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Financial Services Industry Facing Risks, Challenges in Legislation's Wake, KPMG Says
By Alison Bennett

The financial services industry is facing difficult issues in the wake of several measures imposing broad new compliance and reporting responsibilities on banks and broker-dealers, KPMG LLP said March 9.

KPMG, in reporting the results of a survey of mostly Fortune 1000 company executives, said it believed that the Foreign Account Tax Compliance Act (FATCA), a new requirement for cost basis reporting, and the Regulated Investment Company Modernization Act of 2010 will combine to "create significant compliance, reporting, and monitoring risks and consume resources as companies continue to move toward economic recovery."

More than two-thirds of the executives cited tax policy as "extremely," "very," or "somewhat" difficult to address, KPMG said in a news release. Scott Marcello, national leader of the firm's financial services practice, said "many new tax challenges" lie ahead.

Dodd-Frank Bill Cited.

Tax ramifications also are arising from the Dodd-Frank Wall Street Reform and Consumer Protection Act, which makes successful management of those other measures "even more challenging," KPMG said.

In the FATCA area, a Jan. 1, 2013, effective date for foreign banks to disclose U.S.-owned accounts to the Internal Revenue Service is approaching swiftly, KPMG said. Mark Price, the firm's banking and finance practice national leader, said the new requirements would affect all disciplines and processes.

Washington National Tax principal Laurie Hatten-Boyd said the measure (Pub. L. No. 111-147) broadens the scope of what is considered a foreign financial institution well beyond a traditional view, to include hedge funds, private equity funds, other collective investment vehicles, and some insurance companies.

The Dodd-Frank legislation (Pub. L. No. 111-203) has significant tax implications, according to both Marcello and Viva Hammer, a principal in the Washington National Tax practice. "Clearly, we are going to see a change in the tax treatment of derivatives, but there will also be tax-related issues arising from new bank capital requirements, securitization reform, reorganizations in the structure of financial services groups, and even 'say on pay,' " Hammer said.

Cost Basis Reporting Discussed.

Moving to new requirements on cost basis reporting for mutual funds, stock brokers, and others, Deanna Flores, also a principal in the Washington National Tax Practice, said the mandate in the Emergency Economic Stabilization Act of 2008 (Pub. L. No. 110-343) represents a "significant departure" that makes securities classification a critical issue.

"The first effective date applies to equities acquired on or after Jan. 1, 2011, so [chief financial officers] and tax directors should already be taking action," Flores said.

Another major measure that taxpayers need to watch carefully is the Regulated Investment Company Modernization Act (Pub. L. No. 111-325), KPMG said. "This law represents the most comprehensive tax changes for the RIC industry in decades," Jeffrey Sion, KPMG's investment management practice national tax leader, said.

Finally, Glenn Mincey, a principal in KPMG's private equity and M&A tax practices, pointed out a carried interest proposal in President Obama's fiscal year 2012 budget and said the alternative investment industry should monitor this issue closely.