

New Regulations Address Withholding on “Dividend Equivalents”

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Section 871(m) of the Internal Revenue Code, enacted in 2010, imposes withholding tax on, among other things, “dividend equivalents” paid to foreign counterparties pursuant to “specified notional principal contracts” (“specified NPCs”). Temporary Treasury regulations released yesterday extend the currently operative definition of a specified NPC through the end of 2012. For payments beginning on January 1, 2013 (including on instruments entered into prior to that date), proposed Treasury regulations, also released yesterday, would among other things revise the definition of a specified NPC substantially and extend withholding under Section 871(m) to dividend-equivalent payments on a variety of equity-linked instruments other than swaps.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

Samuel Dimon

+1 212 450 4037
sam.dimon@davispolk.com

Michael Farber

+1 212 450 4704
michael.farber@davispolk.com

Lucy W. Farr

+1 212 450 4026
lucy.farr@davispolk.com

Po Sit

+1 212 450 4571
po.sit@davispolk.com

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