Republic of the Philippines
Department of Finance
Securities and Exchange Commission
SEC Building, EDSA, Greenhills, Mandaluyong City

SEC MEMORANDUM CIRCULAR NO.__8__
Series of 2014

TO : ALL CONCERNED CORPORATIONS

SUBJECT : FOREIGN ACCOUNT TAX COMPLIANCE ACT

The Commission *En Banc* in its meeting held on April 3, 2014, resolved to approve this Circular to guide non-bank financial institutions (NBFIs) that are covered by Foreign Account Tax Compliance Act (FATCA) regulations.

FATCA was enacted in 2010 by the United States (U.S.) Congress as part of the Hiring Incentives to Restore Employment (HIRE) Act. FATCA was enacted to prevent off-shore tax abuses by U.S. taxpayers. FATCA requires, among others, the on-line registration of foreign financial institutions (FFIs) with the U.S. Internal Revenue Service (IRS) and their reporting to the IRS of information about financial accounts by FFIs in which U.S. taxpayers hold a substantial ownership interest. Under the Act, non-compliance therewith will result to the imposition of a 30 percent withholding tax on payments of U.S.-sourced income to FFIs.

The FFIs referred to in the FATCA pertain to financial institutions which are organized under the laws of a jurisdiction other than the United States of America.

The IRS has included the following FFIs in its non-exclusive list[1]:

- Depository institutions
- Custodial institutions
- Investment entities
- Certain types of insurance companies that have cash value products or annuities

NBFIs that are licensed by the Commission are hereby instructed to conduct the following procedures:

1. Evaluate if the company is a foreign financial institution covered by FATCA;
2. Study the potential effects of FATCA to its business and determine the necessary steps to take to avoid the unfavourable consequences of non-compliance with FATCA requirements;

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[1] IRS website on FATCA Information for Foreign Financial Institutions and Entities
http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act- (FATCA)

3. Establish a policy and prepare the company's operating systems which would enable it to capture and perform tagging of its account holders subject of the FATCA requirement;
4. Consider the provisions of domestic laws, such as, but not limited to, the Securities Regulation Code, the Investment Company Act, the Law on Secrecy of Bank Deposits and the Data Privacy Act in crafting the guidelines;
5. Raise all FATCA-related questions or concerns of NBFIs through its respective association which shall act as the central repository of FATCA-related inquiries and collate such queries for a more systematic submission to the U.S. Government;
6. Consider the inclusion of instructions/disclosures in the company's respective notice to clients; and
7. Disclose in its annual and quarterly reports the level of its compliance with FATCA regulations, starting with the quarter report ending March 31, 2014 that is due on or before May 15, 2014.

If covered as a result of procedure under item 1 above, the NBFI should refer to IRS notices which include instruction that "*to avoid being withheld upon, a foreign financial institution may register with the IRS, obtain a Global Intermediary Identification Number (GIIN) and report certain information on U.S. accounts to the IRS.*"[2] Under Sec. 1471 (c) of FATCA[3], the said information include report of the following:

A. The name, address, and TIN of each account holder which is a specified United States person and, in the case of any account holder which is a United States owned foreign entity, the name, address, and TIN of each substantial United States owner of such entity.
B. The account number.
C. The account balance or value (determined at such time and in such manner as the Secretary may provide).
D. Except to the extent provided by the Secretary, the gross receipts and gross withdrawals or payments from the account (determined for such period and in such manner as the Secretary may provide).

The IRS has developed a one-stop FATCA registration portal. It allows online communication and delegation of authority where it provides flexibility for FIs to report on and manage information throughout their corporate structure.

Relative to the upcoming deadlines set by the US. Government for the compliance of foreign financial institutions with the FATCA, concerned financial institutions are advised to visit the IRS's website, www.irs.gov for guidance.

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[2] http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-%28FATCA%29
[3] Hiring Incentives to Restore Employment Act, Title V, Subtitle A, Part I, Chapter 4, Sec. 1471(c) http://www.gpo.gov/fdsys/pkg/PLAW-111publ147/html/PLAW-111publ147.htm

The Commission does not enforce or interpret the law governing FATCA or provide legal advice on the same. Please refer to the IRS website for more information.

This Circular shall take effect immediately.

Signed this 3 day of April 2014, Mandaluyong City, Philippines.

For the Commission:

MA. JUANITA E. CUETO
Commissioner