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Euro Tax Flash from KPMG's EU Tax Centre

Council agrees on new rules for harmonized withholding tax procedures in the EU (the FASTER Directive)

Issue 541

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Key Summary:

The Council of the European Union reached agreement (general approach) on the FASTER Directive proposal. Key features include:

- a common EU digital tax residence certificate, which will comprise of common content, regardless of the issuing Member State;

- two fast-track procedures complementing the existing standard refund procedure in each Member State, including: (i) a relief at source system, and (ii) a quick refund system. In-scope Member States will be required to implement one of the two systems (or a combination of both);

- the introduction of National Registers for financial intermediaries that will be able to facilitate the fast-track procedures. Such financial intermediaries will be subject to additional due diligence and common reporting requirements.

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Council of the EU – Fair taxation – Faster and Safer Relief of Excess Withholding Taxes – FASTER – Withholding Taxes – Dividends – Interest

On May 14, 2024, the Economic and Financial Affairs Council of the EU (ECOFIN) reached agreement (general approach) on the proposal for a "Faster and Safer Relief of Excess Withholding Taxes (FASTER)" Directive.

Agreement (general approach) on FASTER

Formal adoption by the Council is expected once the European Parliament has given its opinion on the final text. Member States have until the end of 2028 to transpose the Directive into domestic law, with the rules to become applicable as of January 1, 2030.

The aim of the FASTER Directive is to make withholding tax (WHT) procedures in the EU more efficient and secure for investors, financial intermediaries, and local tax authorities. The Directive gives in-scope Member States a choice between implementing a quick refund system, a relief at source system or a combination of the two, as well as the introduction of additional registration and reporting requirements for financial intermediaries. The agreed text includes significant changes as compared to the initial proposal issued by the European Commission (EC or Commission), as detailed below.

Background

On June 19, 2023, the EC issued a proposal for a Council Directive providing for "Faster and Safer Relief of Excess Withholding Taxes (FASTER)"[1].

The text of the FASTER proposal has been subject to lengthy discussions in the Council working groups. Throughout 2023 and 2024, the Spanish and Belgian Presidencies of the Council consistently prioritized the file, proposing multiple compromise texts.

In parallel, the European Parliament adopted on February 28, 2024, its non-binding opinion on the FASTER proposal[2], including several amendments to the text proposed by the EC. For more information on the European Parliament opinion, please refer to E-News Issue 192.

Summary of key differences in comparison to the initial EC proposal

The agreed compromise text includes several amendments to the initial text proposed by the EC. Key differences include:

Significant changes to the initial proposal

- amendments to the rules in respect of issuance of the digital tax residence certificate (eTRC). The changes include, amongst others: an increased deadline for Member States to issue the certificate (14 calendar days as compared to one day in the initial proposal), a shorter validity of the eTRC (the maximum validity period has been set as the calendar year, contrasting with the initial proposal where the calendar year was the minimum validity period), and a requirement to include a reference to the applicable double tax treaties;
- the possibility of maintaining Member States' current systems of WHT relief, under specific conditions;
- in the context of the 'quick refund' procedure, longer deadlines for Member States to refund any overpaid taxes (60 calendar days starting from the second month following the month of the payment as compared to 50 calendar days in the initial proposal);
- significant revisions to the list of circumstances under which Member States may exempt requests for WHT relief from the fast-track procedures. All circumstances are now discretionary, and the list has been considerably expanded. Furthermore, the definition of the term 'financial arrangement' has been enhanced with additional clarifications, and the recitals have been revised to incorporate a non-exhaustive list of what may constitute a 'financial arrangement';
- the establishment of a European Certified Financial Intermediary Portal, aimed at serving as a single electronic access point for financial intermediaries. Additionally, clarifications are provided regarding

[1] For more information on the initiative, please refer to Euro Tax Flash Issue 517 and for the feedback provided by the KPMG member firms in the EU please refer to Euro Tax Flash Issue 524.

