21 April 2015

Mr Lloyd Garrochinho
International Engagement & Transparency
Public Groups & International
Australian Taxation Office

By Email Only

Dear Lloyd

FSC comments on 31 March 2015 draft ATO Guidance on FATCA: self-certification for new accounts (and US IRS "FAQ10")

Thank you for the opportunity to provide feedback on the draft ATO guidance setting out ATO's interpretative views of the FATCA Agreement on the issue of self-certification (with a focus on New Accounts).

General Comments on ATO Guidance on FATCA: self-certification for new accounts (and US IRS FAQ10)

1. The comments below are based on feedback from FSC members.

2. FSC would appreciate the opportunity for a meeting/conference-call with ATO, Treasury and FSC members in relation to the problematic consequences in relation to the ATO guidance (relating to US IRS FAQ10 "**FAQ10**") on self-certification for new individual accounts.

3. We have highlighted ATO's 31 March 2015 draft guidance in blue text (like this) to distinguish from our comments.

4. The US IRS FAQ10 and ATO's interpretation of the self-certification requirements for new individual accounts is concerning and very problematic for industry in that the practical outcome is that it will be very difficult (if at all possible) to comply with and will require non-opening of accounts when the purpose of the IGA was rather to report recalcitrant account holders. With some account types, account opening cannot be halted, and with other account types, it is very difficult to close them without the consent of the account holder. We also have concerns that forced account closure because of a failure to provide a self-certification might lead to AML issues - returning "clean" funds to the account holder. This is apart from questions around the legal ability (or otherwise) under constituent documents to close accounts.

5. We request that ATO urgently discuss with the IRS that it would be more appropriate (and more helpful) for the IRS to make any changes such as these through the IGA process rather than publishing views in an FAQ. FSC members with a global presence in particular, note that many global based firms have relied to some degree on available guidance (such as the UK HMRC guidance) to design and implement FATCA procedures, in addition – of course – to having regard to ATO's guidance for the Australian based operations. In particular for such organisations, FAQ10 results in contradictory FATCA requirements across jurisdictions and consequently:

    a. Inconsistent FATCA on-boarding procedures across jurisdictions;

YOUR FUTURE FIRST
Financial Services Council Ltd ABN 82 080 744 163
Level 24, 44 Market St Sydney NSW 2000
T. +61 2 9299 3022 F. +61 2 9299 3198
E. info@fsc.org.au W. fsc.org.au

b. Lack of certainty for FFIs that are compliant with FATCA laws/guidance but may now be non-compliant with IRS' requirements.

6. Our members have serious concerns with IRS commentary (FAQ 10) being accommodated and communicated in FAQs rather than being via the IGA process. The inconsistent application of a model IGA across jurisdictions causes significant difficulties for multi-jurisdictional financial institutions.

7. (**Other country concerns**): FSC members have brought to FSC's attention that both SIFMA and the HMRC have identified significant issues with FAQ10. A brief extract in relation to SIFMA's concerns provided to us by an FSC member is below:

> **"SIFMA Raises Concerns With FATCA Guidance on Self-Certifications**
> **Payson Peabody of the Securities Industry and Financial Markets Association has expressed concerns about guidance provided in a list of frequently asked questions on the Foreign Account Tax Compliance Act regarding a foreign financial institution's obligation to obtain a self-certification when a new individual account is opened** [Because of our support for the IGA process and our recognition of their importance and effectiveness in ensuring fluid markets, we believe it is critical to have an orderly process for resolving interpretive disputes about the meaning of the IGAs. It is our understanding that the guidance in FAQ 10 -- which refers to Model 1 IGAs -- is inconsistent with the published guidance of several IGA countries, including the United Kingdom and Canada. *In particular, we understand that both the Government of the United Kingdom and the Canadian Government have taken the position that FIs (including USFIs) operating within the UK and Canada are not required to refuse to open or close a new individual account in the event they are not able to obtain a self-certification. Instead, under the UK and Canadian guidance, FIs are instructed to treat such accounts as reportable accounts*.]" [FSC's emphasis is italicised.]

8. (**Electing to use US Regulation Due Diligence**): FSC has provided to ATO (by email on 13 April 2015) relating to US FAQ10, feedback on the impracticality of the ability for Australian financial institutions to, as an alternative to the due diligence procedure that would be required if applying section III.B of Annex I of the IGA, to consider electing to use the due diligence procedures in the US Regulations.

