EUROPEAN COMMISSION

Brussels, 28.9.2011
SEC(2011) 1102 final

Vol. 4

COMMISSION STAFF WORKING PAPER

IMPACT ASSESSMENT

Accompanying the document

Proposal for a Council Directive

on a common system of financial transaction tax and amending Directive 2008/7/EC

{COM(2011) 594 final}
{SEC(2011) 1103 final}

Annex 3

REVIEW OF CURRENT PRACTICES FOR TAXATION OF FINANCIAL INSTRUMENTS, PROFITS AND REMUNERATION OF THE FINANCIAL SECTOR

This annex covers 4 different Chapters, namely:

- Corporate Taxation of the Financial Sector – Banks
- Value-Added Taxation of the Financial Sector
- Labour Taxation in the Financial Sector
- Taxation of Financial Instruments

The scope of this annex is to review current tax provisions directed at the Financial Sector in the 27 Member States as well as – for comparison purposes – certain key third countries: China, Singapore, Switzerland and the USA. The reference tax year is 2011.

CHAPTER 1: CORPORATE TAXATION OF THE FINANCIAL SECTOR

1. PURPOSE AND SCOPE OF THIS CHAPTER

1.1. Scope of the Study

1. Initially, it was contemplated that, for each of the below questions, and where applicable, the treatment for banks, insurance companies, credit card companies, stock brokerages, investment funds and government-sponsored companies should be detailed separately.

2. However, investment funds are generally subject to a special taxation regime, which differs according to their legal structure (that of a company or otherwise), the type of assets in which they invest (debt, equity, real estate, derivatives, commodities, and so on), and in relation to other features. Given the philosophy of the Study as mentioned above, we believe that, since the tax rules applying to investment funds are so specific (in view of their role as mere intermediaries), the result could be relatively confusing if investment funds were to be included in the scope of this Study. Indeed, given the diversity of the tax regimes applying to different types of investment funds, we have suggested a separate project to compare them and, therefore, investment funds have not been included within the scope of this Study.

3. In addition, because credit card companies, government-sponsored companies and stock brokerage companies are generally in a comparable situation to companies active in the non-Financial Sector, those entities have also been omitted from this Study.

4. Finally, in the interests of time and budget, insurance companies have also been omitted – with the Commission's consent. In a later stage, the Study could ideally be completed with a specific Chapter relating to insurance undertakings.

5. In conclusion, the questions raised in relation to corporate taxation relate only to 'banks', in the event that the tax rules applying to them differ from those applying to companies in the non-Financial Sector.

6. In their traditional acceptance, 'banks' are the most important category of credit institutions. Whereas their main activity still consists in receiving money deposits or other refundable funds from the public and in granting credits for their own account, the banking activity has in recent years been expanded and diversified and usually also includes the following activities: retail banking, business/corporate banking, investment banking or corporate finance, private banking and insurance banking. In the scope of this Study, we cover

all types of banks whatever their activities provided that they are regulated (i.e. they have a banking licence in their country of establishment).

1.2. General Purpose of the Study

7. Given the scope of the Study as detailed above, we understand that the Commission mainly wishes to conclude what differences exist in the corporate taxation of companies active in the Financial Sector (i.e. regulated banks in the framework of this Study) as opposed to those in the non-Financial Sector on the basis of input by the survey countries (listed above) to a questionnaire formulated by the Commission looking at some elements of corporate taxation.

8. As the intention is mainly to identify differences in corporate tax treatment between the Financial and non-Financial Sectors, in principle, the questions in the questionnaire need no reply if the tax rules applying to the Financial and non-Financial Sectors are the same. Please note that, to maximise the practical value of the Study, we took the liberty of asking each country involved to briefly comment on each of the questions, even if there is no difference in treatment. These comments do however not address the overall tax regime applying in the survey countries. This will allow the Commission to have a high-level overview of the applicable differences across countries, which is also an objective of the Commission with respect to this Study.

9. Based on the survey input, when comparing corporate taxation between banks and other companies within one country or when comparing the rules applying in different countries, the general tax regime applicable within the given countries should be borne in mind. For instance, because Estonia defers corporate taxation until the distribution of profits, concepts of 'tax deductibility' or 'taxable items' do not necessarily have the same meaning as in other countries providing for an annual corporate income tax based on accounting results.

10. The purpose of our comments is to provide a general overview of the main tendencies common to all the countries or, where relevant, relevant exceptions to our general observations.

11. They are not intended to detail all the items addressed in the responses to the questionnaire. For a thorough, detailed overview of the regime, rules or practice in a given country, we refer to the completed questionnaires attached to this Study (see Enclosure 9).

1.3. Questionnaire

12. This Chapter answers the following questions raised by the Commission:

A. General tax rules applying to banks

1. What is the applicable corporate income tax ('CIT') rate, including any surcharges and local taxes (in which case the capital city is considered)?
2. Do banks pay a special tax rate or can they qualify for a special tax rate?
3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If so, in what respect?
4. Do countries impose turnover taxes on gross interest and other income of banks?

B. Specific tax rules applying to banks

1. Do countries have specific tax-relief rules for certain specific items such as interest income?
2. Are there specific anti-avoidance rules (CFC, thin cap, etc.) that apply to the Financial Sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits?
3. Are (some) types of financial companies excluded from double-tax agreements?
4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?

C. Tax treatment of interest and dividends

1. How are paid interest and dividends treated for CIT purposes?
2. How are received interest and dividends treated for CIT purposes?
3. How are dividends on shares treated for tax purposes (from a WHT/WHT perspective)?
4. How is interest on advances and on securities of all kinds treated? Accrual basis, mark-to-market or included in the value of the security?
5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?

D. Tax treatment of certain specific gains/losses

1. How are gains and losses on fixed assets treated for tax purposes?

E. Tax treatment of certain financial practices/instruments

1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes?
2. How are assets held for trading purposes treated for tax purposes?

F. Tax treatment of bad or doubtful debts on advances and loans

1. How are bad or doubtful debts on advances and loans treated for tax purposes?

   (i) Is a minimum required for general provisions?
   (ii) Tax-deductibility of general provisions?
   (iii) Limitation on deductibility of general provisions?
   (iv) Are specific provisions discretionary?
   (v) Tax-deductibility of specific provisions?
   (vi) Limitation on deductibility of specific provisions?

G. Tax treatment of employee stock option plans

1. Are employee stock option plans deductible for CIT purposes?

H. Specific questions regarding banks

1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital?
2. For all the above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?

G. Practices

1. For all the above questions, is there any information as to whether actual practices may differ from the legal provisions?

As detailed above, the scope of this Chapter covers and is limited to the corporate taxation of banks in the 27 Member States of the European Union plus China, Singapore, Switzerland and the United States of America, so 31 countries in total. The reference tax year is 2011.

2. ACTION UNDERTAKEN

13. To gather the necessary information, we sent questionnaires with the above questions to our contact persons in the 27 Member States and the four third countries. Based upon the answers received, a detailed analysis was performed, including the necessary PwC quality checks. Where needed, PwC reverted back to the different countries for additional explanations.

Taking into account the input provided by the survey countries, we subsequently did a transversal reading of each question and the replies provided by each of the countries.

As a result, we identified certain common tendencies between certain countries or, by contrast, certain specific rules peculiar to one or a limited number of countries.

For the sake of completeness, we attach the different questionnaires as completed by the survey countries (see Enclosure 9).

3. RESULTS

3.1. General Tax Regime Applying to Banks

3.1.1. *Applicable CIT Rate, Surcharges and Local Taxes*

14. **Applicable CIT Rate.** As regards the applicable corporate income tax rate, most of the survey countries, if not all, do not provide a different standard corporate income tax rate for banks. The corporate income tax rate applying to banks is generally the same as that applying to other companies.

Notwithstanding the above, although not material, Austria provides for a minimum corporate income tax, which is due on an annual basis. In this respect the annual minimum corporate income tax due for banks amounts to EUR 5,452, whereas, in general, for non-financial institutions this annual corporate income tax is only EUR 1,750 (EUR 3,500 for public limited liability companies).

15. **Statutory Tax Rate.** For the purposes of the Study, the input provided by the survey countries – especially in relation to this first question – relates to the question whether banks benefit from a different nominal tax rate than the ordinary corporate tax rate applicable to other corporates. This Study analyses the 'statutory tax rate' or the 'standard tax rate', i.e. the rate that is applied on the taxable basis as determined by the applicable rules. The statutory tax rate or standard tax rate should not be confused with the "effective tax rate" (ETR) which is an accounting concept and which is not relevant with regard to this Study.

16. **Surcharges and Local Taxes.** Based on the input provided, we understand that local taxes may be applicable in a limited number of countries. We have received confirmation that local taxes are indeed applicable in Italy, Luxembourg, Portugal, Romania and the USA. The general conclusion is that the applicable local tax rate is the same for banks as for other companies. By way of exception, it appears that the reduced local tax rate available within the Madeira Region (Portugal) is not applicable to banks. For the purposes of this Study, we consider local taxes as meaning additional taxes, i.e. on top of corporate income tax, levied by or in favour of local authorities, on income generated by banks. Essentially, these local taxes are thus levied on the same type of income as corporate income tax. Except as otherwise indicated, we do not include in the Study any references to other specific taxes levied by local authorities such as real estate tax, computer tax, office's tax, ATM's tax etc.

3.1.2. *Special Tax Rate for Banks*

17. **No Special Corporate Income Tax Rate.** None of the survey countries reported a special corporate income tax rate for banks.

3.1.3. *Computation of the Tax Base*

18. **Computation of the Tax Base.** For computing the corporate tax base, all countries state that, in principle, it is based on the accounting result as determined by the financial statements drawn up in accordance with the applicable accounting standard (IFRS, local GAAP, etc.).

In this respect, it should be noted that, taking into account the specific nature of financial activities and financial products, there may be specificities in the accounting rules applying to financial institutions or banks, which may influence the accounting result and thus the corporate tax base. In addition to the accounting specificities that may apply to the banking sector, tax laws of certain countries also provide for certain tax adjustments that might not always be specific to banks but that, due to the nature of banking activities, could nonetheless have a more relevant impact on their tax base as opposed to that of other companies. For the sake of clarity, the present Study does not cover the accounting treatment applicable to banks, nor the impact of said accounting treatment on the computation of the tax base.

19. **Tax Adjustments.** The tax adjustments mentioned above relate, for instance, to provisions for bad or doubtful debtors, taxation of unrealised or realised gains and losses on certain financial instruments, application of the participation exemption regime for dividends and/or the capital gains exemption in the case of trading assets and certain thin capitalisation rules. These tax adjustments are further detailed below.

20. **Tax Losses.** In relation to determination of the tax base, we have also been told by Hungary that, specifically for banks, tax losses incurred in and before 2008 cannot be carried forward.

3.1.4. *Turnover taxes*

21. **Turnover Taxes.** Apart from France and China, no other countries reported any turnover taxes on gross interest or other income.

In France, a 'value added contribution' ('Cotisation sur la valeur ajoutée des entreprises') is assessed on the added value of French companies. This applies to banks and other companies where their turnover exceeds EUR 152,500. The tax is computed by applying a progressive rate ranging between 0% and 1.5% on the added value of the company. Both turnover and the added value are calculated according to special provisions for banks (e.g. 95% of dividends

deriving from long-term investments are not taken into account instead of a complete exemption).

In China, a 5% business tax applies to gross interest and other income of banks.

22. **VAT.** For those countries explicitly referring to value-added tax, it was mentioned that banking services and activities are generally exempt from VAT and, as a consequence, banks may generally not deduct the VAT suffered on their incoming invoices. We refer to Chapter 2 of the present Study for more details with respect to some VAT aspects applicable in the Financial Sector.

3.1.5. *Conclusion*

23. **Conclusion.** Based on the above, at first sight and based on the common parameters as detailed above (tax rate, tax base, turnover taxes, etc.), it can be concluded that there is generally a limited difference in tax treatment between banks and other companies, with the exception of bank levies described below.

We refer to Enclosure 1 for an overview table of the corporate income tax rates, local taxes and special levies per survey country as summarised by the various jurisdictions.

3.2. Specific Tax Regime Applicable to Banks

3.2.1. *Tax Relief Rules*

24. **No Specific Tax Relief Rules.** Apart from Singapore, no country identified any specific tax relief applicable to certain specific types of income received by banks as opposed to other companies. In all the survey countries (except Singapore), interest income is subject to the standard CIT rate and there is no particular income tax deduction/relief for interest income in the case of banks.

In Singapore, banks can apply a reduced concessionary tax rate for income from high-growth and high-value-added activities such as relating to the bond market, derivatives market, etc. (so-called standard-tier) or for income from a broader range of financial activities that are important to the development objectives of the Financial Sector in Singapore (so-called enhanced tier) such as lending in foreign currencies, treasury activities, etc. The reduced concessionary rates for both types of income amounts to 5% and 12% (instead of 17%), respectively. These tax incentives are included in the so-called 'Financial Sector Incentive' Scheme, which is designed to promote and encourage further development of Singapore as a prominent financial services hub.

3.2.2. *Specific Anti-Avoidance Rules*

25. **General Comments.** In order to reduce the tax that due, a company may utilise the applicable tax regime to its own advantage. For instance, in relation to their funding requirements, companies can choose to be funded via equity or debt. Generally, debt financing brings additional tax benefits compared to equity financing considering the fact that interest expenses are generally tax-deductible (whereas dividends are distributed after tax and thus are not deductible). By means of high debt financing, the tax base may be eroded through interest expenses. With the aim of discouraging excessive or abusive use of financing methods that impact the tax base, the majority of countries have introduced anti-avoidance rules, which may be general or specific (i.e. aimed at specific expenses, transactions, etc.).

