

Advisory Group on Market Infrastructures for Securities and Collateral (AMI-SeCo)¹

the Chair

Mr Thomas Wieser

Chair

ECB-UNRESTRICTED

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Mr Peter Praet

09.04.01.01/2019/005141

Sub-Chair (and chair of subgroup 2 on capital markets architecture)

Contact person: G Koczan

Ext.: 8036

High-level Forum on Capital Markets Union

E-mail: gergely.koczan@ecb.europa.eu

sent via email

Expressing strong support for harmonising withholding tax procedures in the European Union

Dear Mr Wieser, dear Mr Praet

I am writing to you in my capacity as chair of the Eurosystem's Advisory Group on Market Infrastructures for Securities and Collateral (AMI-SeCo). The AMI-SeCo represents a wide community of financial market stakeholders including national and international Central Securities Depositories (CSDs), market participants, Eurosystem central banks and industry associations. In addition to fulfilling its governance responsibilities with respect to the Eurosystem's TARGET2-Securities service (T2S), the AMI-SeCo focuses on fostering harmonisation of securities settlement and post-trade services in Europe. For example, the AMI-SeCo (and its predecessor T2S Advisory Group) has been actively engaged in creating, implementing and maintaining harmonisation standards in many areas of post-trade services, including securities settlements, corporate actions and collateral management services, as well as fostering a common adoption of ISO20022 messaging. The common position of the T2S community was also represented in the work of the European Post Trade Forum (EPTF) in 2016-17.

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Throughout its work, the AMI-SeCo community has been giving close attention to the need for harmonising withholding tax (WHT) procedures across EU Member States. In their December 2019 meeting, AMI-SeCo members reiterated that WHT procedures continue to constitute a critical barrier to further integration of the European post-trade landscape. In addition, AMI-SeCo members recalled that WHT processes and

Address

European Central Bank
Sonnemannstrasse 20
60314 Frankfurt am Main
Germany

Postal address

European Central Bank
60640 Frankfurt am Main
Germany

Tel.: +49 69 1344 0
E-mail: info@ecb.europa.eu
www.ecb.europa.eu

¹ The AMI-SeCo is a market advisory body to the Eurosystem consisting of market stakeholders relevant in the post-trade industry. The views and positions of the AMI-SeCo do not necessarily reflect the views and positions of the European Central Bank.

procedures are closely related to corporate actions, i.e. an area in which the AMI-SeCo has worked out, and is now monitoring the implementation of detailed market standards applicable to the T2S markets with currently 21 European CSDs participating in T2S.

In the recent past, the AMI-SeCo undertook several activities related to WHT procedures:

- In 2016, the predecessor of the AMI-SeCo, the T2S Advisory Group, conducted a detailed survey of national WHT procedures and put forward, based on its own analysis of the findings, concrete recommendations on standardising WHT reclaim forms as well as treating market claims as indemnities from a tax law perspective.
- In 2018, the AMI-SeCo sent a letter to the European Commission in which it welcomed the finalisation of the European Commission's WHT Code of Conduct addressed to Member States, re-iterated its call for a harmonised WHT procedures landscape, highlighted areas for further work, and offered its full support for further harmonisation work in this area.
- In 2019, the AMI-SeCo's Collateral Management Harmonisation Task Force set up a dedicated expert group on harmonising tax procedures, which is actively working on identifying further avenues for standardising WHT procedures also relevant in a collateral management context.

Considering that harmonised and standardised WHT procedures are very critical for a level playing field, an efficient functioning of financial markets, and an attractive environment for cross-border and cross-regional investments into Europe, AMI-SeCo stakeholders believe that progress in this area can make a major contribution to achieving the objective of a true Capital Markets Union. Therefore, the AMI-SeCo very much urges the High-Level Forum to attach great importance to this matter and to reiterate the need for rapid, pragmatic and effective progress in this area.

The June 2018 AMI-SeCo letter (referred to above and attached hereto) already contained various suggestions for immediate next steps (a common approach for the taxpayers' identification, a harmonised process for certification of tax residence, a consistent application of the record date principle, standardised electronic forms and online data exchange procedures). These aspects should now form the basis of concerted and focused action by Member States' Tax Authorities, in coordination with the European Commission and in line with the principles contained in the WHT Code of Conduct, aiming at the development of the European capital markets architecture.

I would like to convey to you and the members of the High-level Forum and, in particular its subgroup 2 on capital markets architecture, the AMI-SeCo's full support in this regard. The AMI-SeCo stands ready to provide its continued support with respect to fostering harmonisation of WHT procedures across Member States and

to provide additional technical and operational expertise from the entire community of financial market stakeholders represented in the AMI-SeCo.

Yours sincerely,

Ulrich Bindseil

Chair of the AMI-SeCo

Encl.:

Letter from the AMI-SeCo to the European Commission on harmonising withholding tax procedures, June 2018