9. Various FSC members have informed FSC that the reversion to the US Regulations (instead of adopting the Due Diligence procedures in the IGA) is not a practical option given the implications of needing to check the US Regulations and re-configure to any US Regulation due diligence procedure, apart from the systems changes and the time required to even contemplate and configure such a solution (even though impractical). In short, the option (of electing to revert to the US regulations due diligence procedures) is – simply – not a practical option to the potential outcome of US FAQ10 in relation to new individual accounts.

10. The IGA provides several key exceptions to the regulations – e.g., ability to rely on self-certification not signed under penalties of perjury, ability to rely on publicly available information to document certain entities, ability to apply AML/KYC concept of controlling person as opposed to substantial U.S. owner concept. Denying a Reporting AFI the ability to rely on these provisions would gravely impact its competitiveness in the marketplace.

YOUR FUTURE FIRST
Financial Services Council Ltd ABN 82 080 744 163
Level 24, 44 Market St Sydney NSW 2000
T. +61 2 9299 3022 F. +61 2 9299 3198
E. info@fsc.org.au W. fsc.org.au

11. Another FSC member has noted to the effect that:

> Based on our review, section 1.1471-4(c)(4))(i) does not appear to offer a solution for addressing the practical issues presented by IRS FAQ Q10. The requirement to collect information from account holders at account opening still stands and in the absence of this information being collected at account opening by financial advisors/brokers, issuers will be required to do this post acquisition. Historically, approximately [*FSC addition: only*] 50% of account holders respond to similar solicitation for information post acquisition, even where there is a financial incentive to do so (i.e. W8-BENs). Where individual account holders do not respond, they would still be considered recalcitrant and the account required to be closed under the full FATCA regulations and IRS FAQ 10. As noted previously, the legal and practical ability to actually close an account is still to be determined.

12. If the ATO is to not refine its guidance as it is affected by US IRS FAQ 10, then FIs will need time to comply and practical **exemptions** allowed for those new individual accounts opened since 1 July 2014 and before system changes can be implemented, where no self certification has been obtained but the account documentation does not permit account closure as a consequence of the lack of self-certification.

Exchange Traded Funds (and other Listed Investment Entities)

13. (**Exchange traded funds**): A number of FSC members who issue Exchange Traded Funds (ETFs) have expressed serious concerns over their legal ability to comply with the ATO guidance on self-certification, and in particular the requirement to close accounts where self-certification cannot be obtained. Without limiting our comments elsewhere in this submission (which relate not only to ETFs and other Listed Investment Entities) we also submit for amendments to the ATO Guidance in relation to listed investment entities/ETFs. ***We note however that many of our comments and concerns in relation to the ATO guidance in relation to ETFs apply to other Financial Accounts also*** **(e.g. closing accounts where self-certification for new individual accounts is not provided.**)

14. Generally, for funds traded on an exchange, an investor will open an 'account' with a Settlement Participant (CHESS Sponsor) who will hold the ETF units on the CHESS sub-register on behalf of the investor. When a trade is executed on the secondary market by a Trading Participant, the FFI (or its agent) receives an automated message through CHESS containing the account details (name, address and units held) based on information obtained by the executing broker. This information is the basic information required to affect a trade on the secondary market and is unlikely to comply with the FATCA due diligence requirements.

15. There is no arrangement in place between the FFI and either the Trading Participant or Settlement Participant to obtain the self-certification. The FFI has no opportunity to request the self-certification until after the account is opened (i.e. the ETF is acquired on the secondary market). The FFI also has no opportunity to defer the account opening. In this situation the FFI is unlikely to be able to rely on the Regulations as the FFI may not be legally permitted to close the account and the Trading Participant or Settlement Participant is unlikely to qualify as an introductory broker as it will not be a US person or a participating FFI or a Model 1 Reporting FFI as required by the FATCA Regulation 1.1471-3(c)(9)(iii). Accordingly, we suggest that the ATO provide guidance along the following lines:

YOUR FUTURE FIRST
Financial Services Council Ltd ABN 82 080 744 163
Level 24, 44 Market St Sydney NSW 2000
T. +61 2 9299 3022 F. +61 2 9299 3198
E. info@fsc.org.au W. fsc.org.au

> "For clarity, this requirement does not apply to the FFI if the FFI is not able to request a self-certification at account opening. For example, in the case of securities acquired on an exchange, such as exchange-traded funds, the FFI does not open the account, the account is established on the FFI's register via the ASX CHESS interface and it would be impossible for an FFI to comply with the IRS FAQ for these products. In situations where the FFI cannot obtain a self-certification at the time of account opening, the FFI must request the self-certification within 90 days. This is consistent with the Regulations which allow a 90 day grace period for obtaining documentation prior to determining an account to be recalcitrant – an acknowledgement that obtaining documentation in advance may not always be feasible. See §1.1471-5(g)(3)(ii)."

