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Foreign Account Tax Compliance Act ("FATCA")

WHAT IS IT?	FATCA is a U.S. tax law that attempts to prevent U.S. taxpayers from avoiding U.S. income tax by investing in the U.S. through non-U.S. financial institutions and offshore investment vehicles. U.S. and foreign managed funds, including mutual funds, funds of funds and hedge funds, venture capital and private equity funds will be impacted by the new rules. Foreign financial institutions (FFIs), such as offshore investment funds, will need to sign agreements with the IRS to identify U.S. accounts and report information about those accounts to the IRS annually to avoid FATCA 30% withholding on payments to its investors.
WHO IS AFFECTED AND WHAT WILL HAPPEN?	U.S. financial institutions (USFIs) and FFIs must report certain information to the IRS about substantial U.S. owners of non-financial foreign entities (NFFEs). U.S. entities (such as private equity funds) paying dividends, interest or realized gains will be required to withhold a 30% punitive tax if the foreign recipients of such payments (such as funds of funds or other limited partners) haven't agreed to give information about their U.S. investors or account holders to the IRS. USFIs and FFIs will also be responsible for any tax that they failed to withhold, plus interest and potential penalties.
KEY DATES	FATCA is a complex law and will take up to five years for all its provisions to become effective. January 1, 2013 – The IRS will begin accepting FFI Applications. January 1, 2014 – FATCA withholding begins.