BULLETIN - 240516/64

ICMSA Bulletin - Procedure applicable to Eurobonds to be issued by Icelandic issuers as stand-alone or drawdown of a programme

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This bulletin updates BULLETINS – 130916/24 and 151208/36 - Procedure applicable to Eurobonds to be issued by Icelandic issuers as stand-alone or drawdown of a programme

Under the terms of:

- The Article 1 of Act no. 39/2013, amending Act 90/2003 on income tax
- The Article 1 of Act no. 53/2014, amending the Article 3 (8) paragraph 2 of the Income Tax Act no. 90/2003
- The Article 1 of Act no. 107/2015, dated 5 November 2015, amending Act No. 53/2014 to the Income Tax Act no. 90/2003

Eurobonds issued by Icelandic issuers, whether on a stand-alone basis or as a drawdown under a programme, can be subject to tax exemption from non-resident taxation of interests under certain conditions. Such exemption will be granted at issuer and instrument level. In order to qualify for the exemption, issuers must meet a set of specific requirements. These include, but are not limited to:

- Issuance of the bonds must be in the issuer's own name.
- Issuers must qualify as financial institutions by meeting the requirements set forth under Article 4 of the Act no. 161/2002 on Financial Institutions or, if an energy company, be subject to Act no. 50/2005 on the Taxation of Energy Companies.

Updated to incorporate the additional exemptions:

- Issuers must qualify as exempt from tax by meeting the requirements set forth under Article 1 of Act no. 53/2014, for example The Republic of Iceland.
- Kaupthing hf. Glitnir hf. and LBI hf. qualify as exempt from tax by meeting the requirements set forth under Article 1 of Act no. 107/2015.

Only those new issues that are subject to exemption are eligible in the ICSDs.

According to the Icelandic law on income tax, the Republic of Iceland is specifically exempt from any withholding and capital gains tax on issued bonds or other claims and financial instruments.

Act no. 53/2014 was expressly and only incorporated into Icelandic law to make it clear that the Republic of Iceland was exempt from Act 90/2003 on income tax when issuing government bonds.

Below is the procedure that has been agreed with the Icelandic tax authorities (RSK) and that has to be followed to ensure eligibility within the ICSDs.

a) The issuer's agent or lead manager provides the ICSDs with the draft documentation for the programme or stand-alone bond, in which will be included the terms and location of deposit (e.g. ICSDs, Clearstream Banking SA ("Clearstream"), Euroclear SA/NV ("Euroclear")) and the intended taxation status.

b) The ICSDs will review the documentation to ensure that it can be made eligible, and that the issuer intends to apply for an exemption from Icelandic taxation.

c) The ICSDs issue a statement in the form of an email to the issuer via the issuer's agent or lead manager, which is then forwarded by the issuer to the RSK confirming that the programme/stand-alone bond will be accepted in the ICSDs under the condition of the issue(s) being exempted from Icelandic withholding and capital gains tax.

d) The RSK confirms to the issuer (via letter) that the exemption will be granted for the stand-alone bond or for the programme number for drawdowns at any time. **The exemption is granted at each ISIN, and valid only for that issuance.**

e) The issuer's agent or lead manager will provide a copy of the exemption confirmation to the ICSDs.

f) Clearstream and Euroclear will then confirm that ISINs can now be provided, and the issuer will inform the RSK to include these in the exempted list on the RSK website.

g) **The RSK exemption letter is not required for the issuances of bonds issued by the Central Bank of the Republic of Iceland.**