



EUROPEAN CENTRAL BANK

EUROSYSTEM

# Improvement of Taxation Processes

CMH-TF

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29/09/2020

Single Collateral Management Rulebook for Europe  
common rules for managing collateral



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# Introduction

A [new CMU action plan](#) was announced on September 24th 2020 by the European Commission (EC), which aims to tackle key remaining obstacles to market integration and includes Taxation processes (e.g. “Taxation can present a serious obstacle to cross-border investment. [...] A significant burden ascribed to taxation is caused by divergent, burdensome, lengthy and fraud-prone refund procedures for tax withheld in cases of cross-border investment.”)

**Action 10:** *In order to lower costs for cross-border investors and prevent tax fraud, the Commission will propose a common, standardised, EU-wide system for withholding tax relief at source.*

- This takes on board the recommendations made by the High-level Forum on the Capital Markets Union and is in line with “Harmonisation of Tax Processing – Discussion Note”, issued by the T2S Advisory Group in 2016.

# Introduction

## Invitation to discuss

If/how the collateral management industry could formulate recommendations to improve the efficiency of tax collection and reclaim processes, e.g.:

- best practices focussing on harmonised processes and practices and taking into account collateral management.
- contribute on documenting the existing good practices of selected countries

# Harmonisation of Tax Processing

## Problem definition – lack of harmonisation of tax processes

- Very little harmonisation with respect to the processing of the tax on interest and dividend payments
  - Holder of securities from 27 EU countries is faced with 27 different processes
  - Collateral provider or receiver (of European securities as collateral) may have to manage up to 27 separate tax procedures
- Many tax procedures are costly, lengthy and burdensome
  - Tax procedures relating to payments on securities positions that have provided as collateral, or that have been lent, are particularly diverse and complex.

# CMH-TF work

## Work of the CMH-TF

Barriers and obstacles still exist, given fragmented legacy standards, structural constraints and complex and diverse market practices (2017).



# Investor identification



- Investor entitlement: based on the number of shares held at close of business on record date at the issuer CSD
- Cascade down the custody chain



- Across Europe, there is great diversity in the national definitions of who is the “legal owner” or “shareholder” of a security.
- HLF identified this diversity in national definitions as being a significant problem



- Activity of collateral provision (short term transfer)
- Should be based on the tax status of the collateral giver (and not collateral taker) & avoid misuse



# Focus of work

## Need for two sets of rules:

1. Process for determining who is the “investor” for tax purposes.
  - the end investor is always the “investor” for tax purposes,
  - except in a limited set of circumstances in which a collateral giver will be treated as the “investor”, and not a collateral taker.
2. Process for determining if the “investor” is “eligible” for the tax on that payment to be withheld at a rate based on its tax status of the “investor”.
  - “investors” should be “eligible” to benefit from their own tax status,
  - except if they are holders of securities in which they have no economic interest, and/or which they hold only for a short period of time.

# Next steps

## 1. Detailed drafting of these two sets of rules

Who is the investor? Is the investor entitled to tax benefits?

## 2. Comparison of these draft rules with existing best practices applicable in EU and non-EU countries

Selected EU country and e.g. Japan and US

### *Consider*

- *The activities that can be identified by the different transactions types.*
- *Barriers to collateral mobility in some EU markets.*