



EUROPEAN CENTRAL BANK

EUROSYSTEM



Collateral Management Harmonisation

**Survey on tax processes and
workflows**

CMH-TF

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Harmonisation of taxation processes and workflows

AMI-SeCo/CMH-TF identified the need to harmonise taxation processes and the related collateral management activities involving collateral givers (CG) and collateral takers (CT) (see [Report on Collateral Management Harmonisation](#)).

- *Operational* barriers related to taxation processes, messaging and workflows *between CT and CG*, which could restrict the use of collateral.
E.g. Interaction between Eurosystem NCB (collateral taker) and a counterparty (collateral giver).
- *Substitution* of collateral could avoid complex tax processing. However, it *is not always possible* to substitute on time (and substitution restricts collateral usage)
E.g. if a corporate action event is announced with a past record date.

Harmonisation of taxation processes and workflows

Eight topics for harmonisation of taxation processes (from CMH-TF [Report on Collateral Management Harmonisation](#)):

1. *Identification of Existing Differences per Market Relevant to Collateral Management*
2. *Identification of Collateral Transaction (and Relevant Parties) for Taxation Purposes*
3. *Identification of Tax Treatment of Securities Depending on Collateral Transaction Type*
4. *Provision of Tax Service by (I)CSDs*
5. *Identification of Securities Subject to Withholding Tax*
6. *Transmission of Information on Counterparty Taxation Status to Local (I)CSD*
7. *Tax Reclaim Process for Securities Used as Collateral*
8. *Handling of Tax Reduction.*

Survey on harmonisation of taxation processes and workflows

A survey was sent to ECSDA (for CSD feedback by 19 October 2018), which pursued the following three objectives:

- Establish an **overview of requirements** in tax forms for collateral subject to EU and US tax (item 1).
- Clarify how to **identify the CG/CT** in taxation processes (topics 2 and 3 below) and the information that is needed by CG/CTs (i.e. the CG/counterparty's instruction message should identify the CG as entity that needs to provide tax status information to the CT/NCB).
- Establish **harmonised procedures and workflows** for taxation processes based on the usage of ISO 20022 messaging (topics 4 to 8).

1) Existing Differences per Market

Process		Harmonisation Need
Identification of Existing Differences per Market Relevant to Collateral Management	Identification of differences per market which may impact the use of certain securities as collateral. An overview is needed to identify the differences and the common issues before analysing the possibilities to standardise processes.	There is a need to create a comprehensive map which should show the different national withholding tax requirements and the (I)CSD processes per market.

Overview to be established of **need for forms**:

- No taxation form (no information) is needed for eligible bonds issued in certain countries/markets.
- Taxation form (information) is needed for eligible bonds issued in certain other countries/markets.

1) Existing Differences per Market

Overview to be established **of the operational requirements.**

- CT need to obtain forms/information from the CG:
 - In a bilateral SFT/repo, the CT need to obtain information/certificates from CG
 - In a triparty SFT/repo, the TPA would normally substitute the securities before the payment
- CT need to receive/provide forms/information to:
 - Agents
 - (I)CSDs
- CT need to transfer the relevant amount to the CG:
 - the CT must transfer the cash (received from agent/(I)CSD) to the CG
- CT need for breakdown of information and/or the disclosure of Beneficial Owner (BO).

2) Identification of Collateral Transaction/Relevant Parties

Process	Process Description	Harmonisation Need
Identification of Collateral Transaction (and Relevant Parties) for Taxation Purposes	Identification of all parties to a collateral transaction together with their tax status for the purposes of managing the related tax processes.	There is a need to identify all parties to a collateral transaction together with their tax status for the purposes of managing the related tax processes.

Further analysis is needed to confirm if the harmonised application of COLI/COLO and identifiers could facilitate tax processing

- For identifying CG/CT in collateralised transactions (and/or facilitating the determination of the tax status of CG).*
- The analysis should also take into account the regulatory requirements on the (future) need for using codes in the CSDR ITS and/or and SRD2 for collateral management.*

3) Collateral Transaction Type

Process	Process Description	Harmonisation Need
Identification of Tax Treatment of Securities Depending on Collateral Transaction Type	Identification of differences in the tax treatment of securities when used as collateral, for example, securities used in a Repo or securities lending transaction could have a different treatment than the ones used for sell or purchase.	There is a need to identify the collateral transaction type (e.g. using existing ISO transaction types such as Reverse Repo (RVPO), Sell Buy Back (SBBK)) and standardise tax processing procedures for securities used as collateral.