[2] Opinions adopted by the European Parliament under the special legislative procedure (which is the procedure applicable in the case of the FASTER proposal) are not binding on the Council and European Commission, therefore the adoption of any of the abovementioned changes requested or suggested by the European Parliament are at the discretion of the two institutions.

instances where Member States are permitted to reject registration or remove certified financial intermediaries (CFIs) from National Registers;

- new provisions allowing CFIs to assume the position of non-certified intermediaries, to facilitate the application of the relief and complete the information that must be reported to the tax authorities;
- amendments to the scope of information to be reported by CFIs and the due diligence procedures to be conducted by them. Notably, CFIs are required to obtain a declaration that the investor is entitled to the relief of withholding tax according to the legislation of the source Member State or a double tax treaty and, when required by the source Member State, is the beneficial owner with respect to the dividend or interest payment in accordance with the national legislation of the source Member State or a double tax treaty as described by the Commentary on Article 10 or Article 11 of the OECD Tax Model Convention. Source Member States therefore have the option to request the declaration on beneficial ownership, as opposed to this declaration being mandatory in all cases. The simplified processes for small investors (dividend payments below the EUR 1,000 threshold) – in terms of related verification and reporting requirements to be conducted by CFIs, has been eliminated;
- new special provisions governing indirect investments;
- amendments to the provisions on late payment interest, liability, personal data protection and on evaluation of the future Directive. Notably, revisions were made to the wording concerning the civil liability of CFIs, with the aim to target CFIs that fail to fulfill their obligations under the FASTER Directive either 'completely or partially' (in contrast to the original wording of 'intentionally or negligently');
- the timeline for application of the new rules (initially set for January 1, 2027) has been postponed to January 1, 2030.

Rules agreed by the Council

The FASTER Directive is structured into four Chapters that set out the rules, starting with general provisions on scope and definitions, moving to the provisions relating to a digital tax residence certificate, the withholding tax procedures and then finishing with provisions covering the transposition of the Directive into the local laws of EU Member States.

The provisions of the FASTER Directive set out under Chapter I - General provisions, Chapter II - eTRC, and Chapter IV - Penalties and final provisions will be mandatory for all Member States.

Scope

Under the compromise text, Chapter III of the FASTER Directive, which includes provisions regarding national registers of CFIs and the fast-track procedures, amongst others, will not be binding on Member States that meet the following two conditions:

Scope of the Directive

- *Comprehensive relief at source system* (with regards to dividends from publicly traded shares) – in order to be deemed comprehensive, a national relief at source system must meet specific criteria designed to ensure the straightforward and efficient application of the appropriate tax rate at the time of payment. In short, the criteria include:
    - broad access to all individuals or companies entitled to the relief. According to the Recital to the Directive, the system should apply for both direct and indirect investments;
    - effectiveness, achieved by providing actual relief at the payment date, contingent upon the timely reporting of all required information;
    - no additional entry barriers with the exception of the anti-abuse provisions outlined by the FASTER Directive;
    - no additional information requested (as compared to that prescribed under FASTER), except for circumstances falling under the anti-abuse provisions outlined in the Directive;
    - existence of a liability framework for the loss of WHT revenue;
    - penalties applicable to infringements of national provisions on that relief at source system.
- *Low market capitalization* – Member States are classified as such if their market capitalization ratio (a percentage of the overall market capitalization of the EU) remains below 1.5 percent for at least four consecutive years. Based on the Belgian Presidency explanatory note, the following 10 Member States had

a market capitalization ratio above this threshold in 2022[3]: Germany, France, Sweden, the Netherlands, Spain, Italy, Ireland, Denmark, Belgium, Finland. These Member States would therefore not have the option to not introduce the fast-track relief procedures.

Member States that fulfill the two criteria mentioned above before the transposition deadline of the Directive are exempt from the obligations of Chapter III. However, once these Member States reach or exceed the market capitalization ratio threshold for four consecutive years, they will be required to irrevocably adhere to Chapter III. In such cases Member States will have five years to transpose the rules of the Directive into national law.

EU jurisdictions that are not eligible for the exception described above, may decide to apply with respect to dividends paid for publicly traded shares either Option 1, Option 2, or both. However, such Member States will be required to ensure that at least one of the two systems is available to all investors.

Digital tax residence certificate (eTRC)

Digital tax residence certificates

The compromise text provides for a common eTRC that investors would be able to use to benefit from WHT fast-track procedures. The key features of the eTRC are:

- the eTRC will be comprised of common content, regardless of which Member State issues it;
- Member States will generally be required to issue eTRCs within 14 calendar days of receiving a request. However, if the verification process for the requester's tax residency exceeds this timeframe, the Member State is obligated to inform the individual or entity requesting the certificate of the additional time required and provide reasons for the delay;
- the common content will include information to identify the requesting taxpayer (e.g., name, tax reference number, address, etc.) and confirmation that they are resident in the Member State;
- the eTRC will also include a reference to one or more applicable double tax treaties for which a taxpayer requests to be considered resident for tax purposes (where applicable);
- the eTRC will cover a period not exceeding the calendar year or the period of a fiscal year for which is issued. However, should circumstances of the taxpayer change during the period, a Member State may deem the eTRC to no longer be valid before the period expires.

