|  |  |
| --- | --- |
| AMI-SeCo Collateral Management Group (CMG)  **TAXATION PROCESSES EXPERT GROUP** | ECB-UNRESTRICTED |
|  |
|  | 4 July 2024 |
|  | DRAFT |
|  |  |
| Consultation on the tax treatment for securities | |

# Introduction

The AMI-SeCo has mandated its Collateral Management Group (CMG), the successor of its Collateral Management Harmonisation Task Force (CMH-TF), to assist and provide guidance on any issue related to the harmonisation and integration of collateral management falling in the mandate of the AMI-SeCo. In 2017, the AMI-SeCo identified ten main collateral management harmonisation activities. Up to now, the AMI-SeCo has defined collateral management harmonisation standards in three areas: Triparty Collateral Management, Corporate Actions and Billing Processes.

The first CMG meeting was held on December 2023, with the aim of restarting the harmonisation work on the seven remaining areas. A stock taking exercise conducted among the CMG members on February 2024 revealed the appetite to prioritise the work on Taxation Processes; for such purpose and acknowledging that harmonisation could progress even without changes in the legal framework, an expert group was set up, namely Taxation Processes Expert Group (TPEG). The TPEG met for first time on 15 April 2024.

# Taking stock on tax treatment

The TPEG discussed that collateral could be categorised in three main transaction types (pillars): Bilateral Collateral with NCBs, Bilateral Collateral with other parties and Triparty Collateral (with NCBs or other parties). The CMG agreed on start working on the most relevant transaction type, i.e., Bilateral Collateral with NCBs (Pillar 1). As a first step, the CMG aims to outline a map of scenarios, covering the most frequent cases, identifying the tax treatment per market for the most used financial instruments.

For the utilisation of financial instruments by type, the ECB publishes the following [figures](https://www.ecb.europa.eu/mopo/coll/charts/html/index.en.html). Accordingly, securities can be classified in seven main categories:

* Central government securities
* Regional government securities
* Unsecured bank bonds
* Covered bank bonds
* Corporate bonds
* Asset-backed securities
* Other marketable assets

To initiate the work, more detailed information is needed on some current pain points where there are currently differences among EU markets. TPEG considered of special relevance the identification of the relevant tax authority, the tax status of the instrument and the beneficial owner, the need of legal documentation to certify the tax status and the means to be provided.

To collect this information, the CMG agreed on conducting a fact-finding exercise among NSGs. Based on the results, the TPEG will work on a map of scenarios with should help on coming up with concrete harmonisation proposals. To mention that some information was already compiled by the CMH-TF in a survey conducted in 2017. Relevant results of that survey will be presented here, to be confirmed or amended.

This questionary focus only on the above debt instruments, in particular when they are used as collateral with NCBs. Other financial instruments and collateral transactions will be treated on a second phase.

NSGs are kindly invited to provide feedback to this questionary by 1 August.

# Questions to the NSGs

## Tax status, tax management, tax certification and submission method

Respondents are invited fill or amend the table below. Please, specify:

