Fédération Bancaire Européenne
European Banking Federation

European Fund and Asset Management Association

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06.06.2005

FBE/EFAMA RECOMMENDATION

HOME COUNTRY RULE FOR FUNDS IN THE CONTEXT OF THE SAVINGS TAXATION DIRECTIVE

The European Banking Federation (FBE)[1] and the European Fund and Asset Management Association (EFAMA)[2] recommend that paying agents apply a home country rule as the best way forward in terms of the classification of funds/fund events and the calculation of income/interest arising from fund events under Council Directive 2003/48/EC of 3 June 2003 on taxation of savings in the form of interest payments (the "Savings Directive").

The Savings Directive extends to income or interest arising on distribution and sale/redemption events relating to certain funds that are (i) UCITS authorized in accordance with Directive 85/611/EC (ii) otherwise treated as UCITS for the purpose of the Savings Directive or (iii) undertakings for collective investment established outside the EU member states. Distribution and/or sale/redemption events in respect of funds falling under (i) – (iii) may be exempted from the scope of the Savings Directive where the fund maintains minimum debt claim investment levels.

In order to properly apply the Savings Directive, EU paying agents and administrators acting for funds investing in other funds need to be able to:

a) classify funds and fund events according to whether they fall under the scope of the Savings Directive; and if so

b) determine the income or interest arising on fund distribution or fund sale/redemption.

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[1] The FBE is the voice of the European banking sector. It represents the interests of over 4500 European banks, large and small, from 27 national Banking Associations, with assets of more than EUR 20 000 billion and over 2.3 million employees.

[2] EFAMA, previously FEFSI, the Brussels-based European Fund and Asset Management Association, represents the interests of the European investment management industry (collective and individual portfolio management). Through its member associations and corporate members from 19 EU Member States, Liechtenstein, Norway, Switzerland and Turkey, EFAMA represents the European asset and fund management industry, with some 41,100 investment funds and EUR4.7 trillion in net assets under management. For more information, please visit www.efama.org.

Rue Montoyer 10 • B-1000 Brussels • Tel: +32 (0)2 508 37 11 • Fax: +32 (0)2 511 23 28
www.fbe.be • fbe@fbe.be

Square de Meeûs 18 • B - 1050 Brussels
http://www.efamai.org –
info@efama.org

FBE and EFAMA have reached agreement in relation to funds established in the EU, in a dependent or associated territory, or in a third country with which the EU has an agreement. In order to draw the necessary conclusions in relation to a) and b) above and to avoid insurmountable problems with the cross-border marketing of funds, the following is recommended:

- Paying agents in any EU member state may rely on information produced by the fund or any agent appointed by the fund, according to the rules of the EU member state in which the fund concerned is established. Similarly, paying agents of funds investing in other funds (and administrators acting for funds investing in other funds) should be able to rely on information produced by such other funds according to the latter's national rules. The rules are the result of the implementing primary/secondary legislation and guidance issued by the competent authority in the relevant country. This "home country" principle aims to achieve a harmonized implementation of Savings Directive provisions in the EU member states.

- Paying agents (and administrators acting for funds investing in other funds) in any EU member state may rely on information produced by the fund or any agent appointed by the fund, according to the rules (as defined above) of the dependent or associated territory or third country in which the fund concerned is established, provided the same methodology is applied as within the EU.

- FBE and EFAMA note that the terms of some of the agreements between the European Community and selected third countries, which aim to provide for measures equivalent to the Savings Directive, may – in certain cases - lead to different conclusions for paying agents (or administrators acting for funds investing in other funds) in these third countries. Nevertheless, EU funds routing income/interest payments through them in these countries should, in principle, produce just one set of information under the home country principle.

- The relevant information at a) or b) may be secured directly from the fund/agent or indirectly using recognised external information providers.

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07.06.2005

PRESS RELEASE

PAYING AGENTS WILL APPLY HOME COUNTRY RULE FOR FUNDS UNDER THE SAVINGS TAX DIRECTIVE

The European Banking Federation (FBE)[1] and the European Fund and Asset Management Association (EFAMA)[2] have recommended today that paying agents (and administrators acting for funds investing in other funds) apply a home country rule as the best way forward in terms of the classification of funds and fund events and the calculation of income arising from fund events under the EU Savings Directive.

The scope of application of the EU Savings Directive (EUSD) includes a definition of interest which extends to income or interest arising on distribution and sale/redemption events relating to certain funds.

Therefore, in order to properly apply the EUSD, EU paying agents (and administrators acting for funds investing in other funds) need first to be able to classify funds and fund events according to whether they fall under the scope of the EUSD and, if so, to determine the income or interest arising on fund distribution or fund sale/redemption.

In relation to funds established in the EU, in a dependent or associated territory, or in a neighboring financial center with which the EU has an agreement, FBE and EFAMA advocate the application of a “home country principle”. This means that paying agents (and administrators acting for funds investing in other funds) will rely on information produced by the fund or any agent appointed by the fund, according to the rules that result, in the country in which the fund is established, from the implementing legislation and guidance issued by the competent authority.

This recommendation has been notified to the EU Finance Ministers, ahead of the ECOFIN council meeting held today.

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Rue Montoyer 10 • B-1000 Brussels • Tel: +32 (0)2 508 37 11 • Fax: +32 (0)2 511 23 28
www.fbe.be • fbe@fbe.be

Square de Meeûs 18 • B - 1050 Brussels
http://www.efama.org – info@efama.org

Contact persons:

Guido Ravoet, Secretary General FBE *32 (0)2 508 37 26*
p.elegant@fbe.be

Steffen Matthias, Secretary General EFAMA *32 (0)2 513 39 69*
info@efama.org,

Roger Kaiser, Fiscal Adviser FBE *32 (0)2 508 37 21*
r.kaiser@fbe.be

Florence Ranson, Communications Adviser *32 (0)2 508 37 34*
f.ranson@fbe.be