Certified financial intermediaries

Certified financial intermediaries

National registers and European Certified Financial Intermediary Portal

EU jurisdictions that are not eligible for the exception described above Member States and Member States that opt to apply Chapter III will be required to establish national registers of CFIs (National Registers). The National Registers will include information such as: name of the CFI, data of registration, contact details and website, the EUID or the legal entity identifier or any legal entity registration number (as the case might be). Member States will be required to allow CFIs to assume the obligations set out in Article 9 (Obligation to report) and Article 13a (Special provisions for indirect investments) in respect of the position of a financial intermediary that is part the securities payment chain that is not certified, provided both parties agree to it.

The National Registers will be made publicly accessible on a dedicated portal via a website of the Commission (the European CFRI Portal) and updated at least once a month.

Registration should be requested by the financial intermediary by submitting an application through the European CFI Portal, which will serve as a single-entry point. These applications will then be forwarded to individual Member States that should decide on the application for registration.

Member States will be responsible for the operation of their national registers and will make their own domestic decisions on registration, removal, rejection, suspension and finally re-registration.

Requirement to register as a certified financial intermediary

The compromise text outlines that a financial intermediary is to be considered a CFI as follows:

[3] Source: unofficial figures provided by the European Securities and Markets Authority (ESMA).

- on a compulsory basis for large institutions[4] that handle payments of dividends and, if relevant, interest on securities originating in their jurisdiction, and Central Securities Depositories that are providing WHT agent services for the same payments; or
- a voluntary basis for all other entities (including non-EU financial intermediaries) that act as financial intermediaries[5] and satisfy requirements by registering on a National Register set up in accordance with the Directive.

Registration procedure and removal from the registry

Member States will be required to process registration requests within three months of their submission. Financial intermediaries seeking registration as CFIs must provide evidence of tax residence, authorization from the competent authority to provide custodial services or act as a central securities depository, and a declaration of compliance with AML rules or comparable legislation in a third-country jurisdiction.

Financial intermediaries established outside the EU may apply for registration as a CFI if they are subject to legislation in the third country of residence that is comparable for the purposes of this Directive[6] and the third country of residence is neither on (i) Annex I of the EU list of non-cooperative jurisdictions, nor (ii) on the EU list of high-risk third countries (anti-money laundering list). If a requesting financial intermediary, residing in a third-country jurisdiction, obtains authorization under legislation not deemed comparable by a Member State, that Member State may consider this requirement as not fulfilled.

A Member State will be allowed to reject the registration of CFIs and remove CFIs when it has opened an inquiry to investigate potential tax fraud or abuse or when it has knowledge that such inquiry is conducted by another jurisdiction. Offences or infringements committed by CFIs can only be taken into account to the extent that they were committed not more than 10 years prior. CFIs whose application for registration has been rejected will be allowed to reapply for registration when the circumstances that caused it have been remedied.

Reporting

Under the compromise text Member States can choose from for two reporting options: direct and indirect.

Direct reporting involves CFIs reporting directly to the competent authority of the source Member State. Under the indirect reporting option, CFIs along the securities payment chain provide information sequentially, up to the withholding tax agent or designated CFI, which then reports to the competent authority. The information to be provided by the CFIs along the securities payment chain is limited to information regarding the recipient and the payor.

Under Article 9 of the Directive, CFIs are subject to a set of reporting obligations, including:

Reporting requirements

- information regarding the identity of the CFI, recipient and payor of the dividend or interest payment (e.g., name, address, tax reference number, etc.);
- information regarding the dividend or interest payment (e.g., security type, number of securities that give the right to receive payment – settled and pending settlement, relevant dates, amounts, the legal basis of the applicable WHT rate and total amount of excess tax to be refunded, etc.);
- information regarding the application of anti-abuse measures – the holding period of investments and the financial arrangements linked to the investments for which the taxpayer is requesting relief;
- if required by the source Member State, additional historic data regarding the transactions;
- in the case of dividend payments arising from a depositary receipt, additional information if required by the source Member State (e.g., name and identification, number of the depositary receipts and underlying shares, name of the bank in which the ordinary shares are deposited, ratio of depositary receipts to the ordinary shares, etc.).

The CFIs are required to maintain the documentation supporting the information reported for ten years.