26. **Thin Capitalization Rules.** In order to limit risk in the case of excessive debt financing (solvency risk for creditors) and so minimise the adverse tax consequences of excessive interest deductions, certain countries have set up 'thin capitalisation rules' or rules 'limiting interest deductions'.

In general terms, thin capitalisation rules determine how much of the interest paid on corporate debt is deductible for tax purposes, thus limiting the amount of interest deduction when a certain debt-equity ratio is exceeded. In certain countries, rules also provide for a limitation of interest expenses, for instance when they exceed interest income (this is the case in the Netherlands, for instance).

Thin capitalization rules are applicable in the majority of the countries in scope of the Study, with the exception of ten countries (Belgium, Cyprus, Estonia, Finland, Ireland, Italy, Malta, Slovakia, Sweden and Singapore).

27. **Various Categories of Thin Capitalization Rules.** The countries in which the thin capitalization rules apply may be divided into three categories:

1. The countries in which the thin capitalization rules apply in the same way to the banking sector as to the other sectors (Austria, Germany, Lithuania, Luxembourg, the Netherlands, Poland, Portugal and the USA);
2. The countries in which the thin capitalization rules apply to banks, but in a different way (Czech Republic, Hungary, Switzerland, the UK and China); and
3. The countries in which banks are excluded from the thin capitalization rules (Bulgaria, Denmark, France, Greece, Latvia, Romania, Slovenia, Spain).

In Germany, although the thin capitalization rules are similar for banks and companies in other sectors, in practice, the banks will however not be burdened by the German thin capitalization

rules (due to the fact that interest expenses are always deductible to the extent they do not exceed interest income earned).

Where the thin capitalization rules differ for the banking sector, the difference may be in the applicable debt to equity ratio. For instance, in the Czech Republic and China, the debt to equity ratio applicable to banks is higher. The difference may also be present in the borrowings which have to be taken into account to compute the debt to equity ratio. In Hungary for instance, banks do not have to take into consideration their liabilities in connection with their financial services activities, and in the UK group's external borrowing are not taken into account to determine the debt cap restriction. These differences are due to the nature of the activities of a bank. Indeed, in order to enable a bank to perform its lending activity, the bank itself needs to fund this activity through borrowings.

We refer to Enclosure 2 for an overview table of the applicable thin capitalization rules, as well as the differences applicable to banks, where relevant.

28. **Incentive Rules for Equity Funding.** For the sake of completeness, it is worthwhile to mention that in contrast to the above 'negative' rules to prevent an entity being 'thin capitalised', certain countries may also provide for positive incentive rules from a tax perspective to encourage companies to be equity funded. For instance, Belgium has introduced a notional interest deduction regime, which mainly consists in a tax deduction corresponding to a notional interest cost computed on adjusted equity capital. This regime was introduced to (re)equilibrate the tax treatment of equity funded companies and debt funded companies.

29. **Other Anti-Avoidance Rules.** It should be noted that not all countries have anti-avoidance rules. Where domestic legislation does set down anti-avoidance rules, they generally apply to all companies, and thus not specifically or solely to banks. In this respect, only the USA has reported certain specific anti-avoidance rules applying to the Financial Sector, and thus to banks (many relate to profit offshoring). It should also be noted that the case law of the Court of Justice of the European Union has set stringent rules to the application of these rules in the light of the European freedoms.

30. **Conclusion.** Very few countries have enacted specific tax rules to limit interest deductions by banks.

This can probably be explained by the fact that accepting deposits from customers (and granting loans), coupled with the payment of interest on those deposits, is the core activity of the banking sector. Hence, there is little tax incentive linked to the deduction of interest payments; they are more a business characteristic inherent to the Financial Sector, especially banks.

In addition, at least one country also explicitly referred to applicable capital requirements from a regulatory perspective, under which banks' funding should be sufficiently regulated in principle and hence no further corrective measures (from a tax perspective) need be undertaken in this respect. Generally, such regulatory provisions (such as Basel I, Basel II, the EU Capital Requirements Directive reflecting Basel II, etc.) are intended to create an international standard that banking regulators can use to determine the capital/resources banks need to have to protect them against the financial and operational risks they face.

3.2.3. *Double Taxation Treaties*

31. **Treaty Access for Banks.** Where there are double taxation treaties between the survey countries, none of them has reported that, provided they can be considered to be corporate bodies, banks are excluded from the benefits they procure.

In other words, banks, just like any other standard company, can in theory benefit from the advantages of double taxation treaties if they qualify as a 'resident', as defined by the treaties: this will be so in most cases (subject of course to a case-by-case analysis under the laws of the relevant country, the specific situation of the taxpayers involved and the double taxation treaty in question).

3.2.4. *Branch v. Subsidiary*

32. **No Specific Taxation Rules.** There are no specific taxation rules that treat banks organised as branches differently from those organised as subsidiaries.

33. **Interest Deductibility.** Certain countries nonetheless specify that branches of banks – as opposed to other branches –, may deduct interest paid on loans received from their head office due to the specific nature of their finance activities (for instance Belgium, Portugal, Spain and the UK).

Generally, in the case of a head office and branch structure, the head office will allocate a capital to its branch to enable it to secure its activities. In principle, because a branch cannot be considered a separate legal entity, any interest due on this working capital is, if it is structured as a 'loan', not deductible in the branch's hands (because it is paid to itself, legally speaking). However, this is not generally the case for financial institutions such as banks. In this respect, the OECD Model Convention states that there is good reason for this exception because making and receiving loans is closely related to the ordinary business of such an undertaking.

3.2.5. *Bank Levy*

34. **Methodology.** Although not specifically addressed in the questionnaire for this Study, we asked our contacts in the 27 Member States and the four third countries whether a bank levy applies in their country. If so, we asked them to briefly explain how it is calculated (tax rate, taxable base, etc.).

The detailed answers to this additional question are to be found in the different country responses to the questionnaire enclosed. In addition, we include relevant brief comments in the table summarising our answers to the first set of questions in Enclosure 1.

35. **Principles.** A bank levy or bank tax is to be interpreted as an additional tax imposed on financial institutions, predominantly banks. Following the recent financial crisis, several countries (of which certain countries in scope of the current study) have taken legislative initiative in this respect, such as an additional levy applicable to banks, which are considered to pose a systemic risk to the economy. Although there are current proposals and negotiations pending in this respect, up to now there is no common approach, for instance between the EU Member States, in relation to such tax. Generally such bank levies are not applied on the income/accounting result of the bank (as the case for corporate income tax), but are in principle levied on the (relevant) assets, liabilities or capital of the bank.

For such type of tax, generally no deductions, reductions, exemptions, etc. apply. Such tax thus contributes to an increase of the overall tax burden of banks as opposed to other companies. Moreover, considering such tax is in principle not in scope of double tax treaties concluded by countries, and taking into account the inconsistent approach between various countries as regards to the tax base and entities in scope (branches of foreign banks, etc.), a possible double taxation in the hands of banks with a multinational character appears a likely outcome.

36. **Difference in Treatment.** Based on the above, it can thus be concluded that, with respect to bank levies, there is a difference in tax treatment between banks and other companies, whereas with regard to the general tax rate, as mentioned earlier, the tax base and turnover taxes such difference is generally only limited.

3.3. Tax Treatment of Interest and Dividends

37. Traditionally, the core function of a bank is lending. Banks accept money from clients (deposits) and lend money to clients (lending). In such a scheme, a bank's income generally corresponds to the spread, being the margin between the interest paid (e.g. on the deposits it receives from clients, on commercial papers issued, on loans, on bonds, etc.) and the interest

rate it charges on money lent to clients. Over time, banks have also acted as important investors, also deriving income from various types of financial instruments.

Hence, one of the main components of the income statement of a traditional bank are generally (i) interest paid, (ii) interest received, (iii) dividends received and (iv) gains and losses realised on investments.

3.3.1. *Tax Treatment of Interest*

3.3.1.1. Corporate Income Tax Treatment of Interest Paid by Banks

38. **Deductibility.** Generally, interest paid by all companies, including banks, is tax-deductible.

However, in certain countries, deductibility may be subject to certain limitations set by thin capitalization rules or anti-avoidance rules, where these rules apply to banks (see our comments above, 3.2 'Specific tax regime applicable to banks').

3.3.1.2. WHT Treatment of Interest Paid by Banks to Third Parties

39. **Absence of WHT.** Certain countries do not provide for a general WHT on interest payments. Such is the case in Cyprus, France, Hungary, Luxembourg, the Netherlands and Sweden. Also in Estonia, a WHT is only due in the case of excessive interest payments.

40. **WHT on Interest Payments.** In principle, for all other countries, interest payments are subject to a WHT of which the rate varies from 5% (in Latvia) to 35% (in Switzerland). We refer to Enclosure 3 for an overview table of the summarising the statutory WHT rates applicable to interest payments in the survey countries. This overview table does not reflect reduced rates and/or exemptions under double tax treaties/domestic legislation.

41. **Exemptions/Reductions.** As mentioned above, overall WHT exemptions or reductions may be provided by domestic law, double taxation treaties, etc. It is not the purpose of this Study to enter into the details and mechanics of all these WHT exemptions since, given the diversity and complexity of all these rules, it would required a study as such on this topic. That being said, these exemptions mainly depend on various parameters:

- The capacity of the debtor, i.e. bank (Such is the case e.g. in Denmark, Germany, Slovenia (except in the case of payments to tax havens) and the UK (except for payments to UK individuals));

- The capacity of the beneficiary, i.e. a non-resident beneficiary (such is generally the case e.g. in Finland, Lithuania and Malta) or a bank (such is the case in Belgium or in France for instance);
- The location where the bank account of the beneficiary is open (such is the case in France for instance);
- The nature of the underlying asset;
- Etc.

42. **Specificities.** In the following countries, we have noticed the following specificities.

- In Germany, a specific exemption from the obligation to withhold tax on interest payments (so called "bank privilege") is applicable in cases of German domestic interbank loans;
- In Slovakia, no WHT applies on interest received by a Slovak or Slovak non-resident bank from deposits on bank accounts;
- In Slovenia, interest paid by Slovene banks is not subject to WHT unless paid to tax haven countries;
- In the UK, there is a general exemption for a bank making interest payments in the ordinary course of its business to a company (on payments to individuals withholding may be required). UK withholding tax does not apply to interest on an advance from a bank if that bank is within the charge to Corporation tax as respects the interest. However, there is also a general exemption from the requirement to withhold on interest payments between UK tax resident companies;
- In Singapore, the government has granted a remission of withholding tax on all interest and related payments made by approved banks in Singapore to their overseas branches, head offices or another branch outside Singapore. Based on the recent Singapore budget, it was announced that with effect from 1 April 2011, the banks and certain financial institutions will be exempted from withholding tax on interest and related payments made to all non-residents (other than permanent establishments in Singapore) so long as these payments are made for trade or business purposes. This exemption is for such payments made during the period 1 April 2011 to 31 March 2021;
- In Switzerland, interest paid by a Swiss bank is in general subject to Swiss WHT, however, there is an exemption for interest paid by a Swiss bank to another (Swiss or foreign) bank.

3.3.1.3. Corporate Income Tax Treatment of Interest Received by Banks (as Beneficiary) on Advances and Debt Securities of All Kinds

43. **Taxation.** Interest received – whether on advances or debt securities of all kinds – is generally included in the taxable profits of all companies, including banks. As already

mentioned, none of the countries surveyed reported that interest income could benefit from a more-favourable tax treatment in deviation from this principle.

44. **Timing of Taxation.** It should be noted that the timing of taxation of interest income on debt securities may depend on different factors. For instance, whether the security is used for hedging, lending, trading or other purposes. The timing of the taxation of interest depends on the specific kind of the security and should be determined on a case-by-case basis. As a result, in answering the question regarding the taxation of interest, most countries only dealt with interest payments made on 'regular' advances (loans).

45. **Accrual Basis.** Generally all the countries report that interest income is recognised on an accrual basis from a tax perspective (in conformity with the applicable accounting rules). Interest is thus recognised in the accounting period to which it relates/in which it is earned, irrespective of when it is actually received. Having said this, there are circumstances in which interest income is not accounted under the accrual basis, which in turn has an impact on taxation (because in most countries tax treatment is based on the accounting treatment). For instance, in Malta, interest may possibly be taxable on a cash basis in specific circumstances (i.e. when interest income is not recognised as trading income). In some countries, interest will generally be taxed on a cash basis (Poland).

46. **Banks v. Other Companies.** In relation to this question, no significant differences were reported between the applicable tax treatments in the hands of banks as opposed to other companies.

3.3.1.4. WHT on Interest Payments Made to Banks

47. **Payments to Resident Banks.** Almost all the survey countries report that no WHT applies on interest payments made to a resident bank.

48. **Specificities.** In the following countries, we have noticed the following specificities.

- In Germany, as already explained, a specific exemption from the obligation to withhold tax on interest payments (so called "bank privilege") is applicable in cases of German domestic interbank loans;
- In Greece, interest paid by Greek residents to ordinary Greek companies is subject to a 20% WHT (as securities income). There is a WHT exemption for interest paid to Greek banks which is based on the characterization of the interest as ordinary business income for the banks;
- In Poland, no specific regime for banks in the domestic tax regulations exists. However, specific regulations, in particular WHT exemptions, on interest paid to banks exist in some of the double tax treaties concluded by Poland;

- In Portugal, interest paid to a company is generally subject to WHT, while interest paid to a resident bank is exempt from WHT. However, WHT is a mere payment on account for residents, so the final tax burden will be the same;
- In Singapore, interest payments made to a Singapore branch of a foreign bank will not be subject to withholding tax if the recipient has obtained a relevant waiver from the Singapore tax authorities;
- In Switzerland, as already explained, interest paid by a Swiss bank is in general subject to Swiss WHT, however, there is an exemption for interest paid by a Swiss bank to another (Swiss or foreign) bank.

