

THE ASSOCIATION OF GLOBAL CUSTODIANS

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HSBC SECURITIES SERVICES
J.P. MORGAN
NORTHERN TRUST
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SKANDINAVISKA ENSKILDA BANKEN
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3 September 2015

VIA E-MAIL

Ms. Judith Herdin-Winter
Federal Ministry of Finance
Deputy Head of Division
Division VI/8 – International Tax Law
Johannesgasse 5, 1010 Vienna
Austria

Re: Tax Reclaim Services on Austrian Dividend Payments

Dear Judith,

The member banks of the Association of Global Custodians (“AGC” or “Association”)¹ would like to take this opportunity to communicate to you certain concerns we have about recent developments in the procedures for claiming treaty relief from Austria with respect to withholding tax on cross-border investment flows. Specifically, we refer to the “questionnaire” which all treaty claimants must now file to obtain treaty reclaims.

In providing global custody services, AGC members routinely seek appropriate withholding tax relief on behalf of custody clients. We typically process millions of such relief claims in the aggregate each year, affecting substantial amounts of cross-border portfolio investment flows in and out of countries worldwide, including Austria. As such, we experience on a daily basis the costs, inefficiencies, and excessive withholding that arises when the procedures for claiming lawful relief are unduly burdensome or complicated for the investors involved. The Association makes every effort to work with tax authorities around the world to identify and find ways to minimize problems arising from unduly complex withholding tax relief procedures.

¹ The Association is an informal group of 11 member banks that provide securities safekeeping and asset serving functions to cross-border institutional investors worldwide. Members provide custody-related services to most types of institutional investors, including investment funds, pension funds, and insurance companies.

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It is in this context that we wish to fully endorse the recent letter dated 19 June 2015 submitted by the British Bankers Association (BBA) requesting clarity on a number of open market issues which are preventing cross-border investors from filing reclaims in Austria with confidence around the full process.

The open points highlighted by the BBA are also providing operational difficulties for Global Custodians in implementing processes and procedures for filing reclaims on behalf of our clients. The AGC would kindly urge the BMF to look into these unresolved issues as soon as possible. This is to prevent any erroneous filing by cross-border investors. This could lead to incorrect filing and have the unintended consequence of additional work for the Austrian Tax Authorities with legitimate claims being rejected due to interpretation of the rules absent further guidance.

* * * * *

The Association members very much appreciate your willingness to consider the views expressed in this letter. We would be pleased to provide further information upon request in relation to the concerns we have raised.

Sincerely yours on behalf of the Association,

A handwritten signature in black ink that reads "Mary C. Bennett". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Mary C. Bennett
Baker & McKenzie LLP
Counsel to the Association

cc: Dr. Heinz Jirousek, Head of the Division VI/8 for International Tax Law
Dr. Herwig Heller, Head of the Anti-Fraud Division IV/3 of the Ministry