16. In order for the responsible entity of an ETF (or for that matter any other listed investment vehicle, trust or stapled security) to comply with the current proposal, the issuer must obtain self-certification from the holder of the ETF after the holder is already in possession of the ETF unit by virtue of acquiring the ETF unit from a third party on the secondary market.

17. Where the holder does not return the self-certification documentation after a reasonable period, the responsible entity may be required to close the account, meaning that the responsible entity will be required to compulsorily redeem or cancel the ETF units held by the non-compliant holder. There is no obligation on a holder to return the self-certification documentation and no ability of the product issuer to compel the return of this information.

18. The 'closure' of an account must have regard to the requirements of Chapter 5C of the Corporations Act 2001 (Corporations Act), which sets out the legislative basis for the operation of a managed investment scheme, which includes ETFs. A power to compulsory redeem or cancel the relevant ETF units would need to be specifically set out in, or permitted by an existing power, in the constitution of the ETF.

19. Such a power in the constitution of a managed investment scheme is not industry practice, and would, in most cases require the responsible entity to amend the constitution by special resolution of members in accordance with section 601GC(1)(a) of the Corporations Act. This is a high threshold that is practically difficult to meet and would be a considerable cost to the fund (e.g. in holding a meeting of members). Consideration will also need to be given to other issues related to amendment of a constitution including for example, income tax and stamp duty (resettlement) consequences.

20. In the event that such a change to the constitution cannot be affected, and the responsible entity does not have the power to close accounts but has an obligation under the FATCA IGA to close accounts the responsible entity will, it seems, be subject to conflicting statutory requirements.

21. The creation of such an irreconcilable conflict places the responsible entity, operating primarily as a fiduciary, at considerable and unacceptable legal and regulatory risk. Further, if accounts are required to be closed, the compulsory redemption or cancellation of ETF units held by a member may expose the member to considerable financial risk and uncertainty. These unintended consequences may in turn lead to a decrease in the participation in the ETF industry by new and existing members and therefore have a significantly detrimental impact on the ETF market and in fact the entire listed investment vehicle, trust or stapled security market as a whole.

YOUR FUTURE FIRST

Financial Services Council Ltd
ABN 82 080 744 163

Level 24, 44 Market St
Sydney NSW 2000

T. +61 2 9299 3022
F. +61 2 9299 3198

E. info@fsc.org.au
W. fsc.org.au

22. An alternative approach which could remove these statutory and trustee conflicts, would be to consider, in the ETF context, that the 'opening of the account' is considered to be the point at which the authorised participant creates and issues the ETF unit in the primary market. That is, when a unit in an ETF is first issued. Therefore, the FATCA requirement to close an account will apply where the relevant FATCA information is not provided by the primary market investor. This is a practical solution as a responsible entity will generally have the power to refuse to issue the units if the applicant does not provide the requisite application information (i.e. self-certification FATCA information). This is in contrast to no power by the responsible entity to cancel a unit once the unit has been issued.

23. When the ETF unit is traded on the secondary market, the ETF unit should be considered to be an existing account by virtue of the fact that the purchase on market is a change of ownership of that existing ETF unit which is already entered onto the share register of the responsible entity. Therefore, this transaction should be considered a 'change in circumstances' of an existing account, and under the existing FATCA requirements the responsible entity will only be required to obtain self-certification, and report the account as a recalcitrant account if self-certification is not provided. Seeking to obtain this information and reporting any non-compliance by an investor would not require closure of an account. This approach would be consistent with the treatment of transfers of units in unlisted managed investment schemes, that is, issue self-certification forms to the new holder and report in due course if they are not satisfactorily completed and returned.

24. This approach would remove any question of potential conflict across responsible entity duties and FATCA requirements which will most likely result in unavoidable non-compliance with FATCA by responsible entities.