49. **Payments Made to Non-Resident Banks.** In case of interest paid to a non-resident bank, many countries report that no WHT is due. However, this is often subject to additional conditions. In Belgium, the bank must be established in a country of the European Economic Area or with which it has concluded a double tax treaty. In France, the bank must not be located in a Non Cooperative State or Territory. In Germany, a WHT of 26.375% is only applicable if the interest is paid by a German bank to a foreign bank and the interest or the underlying loan facility is collateralized with German real estate or German ships.

50. **Double Tax Treaties and Interest – Royalties Directive.** Furthermore, in the countries where a WHT on interest applies, many countries reported that an exemption or reduced rates resulting from double tax treaties or from the implementation of the Interest – Royalties Directive may apply.

3.3.1.5. WHT Treatment in a Triangular Situation

51. **Triangular Situations.** Under this Section, we comment whether there is a WHT due by the head office of a bank (situated in a given survey country) in case a foreign branch of that bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party.

52. **Absence of WHT.** In case a foreign branch pays interest to a third party (on a debt which is borne by said foreign branch and is thus not allocated to the head office), all countries have reported that no WHT should be levied by the head-office. Indeed, in order to determine whether domestic WHT is due, all the survey countries refer to the source-state principle.

3.3.2. *Tax Treatment of Dividends*

3.3.2.1. Corporate Income Tax Treatment of Dividends Paid by Banks

53. **Dividends Paid.** Contrary to the interest payment, dividend payments/distributions are not deductible in the hands of the distributing company because this concerns an allocation of taxable profits.

3.3.2.2. WHT Treatment of Dividends Paid by Banks

54. **Scope.** The applicable WHT on dividend payments that have been examined are the applicable (if any) WHT on dividend payments made by a bank (this does not cover the domestic WHT applying to banks as recipients of dividend income).

55. **Absence of WHT on Dividend Payments.** Certain countries do not provide for a WHT on dividend payments. Such is the case in Malta, Singapore and the UK.

56. **WHT on Dividend Payments**. In principle, in most other countries, dividend payments are subject to a dividend WHT. We refer to Enclosure 4 for an overview table summarising the statutory dividend WHT rates applicable in the survey countries. This overview table does not reflect reduced rates and/or exemptions under double tax treaties/domestic legislation.

57. **Exemption Provided by the Parent-Subsidiary Directive.** Overall, all the European countries also cite the possibility of an exemption from dividend WHT based on the European Parent-Subsidiary Directive as generally incorporated into domestic legislation.

58. **Other WHT Exemptions/Reductions.** In addition, most countries also mention that an exemption or a reduced WHT rate can also be claimed for dividends paid based on double taxation treaties or local legislation and taking into account the specific facts and circumstances of the case.

59. **No Differentiated Treatment.** Generally, there is no major difference in the survey countries in the WHT treatment of dividends distributed by local banks and those distributed by local standard companies.

3.3.2.3. Corporate Income Tax Treatment of Dividends Received by Banks

60. **General Rule.** For dividend income, as for interest income, the general rule seems to be that the dividend income is taxable in the hands of the recipient.

61. **Relief Provided by the Parent-Subsidiary Directive.** However, most, if not all, European countries also allow the possibility of relief for dividend income (either via an

exemption or a tax credit system) based on the European Parent-Subsidiary Directive as implemented into domestic legislation. Although this relief is also generally applicable to banks, due to the fact that it is often subject to a minimum holding period and a minimum holding requirement, it does not generally apply to dividends from trading assets or portfolio shares.

In line with this, certain countries specifically state that dividends received on trading assets are taxable (such is the case for Denmark, Germany, the UK and Singapore for instance).

62. **Third Countries.** For most of the non-EU countries surveyed, i.e. China (in the case of foreign dividends), Switzerland and the USA, it appears that dividend income is taxable and generally subject to the domestic corporate income tax rate. Taxation of dividend income may also be reduced in those countries through a foreign tax credit regime, participation relief or other exceptions or deductions.

In Singapore, an exemption is available for foreign dividends received by Singaporean-resident companies. This exemption is not available for Singaporean branches of foreign banks.

63. **No Differentiated Treatment.** Overall, with respect to dividends received, we have not identified any important differences between banks and companies active in other sectors.

3.3.2.4. WHT Treatment of Dividends Received by Banks

64. **Same treatment.** In general, dividends paid to banks and dividends paid to companies in other sectors are treated the same way for WHT purposes. We refer in this respect to the section above on "WHT Treatment of Dividends Paid by Banks".

3.3.3. *Conclusion*

65. **No Significant Differences.** Overall, regarding the corporate income tax treatment of interest paid/received and dividends paid/received, there are no apparent significant differences in treatment between banks and other companies.

66. **WHT.** On the other hand, countries with a WHT on dividends and/or interest generally also provide a range of exemptions dependent on: (i) the capacity of the debtor of the income, (ii) the capacity of the recipient of the income, (iii) whether the payment is made to a resident or a non-resident, etc. In this respect, we do not observe any uniform approach or universal principle among the survey countries. Nevertheless, in some of the survey countries, banks can benefit from a broader range of WHT exemptions, especially for interest payments.

We refer to Enclosure 5 for an overview table of the WHT treatment of interest and dividends paid to banks is described, as well as the differences applicable to banks, where relevant.

3.4. Tax Treatment of Gains and Losses on Fixed Assets

67. **Scope.** As agreed with the Commission, we narrowed the scope of this question to financial fixed assets (with the exclusion of other fixed assets such as real estate, equipments, etc.). "Financial fixed assets" refer to financial assets which are not held for trading purposes, and this includes financial instruments.

For the purposes of this Study, we made a distinction between two types of financial fixed assets: shares on the one hand, other financial instruments on the other hand. In addition, a distinction has been made between the applicable tax treatment upon realised gains and losses, and upon unrealized gains and losses.

68. **Realized gains/losses on shares.** In respect to the taxation of shares which qualify as financial fixed assets, there is no consistent approach between the countries in scope. In the majority of countries, realized losses are tax deductible if the realized gains are taxable (this is the case for Austria, Bulgaria, Estonia (upon distribution only), Hungary, Latvia, Poland, Portugal, Romania, Slovenia, Spain and Singapore), and where realized losses are not tax deductible, the realised gains will in principle be exempt (this is the case for Belgium, Cyprus, Germany, Slovakia and China).

In certain countries, realized losses on shares may only be offset against gains which have a similar nature (this is for instance the case for Greece, Ireland, Lithuania and the UK). Ireland for instance, applies a so-called 'basket provision' (i.e. losses are deductible against capital gains realised during the same accounting period)

In other countries, the deductibility of the realized losses on shares will depend on the tax treatment which applies on the realized gains of said shares. For instance, only when realized capital gains on shares benefit from an exemption, the realised losses are not deductible for tax purposes (this is the case for the Czech Republic, Denmark, Finland, France, Italy, Luxembourg, Malta, the Netherlands, Sweden and Switzerland). Luxembourg, Sweden and Switzerland for instance cite an exemption provided the conditions of the participation exemption regime/participation relief are complied with (generally, a minimum holding period and minimum holding requirement). In Belgium, capital losses on shares are in principle not deductible even if the participation exemption conditions are *not* met.

In Malta, capital losses can be carried forward indefinitely to future years and absorbed against future capital gains. For the sake of completeness, in China, losses are only deductible if

supported by a special purpose report. In Singapore, there is no tax on capital gains (and capital losses are not deductible).

69. **No Separate Capital Gain Tax.** In general, the countries do not report a separate capital gains tax. However, in Ireland, capital gains are taxed at a rate of 25% (compared to the 12.5% applying to trading income).

70. **Realized Gains/Losses on Other Financial Fixed Assets.** In respect to the taxation of other financial fixed assets (not shares), the countries in scope have a more consistent approach whereby realized losses are usually deductible for tax purposes, and realized gains are taxable.

71. **Unrealised Gains and Losses.** With respect to the tax treatment of unrealized gains and losses, we refer to the table contained in Enclosure 6. Compared to the non-Financial Sector, few countries identified differences in the tax treatment of financial fixed assets. The differences mainly relate to unrealized gains and losses being recognized for tax purposes in the banking sector (this is the case for Bulgaria and Sweden).

72. **Overview Table.** We refer to Enclosure 6 for an overview table of the tax treatment of gains and losses on financial fixed assets, as well as for the differences applicable to banks, where relevant.

3.5. Tax Treatment of Some Financial Practices/Instruments

3.5.1. *Discounts on Government Bills, Trade Bills and Similar Instruments*

73. **Scope.** For the purpose of answering this question, 'discounts' are understood as being the negative difference between face value and acquisition price of government bills, trade bills and similar instruments.

74. **No Differences.** Given the purpose of the questionnaire, none of the countries reported a difference in the treatment of such income in the hands of banks as opposed to other companies.

75. **Accrual Basis.** Generally, such income is recognised on a *pro rata temporis* basis until maturity, i.e. an accrual basis. From a tax perspective, the income is thus generally taxed on an accrual basis.

76. **Exceptions.** A limited number of countries provide that such discounts are taxable in the hands of the holder upon maturity, redemption or sale of the bill (this is the case for Germany and Poland for instance).

3.5.2. *(Financial) Assets for Trading Purposes*

77. **Scope.** For the purposes of this Study, we made a distinction between two types of financial trading assets: shares on the one hand, other financial instruments on the other hand. In addition, a distinction has been made between the applicable tax treatment upon realised gains and losses, and upon unrealized gains and losses.

78. **Taxation of Gains / Deduction of Losses.** In most countries, capital gains on trading assets are taxable whereas capital losses are tax deductible. In some countries, like for instance Belgium, Cyprus, France, Germany, Luxembourg and the Netherlands capital gains on shares may be tax exempt under certain conditions (a 95% exemption with respect to Germany and France).

79. **Unrealised Gains and Losses.** The tax treatment of unrealised gains and losses strongly varies from country to country and depends from the applicable accounting treatment (which we do not address in this Study).

Said accounting treatment has essentially an impact on the timing of recognition of these unrealised gains and losses and can lead to differences between banks and other companies.

For instance, in Bulgaria, unlike other companies banks recognize for tax purposes both realized and unrealized capital gains / losses (revaluation income / expenses are recognized in the period when incurred).

In Germany, financial instruments held-for-trading by a bank or a financial institution are measured at fair value since 2010. Therefore, unrealized gains and losses increase or decrease the taxable income and realized gains and losses on shares as financial trading assets increase or decrease the taxable income (i.e. the 95% tax exemption is not applicable in case of shares held by a bank or a financial institution as trading assets). Correspondingly, losses resulting from a disposal of such shares are recognized for taxation purposes. The same kind of tax treatment applies in Malta.

80. **Overview Table.** We refer to Enclosure 7 for an overview table summarizing the tax treatment of financial trading assets, as well as the differences applicable to banks, where relevant.

3.6. Tax Treatment of Bad or Doubtful Debts on Advances and Loans

81. **Definitions.** In our analysis of the input provided by the survey countries, we noted that general and specific provisions are not always interpreted uniformly due to differences in tax culture and jargon.

To compare the different rules and for the purposes of this Study, we therefore defined a general provision to be one determined on a global basis, based on a statistical approach, etc., without relating to specific identifiable bad risks/debts on advances and loans.

A specific provision is deemed to be (i) a specified provision – as opposed to a general provision, or (ii) a provision specifically available for banks.

3.6.1. *General Provision*

82. **Non-Deductibility.** Bearing in mind the meaning of general provisions as described above, the majority of the survey countries indicate that they are not tax-deductible.

