

27.4.2012

Ilkka Holmström/Legal Adviser

Internal Revenue Service

CC:PA:LPD:PR (REG-121647-10)
Room 5205
Internal Revenue Service
PO Box 7604
Ben Franklin Station, Washington
D.C. 20044

Re: Foreign Account Compliance Tax Act/classification of certain entities under the proposed regulation

Dear Sirs,

This electronic letter ("**Letter**") is sent by the Finnish Pension Alliance TELA, an advocacy body representing pension institutions providing statutory earnings - related pensions in the Republic of Finland ("**Finland**"). The represented institutions (the "**Institutions**") are listed individually in schedule 1 to this Letter. The Institutions include entities established and operating in three different legal forms: 1) mutual and non-mutual pension insurance companies 2) profession-/occupational branch - related pension funds and 3) public sector pension institutions. Regardless of the legal form, each Institution is regulated by parliamentary legislation and adheres to the pension scheme of Finland.

The pension scheme is a part of the social security in place in Finland and is further in scope of the European Union ("**EU**") co-ordination rules pertaining to social security (Regulation 883/04). Participation to the scheme is mandatory for each employee employing employers under the jurisdiction of Finland. The contributions to the pension assets and benefits paid to the beneficiaries are legislative by nature. No individual accounts exist for employers or employees, and no individual shares of the accrued funds can be withdrawn by employees or employers. Private sector employers have the option of choosing neither to contribute payments to any pension company/fund, or to establish a separate employer-funded fund, or join any one of the existing occupational/branch-related pension funds. The pension benefits are compensated in accordance with legislation, the most numerous reason for benefit payments being pensionable age.

Assets under management (AUM) of the Institutions total approx. EUR 136.3 billion (Q4/2011), which sum further represents ca. 71 % of the gross national product of Finland (measured at calendar year 2011). As the assets have been allocated and diversified by investment instrument and geographical location, a specific part of the assets has been invested to the United States of America (the "**USA**") or entities established in the USA, or indirectly via investment structures. However, no detailed breakdown of various investments can be provided, as all particulars of the strategical and tactical allocations are highly confidential by nature, and administered and planned by the Institutions as part of their investment portfolio and strategy.

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Contributions and beneficiaries

Whereas the contributions to the pension assets consist of payments from the employers, the government and the employees, the beneficiaries are solely employees. The factual pension payments are received in monthly allotments much like salary, when reaching the pension age. The employing entities have insured their employees under the compelling legislation, but they receive no compensation for the pension insurance payments. This is in part due to the nature of the pension insurance as part of the social security structure and in part due to the accruing establishment of the pension assets; i.e. the assets have been accumulated and accrued over a period of time enabling a large part of the pension benefits/payments to be paid from the annual yields of the underlying, invested funds.

Currently the employers contribute a significantly larger part to the pension contribution than the employees. However, pensions of certain professions, e.g. agricultural entrepreneurs, are regulated by differing legislation and the contribution shares vary somewhat between the various pension types. The concept of beneficiary is regardless similar in all pension types: **the actual pension receiver, i.e. the insured individual, is the sole beneficiary.** As noted, this stems from the nature of the pension payment as part of the social security and of the generality of the benefit. The coverage of the structure is virtually the entire working population, excluding state officials who have a similar pension scheme in place but managed by an entity not represented by the Alliance.

Classifications of the proposed FATCA regulation

Your attention is drawn to the proposed regulation of Foreign Account Compliance Tax Act ("FATCA") issued by the Internal Revenue Services ("IRS") of USA, and particularly, § 1.1471-6 of the proposed regulation. The detailed definition of certain retirement funds as exempt beneficial owners has been embedded in § 1.1471-6 f (i) and § 1.1471-6 f (ii). The defined retirement funds are, as exempt beneficial owners, excluded from the application of the 30 % withholding tax levied on certain payments or distribution to account holders. As we understand, investments into vehicles, entities or assets located, established or domiciled in USA and any profit, dividend or similar distributions or payments pertaining thereto shall be covered by the withholding duties of FATCA regulation. However, as certain legal entities are classified as exempt beneficial owners, **we would kindly note that the Institutions represented by us fall under the said class of entities.**

This classification has several reasons, which will be laid down here and in accordance with the qualifications put down in 1.1471-6 (f) ii. The Institutions have been established in accordance with the laws of Finland for the provision of retirement or pension benefits (1.1471-6 (f) ii (A)). The Institutions receive all of their contributions from

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government, employer or employee contributions that are limited by reference to earned income (1.1471-6 (f) ii (B)). No single beneficiary is entitled to more than five per cent of the Institution's assets (1.1471-6 (f) iii (C)). The Institutions receive over 50 per cent of their total contributions from the government and the employer (1.1471-6 (f) iii (D)). In light of these issues, we note that the Institutions should be classified as exempt beneficial owners in the context of FATCA application.

We would further be grateful if this classification could be acknowledged and evidenced with an official notice or statement in writing and duly issued by the IRS to the general public. As the Institutions hold investments with a diverse group of third party asset managers and financial actors, we would appreciate a general notice which could be referred to in particular transactions and communiques with any third parties.

Additional information and timeline

Should you have any further questions, please do not hesitate to contact us. We're more than pleased to provide you with additional information on any of the topics discussed above, especially of the particulars of Institutions and their constitution, business activities or relevant legislation. Should you also wish for a more in-depth presentation of the particulars of the pension legislation and pension asset structures in place in Finland, we're happy to deliver you more precise references and legislative material.

Further, we kindly urge you to note that since the preliminary date for the compliance agreements to be issued by the IRS and pertaining to the compliance and reporting of FFIs in FATCA regulation is in August 2012, we hope this Letter would be handled with due urgency.

Sincerely,

TYÖELÄKEVAKUUTTAJAT TELA

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