

European Commission's consultation on new EU system for the avoidance of double taxation and prevention of tax abuse

High-level position paper – Executive summary
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The European Savings and Retail Banking Group (ESBG) submitted its response to the consultation launched by the European Commission in June 2023 on the new EU system for the avoidance of double taxation and prevention of tax abuse.

In its response, ESBG raised several concerns and proposed essential changes to the Commission's measures.

One of the primary concerns raised by ESBG pertains to the flexibility given to Member States in choosing withholding tax procedures. The Commission's proposal allows Member States some options, which ESBG argues may further de-harmonize the internal market.

ESBG also expressed reservations about the impact of extensive new obligations on credit institutions. Such measures will have a considerable impact on the internal processes of credit institutions and will require extensive technical adjustments, especially in the already extremely complex securities settlement systems.

ESBG emphasised the need to define terms such as "beneficial ownership" and the "record date" to make these definitions homogeneous.

Regarding legal entities, ESBG urged clarification on whether the legal form (partnership vs. corporation) of the source state or the state of residence is relevant to withholding tax procedures. This clarification is crucial to avoid conflicts.

ESBG also stressed the importance of ensuring that banks are not obligated to provide information under certain circumstances, such as when clients do not provide the required data. Imposing such obligations without exceptions could result in significant costs for banks.

Furthermore, ESBG called for regulations that make data easily accessible, especially concerning the chain of custody.

When states commission private third parties like banks to carry out withholding tax refunds, it should be clear whether banks can charge a fee for this service.

One of ESBG's strongest objections was to Article 11 since it imposes a number of obligations on institutions for which they should be liable under Art. 16. ESBG proposed that it should be rejected altogether.

Additionally, ESBG emphasised the importance of providing sufficient time for implementation. Last but not least, ESBG stressed that eTRC should be available without an additional charge.