



September 21, 2021

Submitted via Federal eRulemaking Portal

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Internal Revenue Service
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RE: IRS Electronic-Filing Requirements for Specified Returns and Other Documents, REG 102951-16 (the “Proposed Regulations”)

The Investment Industry Association of Canada (the “IIAC”) is the national association representing the investment industry’s position on securities regulations, public policy and industry issues on behalf of our 115 IIROC-regulated investment dealer members in the Canadian securities industry.¹ Numerous U.S. tax rules and regulations have international reach and require foreign entities to report, withhold and remit to the U.S. Internal Revenue Service (“IRS”). Many IIAC dealer members are qualified intermediaries (“QIs”) or are financial institutions (“FIs”) that are otherwise involved in transactions that require withholding, reporting and filings to be submitted to the IRS.

We support the objectives of the Proposed Regulations to require filers, including corporations, to file certain forms electronically. IIAC dealer members already file their Forms 1042-S, 1099s electronically. The volume of information returns that these dealers are required to file with the IRS necessitates the use of electronic filings.

We do not have any comments on the Proposed Regulations, however, we are concerned that recently announced changes to the “filing information returns electronically” (“FIRE”) application process for users will negatively impact the success of the Proposed Regulations, as it will add onerous requirements for QIs and foreign FIs that have filing obligations to the IRS. If implemented as drafted, a significant number of QIs and foreign FIs would not be able to file Forms such as the 1042-S and 1099 electronically, as required under the Proposed Regulations.

In a July 26, 2021, IRS release², it was announced that the new online Information Returns (“IR”) Application for Transmitter Control Code (“TCC”) was scheduled to become effective on September 26, 2021. New users will be required to authenticate their identities and create a new IRS Secure Access account in order to apply for a TCC, which is required to complete IRS filings electronically.

¹ For more information visit, <http://www.iiac.ca>

² <https://content.govdelivery.com/accounts/USIRS/bulletins/2ea1ae9?reqfrom=share>

The new process will require QIs or FIs with IRS filing obligations to have a U.S. TIN, U.S. phone number, a U.S. financial account etc., in order to obtain a login for the FIRE system. Access to the FIRE system is essential for these dealers to be able to submit required electronic filings and to request automatic extensions from the IRS. QIs and foreign FIs will not be able to obtain a TCC and correspondingly would not be able to file their Form 1042-S, 1099s, etc.

This is a significant concern for these dealers as it impacts their ability to comply with their IRS filing requirements. In particular, QIs have substantial compliance requirements related to filing certain returns in a timely manner. Due to the volume of records filed, and the Proposed Regulations requiring electronic filing of certain Forms, these dealers need to have access to the FIRE system.

Further, for existing users, the IRS will be requiring revalidation of their TCCs in late summer to early fall 2022. This is not feasible for our members given the new requirements, as they will not be able to access FIRE. The same issue with respect to the requirements for new users to have a U.S. TIN, U.S. phone number, U.S. financial account and other personal information will apply to prevent revalidation for existing users.

Our members are not aware of any vendor or technology solutions at this time that address the new FIRE requirements. It is very important to QIs and FIs that have IRS filing obligations to ensure they have access to electronic IRS filing systems in order to fulfill their regulatory obligations in a timely and efficient manner.

We understand the need to improve security requirements related to accessing the FIRE system, however, we believe that accommodations are necessary for foreign filers and can be made without compromising the security objectives. We would appreciate ongoing dialogue with foreign financial industry participants to develop potential solutions.

If you need any clarification or have questions regarding this letter, we kindly ask that you contact the undersigned at awalrath@iiac.ca. Thank you.

Sincerely,

Investment Industry Association of Canada

cc.

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