83. **Particular Provisions for Banks.** Apart from this common approach, a limited number of countries consider a general provision, determined as a certain percentage of total outstanding debts/loan portfolio, as deductible, i.e.:

- In Czech Republic, there are special tax rules for creation of bank provisions against non-statute-barred receivables from credits. Banks may in the given year create tax deductible provisions up to 2% of all loan receivables towards these receivables (incl. accrued standard interest). The 2% is annual average balance calculated at the end of each month and 1 January. Only loans granted to EU companies are included into the base of 2% calculation and only to these loans tax provision may be created;
- In Finland, depository banks and other credit institutions are entitled to make a tax deductible doubtful debt provision annually. This provision cannot exceed 0.6% of the amount of total receivables outstanding at the end of the tax year. Other restrictions apply as well. Further, the amount of the annual provision together with provisions made in previous years cannot exceed 5% of the amount of outstanding receivables at the end of the tax year. If the provision exceeds the maximum in any one year, the excess is regarded as chargeable income for that year. In addition, depository banks and credit institutions may include e.g. loan/client specific provisions in certain cases in the general provision (within the limits of the general doubtful debt provision);
- In France, the French Tax Code entitle banks and credit establishments to deduct a specific provision for default risks over middle and long terms loans granted. In addition, a specific practice recognised by the French Tax Authorities allows bank establishments to maintain the tax deductibility of certain accounting provisions related to assets (classically loans, bonds, notes) held in risky jurisdictions ("*provision pour risque pays*"). The deductibility of the provision is limited to a certain percentage of the assets' value held in a risky jurisdiction ranging from 0.5% to 5%;

- In Germany, general provisions may be recorded based on experienced data of the past. As a general rule, a minor provision of 1% or 2% should always be acknowledged for tax purposes;
- In Greece, banks are entitled to deduct a general provision for tax purposes at a rate of 1% (or 2% for investment banks) of their annual average advances;
- In Italy, for banks, the amount of bad debt provisions accounted on the balance sheet that are not covered by insurance and that arise from lending to customers are deductible in each period up to 0.3% of the value of the credits accounted on the balance sheet plus write-offs recorded during the financial year. For other companies, bad debt provisions are deductible in each period within the limit of 0.5% of the total nominal value of credits. Total provisions can't exceed 5% of total nominal value of credits;
- In Lithuania, banks are not subject to specific requirements applied to other companies from non-financial sector. Specific provisions for bad debts recorded by banks may be deducted to the extent allowed by the rules of the Bank of Lithuania. There is no requirement that debt should be included into income in previous periods for banks. Also there is no requirement to obtain specific evidence for banks;
- In Luxembourg, risk and charges, lump-sum and AGDL provisions are specific to banks due to their activity and inherent risks. Risks and charges provisions booked are in principle tax deductible as the loss is clearly identified and either likely or certain to occur but uncertain as to the amount or to the date. Besides, country risk provisions reflecting the temporary risk of recovery due to economic/political situation of the country of the debtor are also tax deductible. A lump-sum provision for risk-weighted assets could also be booked by the banks and is tax deductible if it meets certain conditions (i.e. limitation to 1.25% of the qualifying risk weighted assets). The AGDL ("Association pour la Garantie des Dépôts Luxembourg") provision booked is also tax deductible;
- In Poland, for banks only, a general risk provision set up in accordance with Polish accounting standards, i.e., generally, a maximum of 1.5% of all outstanding loans, should in principle be tax-deductible;
- In Spain, general provisions are not tax-deductible as a rule. However, in general terms, banks can deduct the annual charge of these provisions up to the limit of 1% of the positive difference from qualifying loans granted in the year;
- In China, the general provision is tax-deductible for banks only up to 1% of the permitted scope of loan assets, subject to a special formula;
- In Singapore, with the introduction of FRS 39, general and specific provisions for bad or doubtful debts will no longer be made. Banks which do not have a robust loss estimation process and are unable to provide for collective impairment under FRS 39 are required by the banking regulator to maintain a certain level of impairment provisions. As a concession, the amount of general provisions (computed based on a provisional formula provided in the

tax legislation) will be deductible. An auditor's certification is required to support the deduction claim.

3.6.2. *Specific Provisions*

84. **Deductibility.** Overall, in order for a provision to be tax-deductible, the majority of the survey countries require the provision to be linked to identified losses to a minimum extent, taking into account *inter alia* the probability of a certain loss, the aging of loan, payments in arrears, etc. In this respect, two countries, Spain and Switzerland (for the canton of Zurich), provide that the deductibility of such specific bad-debt provisions is generally more restrictive for banks than for other companies.

On the contrary, Portugal reported that the conditions of tax-deductibility of specific provisions are less severe for banks than for companies of other sectors, since for banks the aging of the debt is normally lower than in other companies. In the USA, too, the deductibility of specifc provisions against debt obligations is severely limited for companies other than banks.

Certain countries specify the probability of the loss by linking the percentage deductibility to the period over which the payment is overdue (such is the case in Slovakia for instance) or by requiring documentation to evidence the 'loss' of the loan (such is the case in Poland and Belgium for instance).

In the case of specific provisions, too, certain countries limit their deductibility on the basis of a certain percentage or type of loan portfolio (such as China for instance) or other parameters such as the bank's profits (such as Germany for instance), etc.

85. **General Credit Risk Provision.** In addition, certain countries also report the possibility of a provision specific to the banking sector (general credit risk provision). Overall, such specific provisions are generally recorded in accordance with special regulations and are generally considered tax-deductible in the amount stated therein (such is the case in Greece, Lithuania, Luxembourg, and Romania for instance). Some of these have already been commented above in the section regarding the general provisions.

86. **Overview Table.** We refer to Enclosure 8 for an overview table of the tax treatment of bad and doubtful debts.

3.7. Tax Treatment of Employee Stock Option Plans

87. **No Special Tax Treatment.** Generally none of the countries cited any special tax treatment for stock option plans granted by banks as opposed to other companies.

88. **Deductibility Conditions.** The majority of the countries stated that whether payments in relation to stock option plans granted by banks are deductible depends on their tax treatment in the hands of the employee. Certain countries specified in this respect that deductibility is subject to certain conditions (such is the case with Estonia, Germany, Ireland, Malta, Slovenia, Sweden, the UK and Singapore for instance. On the contrary, this is for instance not the case in Austria), generally these conditions relate to:

- Taxation of the fringe benefit in the hands of the employee;
- Reporting requirements;
- Whether the costs are actually incurred (not in the case of a capital increase).

89. **Non-Deductibility.** Based on the input provided, these costs are not deductible for corporate income tax purposes in Denmark, the Netherlands and Slovakia.

90. **Unclear Position.** Finally, a limited number of countries, i.e. Estonia, Italy, Lithuania and China, state that their tax law leaves it unclear whether such costs can be considered as tax-deductible. Nevertheless, they say that there are arguments for claiming tax-deductibility, i.e. in relation to taxation in the employees' hands.

91. **No Deduction of Capital Losses on Shares.** In Belgium, payments in relation to stock option plans are deductible, except for capital losses on shares.

3.8. Specific Questions Regarding Banks

3.8.1. *Under/Over-Estimation of Book Value – Accounting Discretion*

92. **No Specific Comments.** Overall, the majority of the countries do not provide any specific comments on this question. In general, there is no difference in treatment of banks as opposed to other companies. In addition, this question relates more to applicable accounting standards than a tax issue.

93. **Exceptions.** Only an isolated group of countries report possible differences in treatment in relation to this question:

- In Austria, the law contains two provisions regarding the discretion to under-/overstate the book value of capital, i.e. (i) in relation to claims of credit institutions, securities (except for portfolio assets), loans an advances where necessary for reasons of prudence in the light of particular banking risks, and (ii) in the case of the fund for general banking risks. These accounting discretions do not qualify as tax-deductible;
- In Germany, credit institutions have the option of capitalising receivables, bonds, fixed-interest securities and other non-interest-bearing securities at a lower value than the value

according to German GAAP as far as this is deemed necessary to protect against specific risks resulting from the credit institution's line of business. However, this does not entail any tax consequences.

3.8.2. *Difference in Treatment Between Subsidiaries and Branches*

94. **No Differences.** From a tax perspective, almost none of the countries report a difference in treatment between banks incorporated as local subsidiaries and local branches of foreign banks.

For the sake of completeness, Romanian tax law does not set down any specific rules regarding the deductibility of provisions in the case of branches. Therefore, it is assumed that (contrary to the case with subsidiaries) credit risk provisions set up according to internal group policy or IFRS should be allowed.

3.9. Practice

95. **No Specific Comments.** Generally, none of the countries report any current practice deviating from the statutory provisions.

For the sake of completeness, and as explained above, Portugal specifies that, although not explicitly provided for in its tax law, due to the specific nature of their financing activities, branches may deduct interest paid on loans received from their head office, which is not so for other branches.

4. CONCLUSION

96. **No Major Differences.** We found no evidence that banks have a significantly lower or higher corporate income tax burden than companies active in other sectors. As a general rule, the applicable standard corporate tax rate (including any municipal rates), computation of the tax base, deductible items or tax reliefs and so forth are generally the same for banks as for companies active in other sectors. There may be some differences specific to the bank business, but *prima facie* these differences do not appear significant.

97. **Specificities to the Bank Sector.** The differences are either justified by banks' particular business model or by the fact that they are regulated bodies given their central role in the economy. Differences such as the tax treatment of provisions on doubtful debtors or loans, the deduction of interest in branch structures, the taxation of financial instruments, as well as the fact that certain anti-abuse provisions, such as thin-capitalisation rules, are inapplicable or less-stringently applied to banks compared to other companies in certain countries, does not appear

to constitute favourable tax treatment for banks. Indeed, it would appear merely to be a consequence of the fact that banks operate a unique type of business and are regulated companies already subject to strict rules in terms of capital adequacy requirements.

98. **No ETR Exercise.** In the present Study, we have not performed any exercise to analyse whether the effective tax rate on banks is or might be significantly lower or higher compared to other categories of taxpayers.

99. **Code of Conduct.** Concerning this last aspect, it is worth mentioning a recent report from the OECD Forum on Tax Administration ('FTA') relating to a 'framework for a voluntary code of conduct for banks and revenue bodies'. This Framework is based on previous OECD reports (OECD 2009: Building transparent tax compliance by banks, OECD Paris; and OECD 2008: Study into the role of tax intermediaries, OECD Paris) and describes an enhanced relationship between revenue bodies, large taxpayers and their advisers, which is a collaborative relationship anchored more on mutual trust than enforceable statutory obligations. These reports identify a number of principles that could serve to guide the relationship between banks and revenue bodies, such as that (i) banks should not become involved in aggressive tax planning either on their own behalf or in their capacity as tax intermediaries, and they should consult with revenue bodies where there is significant uncertainty, (ii) banks and revenue bodies should work towards a common view of what constitutes acceptable or unacceptable tax planning. In this respect, both South Africa and the United Kingdom have introduced measures aimed at improving the relationship with their banking sectors. The UK introduced a Code of Practice on taxation for banks on 9 December 2009. The aim of the Code is to ensure that banking groups operating in the UK comply with the spirit, as well as the letter, of the law when it comes to tax matters. This initiative is to be seen in the context of the UK tax authorities' continuing drive to improve relations with large business.

100. **Bank Levies and Compliance Costs.** Although not part of the questionnaire as drafted, and not therefore the prime purpose of the study, we felt it useful, in order to give an objective overview of taxation of the Financial Sector, to mention that, in many countries, bank levies have recently been proposed or are to be proposed in the near future. They vary from country to country (in terms of the perimeter of the levy, taxable base and rate), but in most cases are based on concepts and principles taken from the 2010 IMF report on a 'fair and substantial contribution by the Financial Sector'. Also, as such levies are currently introduced or being proposed in different jurisdictions without any consistent approach, multinational banking groups may be subject to a double imposition of tax for which currently no relief is possible under double taxation agreements, etc. Due to the fact that for such type of tax generally no deductions, reductions or exemptions, etc. apply, such taxes may thus have an impact on overall taxes borne by banks as opposed to other companies. In addition, banks are playing a

central role in collecting taxes on behalf of Governments and in reporting tax information which entails significant compliance costs. In our view, this has also to be taken into in assessing the tax treatment of Financial Institutions in general, and banks in particular.

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CHAPTER 2: VALUE-ADDED TAXATION OF THE FINANCIAL SECTOR

1. PURPOSE AND SCOPE OF THIS CHAPTER

101. As already mentioned, the scope of this Study encompasses delivery of a review of current tax provisions directed at the Financial Sector and financial instruments in the EU's 27 Member States as well as – for comparison – some significant third countries.

102. More specifically, this Chapter covers the following questions:

1. For EU Member States, article 135(1) of Directive 2006/112/EC applies, which exempts financial services. Do similar provisions apply to the other, key third countries for VAT, sales taxes or consumption taxes of the same nature?
2. Do EU Member States use article 137(1)(a) of Directive 2006/112/EC to allow taxable persons a right of option for taxation of financial transactions referred to in points (b) to (g) of article 135(1), and if so to what extent? Do third countries have similar provisions?
3. Have EU Member States introduced taxes to specifically compensate for the general tax exemption for the Financial Sector (e.g. DK, FR payroll taxes, DE has a tax on insurance contracts similar to VAT but not allowing for deduction of input VAT, stamp duties, Contracts for Difference, etc.)?

103. The scope of this Chapter includes an overview together with a high-level description of the scope and application of the taxes identified but does not include detailed descriptions of the specifics of each tax. Where necessary, we have added whether the tax is applicable to banks, insurance companies, credit card companies or other institutions.

104. This Chapter needs to be seen as a continuation of the study of PwC of 2006 to increase the understanding of the economic effects of the VAT exemption for Financial and Insurance Services. The report of 2006 already provided a very high-level overview of the VAT treatment of Financial and Insurance Services within EU25 and some third countries (based on a questionnaire of around 80 questions that was completed by the PwC Global Indirect Taxes Financial Services Network). The new Study provides a more profound overview of the indirect taxation of Financial and Insurance Services within EU27 (including Romania and Bulgaria) as well as for key third countries with special focus on option to tax and compensating taxes.

2. ACTION UNDERTAKEN

105. **Questionnaires Drafted.** To gather the necessary information on the national legislation of the EU's 27 Member States plus four identified key third countries, two different

questionnaires were made up, one for the EU's 27 Member States and one for the key third countries (i.e. China, Singapore, Switzerland and the United States of America) containing the questions described above. You will find enclosed the questionnaires used for the EU's 27 Member States and the four key third countries (Enclosures 10, 11 and 12).

106. **Questionnaires Sent to PwC Network.** Subsequently, these questionnaires were sent through the PwC Global Indirect Taxes Financial Services Network in January 2011 to collect the necessary data, which was received from the Network in February 2011.

107. **Data Analysis.** Based upon the input received, a more-detailed analysis, including the necessary PwC quality checks, has been done on the data, resulting in our final outcome reported below and the attached enclosures.

3. RESULTS

3.1. VAT, Sales Tax or Consumption Taxes of the Same Nature Applicable in Third Countries

108. **Key Third Countries Having Similar Exemption for Financial Services.** Of the key third countries, Switzerland and Singapore both have similar exemptions for financial services as laid down in article 135(1) of Directive 2006/112/EC. In Switzerland, it even seems that the Swiss Federal Tax Administration will be adopting the European Court of Justice's interpretation regarding intermediary services following the cases CSC Financial Services Ltd (C-453/05 of 21 June 2007) and Volker Ludwig (C-235/00 of 13 December 2001).

