



**Vanguard®**

2 October 2012

Mr Tony McDonald  
Manager  
International Tax Treaties Unit  
International Tax and Treaties Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Level 34  
Freshwater Place  
2 Southbank Boulevard  
Southbank, VIC 3006  
Australia

Phone: +61 3 8888 3888  
Fax: +61 1300 765 712

vanguard.com.au

By email to: [taxtreatiesunitconsultation@treasury.gov.au](mailto:taxtreatiesunitconsultation@treasury.gov.au)

Dear Mr McDonald

**Re: Intergovernmental Agreement to Implement FATCA**

Vanguard Investments Australia Ltd (**Vanguard**) appreciates the opportunity to comment on the advantages of Australia and the United States entering into an intergovernmental agreement (**IGA**), based on the published Model I IGA.

Vanguard is a wholly owned subsidiary of The Vanguard Group, Inc. which is based in the US and currently manages US\$2 trillion worldwide for nearly 25 million individual and institutional investors. In Australia, Vanguard has been helping investors meet their long-term financial goals with low cost indexing solutions for nearly 15 years.

There are significant advantages for Australian investors and Australian financial institutions for the Australian Government to enter into an IGA with the US. The primary objective of the Foreign Account Tax Compliance Act (**FATCA**) is to prevent US taxpayers from hiding assets offshore by requiring foreign financial institutions to provide the US Internal Revenue Service (**IRS**) with information about US taxpayers. The IRS has stated that collecting any revenue from the 30% FATCA withholding tax is not the goal of the regime. Therefore, the IGA better serves the primary purpose in a less costly and operationally burdensome manner. Under an IGA, neither Vanguard funds, as foreign financial institutions, will be withheld upon, nor will Vanguard be required to implement 30% FATCA withholding against US or recalcitrant investors in its funds.

An IGA better protects the privacy of Australians by requiring financial institutions to report tax information to the Australian Taxation Office rather than the IRS. Additionally, an IGA would provide for less onerous customer identification procedures and is better aligned with Australian law, including existing information collection requirements under anti-money laundering and counter-terrorism financing legislation.

Finally, the IGA gives the Australian Government the opportunity to specify Australian institutions and products that are considered low risk for US tax evasion in Annex II of the agreement. This could potentially remove or reduce the FATCA compliance burden for a variety of institutions and products, including potentially superannuation funds, Australian government organisations and not-for-profit organisations.

The precise drafting of Annex II to the IGA will be very important to ensure that the agreement reflects Australian laws and practice, avoids unintended consequences and takes the least burdensome approach for Australian Government, regulators, investors and businesses.

Vanguard supports the submission made by the Financial Services Council dated 28 September 2012.

Vanguard would be pleased to provide any further assistance or analysis in relation to the detail of the IGA or the impact of the IGA or FATCA more generally.

Please contact me on 03 8888 3832 or [robin.bowerman@vanguard.com.au](mailto:robin.bowerman@vanguard.com.au) if you would like to discuss this matter further.

Yours faithfully,

*Lindsay Mackay*  
*Lindsay Mackay*

p.p.

Robin Bowerman

Head of Market Strategy and Communications