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From: Bertrand Herberich
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RE: SECTION 871(M) IMPLEMENTATION DATE

Dear Sir or Madam,

The International Capital Market Services Association (ICMSA) is submitting this letter with respect to the January 1, 2017 implementation date of the final and temporary regulations (the "Regulations") under section 871(m) of the Internal Revenue Code (the "Code").

ICMSA is a London-based self-regulatory organization, representing international financial and non-financial institutions active in the provision of services to the international capital market.

Our membership includes universal banks, registrars, stock exchanges, law firms, International Central Securities Depositories (ICSDs) and other service providers specialised in specific product segments such as the processing of tax reclaims. The primary purpose of the association is to foster the highest standards in the practice and management of international capital market services, thereby facilitating the efficient functioning of the market.

In its day-to-day activities, the ICMSA focuses on the operation of the International Securities Market (i.e. securities primarily issued and deposited with the ICSDs, jointly Clearstream Banking S.A. and Euroclear Bank S.A./N.V.), which has outstanding issuance levels currently close to U.S. Dollar (USD) 10 Trillion. As such, we believe the ICMSA is in a unique position to provide comment on how the Regulations may operate in relation to equity linked instruments (ELIs) issued and deposited with the ICSDs.

Over the last months our members have been liaising with the major issuers of ELIs to determine how they intend to comply with the Regulations, and it has become clear that, while the issuers have been discussing approaches amongst themselves, it will take time for a market consensus to emerge and for ICMSA members directly involved to assess their ability to administer securities subject to 871(m), and under what circumstances.

Our major concerns as paying agents and ICSDs centre around the fact that we could be the first withholding agents in the chain, but we do not have direct access to all the information we would require to implement 871(m) withholding. We understand that the Issuers have been discussing with various vendors market-based solutions to allow for timely transmission of relevant information. Furthermore, we are not party to all the transactions that would give rise to payments against which we could set the withholding, such as sales proceeds on the secondary market, or where the redemption is satisfied by the delivery of shares. In addition, there are circumstances under which a Security could mature at a value less than the required withholding tax due, and the ICMSA members directly involved do not have the capacity to process such circumstances.

We agree with the comments made by the Securities and Financial Markets Association (SIFMA) in their letter to you dated June 24, 2016, that the implementation of the Regulations in regards to ELI issued and deposited with the ICSDs is particularly complex and time-consuming because it requires coordination between the various market participants including issuers, paying agents, common depositories, ICSDs, custodians, brokers and potentially third party vendors. Such coordination will require further guidance and adequate lead time to develop systems that can be implemented by the various stakeholders.

Consequently we share SIFMA's concern that there is insufficient time to come up with and implement a workable market-based solution for 871(m) as it relates to ELIs deposited with the ICSDs before the January 1st 2017 deadline, which could lead to either wide-spread market disruption or unintended non-compliance.

Therefore we strongly lend our support to SIFMA's submission of June 24th and respectfully request that the implementation date be delayed for a further year to January 1st 2018 to allow for a robust and consensual solution to be found.

Thank you for your consideration of these issues. Please do not hesitate to contact Bertrand Herberich at +352 243 36 220 or bertrand.herberich@clearstream.com

Yours faithfully,



Rochelle Hsu
Vice Chairman, ICMSA

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Chairman, ICMSA Global Tax sub-committee