

12 May 2014

General Manager
Tax System Design
The Treasury
Langton Crescent
PARKES ACT 2600

Email: Philip.ackroyd@treasury.gov.au

Attention: Mr Philip Ackroyd

Dear Mr Ackroyd

FATCA Intergovernmental Agreement – Exposure Draft Legislation

The members of the Australian Custodial Services Association (ACSA) welcome the opportunity to provide this submission to Treasury on the exposure draft enabling legislation and explanatory memorandum for the FATCA Intergovernmental Agreement (IGA) with the United States of America.

About ACSA

ACSA is the peak industry body representing members of Australia's investment custodial and administration sector. Collectively, the members of ACSA hold securities and investments valued at more than AUD \$2 trillion in custody and under administration. Members of ACSA include National Australia Bank Asset Servicing, JP Morgan, HSBC, State Street, RBC Investor Services, BNP Paribas, Northern Trust and Citigroup.

Support for the IGA and enabling legislation

ACSA supports Treasury on its initiative to finalise the IGA and introduce enabling legislation to Parliament.

Comments on the draft enabling legislation and explanatory memorandum

ACSA has had the opportunity of reviewing the submission lodged by the Financial Services Council in relation to the draft enabling legislation and explanatory memorandum. ACSA agrees with and endorses the issues raised by the FSC in its submission.

In particular, we note the following matters raised in that submission are of particular relevance to ACSA and its members:

- Development of a mechanism by Treasury to ensure all relevant changes to the FATCA regulations or other governing notices can be relied upon by Australian financial institutions.
- Making it clear in the enabling legislation that Australian financial institutions are entitled to make all of the elections available under the IGA and regulations (including those specified in Annex IC, IIA, IIIA, IVA and VA, VIF). It should be possible to make the relevant election in internal records of the financial institution without needing to send a copy to the revenue authority. Due diligence procedures for accounts (pre-existing or new) which fall under the monetary thresholds – Reporting Financial Institutions should be permitted to review and report such accounts.
- Where a custodian is providing custodial services solely to superannuation entities that are Exempt Beneficial Owners, we submit the custodian should be certified deemed compliant and be treated as a non-reporting Australian Financial Institution.

Please contact Mick Giddings, Chair of the ACSA Tax Working Group if you want to discuss any of the issues raised above.

Yours sincerely



Director, ACSA DAVID BRAGA



Chair, ACSA Tax Working Group