



**To the members of the  
European Federation of Building Societies**

Brussels, 6 March 2012

AG

**Foreign Account Tax Compliance Act (FATCA):  
Reply of the European Commission to the EFBS letter of 14 December 2011**

Dear member,

Please find enclosed the reply of the European Commission of 1 March 2012 to a letter of the EFBS sent on 14 December 2011 concerning the extra-territorial application of the US Foreign Account Tax Compliance Act by the Bausparkassen. As a follow up of a discussion in the Legal Committee of the EFBS in Bratislava on 20 October 2011, EFBS kindly asked the European Commission to advocate an exemption of the Bausparkassen of the requirements of FATCA for Foreign Financial Institutes next to the US Internal Revenue Service.

The DG Taxation and Customs Union of the European Commission has informed us about the international agreement which five EU Member States (DE, ES, FR, IT, UK) intend to work out during the upcoming months and which shall be transposed via complementing intra-national regulations in order to make the establishment of agreements in between European financial institutions and the Internal Revenue Service superfluous. According to this joint statement financial institutions in these Member States would be authorized to transfer the information requested by FATCA directly to the national tax authority. The latter would then forward the information to the IRS (Internal Revenue Service).

The European Commission has the intention to advocate the adoption of the government-to-government approach by other member states and therefore recommends to the Bausparkassen to ask at the national tax authority whether the adoption of the bilateral statement is planned or is already applied and if so, whether the Bausparkassen can be included in a list of "deemed compliant" attached to the joint agreement.

In addition, the European Commission refers to the draft proposed regulations of the US Treasury/ IRS published on 8 February 2012 and functioning as a guidance for the implementation of FATCA. These would inform about the categories of foreign financial institutions which will be considered as "deemed compliant" by the IRS. Furthermore, the definition of accounts was refined in order to focus on the traditional bank accounts and brokerage accounts. Savings accounts which comply with certain criteria would be exempted (pp. 287-288).

We will provide you with the planned international agreements with the US as soon as

they are available.

For further questions, please do not hesitate to contact us.

Yours sincerely,



Andreas J. Zehnder  
Managing Director  
European Federation of Building Societies

**Annex**

- Reply of the European Commission
- "Proposed Regulations"