIs of Japan and other countries.

Sincerely yours,

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Hidemi Ijichi

Executive Officer, Japan Securities Dealers Association