[4] As defined in the Capital Requirements Regulation.
[5] As outlined in Article 7, para 1.
[6] Directive 2013/36/EU or Directive 2014/65/EU.

The deadline for the reporting obligation was set to elapse at the end of the second moth following the month of the payment date. The EC has been tasked to develop and adopt standard computerized forms for the reporting information above.

The reported data includes investor eligibility information limited to what is available to the reporting intermediary.

Financial intermediaries not required to register as CFIs are exempt from reporting, but their information is deemed relevant for payment chain reconstruction. CFIs can step into the role of non-certified intermediaries in the payment chain to avoid information gaps, enabling investor access to relief procedures. Outsourcing tasks related to obligations under the Directive is permitted, but the CFI remains responsible for these obligations.

Proposed WHT relief systems

The Directive will apply to in-scope Member States that provide relief for excess WHT on dividends from publicly traded shares. In addition, in-scope Member States may opt to apply the provisions of the Directive in respect of excess WHT paid on interest from publicly traded bonds. The compromise text outlines two fast-track procedures enhancing any standard WHT relief or refund procedures currently available in each Member State:

- *Option 1: Relief at source system* – under this system, the reduced (or nil) tax rate is applied at the time of dividend or interest payment.
- *Option 2: Quick refund system* – the quick refund system provides that tax is withheld at the higher rate applied in the source country, but the excess tax is refunded within a set timeframe.

Request for relief at source or quick refund

To avail of either one of the above fast-track procedures, all investors will need to engage with a financial intermediary that is certified to provide services regarding eligible payments. CFIs, maintaining the investment account of a registered owner receiving dividends distributed or interest paid will be require to request relief under one of the fast-track procedures, as applicable, if one of the following conditions are met:

New WHT relief systems

- the registered owner has authorized the CFI to request relief on its behalf;
- the CFI has verified and established the eligibility for the relief in accordance with the due diligence requirements applicable (either for direct or indirect invests, as the case might be).

Where a financial intermediary maintaining the investment account of a registered owner is not a certified financial intermediary, Member States are required to allow another CFI to request relief (if certain conditions are met).

Under the compromise text, Member States retain the option to limit the use of the new fast-track procedures with a view to preventing abusive practices. The Directive outlines specific circumstances where Member States may exclude requests for relief and perform additional checks. It should be noted that the list is not mandatory, and Member States have the discretion to decide which cases from this list are not eligible for the fast-track procedure and therefore subject to the standard refund procedure available in that jurisdiction.

The benefits of the fast-track procedures can be denied to investors where:

- the dividend has been paid on a publicly traded share that the registered owner acquired within five days before the ex-dividend date; or
- the dividend payment on the underlying security for which relief is requested is linked to a financial arrangement that has not been settled, expired, or otherwise terminated at the ex-dividend date. The compromise text clarifies that the term ‘financial arrangement’ can also relate to a series of arrangements, and covers cases where the dividend is compensated between the parties concerned. The recitals were amended to include a non-exhaustive list of what could be considered a “financial arrangement” – future contracts, repurchase transaction, securities lending and securities borrowing, buy-sell back transaction or sell-buy back transaction, derivatives, margin lending transaction and contracts for difference (CFDs); or

- at least one of the financial intermediaries in the securities payment chain is not a CFI and no CFI has assumed the position of that financial intermediary for the purpose of reporting the relevant information to the relevant tax authority; or
- an exemption of the WHT is claimed; or
- a reduced WHT rate not deriving from double tax treaties is claimed; or
- the dividend payment exceeds a specific threshold, set at EUR 100,000 (gross amount), per registered owner and per payment date. It is clarified that for collective investment undertaking (CIUs), the dividend amount is determined by the gross dividend amount per investor holding equity in the CIU. This exclusion will not apply when the entity entitled to the relief is a:
    - statutory pension scheme of a Member State or an institution for occupational retirement provision registered or authorized in a Member State[7]; or
    - a CUI established and regulated in the EU[8].

Due diligence of registered owner's eligibility

Article 11 of the Directive sets out the due diligence requirements that CFIs are subject to in relation to the registered owner's eligibility under each of the fast-track systems, including:

(i) Obtaining a declaration that the register owner:

- is entitled to relief from the WHT with respect to the dividend or interest, including the legal basis and the applicable WHT rate;
- is the beneficial owner of the dividend or interest, when required by the source Member State;
- has engaged (or not) in a financial arrangement linked to the underlying publicly traded share that has not been settled, expired, or otherwise terminated before the ex-dividend date;
- undertakes to inform the CFI on any change in their circumstances without undue delay.