109. **No Sales Tax on Financial Services but Premium Tax on Premiums.** In the USA, a Sales Tax is imposed at State level on the supply of tangible items and some very specific services. None of the States imposes Sales Taxes on financial services as provided for in article 135(1) of Directive 2006/112/EC. However, many States levy a Premium Tax on the premiums received by insurance companies for insuring risk in that particular State.

110. **Business Tax in China but Uncertainty on Taxable Basis.** In China, financial services are generally subject to Business Tax (and not VAT). However, uncertainty arises with respect to the taxable basis on which Business Tax should be calculated (gross or net). The Chinese government is currently enacting a process of VAT reform, which may entail merging the existing Business Tax system into VAT.

111. **No option to Tax in Key Third Countries.** No "option to tax" regime similar to the provisions of article 137(1)(a) of Directive 2006/112/EC exists in Switzerland, Singapore, China or the USA.

112. **VAT Deduction Schemes for Financial Services Providers.** Singapore allows a VAT deduction for banks based upon a fixed rate depending on the type of licence the bank holds or based upon a standard input tax recovery formula for other financial institutions. Switzerland[1], China and the US, on the other hand, do not have real input tax recovery systems in place.

113. **Detailed Overview.** Please find enclosed a more-detailed overview of the VAT, Sales Taxes and consumption taxes regimes with respect to financial services in the four key third countries (see Enclosure 13).

3.2. Option to Tax Financial Services in the EU Member States

114. **Possibility to Opt for Taxation of Exempt Financial Transactions.** According to article 135(1)(a) to (g) of Directive 2006/112/EC, financial services are VAT-exempt. Nevertheless, article 137(1)(a) of Directive 2006/112/EC gives EU Member States the possibility to allow taxable persons a right to opt for taxation of exempt financial transactions as mentioned in article 135(1)(b) to (g).

115. **Only Option to Tax in Seven Member States.** This means that the EU Member States may at their own discretion implement the option to tax financial services, except insurance transactions. However, of the 27 EU Member States, only seven have implemented a provision for the option to tax financial services: Austria, Belgium, Bulgaria, Germany, Estonia, France and Lithuania.

116. **No Option to Tax in Other Member States in the Near Future.** Currently, no other EU Member States are considering implementing this provision in the near future. Only in Latvia and Cyprus are initial discussions on-going with regard to a future possible implementation of the option to tax. However, at this stage it is too early to say whether these Member States will finally adopt the "option to tax" provision.

117. **Option to Tax Not Limited to Financial Institutions.** In most of the EU Member States, the option to tax is not limited to financial institutions.

118. **Significant Divergences In Scope and Application of Option to Tax.** The scope and application of the option to tax diverge significantly from one EU Member State to another.

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[1] In order to reduce administrative cost the Swiss Federal Tax Administration offers insurance companies and banks industry-specific lump-sum methodologies as a partial exemption method via an administrative guidance.

119. **Divergences Regarding Extent of Option to Tax.** Austria, Belgium and Bulgaria have implemented the option to tax to a very limited extent, while other countries like Germany,[2] Lithuania[3] and Estonia[4] have implemented it for almost all exempt financial services within the scope of article 135(1) of Directive 2006/112/EC. France, on the other hand, has implemented the option to tax for all transactions relating to banking and financial activities and, in general, to trading in securities and money. However, the actual application is limited as several, specific financial services are excluded from the scope of the option.

120. **Divergences Regarding Conditions.** The specific conditions for exercising the option also differ among the relevant EU Member States.

121. **Divergences Regarding VAT Status of the Customer.** In Germany and Lithuania, the option can only be exercised if the customer is a vatable person whereas the other EU Member States do not differentiate how it can be applied on the basis of the status of the customer.

122. **Divergences Regarding Exercising of the Option.** In France, once exercised, the option applies to all eligible services. In Lithuania, the option applies to a specified group of financial services and in Belgium to all payment and receipt transactions. In Austria, Bulgaria, Germany and Estonia, the option can be exercised on a transaction-by-transaction basis.

123. **Divergences Regarding Territoriality.** There are also differences with respect to the territoriality. In general, the option to tax is not applicable to cross-border transactions or the conditions are so strict that they preclude use of the option to tax. In Belgium and France, the vatable person opting to tax will have a right to deduct VAT with respect to cross-border banking and financial transactions, even if the service is exempt of VAT in the EU Member State of the recipient.

124. **Option to Tax Not Commonly Used.** With respect to the use of the "option to tax system" by the operators (i.e. financial institutions), it seems that the option to tax is not commonly used in most of the relevant EU Member States and is certainly not widespread within the Financial Sector

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[2] Germany: implemented the option to tax for the services mentioned in article 135(1)(b) to (f) of Directive 2006/112/EC.

[3] Lithuania: implemented the option to tax for the services mentioned in article 135(1)(b) to (f) of Directive 2006/112/EC.

[4] Estonia: implemented the option to tax for the services mentioned in article 135(1) (b) to (g) of Directive 2006/112/EC.

125. **Detailed Overview Enclosed.** Please find enclosed a more-detailed overview of the option to tax regimes in Austria, Belgium, Bulgaria, Estonia, Germany, France and Lithuania (see Enclosure 14)[5].

3.3. Other Taxes Compensating for the General Tax Exemption

126. **Other Taxes on Financial Transactions But Not All Compensating.** Nearly all EU Member States have introduced other taxes on financial transactions. Nevertheless, these do not all have the goal of specifically compensating for the VAT exemption for financial services. Most taxes were already levied before the implementation of VAT. Only six EU Member States do not have any other taxes on financial services (Slovakia, Romania, Poland, Lithuania, Estonia and the Czech Republic).

127. **Specific Payroll Taxes in France and Denmark**. France and Denmark have introduced payroll taxes to be paid on salaries by employers with VAT-exempt financial or outside-scope activities. The payroll taxes are apportioned on the basis of a *pro rata* taking into account the VAT-exempt and outside-scope turnover and are clearly a VAT-compensatory tax.

128. **Insurance Premium Tax in Most EU Member States but Divergence in Scope and Application.** Nineteen EU Member States (Austria, Belgium, Bulgaria, Cyprus, Germany, Denmark, Spain, Finland, France, Greece, Hungary, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Slovenia, Sweden and the UK) have an insurance premium or similar tax, a government levy on insurance contracts/companies. The scope and application of

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[5] Although not within the scope of this particular study, we would draw attention to the fact that distortions of competition in the Financial Sector within the EU 27 Member States and vis-à-vis third countries is caused not only by the divergence in application of the option to tax rule amongst Member States but also to:

- divergent interpretations of the VAT definitions of exempt financial services as stated in article 135(1) of Directive 2006/112/EC,
- divergent interpretations of ECJ case law:

e.g. ECJ (C-242/08) Swiss Re concerning the proper VAT treatment of the transfer of a portfolio of reinsurance contracts by a German reinsurer to a Swiss associate. Although the Court clearly stated that these transactions are vatable, in practice, some Member States still treat them as VAT-exempt transactions due to their conferring a broader interpretation on other VAT exemptions, while other Member States consider them as vatable. These divergent interpretations of common transactions, for example within the insurance world (such as transfers of insurance portfolios, claims-handling transactions, run-off services or insurance back-office services) create distortion of competition not only within the Member States but also vis-à-vis third countries.

- inconsistent implementation of the VAT prorate methodology between Member States;
- inconsistent implementation and interpretation of the cost-sharing VAT exemption and VAT grouping rules in some Member States.

insurance premium tax differ from one EU Member State to another. In some EU Member States, this tax is clearly a VAT-compensatory tax while, in other countries, this link cannot be made. According to the latest information, the Czech Republic may implement an insurance premium tax in 2013.

129. **Also Other Taxes and Levies on Financial Instruments.** Alongside these taxes, most countries have also implemented other taxes and levies on financial instruments/services such as stamp duties, stock exchange taxes, bank levies, special contribution taxes, government levies, registration taxes, mortgage taxes, etc. However, these taxes mostly differ from Member State to Member State.

130. **Detailed Overview.** Please find enclosed a more-detailed overview of the other taxes in the 27 EU Member States (see Enclosure 15).

131. **Recent Introduction of New Taxes in Several Member States.** Some Member States have recently introduced new taxes or have intentions of implementing new taxes or adapting existing taxes. This is the case for Austria, Belgium, Bulgaria, the Czech Republic, Greece, Hungary, Ireland, Poland, Romania and the UK.

4. CONCLUSION

132. **Taxation of Financial Transactions in Key Third Countries.** Of the key third countries, Switzerland and Singapore both have similar exemptions without credit for financial services as laid down in article 135(1) of Directive 2006/112/EC. In the USA, no sales taxes are levied on financial services. However, most States levy an insurance premium tax. In China, on the other hand, financial services are generally subject to Business Tax.

133. **No Option to Tax in Key Third Countries.** No "option to tax" similar to the provisions of article 137(1)(a) of Directive 2006/112/EC exist in Switzerland, Singapore, China or the USA.

134. **VAT Deduction Schemes for Financial Services Providers.** Singapore provides for input VAT deduction based upon a fixed rate depending on the type of licence the bank holds or based upon a standard input tax recovery formula for other financial institutions. Switzerland, China and the US do not have real input tax recovery systems in place in their tax legislation.

135. **Only Option to Tax in Seven Member States but Significant Divergences in Scope and Application.** Within the EU's 27 Member States, only seven Member States have implemented a provision for opting to tax financial services. The scope and application of the

option to tax diverge significantly from one EU Member State to another. With respect to actual use, it seems that the option to tax is not commonly used in most of the relevant EU Member States and is certainly not widespread within the Financial Sector.

136. **Other Taxes on Financial Transactions but Not All Compensating.** Nearly all EU Member States have introduced other taxes on financial transactions. Nevertheless, they do not all have the goal of compensating for the VAT exemption for financial services. The most common additional tax on financial services is insurance premium tax. Most EU Member States have also implemented other taxes and levies on financial instruments/services such as stamp duties, payroll taxes, stock exchange taxes, bank levies, special contribution taxes, government levies, registration taxes, mortgage taxes etc. However, these taxes mostly differ greatly from EU Member State to EU Member State.

137. **Recent Introduction of New Taxes in Several Member States.** Some Member States have recently introduced new taxes or have intention of implementing new taxes or adapting existing taxes.

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CHAPTER 3: LABOUR TAXATION IN THE FINANCIAL SECTOR

1. PURPOSE AND SCOPE OF THIS CHAPTER

138. The scope of this Chapter extends to identifying whether and, if so, to what extent salaries and incentive pay schemes paid to employees in the Financial Sector are treated differently for income tax, social security and any other applicable salary tax purposes than salaries paid to employees working in other sectors. It clarifies the conditions under which this differentiated treatment applies, if any, and explains its rationale. It identifies whether dividend income and capital gains on shares issued by a financial institution might be treated differently for an individual shareholder than dividend income and capital gains on shares issued by non-financial organizations.

139. The scope of this Chapter does not include a description of the tax and social security treatment of salaries and incentive pay schemes in the different jurisdictions but aims at identifying and understanding of whether and, if so, to what extent differentiated tax treatment applies to pay in the Financial Sector. The scope of this Chapter also does not include a review of pay practices, pay structures and pay levels in financial services by comparison with those applicable in other sectors. The scope of this Chapter does not necessarily address the impact that regulatory requirements specifically applicable to the Financial Sector might have on pay practices in the Financial Sector.

140. For the purpose of this Chapter, the "Financial Sector" includes banks, insurance companies, credit card companies, stock brokers and management companies of investment funds. Investment funds themselves have not been included. Investment funds are managed by dedicated management companies and are therefore generally not staffed.

2. ACTION UNDERTAKEN

141. As agreed, to ensure a consistent approach in each jurisdiction, we have prepared a questionnaire including 7 questions. This questionnaire (see Enclosure 16) was included in the contract referred to above and agreed by the Commission.

142. Further to our interim report, you have raised specific questions for Denmark, France, Ireland, Italy, Portugal and the UK in your e-mail of February 14, 2011. In addition, further to the telephone conversation of February 23, 2011, during which we discussed the way forward to the interim report, we have prepared and sent additional questions to each jurisdiction. This additional questionnaire is attached (see Enclosure 17). The aim of this additional

questionnaire was to gather information on whether pay packages in the Financial Sector include a proportion of components benefiting from favourable tax treatment (like equity incentive elements) different from the proportion of such components included in pay packages in other sectors so that the average tax burden on pay packages in the Financial Sector might be lower than in other sectors.

3. RESULTS

3.1. Identification of a Possible Differentiated Tax Treatment of Salaries and Incentives Applicable in the Financial Sector in Comparison to Other Sectors

3.1.1. *For Individuals*

143. **Identification of Differentiated Tax Treatments.** Based on the answers provided by our offices in the various jurisdictions, out of a total of 31 countries (27 EU Member States, China, Singapore, Switzerland and the USA) only 7 countries have reported having taken legal initiatives according to which salaries, bonuses, stock options, and/or other equity incentives in the Financial Sector have been, are or are expected to be treated differently from a tax perspective from those in other sectors.

Those countries are:

- France
- Greece
- Ireland
- Italy
- Malta
- Portugal
- United Kingdom

144. **Danish Special Payroll Tax.** For the sake of completeness, it should be noted, however, that Denmark reported that companies not subject to VAT (irrespective of the sector of activity) are liable to a special payroll tax of approximately 9% levied on total salaries. Board member fees are not subject to this special payroll tax. As organizations in the Financial Sector are not subject to VAT in Denmark, they are liable to this payroll tax. However this 9% payroll tax is not specific to organizations in the Financial Sector, it also applies to other organizations not subject to VAT (as of 1 January 2011, the size of the levy has been increased from approximately 9% to 10.5%). Based on the above, it therefore may not be concluded that this payroll tax only actually burdens pay in the Financial Sector, although this is effectively the case.

