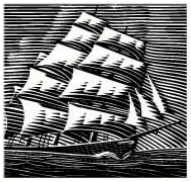

STATE STREET.

Robert J. Foley
Senior Vice President
Product Tax Department
State Street Bank and Trust Company
One Lincoln Street SFC13
Boston, MA 02111-2900 USA

Tel: (1) 617-664-3512
Email: rj.foley@statestreet.com

April 27, 2012

Delivered Electronically and By Mail

CC:PA:LPD:PR (REG-121647-10)
Room 5205
Internal Revenue Service
PO Box 7604
Ben Franklin Station
Washington, DC 20044

RE: State Street Comments on REG-121647-10

Ladies and Gentlemen:

State Street Bank and Trust Company (State Street) welcomes the opportunity to submit comments pursuant to REG-121647-10, the February 2012 proposed regulations regarding the Foreign Account Tax Compliance Act (FATCA) Chapter 4 tax processing provisions of the Hiring Incentives to Restore Employment Act of 2010. Headquartered in Boston, State Street specializes in providing institutional investors with investment servicing, investment management and investment research and trading. With $23 trillion in assets under custody and administration and $1.993 trillion in assets under management, State Street operates in 29 countries and more than 100 geographic markets. FATCA will

affect many areas of State Street as well as many of our customers around the world.

Although State Street supports the tax compliance objectives of FATCA's Chapter 4 text, we wish to note several issues the Treasury and IRS should consider as the regulatory process moves forward. The following list is not exhaustive, but represents the issues of greatest concern to State Street from its perspective as a provider of financial services to institutional investors. In addition to this letter, we also have submitted a joint comment letter dated April 30, 2012 along with The Bank of New York Mellon and The Northern Trust Company. That joint comment letter addresses FATCA's implementation timeline and treatment of agents for FFIs. Those issues are of great importance to State Street, and this letter should be read in conjunction with that joint submission.

1. The proposed regulations provide transition relief for Chapter 4 documentation of preexisting accounts. State Street and our affiliates routinely open relationships with clients, who then add new accounts from time to time to their existing relationship. For example, a custody client with several accounts may open another account for assets invested into a new market of investment. The client is the existing client, and State Street would not begin a new AML review of that newly-opened account. The tax beneficial owner and contact information for the new account are the same as the data for the existing accounts. Preexisting individual accounts and entity accounts are defined in the proposed regulations, at section 1.1471-1(b)(49) and (50), by reference to 1.1471-1(b)(48) and its definition of a "preexisting obligation." We request that the regulations define preexisting obligation by reference to a legal entity relationship with the withholding agent as of January 1, 2013, rather than an account for that legal entity with the withholding agent. This will make clear that adding another account to an existing legal entity relationship does not trigger a new US tax review of the client.

More generally, the regulations should clarify that no tax due diligence is necessary when an existing client opens a new account. We suggest that Treasury modify section 1.1471-3(c)(6)(vi) of the proposed regulations to require documentation on a client-by-client basis.

2. We request that Treasury and IRS rationalize the tax processing rules so controlled foreign corporations (CFCs) will follow FATCA and Chapter 3, and not Chapter 61. No positive purpose is served by an overlay of Chapter 4 on top of Chapter 61. Eliminating the overlap will provide clarity, and will minimize the current anti-competitive effect of CFC tax processing obligations compared with the absence of similar obligations at non-CFC competitors in markets outside the

US. To accomplish this adjustment, sections 1.1471-4(d) and 1.1474-6(e) of the proposed regulations will require modification.

3. In general, the Proposed Regulations adopt local law AML rules as satisfactory methods to determine or confirm tax residence of payees located outside the US. However, on at least two important issues, the Proposed Regulations diverge from AML. First, at section 1.1471-3(c)(5)(ii), the Proposed Regulations provide that government-issued identification documents with an address are acceptable for individuals. In practice, many FFIs rely on passports, which typically have a photo of the individual, but have no typed address. The FFIs rely on other sources to obtain an address for the individuals. We request that the regulations allow the use of AML compliant documents for individuals if the payor has a non-US address from any source for the individual.

