



By Electronic Delivery

9 January 2015

Masatsugu Asakawa
Chair, Committee on Fiscal Affairs
Organisation for Economic Co-operation and Development
2 rue André Pascal
75016 Paris
France

RE: TRACE Will Benefit CIV Investors

Dear Asakawa-san:

The collective investment vehicle (CIV) associations joining this letter – on behalf of CIV investors globally – support strongly the Treaty Relief And Compliance Enhancement (TRACE) implementation package¹ adopted by the OECD's Committee on Fiscal Affairs in January 2013. TRACE, particularly when implemented along with the OECD's 2010 CIV Report recommendations, will benefit greatly the many millions of CIV investors² who today either do not receive tax relief provided by their residence country treaties (or, perhaps, by an issuer country's domestic law) or receive that relief only after extensive and costly effort by their CIVs and their CIVs' custodians.

To maximize the benefits to governments and minimize the cost on both governments and business of implementing TRACE for their investors, we submit that TRACE should be adopted simultaneously with the Common Reporting Standard (CRS) developed by the OECD

¹ http://www.oecd.org/ctp/exchange-of-tax-information/TRACE_Implementation_Package_Website.pdf.

² As of 31 December 2013, the CIVs addressed by this letter had total net assets of over US\$30 trillion in over 76,000 CIVs. In the United States alone, over 90 million individuals invest in these CIVs.

and endorsed in September 2014 by the G20 Finance Ministers. Our investors would welcome any encouragement that you and others on the CFA can provide to countries that are implementing the CRS also to implement TRACE and to do so simultaneously with the CRS.

Background on CIVs and Their Investors

The CIVs covered by this letter are widely-held, hold a diversified portfolio of securities, and are subject to investor-protection legislation in the country in which they are established. These CIVs and their treaty eligibility (either in their own right or on behalf of their investors) were the subject of extensive examination by the OECD over several years; this examination resulted in the CIV Report approved by the CFA in 2010³ and in the changes made in the 2010 Update to the OECD Model Tax Convention Article 1 Commentary.⁴

These CIVs generally value every day their portfolio securities and all amounts due to them (including dividends declared, interest accrued, and taxes to be recovered). The value of a single unit or share in such a CIV is known as the “net asset value” or “NAV.”

Certainty regarding daily valuations is particularly important for CIVs, often called “open-end” or “mutual” funds, the interests in which are purchased and sold at NAV. Accurate valuation of all portfolio assets (including receivables such as tax reclaim amounts) is essential for CIV interest transactions to be effected at the correct price. Certainty also is important for those CIVs the interests in which trade on stock exchanges as one important determinate of an interest’s market value is its NAV.

Tax certainty, consequently, is important for CIVs. If a CIV does not know whether it will be able to recover tax withheld in excess of the applicable treaty or reduced domestic law rate, the CIV has a more difficult time determining its NAV.

The Benefits of TRACE

TRACE, as you know, enhances the procedures for cross-border-investor tax relief and links the relief to the assumption by participating financial institutions of substantial compliance responsibilities. TRACE’s benefits include at-source tax relief (which addresses the CIV “tax certainty” concern noted above) and simplified procedures (which reduce costs and therefore increase investor returns).

Governments, business, and investors all will benefit greatly from TRACE. The simplified procedures agreed in the TRACE implementation package will provide governments with the necessary assurances that tax relief claims are appropriate. Financial institutions will share in the responsibility, subject to well-developed safeguards, of ensuring compliance by investors; these institutions are in the best position, from an access and knowledge standpoint, to ensure the accuracy of investor information.

Governments also will benefit from TRACE because streamlined and harmonized withholding procedures will reduce the costs of administering the withholding and reclaim regime, and will

³ The CIV Report more precisely is entitled “The Granting of Treaty Benefits with Respect to the Income of Collective Investment Vehicles” and is available on the OECD’s website at www.oecd.org/tax/treaties/45359261.pdf.

⁴ <http://www.oecd.org/tax/treaties/45689328.pdf>.

make local markets more attractive to cross-border investment (consistent with the objectives of any applicable treaty and/or domestic law provisions of the TRACE-adopting country). In addition, investors will receive the withholding tax relief provided by negotiated treaties and domestic law; as a result, these investors will not claim foreign tax credits or deductions (to the detriment of their residence governments) for excess tax that they cannot recover. Consistent with the significant due diligence responsibilities assumed by financial institutions under TRACE, the investors' residence governments also will be relieved of the costly administrative burden of processing individualized certificates of residence for their investors seeking foreign withholding tax relief.

Indeed, governments already have benefited from TRACE. Many of the issues considered in the CRS were vetted fully by governments and business during the TRACE consultation. The CRS would not have advanced so quickly without the critical groundwork provided by the TRACE project.

The Benefits of Implementing TRACE and the CRS Simultaneously

TRACE and the CRS should be implemented simultaneously. TRACE and the CRS rely on very similar customer due diligence procedures, providing a cross-check of information that will enhance compliance. They also impose on financial institutions very closely comparable information reporting obligations; this comparability is critical to the effective and efficient implementation of automatic exchange of information (AEOI) between governments. In addition, because TRACE will allow investors to claim relief at source, it provides an incentive to provide accurate residence information to their financial institutions, thereby strengthening the compliance benefits of the CRS. The cost of implementing TRACE will be reduced for business, as well as governments, if the systems enhancements required to implement TRACE and CRS are made together. Investors, financial institutions, and governments will benefit more the sooner TRACE is implemented.

Thank you for the CFA's strong support for TRACE. We appreciate any assistance you can provide in urging countries to implement TRACE when they implement the CRS. Please feel free to contact us at your convenience if we can provide you with any additional information.

Sincerely,

AAF – Romanian Association of Asset Managers

Signed "Adrian Tudose"

Adrian Tudose
Executive Director

AFG - Association Française de la Gestion Financière

Signed: "Pierre Bollon"

Pierre Bollon
Chief Executive

ALFI – The Association of the Luxembourg Fund Industry

Signed “Camille Thommes”

Camille Thommes
Director General

“Marc-André Bechet”

Marc-André Bechet
Director, Legal & Tax

ASSOGESTIONI – Associazione Italiana del Risparmio Gestito

Signed “Fabio Galli”

Fabio Galli
Director General

BVI – Bundesverband Investment und Asset Management e.V.

Signed “Thomas Richter”

Thomas Richter
Director General

EFAMA – European Fund and Asset Management Association

Signed “Peter De Proft”

Peter De Proft
Director General

FSC - Financial Services Council (Australia)

Signed: “Carla Hoorweg”

Carla Hoorweg
Senior Policy Manager, Investment, Global Markets & Tax

Hellenic Fund and Asset Management Association

Signed “Marina Vassilicos”

Marina Vassilicos
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HKIFA – Hong Kong Investment Funds Association

Signed “Sally Wong”

Sally Wong
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Investment Company Institute

Signed “Paul Schott Stevens”

Paul Schott Stevens
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Signed “Keith Lawson”

Keith Lawson
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Irish Funds Industry Association

Signed “Pat Lardner”

Pat Lardner
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The Investment Funds Institute of Canada

Signed “Joanne De Laurentiis”

Joanne De Laurentiis
President & CEO

cc: Pascal Saint-Amans, Director, CTPA, OECD
Grace Perez-Navarro, Deputy Director, CTPA, OECD
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