145. **Dividends and Capital Gains.** Furthermore, dividend income and capital gains on shares issued by companies in the Financial Sector are not treated differently from dividend income and capital gains on shares issued by companies in other sectors. Therefore, even if organizations in the financial services were to resort to equity incentives (stock options, etc.) more intensively than organizations in other sectors, the reason may not be that there is differentiated tax treatment of dividend or capital gains on shares between the Financial Sector and other sectors. Governments have not thus encouraged more intensive use of incentives, if there are any, in the Financial Sector by means of a favourable tax treatment of dividend income or capital gains on shares in the Financial Sector.

146. Below we describe the aforementioned differentiated tax treatments in these 7 jurisdictions.

3.1.1.1. France

147. France introduced a temporary 50% tax on 2009 bonuses granted to employees working in the financial trading market and whose activities were likely to have a material impact on the risk exposure of banks and investment companies. In particular, traders and sales were concerned, as well as individuals operating in the financial markets and managing traders and sales. Board members not acting in the financial markets in the course of their business were not concerned by this tax. As the tax applied only once (to bonuses paid in 2010, which were calculated on the basis of the performance of the employee in 2009), bonuses paid in 2011 on the basis of 2010 performance will no longer be subject to this tax.

148. The tax was levied on the variable part of remuneration exceeding EUR 27,500 and allocated based on individual or collective performance for the year 2009 (excluding the mandatory and voluntary profit-sharing schemes regulated by the French Labour Code). The tax was due even if final vesting of the bonus or its payment was subject to certain conditions, and the amount of the tax was not adjusted/refunded based on the actual payouts.

149. Variable compensation paid either in cash or via the grant of free shares, stock options or other securities granted under preferential conditions fell under the scope of the tax. When equity instruments were used, the fair value, as determined according to the international accounting standards (IFRS2), was used as the taxable basis.

150. It is the employer who was liable to this 50% one-off tax surcharge just as if it were a special 50% employer social security tax. This special tax surcharge was due in addition to other taxes normally applying to bonuses and was thus notably subject to individual income tax at rates of up to 41% for 2010 income.

3.1.1.2. Greece

151. According to article 14, par. 9, of the Income Tax Code, bonuses that are paid beyond regular remuneration and overtime payments up to 31 December 2013 by credit institutions to their corporate officers (chairman, members of the board of directors, managing or executive directors, administrators, directors etc.) are liable to a special tax according to the following terms and conditions. This rule applies irrespective of whether the bonus is paid in cash or in shares.

152. If the total pay of the recipient does not exceed EUR 60,000 per annum, bonuses in excess of 10% of total pay are subject to tax at the following rates:

- Up to 20,000 EUR 50%
- 20,001-40,000 EUR 60%
- 40,001-60,000 EUR 70%
- 60,001-80,000 EUR 80%
- 80,001 EUR and over 90%

153. This tax scale applies to the excess mentioned above instead of the regular tax scale, which provides for a maximum top marginal rate of 45%. If total pay exceeds EUR 60,000, bonuses in excess of EUR 6,000 are taxed based on the same tax scale.

154. As a result, bonuses paid to corporate officers of credit institutions may suffer tax at a rate of up to double the regular top marginal rate of 45%.

155. The rationale for this differentiated treatment is that it is deemed necessary to tax excessive bonus amounts paid to corporate officers of credit institutions in light of the financial crisis that Greece is currently experiencing.

3.1.1.3. Ireland

156. A 90% tax rate called the "excess bank remuneration charge" was introduced on 1 January 2011 on all emoluments/remuneration which are not regular remuneration i.e. any element of remuneration that varies by reference to performance of the business or the individual e.g. bonuses.

157. The 90% charge will apply to employees of specified financial institutions that are covered under the State Guarantee Scheme ("covered institutions") who are Irish tax-resident or who exercised the duties of their employment wholly or partly in Ireland during the tax year in which the payment was made.

158. Further to this, the "excess bank remuneration charge" has the following characteristics:

- It does not apply where the 'relevant remuneration' is less than €20,000 in the tax year;
- There are rules to determine the value of the award if it is not in cash or is subject to restrictions;
- The charge will be effected by means of the new Universal Social Charge, but at a special rate of 45% (the sum of the top income tax rate of 41%, social security of 4% and the penalty USC of 45% comes to the said 90%);
- The employer will be obliged to withhold the charge at source;
- There are various new reporting requirements.

159. To determine whether board members are considered as employees in scope of this "excess bank remuneration charge", a distinction has to be made between executive and non-executive board members.

160. While there might be some argument as to whether executive directors are caught (if they don't have an underlying employment contract alongside their directorship), it is clear from all public statements that the intention is to bring executive directors within this legislation. Furthermore, regulations are expected which will probably put that aspect beyond doubt.

161. In relation to non-executive directors, it appears they probably fall outside the legislation. However, non-executive directors are largely government-appointed to the institutions in question. Furthermore, we expect their directors' fees are not performance-related, meaning they should not be classed as 'relevant remuneration' for the purposes of this legislation.

3.1.1.4. Italy

162. According to Law Decree n° 78 dated May 31, 2010, converted with modifications into Law n° 122 dated July 30, 2010, bonuses and stock options granted to executives of companies operating in financial services will in principle be subject to a tax surcharge of 10%, applicable only to the extent that they exceed 3 times the base salary of the beneficiary. Board members are considered as executives for the purposes of this special bonus tax.

163. The Italian tax authorities have not yet issued a "guideline" providing the necessary clarifications on this recent tax rule. However, considering that the top marginal tax rate for individual taxpayers is equal to 43%, the amount of bonus and stock options exceeding 3 times the individual's base salary would be subject to a tax rate of 53% instead of 43%.

164. At this stage it is unclear whether, with respect to stock options, this excess will be measured at the grant date of the options or when the options are exercised.

3.1.1.5. Malta

165. Expatriates (as defined in the law and satisfying certain determined conditions) working in investment services[6] and insurance companies are not taxable on certain limited expenses and other emoluments for a limited period of time, e.g. removal costs in respect of relocation to or from Malta, accommodation expenses incurred in Malta, travel costs in respect of visits by the investment services expatriate or insurance expatriate and his immediate family to or from Malta. Furthermore they are treated as non-residents for certain purposes of the Income Tax Act and thus are taxed on their Maltese-source income only.

166. Expatriate employees of investment services firms holding a licence to provide these services are exempted from social security contributions provided they satisfy certain strict conditions, e.g. are engaged in a managerial capacity or in a function requiring special expertise which is not generally available in Malta, their mission in Malta is of a temporary nature and they have maintained the centre of their economic interests outside Malta. However, due to the strict conditions which are applicable, this exemption is of limited application in practice.

167. As Malta has severe restrictions and limitations of expertise in this sector, these tax concessions aim at attracting to Malta people from abroad with expertise in some specialised areas of financial services, so that they can provide the benefit of their expertise and train locals.

3.1.1.6. Portugal

168. For a long time the banking sector has had a special social security system, which was applicable under the same conditions to board members and other employees from the banking sectors and which did not provide for any limitation on the contribution basis. This regime has been adapted to bring it closer to the general social security regime.

169. Employees in the banking sector hired after March 2009 are subject to the general mandatory social security system (old age pension and disability coverage), but they still benefit from the entitlement to banking sector health assurance.

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[6] For income tax purposes, article 6 of the Income Tax Act defines *"investment services expatriate"* as: *"any individual who is an employee of, or provides services to, an investment services company which holds an investment services licence issued under article 6 of the Investment Services Act or a company which is recognised by the relevant competent authority for the purposes of article 9A of that said Act, and whose activities solely comprise the provision of management, administration, safekeeping or investment advice to collective investment schemes as defined in the aforesaid Act."*

170. As from 1 January 2011, employees in the banking sector hired before March 2009 have also become subject to the general social security regime for retirement pensions but they maintain the same level of contributions and their guaranteed rights (e.g. a pension calculated in accordance with the rules applicable to the pension fund). However, a retirement pension cannot be lower than the amount set in the collective agreement applicable to the bank sector.

171. The legislation does not say whether, as from 1 January 2011, board members in the banking sector will be enrolled in the special regime for board members or be subject to the same rules applicable to other banking employees.

172. The Portuguese social security legislation provides for a special social security regime for board members, according to which they are subject to lower social security rates and have a capped contribution basis (maximum monthly contributions basis of EUR 5,030.64).

173. Additionally, banks do not have yet guidelines on social security in relation to this issue and each bank is using the regime that it understands to be the most appropriate. Taking into consideration the impact of this issue, it is expected that the Portuguese social security authorities will take a position on this soon.

174. Since 2010, executives' and board members' variable pay in excess of 25% of total annual remuneration and EUR 27,500 has been subject to a special autonomous tax levied at a rate of 35% except if at least 50% of the variable pay is deferred over a 3-year period and is contingent on corporate performance over the deferral period. In the Financial Sector, the 35% rate has been increased to 50% effective in 2010. Since January 2011, the autonomous corporate tax has also been charged at the rate of 35% in the Financial Sector.

175. The special autonomous tax is a tax due by the employer, not by the employee. The bonus still remains subject to regular social security charges and personal income tax.

3.1.1.7. United Kingdom

176. The UK government introduced a one-off bank payroll tax of 50% applicable in 2010 on certain bonuses and other payments that met certain conditions, payable by the employer and not the employee.

177. The payroll tax was an employer's liability that came on top of the income tax due by the employee.

178. As an example, on a gross bonus of 100,

- Employer bank payroll tax = 50 (not deductible for corporation tax)
- Employer national insurance = 12.8

- Employee tax and national insurance = 41 (as generally applicable to bonuses paid when top rate of tax and employee national insurance was 41%).
- Net bonus for the employee = 59

179. This one-off payroll tax of 50% aimed to alter the behaviour of banks to get them to reduce the level of bonuses paid, which it failed to do. In general banks did not reduce the level of bonuses but paid the 50% if applicable.

180. There is no current intention to adopt a similar measure in the future.

3.1.2. *Availability of a Corporate Tax Deduction of Pay*

181. **Corporate Tax Deduction of Pay.** As we suggested in the interim report, we have investigated for each of the 31 countries whether there is differentiated corporate tax deductibility of costs of pay (for both board members and non-board members) in the Financial Sector in comparison with other sectors. This could be a determinant factor in the determination of the existence of differentiated tax treatment overall.

182. However, as we anticipated, **out of the 31 countries, each one confirmed that the costs of pay are deductible for corporate tax purposes to the same extent in the Financial Sector as in other sectors**. This is not to say that each component of pay packages qualifies for a corporate tax deduction but it does mean that the eligibility of any given component included in a pay package for a corporate tax deduction is not different according to whether it is allotted by organizations in the Financial Sector or in other sectors of activity.

3.1.3. *Conclusion*

183. **Temporary Measures.** In 2010, France and the UK introduced a one-off 50% payroll tax on certain categories of bonuses payable in organizations in the Financial Sector. This 50% payroll tax, payable by the employer, is no longer applicable. Also in 2010, Portugal laid down an autonomous corporate tax on bonuses and other variable remuneration paid to executives or board members, which was charged at the rate of 50% in the Financial Sector and at the rate of 35% in other sectors. However, since January 2011, the autonomous corporate tax has also been charged at the rate of 35% in the Financial Sector.

184. **Tax Surcharge on Bonuses.** For now, we have identified that it is only in Italy and Greece that bonuses in the Financial Sector are subject to a tax surcharge while in Ireland a 90% tax is expected to apply to future bonus payments to senior executives in the banking sector (essentially banks covered by the bank guarantee scheme), effective on January 1, 2011.

185. **Malta Incentives for Expatriates.** We have also identified that in Malta there are some tax concessions applicable to expatriates active in investment services and insurance companies for the purpose of developing these activities in Malta, while in Portugal, there are some discrepancies in the social security scheme applicable in the banking sector. At this stage it is unclear which social security regime, the general one or the one prevailing in the Financial Sector, is more favourable.

186. **Summary.** Out of a total of 31 countries only 7 have reported having adopted specific legislation for the purpose of creating a differentiated tax treatment of remuneration in the Financial Sector. Most of these legal initiatives were adopted after the financial crisis and most of them resulted in a tax surcharge being applied to bonuses. However only three, being Greece, Italy and Ireland, are still applying or are about to apply a tax surcharge on "excessive" bonuses in the Financial Sector. These three countries are those which were/are being particularly hit by the financial crisis. From a corporate tax perspective, all the surveyed countries confirmed that no differentiated corporate tax deductibility of pay-related costs applied or was expected to apply in the Financial Sector.

3.2. Identification of a Possible Favourable/Differentiated Tax Treatment of Pay Packages in the Financial Sector due to a Potential Intensive Use of Equity Incentives

187. **Absence of Specific Tax Concessions.** As stated above, except for 7 jurisdictions, no specific legal initiative has been adopted by lawmakers in the EU or other surveyed jurisdictions in order to create a tax surcharge or tax alleviation on pay in the Financial Sector.

In the 7 jurisdictions where legal initiatives were taken, they were adopted following the financial crisis to increase the tax cost burdening variable pay for the purpose of discouraging the payment of excessive bonuses that could notably incentivize their beneficiaries to take risks exceeding the general level of risk tolerated by the financial organization.

Furthermore we found no evidence that, prior to the financial crisis, lawmakers in the 31 surveyed jurisdictions adopted any specific tax concessions or surcharges exclusively applicable to pay in the Financial Sector.