25. We request an addition/amendment be including in the ATO Guidance to the effect below:

Amendment to Guidelines sought by FSC relating to LIE (listed investment entities)/ETFs

> *Exception for investment entities that are regularly traded on an established securities market. (LIE)*
>
> Where an account has been opened by a CHESS Sponsor and information is provided to the LIE through the CHESS system and such account has not provided FATCA self-certification, the account is not required to be closed or divested. The LIE must seek self-certification from the account holder within 90 days of the account being registered with the LIE.

Further reasoning for amendment relating to LIE/ETFs

26. For securities purchased 'on market', the account is opened by a participant of the Australian Securities Exchange (ASX). Such participant is unlikely to be a Financial Institution and therefore is not required to undertake the FATCA certification. Taking this into account, implementation of the requirement under US IRS FAQ10 to not open an account for an individual who has not certified is not possible within the legal framework of the operation of the ASX as:

a) The ASX participant opens the account, not the Financial Institution and;

YOUR FUTURE FIRST
Financial Services Council Ltd ABN 82 080 744 163
Level 24, 44 Market St Sydney NSW 2000
T. +61 2 9299 3022 F. +61 2 9299 3198
E. info@fsc.org.au W. fsc.org.au

b) ASX Settlement Operating rule 5.8 does not allow the Issuer (the LIE/ETF) to refuse to register the account once it has been opened by the ASX participant.

27. Furthermore, implementation of the requirement under the Regulations to close an account for an individual that has not certified would also cause conflict with the ASX Settlement Operating Rules as rule 5.12 only allows divestment or forfeiture of securities in a CHESS holding in specific circumstances - such circumstances do not include failure to provide self-certification under FATCA. Forfeiture of securities that are regularly traded would be a mine field of legal ramifications such as the value of the securities when forfeited compared to the purchase price and tax implications for the investor.

Other comments on the draft ATO Guidance and requested drafting changes

> **3.7 What are the requirements where a person won't provide a self-certification or other information requested?**
>
> The IRS has published a range of Frequently Asked Questions (FAQs) on its website which on 2 February 2015 included the following question:
>
> *If a Reporting Model 1 FFI or a Reporting Model 2 FFI that is applying the due diligence procedures in section III, paragraph B, of Annex I of the IGA cannot obtain a self-certification upon the opening of a New Individual Account, can the FFI open the account and treat it as a U.S. Reportable Account?*
>
> The answer provided was:
>
> *No. Pursuant to section III, paragraph B, of Annex I of the IGA, the FFI must obtain a self-certification at account opening. If the FFI cannot obtain a self-certification at account opening, it cannot open the account.*
>
> For clarity, self-certification of an account is not required under paragraph B of section III of Annex I if the account is covered by the exclusions in paragraph A of that section. Paragraph A will exclude a Depository Account or a Cash Value Insurance Contract for so long as the account balance or value (including, where necessary, the aggregated balance or value of other accounts held with the AFI and Related Entities) does not exceed $50,000 on the last day of the calendar year or other appropriate reporting period.

28. **FSC Comment**: There are practical difficulties with having different on-boarding requirements for different financial account types. This would result in more complicated on-boarding process/procedures and unduly increase the compliance burden.

> An AFI is therefore not required to obtain a self-certification upon opening for an account that is a Depository Account or a Cash Value Insurance Contract. This is because the threshold test is not applicable until after the account is opened.
>
> **FSC Mark Up – Request to Add to ATO Guidance**: For clarity, this requirement does not apply to the FFI if the FFI is not able to request a self-certification at account opening. For example, in the case of securities acquired on an exchange, such as exchange-traded funds, the FFI does not open the account, the account is established on the FFI's register via the ASX CHESS

YOUR FUTURE FIRST
Financial Services Council Ltd ABN 82 080 744 163
Level 24, 44 Market St Sydney NSW 2000
T. +61 2 9299 3022 F. +61 2 9299 3198
E. info@fsc.org.au W. fsc.org.au

interface and it would be impossible for an FFI to comply with the IRS FAQ for these products. In situations where the FFI cannot obtain a self-certification at the time of account opening, the FFI must request the self-certification within 90 days. This is consistent with the Regulations which allow a 90 day grace period for obtaining documentation prior to determining an account to be recalcitrant – an acknowledgement that obtaining documentation in advance may not always be feasible. See §1.1471-5(g)(3)(ii). [***FSC comment/explanation for marked up addition: For funds traded on an exchange, the stockbroker generally on-boards the account and then the FFI (or its agent) receives an automated CHESS message containing the account details (name, address and units held) based on information obtained by the broker, but is unlikely to comply with the due diligence requirements. The FFI has no opportunity to request the self-certification until after the account is opened. The FFI also has no opportunity to defer the account opening. In this situation the FFI is unlikely to be able to rely on the Regulations as the FFI may not be legally permitted to close the account and the broker is unlikely to qualify as an introductory broker as it will not be a US person or a participating FFI or a Model 1 Reporting FFI as required by the FATCA Regulation 1.1471-3(c)(9)(iii).***]

