Mr. Guy Heintz  
Director  
Administration des Contributions Directes/Ministere des Finances  
45, Blvd Roosevelt  
L-2982 Luxembourg  
Luxembourg  

18 July 2011  

Dear Mr. Heintz,  

**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 in respect of a treaty interpretation statement 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 Luxembourg - Korea 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](#).

The AGC letter recorded a number of questions and points that we wish to record our agreement with. These being:

- Whether the Luxembourg Tax Authority agrees with this interpretation of the Luxembourg – Korea double tax treaty. Due to the significance of potential impact to the Luxembourg funds in question, our members are very keen to gain your intervention in the event that you disagree with their interpretation;
- If the LTA agrees with the MSoF, we would value technical clarification regarding the treaty, and how and when this view was reached;

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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).
There is significant concern among our members that the Korean tax authorities appear to be applying this ruling on a retroactive basis. We request that an agreement be reached to ensure this issue only be applied prospectively, if at all; and

Lastly, it is important for our members to have up-to-date information on matters such as these. Therefore, we would appreciate you providing information to make clear the source countries where Luxembourg funds are treaty entitled.

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 the Korean Ministry of Strategy and Finance.

We would also like to encourage any opportunities to work with you on treaty entitlement matters such as this. 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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