188. **Impact of the Pay Structure.** As a way forward to these findings, we assessed whether assuming that pay structures in the Financial Sector do depart from pay structures in other sectors, such differences might have resulted in the Financial Sector having indirectly taken advantage of possible tax concessions applicable to specific pay components - like equity incentives.

Indeed, if the Financial Sector had aligned the design of its pay practices to the increasing expectations of its shareholders (i.e. high returns in the short term) more rapidly than other sectors by means of intensive use of equity incentives then, subject to equity incentives being eligible for specific tax concessions, one might wonder whether pay packages in the Financial Sector have to that extent been treated more favourably than in other sectors.

189. **Impact of Other Regulations.** It is also interesting to note that several regulators (notably the Committee of European Banking Supervisors (CEBS)) have recently indicated that although the causes of excessive risk-taking in the banking sector are many and complex, inappropriate remuneration structures including incentives to take risks exceeding the general level of risk tolerated by a financial institution (like stock options) could have undermined sound and effective risk management and exacerbated excessive risk-taking behaviours. Hence, on that basis, one might wonder whether tax concessions, if any, applicable to such incentives could also have indirectly exacerbated excessive risk-taking in the banking sector.

190. **Stock Options and Other Equity Incentives.** To appreciate this, we have identified the jurisdictions applying favourable individual tax treatment to stock options and other equity incentives, and whether such favourable tax treatment was conditional.

Out of 31 countries, 12 have reported applying conditional favourable tax treatment to stock options and other equity incentives (being Austria, Belgium, Denmark, Estonia, France, Ireland, Poland, Spain, the UK, China, Singapore and the USA), Malta and Romania have reported applying favourable individual tax treatment to stock options only (conditional in Romania, unconditional in Malta) while Finland and Slovenia have reported applying a conditional favourable tax treatment to equity incentives other than stock options.

191. **No Differentiated Treatment.** We further surveyed the 31 jurisdictions on whether this applicable favourable tax treatment, where applicable, was open to every sector of activity or whether there were specific tax concessions applying to equity incentives in the Financial Sector. All jurisdictions that reported applying favourable individual tax treatment to equity incentives confirmed that there was no differentiated treatment in this respect between the Financial Sector and other sectors.

192. **Use of Equity Incentives.** If we make the assumption that organizations in the Financial Sector have resorted more intensively to equity incentives than organizations in other sectors, then it might, at first sight, be speculated that, in surveyed jurisdictions that reported tax concessions that were applicable to equity incentives, the Financial Sector benefited more from these tax concessions.

However, you will recall that, in a total of 16 jurisdictions that reported tax concessions applicable to equity incentives, all, except Malta, reported that such tax concessions were conditional. In this respect, our experience is that the conditions to which such tax concessions are applicable generally require that pay-outs derived under equity incentives do not exceed a certain threshold or require that the instruments (options, shares, etc.) should be held for a minimum period of time. This is interesting to note for two reasons.

Firstly, what might in the first instance appear to be a favourable tax treatment may ultimately be fair tax treatment given the restrictions applying to equity incentives. This will specifically be the case when options may not be exercised or shares sold for an agreed period of time. In that case, the fact that the taxable amount or the tax rates might be discounted would just reflect the illiquidity of the incentive and the risk taken by the beneficiary (i.e. risk of depreciation of the share) over the agreed holding period.

Secondly, in the case where the application of favourable tax treatment to equity incentives is subject to the employee satisfying holding periods of the instruments, then such tax concessions have more likely supported a better alignment of the employee's financial interests to those of shareholders in the long run and discouraged excessive risk-taking in the short run.

Although we have not analyzed the conditions under which incentives could benefit from a favourable tax treatment in each of the 16 countries, based on our experience, it is thus very unlikely that such tax concessions have actually supported excessive risk-taking and one could even conclude that the opposite is the case.

We finally surveyed each jurisdiction on whether it was their experience that equity incentives were more intensively used in the Financial Sector than in other sectors. It was not the experience of our local offices that it was local practice but we may anticipate it could be the case.

4. CONCLUSION

193. **Legal Initiatives Taken in 7 Countries to Create a Differentiated Tax Treatment of Pay in the Financial Sector**. Based on the above, we found no evidence that, prior to the financial crisis, lawmakers in the 31 countries adopted any specific tax concessions or surcharges exclusively applicable to pay in the Financial Sector. By contrast, following the financial crisis we identified legal initiatives in 7 jurisdictions aimed at containing the level of variable pay by means of the assessment of tax surcharges. However only three, being Greece, Italy and Ireland, are still applying or are about to apply a tax surcharge on "excessive" bonuses in the Financial Sector.

194. **Conditional Favourable Tax Treatment of Equity Incentives Likely Discourages Excessive Risk-taking in the Short Run.** We obtained no evidence from our foreign offices that the Financial Sector more intensively resorted to equity incentives in its pay packages but we can speculate that it may possibly have been the case. This may be further investigated if needed. However, even if this has been the case, the mere fact of identifying that equity incentives benefit from a specific tax concession will not necessarily have led to an alleviation of the tax burdening pay in the Financial Sector given that, in almost all jurisdictions, such tax concessions are conditional. In addition, the conditions under which favourable tax treatment for equity incentives is available are generally of such a nature as to promote better alignment of the employee's financial interests and those of shareholders in the long run and to discourage excessive risk-taking in the short run.

195. **Equity Incentives Which Might to a Certain Extent Have Encouraged Excessive Risk-taking Prior to the Financial Crisis Now Expected to Discourage Such Behaviour.** It should be noted that, following the adoption of CRD III, the Committee of European Banking Supervisors adopted Guidelines on Remuneration Policies and Practices to ensure that remuneration policies and practices in credit institutions and investment firms are consistent with and promote sound and effective risk management. It is interesting to note that, under the CEBS guidelines, financial institutions hit by CRD III will actually have to intensively resort to equity incentives for the purpose of complying with deferrals and retention requirements applicable to variable pay. Equity incentives which might to a certain extent have encouraged excessive risk-taking prior to the financial crisis are thus now expected to discourage such behaviour. This shows that how a reward strategy may influence behaviour does not so much lie in the kind of instruments included in the pay package but whether appropriate restrictions and conditions apply to such instruments.

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CHAPTER 4: TAXATION OF FINANCIAL INSTRUMENTS

1. PURPOSE AND SCOPE OF THIS CHAPTER

196. The "Taxation of Financial Instruments" is the fourth Chapter of this Study. More specifically, this Chapter covers the following questions:

A. Securities transactions taxes

1. Are there securities transactions taxes on transfers of financial instruments?
2. What securities are in scope and which are exempt?
3. What are the tax provisions (reference to applicable tax section)?
4. Tax base?
5. Tax rate?
6. Is there a maximum amount of tax due?
7. Tax event? What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)?
8. Who is liable for levying the tax? Who is liable to support the tax?

B. Corporate income tax treatment of equity swaps

1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)?
2. Is there a difference if one or both of the counterparties are companies in the non-Financial Sector?
3. Are the flows of payments received taxed, if yes, when and how?
4. Are the flows of payments made tax-deductible, if yes, when and how?
5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax?
6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax?
7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain, etc.)? Does the classification depend on the nature of the underlying?

C. Corporate income tax treatment of financial futures

1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)?
2. Is there a difference if one or both of the counterparties are companies in the non-Financial Sector?
3. Are gains and losses taxed, and if yes, when and how?

4. Is mark-to-market applied?
5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax?
6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax?
7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain, etc.)? Does the classification depend on the nature of the underlying?

D. Corporate income tax treatment of call options in general

1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stock transactions (where both parties are companies in the Financial Sector)?
2. Is there a difference if one or both of the counterparties are companies in the non-Financial Sector?

E. Corporate income tax treatment of call options on stocks in the hands of the holders

1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how?
2. Is there a difference if the holder is a bank/insurance company or a company active in the non-Financial Sector?
3. Is the premium paid part of the stock acquisition price?
4. Please describe the tax treatment of the gains or losses realised at the following events:
   (i) disposal of the options,
   (ii) exercise of the options,
   (iii) sale of the shares acquired through the option,
   (iv) expiration of option (without exercise or disposal)
5. Is mark-to-market applied?
6. Is there a WHT on premiums to non-residents?
7. How are the premium payments classified under the double tax treaties?
8. How are options treated when they are part of a packaged product (e.g. equity linked note)?

F. Corporate income tax treatment of call options on stocks in the hands of the writers

1. For writers, is the premium received taxable, and if yes, when and how?
2. Is there a difference if the writer is a bank/insurance company or a company active in the non-Financial Sector?
3. Is the premium received part of stock delivery price?
4. Are gains and losses upon exercise taxed?
5. Is mark-to-market applied?

G. Differentiation

For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?

H. Practices

For all the above conditions is there any information as whether actual practices may differ from legal provisions?

197. The main purpose of this Chapter is to trace differences in tax treatment in relation to securities transactions as well as some selected derivatives transactions (i.e. equity swaps, financial futures and call options on stocks) amongst the different EU Member States and selected third countries, on the one hand, and between financial institutions and "normal" companies, on the other hand. To this end, this Chapter provides a general overview of the main tendencies in tax treatment common to all countries or, where relevant, some interesting exceptions to our general observations. However, it does not exhaustively summarise and detail all of the sub-questions addressed in the questionnaire.

For a thorough, detailed overview of the applicable tax regime, rules or practice in a given country, we refer to the completed questionnaires as enclosed to this Study. In this respect, we would like to point out that the answers received in the questionnaires are high-level and not exhaustive. It goes without saying that, where derivative instruments are involved, in practice, a separate analysis should be done in each case taking into account all specific facts and circumstances.

198. Furthermore, it should be stressed that this is a taxation study. The accounting treatment of the selected derivatives is not in scope of the Study and has not therefore been examined. Therefore, we did not consult our international network with specific questions on the accounting treatment of the selected derivatives. We are of course aware that the accounting treatment of a financial instrument often plays an important role when determining its tax treatment and cannot be entirely left out of consideration. In this context, we considered it necessary to devote a few brief words to some general accounting principles that could have an influence *inter alia* on the timing of the tax treatment. Please note, however, that the insights regarding the accounting principles mentioned in this Study are merely intended to illustrate the role of the accounting treatment where derivative instruments are concerned. In this context, our comments on accounting law are for information purposes only.

2. ACTION UNDERTAKEN

199. To gather the necessary information, we sent a questionnaire with the above questions to our contacts in the 27 EU Member States and the four identified third countries. Based upon the input received, a more-detailed analysis including the necessary PwC quality checks has been done on the data, resulting in our final outcome, reported in Section 3 of this Chapter. For the sake of completeness, we also enclose the completed questionnaires.

200. Further to the additional questions raised on 18 May 2011 by the Commission in the framework of the review of the interim report, an additional questionnaire has been sent to our colleagues in the various jurisdictions.

3. RESULTS

3.1. Indirect Taxation – Securities Transaction Taxes

201. **Definition**. Securities transaction taxes can be defined as "taxes imposed on the transfer of a financial instrument/security from one owner to another". This definition shows that there should be at least a "transfer" and that this transfer should relate to a "financial instrument" or a "security" (and not, for example, real estate). Since this type of tax targets the transfer of financial instruments and not the income/gain derived from such a transfer, it can be categorised as an indirect tax as opposed to a direct/income tax. Strictly speaking, it is not the same as a registration tax, as it is not directed at registration of the financial instrument. Also, a distinction should be made between securities transaction taxes and capital duties.

202. **Countries Applying Securities Transaction Taxes**. According to the information provided, only 9 EU Member States (i.e. Belgium, Cyprus, Finland, France, Greece, Ireland, Poland, Romania and the UK) and 2 third countries (i.e. Singapore and Switzerland) apply securities transaction taxes. In addition, China applies a very specific kind of tax which can be compared to the "traditional" securities transaction taxes but cannot be considered as one as such ("business tax"). The characteristics of the tax very much differ in the countries applying it.

203. We refer to Enclosure 18 for an overview table in this regard and to Enclosure 22 for the detailed answers to the questions raised.

204. **Trade via Organised Markets**. The table in Enclosure 18 shows that only some of the countries apply securities transaction taxes when the transactions are carried out on an organised market (e.g. Belgium, Cyprus, Greece, Romania, Switzerland). In the other countries, the tax is not applicable to transactions carried out at a stock exchange (e.g.

Singapore and France) or an exemption is allowed for securities listed at a recognised stock exchange (i.e. Poland) or traded on a qualifying market (i.e. Finland). In Romania, a commission can be applied if the transaction is performed on the regulated market/alternative trading systems or a monitoring fee if it is consummated outside the regulated market. Cyprus has two types of securities transaction taxes, the first only applying to transactions effected or announced at the Stock Exchange, the second (stamp duty) allowing an exemption for securities listed at a recognised stock exchange.

205. **Type of Securities**. The securities in scope of the tax can generally be divided into three groups. In most countries, the securities transaction tax mainly applies to equities (e.g. Finland). In some countries, the tax also applies to debt instruments such as bonds (e.g. Belgium, France) or loans with equity-like features, such as convertibles (e.g. the UK). Finally, in addition to equity and debt instruments, derivative instruments (equity swaps, call options, futures) are also sometimes within the ambit of the tax (e.g. Belgium, Greece, Ireland, the UK).

206. **Type of Transfer**. In most countries, the tax is applicable, as such, to the transfer of a security in scope (e.g. Cyprus, France, Greece, Poland). However, in a least one country (i.e. Belgium) the tax is due twice on a given secondary market transaction provided that the transaction is carried out between Belgian parties (in the hands of the seller (sale) and in the hands of the buyer (purchase)). Furthermore, in that country, redemption by an investment company of its own shares is also in scope.