Second, for documentary evidence provided electronically, the Proposed Regulations, at section 1.1471-3(c)(6)(iv), provide that a certified or notarized copy of the material be obtained. This runs counter to AML, and is a major impediment to an efficient account opening process. Again, we request that a payor be able to rely on AML compliant documents.

Finally, the Proposed Regulations, at section 1.1471-3(c)(6)(iv), also provide that documentary evidence may be transmitted electronically (by fax or presumably PDF) only if the withholding agent confirms that the person furnishing the documentary evidence is the person named on the documentary evidence. This requirement can be read in multiple ways, but in general the requirement is quite restrictive, and impractical. We request that a withholding agent be able to accept electronically transmitted material if it undertakes reasonable commercial efforts to validate the identity of the sender.

4. Further guidance should exempt payments to related parties from the definition of “withholdable payments” in proposed Treasury Regulation section 1.1473-1(a)(1) and from Chapter 4 processing. These payments are already subject to information reporting on Forms 5471 and 5472.

5. The Proposed Regulations, at section 1.1471-3(f)(3)(ii), appear to eliminate the “eyeball test” for corporate, bank and broker payees (among others) by treating those payees as non-US in the absence of a W-9. This would result in many instances of errant Chapter 4 processing and tax withholding on payments to obvious US persons. The eyeball test is a sensible low risk way to take highly compliant taxpayers out of the backup withholding and tax information reporting regimes, and it serves to simplify tax compliance burdens at payors. We request that the eyeball test for these payees remain in place unless the payor has knowledge of non-US status for the payee.

6. The Proposed Regulations, at section 1.1473-1(a)(4)(iii), treat most arm's-length payments by withholding agents as out of scope for FATCA, so long as they are for "nonfinancial" services and use of property. State Street and many other financial institutions pay for market data/pricing services provided from outside the US, and for investment manager services provided outside the US. In our industry, these are routine business expenses and should be out of scope for FATCA. We request the elimination of the word "nonfinancial" in the regulations.

7. FFIs and withholding agents, and their agents, should be allowed to appoint sub-agents under Chapter 4, as they are today under Chapters 3 and 61. State Street and other financial institutions regularly use affiliates to undertake processing responsibilities, and we request that you eliminate the impediment to sub-agency in proposed Treasury Regulation section 1.1474-1(a)(3)(ii).

8. We support the decision in the Proposed Regulations to apply many of the established Chapter 3 processes to Chapter 4. Withholding agents and their advisors have a decade of experience under the Chapter 3 requirements, and starting from scratch is not warranted. The existing settled processes range from procedural matters (such as the ability to relate back a Form W-8 to document an account, and the ability of a withholding agent to rely on a client's documentation and representations until informed otherwise or until it has actual contrary knowledge) to the tax deposit and information reporting mechanisms.

9. The planned overhaul of the current Form W-8 series is an opportunity to eliminate gaps and uncertainties in those forms. As just a single example, the financial services industry has asked for several years for guidance on the "capacity" portion of the Form W-8BEN. A new Form W-8BEN and instructions are an opportunity to address the need for stated capacity and, if needed, the acceptable capacities for signators at non-US entities. We urge Treasury and IRS to eliminate this issue and many other lingering Chapter 3 documentation uncertainties while preparing for Chapter 4.

10. State Street will have multiple FFIs within our affiliated group, and we anticipate that many of those entities will enter into FFI agreements. As to the pending release of a draft FFI agreement, we request the ability to:

- Identify a lead FFI or lead US entity within our affiliated group.
- Allow the lead entity to execute FFI agreements on behalf of FFI affiliates.

- Allow a CFC FFI to not enter into a participating FFI agreement so long as an affiliate meets the CFC FFI's Chapter 4 responsibilities.
- Allow a single assurance process managed through the lead entity, and a single assurance report from the lead entity to the IRS.

This opportunity to centralize FFI administration for the affiliated group will lead to efficiencies within the group and a more streamlined process for the IRS.

I would be happy to discuss these issues with you in more detail. Please feel free to contact me.

Best regards,

/s/

Robert J. Foley