The EC has been tasked with creating and adopting standard templates of computerized forms for the declaration above.

Due diligence requirements

(ii) Verifying the following information regarding their client:

- the eTRC of the registered owner or appropriate proof of tax residence in a third country. It is clarified that a tax residence certificate, which includes the mandatory content of an eTRC and meets similar technical requirements, may be recognized by the source Member State as appropriate proof of tax residence in a third country;
- for indirect investments through undertakings disregarded for tax purposes (and where the registered owner is therefore unable to obtain an eTRC or proof of residence in a third country), the documentation deemed appropriate by the source Member State;
- the register owner's declaration and tax residence, by comparing it with other the information obtained or required to be obtained by the CFI on their clients in their normal course of business – including for example information collected in order to comply with anti-money laundering (AML) obligations or similar requirements in third countries;
- the register owner's entitlement to a specific reduced withholding tax rate in accordance with a double tax treaty between the source Member State and the jurisdictions where the registered owner is resident for tax purposes or specific national legislation of the source Member State;
- in case of a dividend payment, the possible existence of any financial arrangement that has not been settled, expired or otherwise terminated at the ex-dividend date.
- in case of a dividend payment, that the underlying share has been acquired by the registered owner in a transaction carried out earlier or within a period of five days before the ex-dividend date.

[7] Registered and authorized in accordance with Article 9(1) of Directive (EU) 2016/2341.

[8] Specifically, the CUI should be an undertaking for collective investment in transferable securities (UCITS) as defined in Article 1(2) and established in compliance with Article 1(1) of Directive 2009/65/EC, an alternative investment fund established in the European Union (EU AIF), or an alternative investment fund managed by an alternative investment fund manager established in the European Union (EU AIFM) as defined in Article 4(1)(k) and Article 4(1)(l), of Directive 2011/61/EU, respectively.

Relief at source system

Under the relief at source system, the CFI maintaining a registered owner's investment account will be allowed to request relief on behalf of the registered owner by providing to the WHT agent:

i) information related to the tax residence of the registered owner, or the information referred to in the section applicable to indirect investments, and

ii) the applicable WHT on the payment in accordance with the applicable double tax treaty or national legislation.

Quick refund system

Under the quick refund system, CFIs maintaining a register's owner investment account must request the refund of the excess WHT within the second month following the month of the payment date of the dividend or interest. Member States are required to process the refund within 60 calendar days after the end of the period to request the quick refund. When refunds are not processed within these deadlines, late payment interest will be applied where national legislation includes such provisions. The CFI requesting quick refund is required to provide the following information to the relevant Member State:

- the identification of the registered owner;
- the identification of the dividend or interest payment;
- the basis of the applicable WHT rate and the total amount of excess tax to be refunded;
- the tax residence of the registered owner, including the eTRC verification code if applicable or, in the case of indirect investments, the documentation referred in the last bullet point under letter ii) above;
- the registered owner's declaration.

The compromise text clarifies that Member States retain the authority to decline relief under the quick refund system under specific conditions. These conditions include instances where the request requirements are not fulfilled or where the payment chain cannot be reconstructed. Additionally, a refund request may be declined if the Member State decides to initiate any verification procedure or tax audit based on risk assessment criteria. Such verification procedures or tax audits may be applied to any case identified as posing a risk of tax fraud or abuse.

The EC has been tasked with creating and adopting standard templates of computerized forms for the submission of requests under the quick refund system.

Standard refund system

Where the relief at source and quick refund systems do not apply, Member States must ensure that a standard refund system is in place and applcable whereby the taxpayer or its representative (not need to be a CFI), are able to directly request a refund to the tax authorities.

Provisions applicable to indirect investments

The compromise text incorporates special provisions to offer relief in scenarios where CIUs or their investors may qualify for relief, despite not being the registered owners. This situation can arise when securities are held by a separate legal entity or by a fiscally transparent CIU.

In such cases, the CFI requesting relief will be required to obtain a declaration from:

Indirect investments

- each CIU entitled to the relief or investor in the CIU entitled to the relief, as applicable, whose securities are held by the registered owner, confirming: entitlement to WHT relief as per national legislation or double tax treaties, including applicable rates; beneficial ownership, where required; that they have authorized the request for relief; and finally a waiver of the right to independently request relief;
- the registered owner, specifying applicable WHT rates for dividends or interest paid and, if needed, providing additional mandatory information (e.g., identifying the CIU for which the underlaying securities are held);
- the register owner with the information outlined under the last two bullet points under point i) above.