Further analysis is needed to confirm if the on the consistent usage of transaction type codes could facilitate tax processing (also in view of the CSDR ITS that will be implemented by (I)CSDs).

4) Provision of Tax Service by (I)CSDs

Process	Process Description	Harmonisation Need
Provision of Tax Service by (I)CSDs	Identification of differences in the tax services provided by CSDs together with the potential impact on the usage of certain assets as collateral in certain markets.	There is a need to further analyse how the tax service offered by the various CSDs impacts the tax handling of securities used in collateral management operations across different CSDs.

Overview

- Tax services by (Issuer) CSD
- No tax services (CSDs do not act as withholding tax agents)
- *The CSD always transfers*
 - *net proceeds*
 - *gross proceeds*

5) Identification of Securities Subject to Withholding Tax

Process	Process Description	Harmonisation Need
Identification of Securities Subject to Withholding Tax	Identification of the securities used in a collateral transaction which are subject to withholding tax.	There is a need to be able to identify counterparty holdings (securities) subject to withholding tax in advance of the record date of a corporate action event.

Overview: Four types of data on securities subject to withholding tax should be handled by CT

- (i) Data on security (notification);
- (ii) Data on beneficial owner of securities;
- (iii) Data tax status related to securities, and
- (iv) Data on allocation information (i.e. to identify which part of the holding of an ISIN on an omnibus account belongs to which counterparties/beneficial owners and which tax rate is applicable to the proceeds for each part of the holding).

6) Workflow

Process	Process Description	Harmonisation Need
Transmission of Information on Counterparty Taxation Status to Local (I)CSD	There is a requirement for the collateral taker to pass on relevant information on a counterparty's tax status to the local (I)CSD.	There is a need to define a standardised workflow using ISO 20022 messages to transmit relevant information on a counterparty's tax status to the local (I)CSD. It should be analysed to what extent there are requirements to send paper documentation

6) Workflow

1. CT checks whether an asset that is being mobilised is subject to withholding tax;
2. CT checks if it received a tax document ;
3. CT receives from the local (I)CSD [agent] a request for tax-related information;
4. When the CT receives a corporate action notification/reminder message from the (I)CSD [agent], the CT passes on the message to CG;
5. If needed, the CG provides the requested information to the CT;
6. CT [agent] indicates whether the CT can act as a qualified intermediary (QI) for a particular jurisdiction;
7. CT provides the tax information to the (I)CSD [agent] ;
8. CT receives a cash payment .

7) Tax Reclaim Process

Process	Process Description	Harmonisation Need
Tax Reclaim Process for Securities Used as Collateral	Identification of differences in the tax reclaim process for collateral.	There is a need to implement a harmonised workflow to manage the tax reclaim process.

Overview:

- *The CG always submits the refund request to CT which will then forward the refund request to its local (I)CSD/agent/tax authorities.*
- *The refund is then paid by the (I)CSD/agent/tax authorities to the CT's account, after which the handling by CT of the amount refunded is similar to that of a standard pay out of proceeds to the CG*

8) CA events for tax reduction

Process	Process Description	Harmonisation Need
Handling of Tax Reduction	Identification of differences in rules for the handling of reduction in withholding tax depending on -market (issuer country) -security (e.g. government bond, corporate bond) -issuer	There is a need to further analyse the differences which exist in the handling of reductions in withholding tax with a view to determining whether a harmonised workflow can be put in place

Overview:

CERT	Non-US TEFRA D Certification	Non-US beneficial owner certification requirement for exchange of temporary to permanent notes.
TREC	Tax Reclaim	Event related to tax reclaim activities.
WTRC	Withholding Tax Relief Certification	Certification process for withholding tax reduction or exemption based on the tax status of the holder.