The FAQ published by the IRS also clearly refers to the due diligence procedures in section III of Annex I of the FATCA Agreement. Australia's FATCA Agreement with the US also provides at paragraph C of section I of Annex I that Australia may permit Reporting AFIs to rely on the procedures described in the Regulations. Australia has done so and the permission was provided in section 396-20 of Schedule 1 of the TAA 1953. Permission has not necessarily been provided by other Model 1 IGA jurisdictions and it is noted that the FAQ does not cover these variations in available procedures.

Reporting AFIs who open or have opened New Individual Accounts on or after 1 July 2014 and where self-certification would be required if the procedural requirements were to include those specified in paragraph B of section III of Annex I may, as an alternative, consider choosing the due diligence procedures in the Regulations. An election may be made for all relevant Financial Accounts or separately with respect to any clearly identified group of such accounts. As indicated in the Explanatory Memorandum to the Bill implementing the FATCA Agreement in Australia, a Reporting AFI must have made any relevant elections by the time it gives the annual statement(s) to the Commissioner. The way the AFI has prepared the statement (or, if no statement is required, the way the AFI has concluded that no statement is required), provides sufficient evidence of any elections it may have made. There is no need to provide the Commissioner with an additional, specific notification of any elections made.

[***FSC comment: While in theory it might be an option to apply the provisions of the US Regulations (however our members inform FSC it is not a practical option), the IGA provides several key exceptions to the regulations – e.g., ability to rely on self-certification not signed under penalties of perjury, ability to rely on publicly available information to document certain entities, ability to apply AML/KYC concept of controlling person as opposed to substantial U.S. owner concept. Denying a Reporting AFI the ability to rely on these provisions would gravely impact its competitiveness in the marketplace.***]

YOUR FUTURE FIRST

Financial Services Council Ltd ABN 82 080 744 163
Level 24, 44 Market St Sydney NSW 2000
T. +61 2 9299 3022 F. +61 2 9299 3198
E. info@fsc.org.au W. fsc.org.au

A further and separate variation is provided by the Regulations in respect of the definition of Pre-existing Account. Reporting AFIs may, under Article 4.7 of the FATCA Agreement, use a definition in the Regulations. Under the Regulations a new account can be treated as a pre-existing account if the account holder or payee also holds an earlier and actual pre-existing account. Refer to the Regulations for further details.

29. **FSC Comment**: Although the option to make an election to rely on the regulations is permitted, this is not the approach adopted by most FFIs within Australia. See our comments above in relation to elections to use the US regulation due diligence procedures. Further, in our view the ATO draft guidance does not address the underlying issue – how much weight should Australian FI's place on IRS FAQs when the US-Australia IGA and local law allows for the opening of accounts without self-certification in certain circumstances. Further, given that AFIs will/may have to look at their account holder identification solutions in the context of the Common Reporting Standard (**CRS**), it would make sense to give AFIs a transitional period (to align with the implementation of CRS) within which to comply with FAQ10 to the extent applicable or possible (see our comments above) if the ATO does not modify its guidance (in line with what we understand to be the UK and Canadian approaches to the issue)..

Subject to the exclusions and choices mentioned above, a Reporting AFI with an application to open an individual account where a self-certification is required should ensure that its procedures and account terms FSC Mark Up: ~~defer the conclusion of the account opening process until the self-certification is obtained~~ . ~~—~~request self-certification at account opening. However, as we recognise that the account opening process may not be immediate, a further 90 days is allowed to obtain the self-certification.

[***FSC comment: The marked up suggestion is consistent with the approach taken by the HMRC in the UK. We understand the Governments of the United Kingdom and Canada have given guidance that FFIs in these countries are not required to refuse to open a new individual account in the event that they are not able to obtain a self-certification. These governments have instructed FFIs to treat such accounts as reportable accounts. We understand that various governments have provided 90 days or until the end of the calendar year to obtain the self-certification. Australian FFIs should not be disadvantaged by applying conditions that are less favourable than in other jurisdictions***]

FSC Comment: Our understanding from the US operations of an FSC member is that it is reasonable to interpret the IRS FAQ to mean that self-certification can be obtained within a reasonable time given the operational challenges present in account opening processes. This view is also supported by other governments, as noted above. In addition, FSC understands (based on FSC member feedback) that it is the US' view that Australian FFIs are to operate in accordance with Australian guidance as the IGA is a matter of local law. Accordingly, FSC requests that ATO does not issue guidance that might limit this interpretation.]