The EC has been tasked to develop and adopt standard computerized forms for the information above.

Civil liability for CFIs

The agreed text provides that if a CFI does not comply with its obligations under the Directive, completely or partially, the CFI can be held liable for all or part of the loss of WHT for the Member State.

Civil liability and penalties

Penalties for non-compliance

Non-compliant CFIs (including those that do not comply with registration requirements), will be subject to removal from the National Registers and/or penalties. The type and level of penalties is not provided for under the Directive, but penalties applied by Member States should be effective, proportionate and dissuasive

Evaluation

The Commission is tasked with evaluating the impact of the Directive, specifically focusing on the reporting mechanisms for CFIs and the scenario where Member States with comprehensive relief at source systems and low market capitalization choose not to apply Chapter III. A report will be submitted to the European Parliament and the Council by December 31, 2032.

Review of the Directive

The Commission will also conduct evaluations of the Directive's functionality, including potential amendments, by December 31, 2034, and subsequently every five years. Reports will be submitted to the European Parliament and the Council.

Member States will be required to provide relevant yearly statistical information to the Commission, facilitating the evaluation of the Directive's effectiveness in improving WHT relief procedures to mitigate double taxation and combat tax abuse.

Next steps

Entry into force

The Belgian Presidency of the Council clarified during the ECOFIN meeting on May 14 that once legal linguistic revisions and other procedural requirements are completed, the final text of FASTER will be sent to the Council for formal adoption. In the press release issued after the meeting, the Council, acting as a sole legislator under the special legislative procedure, indicated that the European Parliament will be consulted again on the agreed text due to the changes the Council made to the Directive during the negotiations. Once formally adopted, Member States will need to transpose the Directive by December 31, 2028. The rules will become applicable as of January 1, 2030.

ETC Comment:

The preamble to the FASTER proposal acknowledges that (i) the current disparity in WHT procedures, and (ii) the cumbersome rules, discourage cross-border investment and negatively impact the functioning of the EU capital market. Furthermore, the Impact Assessment prepared by the EC estimates the overall cost of WHT procedures to amount to EUR 6.62 billion. The European Commission's initiative was met with interest by stakeholders that responded to the related public consultation in record numbers. However, it remains to be seen whether the rules as adopted will indeed make withholding tax relief procedures less costly and cumbersome in practice.

A digital standardized eTRC is a welcomed development, in particular in the Member States that still request TRCs based on local templates or other types of forms that have to be completed and stamped by the tax authorities in the jurisdiction of the investor. We do note, however, that the deadline for Member States to issue the eTRC can be exceed if the Member State deems additional time necessary to verify the tax residency of the requester.

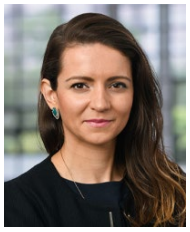
By providing for a relief at source system and a quick refund procedure with fixed deadlines, the compromise text represents a significant step forward in the pursuit of developing a streamlined WHT procedure and additional support for investors in their efforts to benefit from reduced treaty WHT rates. With regards to the 'quick refund' system, we note that the initial deadlines for requesting and granting refunds have been extended compared to the EC's proposal. This adjustment was foreseeable, as feedback from the public consultation suggested that the initial deadlines might have been overly ambitious. However, despite the extensions, the new deadlines should still represent a notable improvement compared to the lengthy processing times currently experienced in some Member States for WHT refund claims.

The list of circumstances in which Member States may exclude WHT relief requests from fast-track procedures has undergone significant revision. We note in particular the option given to Member States to exclude from the new fast track procedures gross dividend payments above a threshold of EUR 100,000. On the other hand, we also note that the simplified processes – in terms of related verification and reporting requirements to be undertaken by CFIs, for small investors (for dividend payments below the EUR 1,000 threshold) was removed.

The FASTER Directive leaves it up to Member States to determine certain features, such as penalties for non-compliant CIFs and related civil liability. It therefore remains to be seen how Member States choose to structure the penalty system, in particular where penalties differ depending on the type of procedure chosen. In addition, the safeguards implemented by Member States around the CIFs liability should be addressed proportionally, so that smaller intermediaries are not discouraged from applying for CIF status.

In light of the multiple implementation acts to be developed and adopted by the EC – including standardized and computerized common template for the eTRC, statement to be obtained from the registered owners, reporting forms, interested stakeholders should continue to monitor developments and contribute to the process where possible.

KPMG's EU Tax Centre team



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