



NEWS RELEASE
For Immediate Release

ISDA Publishes 2012 FATCA Protocol

NEW YORK, August 15, 2012 –The International Swaps and Derivatives Association, Inc. (ISDA) today announced the launch of the ISDA 2012 FATCA Protocol.

The Protocol offers market participants an efficient way to amend the ISDA Master Agreement tax provisions to address the effects of the Foreign Account Tax Compliance Act (FATCA), which may impose a withholding tax on payments under derivatives transactions.

FATCA was enacted as part of the Hiring Incentives to Restore Employment (HIRE) Act of March 2010. The intent behind FATCA is to help the US Internal Revenue Service “combat tax evasion by US persons holding investments in offshore accounts.” FATCA imposes a 30 percent withholding tax on an expansive list of payments to non-participating foreign financial institutions and other payees that are not FATCA compliant.

The impact of the Protocol is to place the FATCA withholding tax burden on the recipient of the payment by eliminating this tax from the definition of “Indemnifiable Tax” in the ISDA Master Agreement. The rationale is that the recipient is the sole party that has the ability to avoid the withholding tax by complying with the FATCA rules; therefore, the recipient should be the party burdened with the FATCA withholding tax if it chooses to not comply.

The Protocol is open for adherence as of August 15, 2012 and is open to ISDA members and non-members alike. The text of the Protocol and a link to adhere to the Protocol as well as guidance on the mechanics of the Protocol, answers to frequently asked questions and details on adherents, are available on the [Protocol Management section](#) of ISDA’s website.

Additional information regarding FATCA, including answers to frequently asked questions and ISDA FATCA Market Education Note on the US Foreign Account Tax Compliance Act is available on the [FATCA section](#) of ISDA’s website.

For Media Enquiries, Please Contact:

Lauren Dobbs, ISDA New York, +1 212 901 6019, ldobbs@isda.org
Rebecca O’Neill, ISDA London, +44 203 088 3586, roneill@isda.org
Donna Chan, ISDA Hong Kong, +852 2200 5906, dchan@isda.org

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About ISDA

Since 1985, ISDA has worked to make the global over-the-counter (OTC) derivatives markets safer and more efficient. Today, ISDA is one of the world's largest global financial trade associations, with over 835 member institutions from 59 countries on six continents. These members include a broad range of OTC derivatives market participants: global, international and regional banks, asset managers, energy and commodities firms, government and supranational entities, insurers and diversified financial institutions, corporations, law firms, exchanges, clearinghouses and other service providers. Information about ISDA and its activities is available on the Association's web site: www.isda.org.

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