The impact of requiring Australian FFIs to defer the account opening process is that Australian clients' money will be held by FFIs for a longer period without being invested. This means that Australian clients who are individuals may be disadvantaged if the conditions of their investment changes (for example, the price of the investment moves unfavourably for

YOUR FUTURE FIRST
Financial Services Council Ltd ABN 82 080 744 163
Level 24, 44 Market St Sydney NSW 2000
T. +61 2 9299 3022 F. +61 2 9299 3198
E. info@fsc.org.au W. fsc.org.au

them). Some Australian clients who are individuals do not understand FATCA and whether they are a US Person as defined by FATCA. Understandably they may seek more information or possibly even professional advice to assist them to make the self-certification. It seems reasonable that they should be able to invest without potentially adverse economic impact (as permitted in the UK) while they assess and provide the self-certification. The objectives of FATCA will be achieved regardless of whether the account is opened as the client would be reported as a recalcitrant investor if they do not provide this self-certification.

We also understand that the Securities Industry and Financial Markets Association has expressed concerns about guidance given on the IRS FAQ. We agree with their view that in order to ensure fluid and effective markets, there should be an orderly process at account opening.]

In the case of an entity applying to open a new account on or after 1 July 2014, due diligence procedures in the FATCA Agreement are not required to be completed before opening the account. However, an AFI required to carry out the due diligence procedures specified in paragraph B of section V of Annex I of the FATCA Agreement would be expected to seek any self-certification or other information at account opening or soon afterwards.

30. FSC Comment: Different requirements for different client types unduly increases the compliance burden as Australian FIs would need to implement different self-certification requirements for different client types.

In the case of an individual account that has previously been opened where it has subsequently become necessary to obtain self-certification or other information, or a new entity account is opened and self-certification or other information has been requested from the account holder, an unco-operative account holder may become a "recalcitrant account holder" under the FATCA Agreement. A recalcitrant account holder is an account holder who does not provide the Reporting AFI, with which the account is held, with self-certification or information requested for the purposes of determining whether the account is a U.S. Reportable Account.

Under Article 4.2 of the FATCA Agreement, a Reporting AFI is not required to withhold from, or to close an account held by a recalcitrant account holder where the Reporting AFI reports on the account as if it were a U.S. Reportable Account by providing the information set forth in subparagraph (a) of Article 2.2.

Pooled reporting of recalcitrant account holders does not apply under the Australia-U.S. FATCA Agreement (a Model 1 FATCA Intergovernmental Agreement).

FSC Mark Up – Requested addition to ATO Guidance: For the avoidance of doubt, if a new individual account has been opened on or after 1 July 2014, but prior to the publication of these guidelines, and the FFI has been unable to obtain a self-certification, the account may be reported as a recalcitrant account.

31. While we are not entirely sure we suspect that the later paragraphs may be intended to relate to New *Entity* Accounts? The permissibility of "Recalcitrant accounts" suggests that accounts can be opened without self-certification. This raises confusion in this draft ATO guidance.

YOUR FUTURE FIRST
Financial Services Council Ltd ABN 82 080 744 163
Level 24, 44 Market St Sydney NSW 2000
T. +61 2 9299 3022 F. +61 2 9299 3198
E. info@fsc.org.au W. fsc.org.au

Further, recalcitrant accounts should be separately dealt with in a different section as it does not relate to the self-certification requirement raised by US IRS FAQ10.

32. FSC and FSC members would welcome the opportunity to discuss our submission with the ATO.

Please contact Stephen Judge on (02) 9299 3022 if you have any questions about our submission and for an opportune time to discuss our submission with the ATO, which we would welcome.

Thank you for continuing to engage with industry on the implementation of FATCA.

Yours sincerely

Stephen Judge
General Counsel
21 April 2015

YOUR FUTURE FIRST
Financial Services Council Ltd ABN 82 080 744 163
Level 24, 44 Market St Sydney NSW 2000
T. +61 2 9299 3022 F. +61 2 9299 3198
E. info@fsc.org.au W. fsc.org.au