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MEMORANDUM

FROM: Marian Ancheta Llera (E: marian@int-taxadvisors.com; T: 305.779.8191)

TO: David Schwartz & FIBA Legal & Regulatory Committee

DATE: December 1, 2014

RE: FATCA Alert: IRS Announcement 2014-38 (Intergovernmental Agreements)

Today, the IRS has issued [Announcement 2014-38](http://www.irs.gov/pub/irs-drop/a-14-38.pdf) (available at: <http://www.irs.gov/pub/irs-drop/a-14-38.pdf>) providing guidance with respect to jurisdictions that are treated as if they had a FATCA intergovernmental agreement (“IGA”) in effect pursuant to Announcement 2014-17, 2014-18 I.R.B. 1001, but that do not sign the IGA before December 31, 2014. Announcement 2014-38 provides that a jurisdiction that is treated as if it had an IGA in effect, but that has not yet signed an IGA, retains such status beyond December 31, 2014, provided that the jurisdiction demonstrates firm resolve to sign the IGA as soon as possible.

After December 31, 2014, Treasury will review the list of jurisdictions having an agreement in substance on a monthly basis to assess whether it continues to be appropriate to treat such a jurisdiction as if it had an IGA in effect or whether a jurisdiction should be removed from the list. This determination will be based on, among other factors: (i) the responsiveness of a jurisdiction to communications from the United States regarding the IGA; and (ii) whether the jurisdiction has raised concerns regarding its ability to sign or bring into force the text that was agreed to in substance.

A list of those jurisdictions which are treated as having an IGA in effect, but which were previously required to sign by December 31, 2014 is available here and should be reviewed periodically in 2015 as it will vary on a monthly basis based on Announcement 2014-38:

- <http://www.treasury.gov/resource-center/tax-policy/treaties/pages/fatca-archive.aspx>

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