* The tax status of the seven categories of securities mentioned above, specifying which of them are exempted, partially reduced, or normally taxed. Please, provide an individual answer for each of them.
* Whether there is a need to withhold taxes
* In case taxes are withheld, is there a need to send a tax form to claim tax reduction/exemption? Can be submitted electronically?
* How is tax claim procedure (relief at source/tax reclaim/any other)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Country | Tax status – exempt / partially reduced / normally taxed | Need to WHT taxes | Need of tax form – Means of submission | Tax claim procedure – Relief at source / Tax reclaim / Other |
| AT | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | | No | No |  |
| BE | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | | Depending on depository  No for exempt entities with NBB  Yes for Euroclear Belgium | Yes |  |
| BG | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | |  |  |  |
| CH | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | |  |  |  |
| CY | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | | No | No |  |
| CZ | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | |  |  |  |
| DE | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | | Non-German residents are not liable to tax on interest payments. WHT just applies in case of interest payments derived from convertible bonds or profit participation certificates/issuance rights. No for exempt entities (incl. residents) | Yes | Refund for DTT |
| DK | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | |  |  |  |
| EE | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | | Yes (applicable for resident private persons) | No |  |
| ES | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | | Yes | Yes | Reclaim |
| FI | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | | No for exempted entities | Yes | Reclaim |
| FR | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | | Yes, if securities issued before 1987 | Yes | Relief at source or reclaim |
| GR | |  |  | | --- | --- | | Central government securities | Normally taxed for Greek legal persons. Individuals and foreign legal persons are exempted | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | | Only for entities eligible for tax WHT (please refer to the previous column) | No, entities are categorised upon opening an account and are treated accordingly. | Relief at source |
| HR | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | |  |  |  |
| HU | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | |  |  |  |
| IE | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | | No | No |  |
| IT | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | | No for exempt entities (incl. residents) | Yes | Relief at source or reclaim |
| LT | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | | No for government bonds | Yes | Reclaim |
| LU | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | | No | No |  |
| LV | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | | No for exempt entities (incl. residents) | Yes | Relief at source |
| MT | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | | No for exempt entities (incl. residents) |  |  |
| NL | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | | No | No |  |
| NO | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | |  |  |  |
| PL | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | |  |  |  |
| PT | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | | Yes | Yes | Relief at source or reclaim |
| RO | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | |  |  |  |
| SE | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | |  |  |  |
| SI | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | | No for exempt entities | Yes | Refund for DTT |
| SK | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | | No | Yes | Reclaim |
| UK | |  |  | | --- | --- | | Central government securities |  | | Regional government securities |  | | Unsecured bank bonds |  | | Covered bank bonds |  | | Corporate bonds |  | | Asset-backed securities |  | | Other marketable assets |  | |  |  |  |

## Mobilisation purposes and identification of the beneficial owner

In case of bilateral collateral with NCBs for monetary policy purposes, the collateral giver is typically considered the beneficial owner. Nevertheless, NCBs could allow mobilisation for different purposes. Respondents are invited to fill the table below, specifying:

* Confirm that the collateral giver is considered the beneficial owner of the securities
* Whether the NCB allows mobilisation for other purposes than monetary policy
* If yes, whether there is a different tax treatment in such cases

|  |  |  |  |
| --- | --- | --- | --- |
| Country | Beneficial owner – Collateral giver/taker | Could collateral be mobilised for other purposes rather than MP? | If yes, is there a different tax treatment? |
| AT |  |  |  |
| BE |  |  |  |
| BG |  |  |  |
| CH |  |  |  |
| CY |  |  |  |
| CZ |  |  |  |
| DE |  |  |  |
| DK |  |  |  |
| EE |  |  |  |
| ES |  |  |  |
| FI |  |  |  |
| FR |  |  |  |
| GR | Yes | No | N/A |
| HR |  |  |  |
| HU |  |  |  |
| IE |  |  |  |
| IT |  |  |  |
| LT |  |  |  |
| LU |  |  |  |
| LV |  |  |  |
| MT |  |  |  |
| NL |  |  |  |
| NO |  |  |  |
| PL |  |  |  |
| PT |  |  |  |
| RO |  |  |  |
| SE |  |  |  |
| SI |  |  |  |
| SK |  |  |  |
| UK |  |  |  |

## Withholding tax agent

The agent withholding taxes is different across jurisdictions: Issuer, (I)CSDs, NCBs, custodian, paying agent. Respondents are invited to identify the withholding tax agent and to briefly explain the tax reclaim process.

|  |  |  |
| --- | --- | --- |
| Country | Withholding tax agent | Description on the tax reclaim process |
| AT |  |  |
| BE |  |  |
| BG |  |  |
| CH |  |  |
| CY |  |  |
| CZ |  |  |
| DE |  |  |
| DK |  |  |
| EE |  |  |
| ES |  |  |
| FI |  |  |
| FR |  |  |
| GR | T-bills: BOGS as issuer CSD upon payment only for entities subject to tax WHT (please refer to 3.1)  GGBs: Custodians only for entities subject to tax WHT (please refer to 3.1) | N/A (please refer to 3.1) |
| HR |  |  |
| HU |  |  |
| IE |  |  |
| IT |  |  |
| LT |  |  |
| LU |  |  |
| LV |  |  |
| MT |  |  |
| NL |  |  |
| NO |  |  |
| PL |  |  |
| PT |  |  |
| RO |  |  |
| SE |  |  |
| SI |  |  |
| SK |  |  |
| UK |  |  |

1. Chart on tax management

