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# Press Release

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## **NEW REPORT SEES LIGHT AT END OF TUNNEL ON TAX BARRIERS AND CROSS BORDER FUNDS**

**Brussels, 7 November 2005** - Continuing EU tax barriers against foreign funds in the area of withholding taxes and onerous country-specific administrative requirements are in contravention of the EU Treaty and are adversely affecting the attractiveness of cross-border funds.

This is despite recent significant progress being made on removing other tax constraints which now makes it far easier to market funds based in one EU member state into other member states - as outlined in a joint report published today by PricewaterhouseCoopers and the European Fund and Asset Management Association (EFAMA).

The report, entitled: 'Tax Discrimination against Foreign Funds: Light at the End of the Tunnel', the third in a series, analyses the tax constraints and looks at progress in removing those constraints as well as identifies the remaining tax barriers to the effective operation of the EU single UCITS fund market place. It also makes suggestions for change by the European fund industry and the European Commission.

Previously, managers of UCITS funds faced significant tax discrimination against the sale of their funds in a number of member states and many of the discriminations made it virtually impossible to market cross-border funds in certain EU member states.

Within the last 18 months there have been significant developments in the UK, France, Germany, Austria, Ireland and Denmark to eliminate discriminations preventing foreign UCITS being sold to investors in these countries. However, UCITS funds sold cross border in the EU still only amount to around 16% of the UCITS market.

David Newton, partner, financial services, PricewaterhouseCoopers, said:

"If tax barriers against foreign funds had all been eliminated five or ten years ago then the percentage of funds sold cross border in the EU would be much higher.

“The elimination of some of the most serious tax barriers in the mainstream UCITS markets is a watershed development for the European funds industry and a significant step towards attaining a truly open single EU market in UCITS funds.

“However, I am concerned about the level of other discriminations that remain, particularly in the area of withholding taxes and punitive country specific legal requirements.”

Pressure has been brought to bear by EU financial services companies who have taken cases of alleged Treaty infringement to the European Court of Justice (ECJ).

Such tax discriminations are, in almost every case, illegal under the provisions of the EU Treaty as they contravene the fundamental freedoms enshrined in the Treaty of the free movement of capital and the freedom to provide services within the EU.

EFAMA and PricewaterhouseCoopers have made approaches to the European Commission, EU finance ministers and others outlining these tax barriers.

After seeing light at the end of the tunnel on tax discriminations, more focus should now be put on other areas where taxation issues represent an obstacle to a single market for investment funds.

Withholding taxes on EU dividends are around 30-60 basis points (0.3% - 0.6%) of equity fund values and represent a hidden charge on UCITS investing in cross border equities. This is invariably suffered by investors as part of the ‘total expense ratio’ of the fund but by contrast is not suffered if those same investors invest in a domestic UCITS.

However, the recent Fokus Bank case established the principle that if a country has a domestic system for the avoidance of double taxation on corporate dividends, and hence no withholding tax on domestic dividends, then the advantage of this must be extended to other EU investors and therefore to foreign UCITS. Funds, fund managers and sponsors should be reclaiming this withholding tax.

The report also questions whether countries such as the UK, Germany and Austria, in particular, but also Belgium and Denmark currently breach the EU Treaty by imposing burdensome administrative requirements based on local law on foreign based UCITS.

The cost of this local compliance can run into hundreds of thousands of euros and currently most fund managers choose to comply with these requirements but they could also challenge the legitimacy of these administrative hurdles.

David Newton continued:

“If all 25 EU countries had similar administrative requirements on foreign fund promoters as are found in the UK, Germany and Austria then it would be impossible to have a single funds market. The burden on cross border providers would be too onerous - these countries need to find a more acceptable solution.

“As EU law stands, such administrative requirements have to be ‘reasonable and proportionate’. As outlined in the report many of them are not.”

The report says that it is more feasible than ever to market UCITS on a cross border basis and with funds about one fifth the size of those in the US there should be rationalisation of the market. The economies of scale that this would bring would have the effect of lowering the cost to consumers for UCITS funds.

Steffen Matthias, secretary general of EFAMA concluded:

“EFAMA welcomes the current position where the most significant cases of tax discrimination are solved now and the joint work undertaken by PricewaterhouseCoopers and EFAMA has significantly contributed to this development.

“However, inefficiencies continue to make taxation one of the biggest obstacles to the single market of investment funds. In the future, we will focus on these issues and not stop to draw the Commission’s attention to the problem.”

**ENDS**

**Notes to Editor**

1. “Tax Discrimination against Foreign Funds: Light at the End of the Tunnel” is available to download at [www.pwc.com/investmentmanagement](http://www.pwc.com/investmentmanagement) or from [www.efama.org](http://www.efama.org). To obtain a hard copy, please contact Valérie Vandenbenden on +33 (2) 710.71.36 or email: [valerie.vandenbenden@pwc.be](mailto:valerie.vandenbenden@pwc.be).
2. EFAMA, previously FEFSI, is the representative association for the European investment management industry. Through its member associations from 19 EU Member States, Liechtenstein, Norway, Switzerland and Turkey, as well as its corporate members, EFAMA represented at end June 2005 over €12 trillion in assets under management, of which €5.9 trillion through over 43,000 investment funds. For more information, please visit [www.efama.org](http://www.efama.org)
3. PricewaterhouseCoopers ([www.pwc.com/be](http://www.pwc.com/be)) provides industry-focused assurance, tax and advisory services for public and private clients. More than 130,000 people in 148 countries connect their thinking, experience and solutions to build public trust and enhance value for clients and their stakeholders.
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