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18 July 2011

Dear Mr. Bahk and Mr. Lee,

**Luxembourg SICAVs and SICAFs entitlement to provisions of Korea - Luxembourg double tax treaty**

The Tax Committee of AFME’s Post Trade Division\(^1\) would like to express our members’ concerns for the recently received information regarding treaty interpretation issued by the Republic of Korea’s Ministry of Strategy and Finance. This states that Luxembourg SICAVs and SICAFs cannot benefit from the provisions of the Korea – Luxembourg double tax treaty agreement.

The Tax Committee of AFME’s Post Trade Division has followed this issue closely and our concern is that this latest treaty interpretation will have a significant effect on SICAVs and SICAFs that hold Korean investments.

The Association of Global Custodians (AGC) shares many of our concerns and has detailed these in a letter (dated 07/06/11) which can be found [here](#).

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\(^1\) The Post Trade Division is the European post trading centre of competence of the Association for Financial Markets in Europe (AFME). Its members are the major users of international securities markets. Representing its members as towards market infrastructure organisations and public authorities, the Post Trade Division acts as an agent for change providing and supporting solutions in the securities clearing, settlement and custody space to reduce risks and costs to market participants.

The AFME Post Trade Division was preceded by the European Securities Services Forum (ESSF), previously the European Securities Forum (ESF), and the London Investment Banking Association (LIBA).
The AGC letter noted a number of questions and points that we wish to record our agreement with. These being:

- We support the Association of Global Custodians' belief that any change in position should only be applied from the date of the latest interpretation; we are generally utmost concerned about retroactive applications of changes given the impact of net asset value calculations of investment funds;
- Our members seek confirmation that the interpretation will only be applied prospectively, if at all;
- We do not believe that the new treaty interpretation is consistent with the scope and intent of the double tax treaty;
- We would value further information regarding the technical and legal basis on which this interpretation was reached;
- Lastly, it is important for our members, and the industry as a whole, to have up-to-date information on matters such as these. We would welcome any opportunities to work with you on any future treaty entitlement questions.

Our members have expressed considerable concern over this matter due to the impact it may have not only on these Luxembourg funds, but also on wider investment decisions. We therefore encourage you to consider the comments made by the AGC and seek to resolve this issue with your counterparts at the Luxembourg Tax Authorities.

We would also like to encourage any opportunities to work with you on future treaty entitlement matters and interpretations. We look forward to hearing from you and hope that this matter can be resolved quickly.

Should the above give rise to any particular queries, we would be very happy to discuss these with you. In the first instance, please contact either of the undersigned below.

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