207. **Taxable Basis**. The basis to which the tax rate is applied is not calculated in the same way in all countries. It is often linked to the type of security or transaction/contract in scope. Usually, it is either the sales price or other consideration (e.g. Finland, France, Greece), the purchase price/remuneration for the taxable security (e.g. Switzerland), the contract value (e.g. Cyprus), the market value of the securities (e.g. Poland) or the higher of the consideration paid for the transfer or the market value of the financial instrument (e.g. Ireland).

208. **Tax Rate**. All countries apply a proportional tax rate that is relatively low. However, the rate itself varies from country to country (e.g. 0.07%, 0.15%, 0.5%, 1.6%). In addition, some countries apply different proportional rates depending on the security in scope (e.g. Belgium, Ireland) or whether the transaction is performed on a regulated market (e.g. Romania). Switzerland applies a rate of 0.15% for domestic securities and a higher rate of 0.3% for foreign securities. Also, in some countries, the rate varies between certain thresholds (e.g. Cyprus) or is only applicable when a certain threshold is reached (e.g. France). Finally, in some countries the tax is capped at a certain amount (e.g. Belgium, Cyprus 'stamp duty'), while other countries do not apply a cap (e.g. Ireland, the UK, Switzerland).

209. **Territorial Scope**. The territorial scope of the tax may depend on several factors. It could be the nationality of the transferee and/or transferor in combination with the nationality of the security. For instance, in Finland, only certain Finnish securities may be subject to transfer tax if the transferee and/or the transferor is a Finnish resident or a Finnish branch of certain financial institutions. Another example is Irish stamp duty, which can apply if there is Irish property, if the transaction is executed in Ireland or if the transaction relates to anything done or to be done in Ireland, subject to exceptions. Also, in France, the tax applies to transactions performed either in France or abroad provided the transfer relates to shares/stocks of a French unlisted company or a company mainly holding real estate located in France. In the UK as well, the tax applies on shares issued by UK incorporated companies. In Switzerland and Belgium, the connecting factor is mainly the involvement of a local intermediary.

210. **Exempt Parties**. In Belgium, an exemption exists for non-residents and the Belgian financial services sector (e.g. banks, insurance companies, organisations for financing pensions, undertakings for collective investment) acting for their own account. In other words, only Belgian tax residents not belonging to the Belgian Financial Sector are in practice subject to the tax. Also, in the UK, certain recognised intermediaries (Financial Sector traders) are given an exemption for transactions in securities. In Switzerland, foreign banks and securities dealers should *inter alia* be considered as exempt parties.

211. **Liable Person**. The different types of persons liable to support the tax can generally be summarised under either the buyer / purchaser / transferee (e.g. Finland France, Ireland, Poland, Singapore) or the seller (e.g. Cyprus, Greece). The persons liable to pay the tax to the tax authorities will generally by the intermediary/securities dealer/local stock exchange (e.g. Belgium, Switzerland, Greece, Romania). However, in some case, the parties have to declare and pay the tax themselves (e.g. Finland, France, Ireland, Poland). This is often linked to the type of transaction in scope and the territorial scope of the tax.

212. **Secondary Market Transactions**. As far as the EU Member States are concerned, attention should be paid to Council Directive 2008/7/EC of 12 February 2008 or, previously, Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital. This directive provides for complete harmonisation of the cases in which the EU Member States may levy indirect taxes on the raising of capital. As a consequence of this directive, only secondary market transactions can be subject to securities transaction taxes, since taxes on primary market transactions are prohibited by article 5(2) of the directive. Further to the cases of "Commission v. Belgium" (C-415/02) and "HSBC Holdings plc v. Vidacos Nominees Ltd" (C-569/07) before the European Court of Justice, Belgium and the UK had to amend their legislation regarding securities transaction taxes in this respect.

213. **Abolition**. Finally, it appears that there is a trend toward abolishing securities transaction taxes rather than introducing them. For instance, the Italian securities transfer tax has been repealed for contracts signed on or after 31 December 2008. In Greece a bill has been tabled to abolish the transaction duty on sales of listed shares initially acquired after 1 January 2012. Moreover, the Cypriot levy on transactions effected in respect of securities listed at the Cypriot Stock Exchange will cease to be of effect on 31 December 2011.

214. **Conclusion**. Only a limited number of EU Member States apply a securities transaction tax and in only part of these countries does the tax apply to transactions carried out on a regulated market. It is clear that this tax has not been harmonised on a European level. Whether or not the tax is applicable often depends on a combination of factors. The examples above also illustrate that the tax's features vary from country to country. We were able to identify three key questions that best allowed the types of tax to be sorted, namely (1) is the tax applicable to transactions carried out on an organised market? (2) which type of securities is in scope? and (3) what is the rate of the tax? Finally, we spotted two remarkable differences in treatment in Belgium and Switzerland. In Belgium the tax is not applicable to Belgian financial institutions acting for their own account, while other Belgian companies are subject to the tax. In Switzerland, a higher rate is applied to foreign securities than to Swiss securities.

3.2. Direct Taxation – Selected Derivatives

3.2.1. *Introduction*

215. **Classification of Derivatives.** The taxation of derivatives is a relatively complex matter for which there is no uniformity among the EU Member States. The complexity of this subject is mainly due to the complexity and diversity of derivative contracts themselves (and of their features), and generally not to the tax rules and principles applying to these instruments. The variety of different types of derivatives sometimes makes it difficult to classify the income and costs to which they give rise for income tax purposes.

216. **Derivatives in Scope of the Study.** For the purpose of the Study, three types of derivatives have been selected, namely equity swaps, financial futures and call options on stocks. These specific contracts can be defined as follows:

- A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time. An equity swap is a swap where it is agreed to exchange a set of future cash flows between two counterparties at set dates in the future. The two cash flows are usually referred to as "legs" of the swap; one of these "legs" is usually pegged to a floating rate such as LIBOR. The other leg is based on the performance of either a share or a stock market index. This leg is commonly

referred to as the "equity leg". Most equity swaps involve an interest leg v. an equity leg, although some exist with two equity legs.

- A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short-term interest rate.
- A call option on stocks is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder), which gives the option buyer the right, but not the obligation, to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price).

Based on our experience, we note that the selected derivative contracts are not necessarily the types of derivatives representing the majority of derivative transactions performed by the Financial Sector. For example, in terms of figures, interest rate swaps and currency rate swaps are most probably more often used by financial institutions than equity swaps.

217. **Tax Provisions on Derivatives.** Most countries in scope do not have any tax provisions that specifically deal with derivatives in general and equity swaps, financial futures and call options on stocks in particular, and apply the general corporate income tax rules to these types of instruments (e.g. Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Ireland, Latvia, Luxembourg, Malta, the Netherlands, Romania, Slovenia, Spain, Sweden, Singapore, Switzerland). Some countries have embedded a few specific tax provisions or definitions in relation to derivatives or a specific type of derivative into their existing tax legislation (e.g. Greece, Italy, Lithuania, Poland, Portugal, Slovakia), such that these provisions are integrated into the body of other corporate income tax provisions. In addition, two countries, the UK and the USA, have developed a whole body of separate rules for derivatives which is very detailed and complex. Finally, as far as China is concerned, it can be noted that the Chinese tax authority has not yet issued any tax guidance with respect to swaps and that, at this stage, it is not permissible for non-resident enterprises to trade in futures or call options on stocks in China.

218. **Differences amongst Countries.** It is clear that the tax treatment of derivatives differs from country to country. Some countries even treat the same type of derivative differently depending on certain factors, for instance whether the derivative is listed or not (e.g. France, Greece) or whether the transactions are of a hedging or speculative nature (e.g. Belgium, Italy, Lithuania, Slovakia, Spain). This last distinction impels us to underline the decisive role of accounting treatment as, in the majority of the countries in scope, the tax treatment of a financial instrument is based on its accounting treatment, or is at least influenced by it.

3.2.2. *Role of the Accounting Treatment*

219. **Role of Accounting Treatment.** As mentioned above, in the majority of the countries, the starting point to determine the tax treatment of a financial instrument is its accounting treatment (e.g. Austria, Belgium, the Czech Republic, Finland, France, Ireland, Luxembourg, Spain), as tax law generally follows accounting law, unless there are derogations. Although the accounting treatment of financial instruments is not in the scope of the Study, it is impossible to assess the tax treatment of financial instruments in these countries without considering the reporting framework and some basic accounting notions and principles.

3.2.2.1. Reporting Framework

220. **Tax v. Accounting Harmonisation.** Where the taxation rules applicable to financial instruments in the EU are not at all harmonised, the accounting rules in the different EU Member States have only to some extent already been subject to a certain degree of harmonisation.

221. **EU Directives on Annual and Consolidated Accounts.** The Fourth Council Directive (78/660/EEC) was a first step towards harmonisation of financial reporting in order to improve the comparability of accounting standards and financial statements. They state the overall basic accounting and reporting principles, which form the basis of local GAAPs (generally accepted accounting principles) implemented by each EU Member State. However, translation of the general principles set down in the Directive into national law and other sources of guidance by each EU Member State does still result in differences between the various national accounting frameworks. Other directives have been issued on consolidated accounts (83/349/EEC) and annual and consolidated accounts of banks and other financial institutions (86/635/EEC).

222. **Fair Value Directive.** In 2001, the "fair value" Directive (2001/65/EC) amended the three existing directives on annual accounts (78/660/EEC), consolidated accounts (83/349/EEC) and annual and consolidated accounts of banks and other financial institutions (86/635/EEC). It required EU Member States to permit or require the application of "fair values" for certain financial instruments, including derivatives, in respect of all companies or any classes of companies.

223. **IFRS.** Regulation (EC) 1606/2002 of 19 July 2002 introduced use of the IFRS framework into the EU's accounting and financial reporting legislation. As of 2005, publically traded companies had to report their consolidated accounts under IFRS. In addition, each EU Member State had the option to extend the application of IFRS.

224. **Diversity of Reporting Frameworks.** Today the coexistence of both reporting frameworks results in a rather varied international landscape of financial reporting, where companies either report under local GAAP or under IFRS or, as in many cases, under local GAAP for the statutory accounts and under IFRS for the consolidated accounts. In addition, the use of IFRS for preparing consolidated accounts may be an option or an obligation depending on the EU Member State and a number of other criteria (quoted company v. unquoted company, financial institutions, insurance companies, etc.). Finally, in many EU Member States, local GAAP lay down specific accounting frameworks for certain regulated companies such as credit institutions and insurance companies.

225. **Different Accounting Treatment.** The ultimate accounting treatment of a specific transaction by an individual company will depend on the accounting policies laid down by it. Since the accounting frameworks do not always provide specific guidance or, in certain cases, even allow different options, a single transaction may be accounted differently by two similar companies operating in the same jurisdiction and applying the same accounting framework. Considering the different factors described above, when tax treatment follows the accounting treatment, an instrument can have different accounting treatment, and hence different tax treatment, throughout the European Union and even within a Member State.

3.2.2.2. Accounting for Financial Instruments

226. **Historical Cost v. Fair Value.** In the Fourth Council Directive (78/660/EEC) limited specific guidance was available with respect to the measurement of financial instruments and the main measurement or valuation principles referred to the use of purchase price or production cost (historical cost).

The "fair value directive" introduced the possibility for Member States to use fair value for the measurement of financial instruments, including derivatives. It also introduced the concept of hedge accounting.

This results today in a hybrid framework with differences between Member States, where historical cost (with adjustments to reflect decreases in value at balance sheet date) coexist with the use of fair value.

227. **Hedging v. Trading.** For derivative financial instruments, different accounting treatments are possible, depending on whether a derivative is contracted for hedging or for trading purposes. The different treatments will in most cases not only depend on intention but, in the case of hedging, will also depend on the effectiveness of the hedge relationship and its documentation.

The objective of hedge accounting is to avoid or reduce accounting volatility that does not reflect economic reality and is in practice achieved through different accounting mechanisms, depending on the Member State.

228. **One Instrument, Different Accounting Treatments.** The current accounting framework could result in different possible accounting treatments for a single type of financial instrument. These differences are not only driven by differences in the accounting frameworks of the different Member States (see Enclosure 23), but also by differences between statutory and consolidated accounts, differences in intention (hedging v. trading), differences between types of companies (e.g. commercial companies v. credit institutions) or even differences in the way a national framework has been transposed into the accounting policies of individual companies.

229. **Timing Differences.** These differences in accounting treatment will in most cases mainly give rise to timing differences, however. Generally, when a derivative is used for example, the valuation method used might have an impact on the company's financial position – and therefore also on its taxation – throughout the term of the financial instrument, but at maturity, when the result is realised, the accounting impact will be the same, regardless of the measurement method applied throughout the life of the instrument.

3.2.2.3. Specific Accounting Rules for Financial Institutions: Potential Impact on the Tax Treatment of Financial Instruments

230. **Specific Accounting Rules for Financial Institutions.** More than half of the countries report that there are specific accounting rules for (some of) the financial institutions in their country.

231. **Irrespective of the (Non-)Listed Status.** This conclusion applies irrespective of the listed or non-listed status of the financial institutions.

232. **Potential Impact on the Tax Treatment.** In part of the above mentioned countries, these differences in accounting treatment could lead to differences in tax treatment (e.g. Austria, Belgium, Finland, Germany, Hungary, Italy, Luxembourg, Romania, Spain, Sweden, Switzerland). In most of these countries this can be explained by the fact that the corporate income tax is computed based on the accounting framework that is applied for financial institutions (e.g. Austria, Belgium, Latvia, Luxembourg, Spain, Sweden). In almost all of these countries the difference in tax treatment consists of timing differences.

233. **IFRS.** It should be noted that in the majority of the survey countries, banks and other financial institutions generally prepare their financial statements under IFRS or local rules inspired by IFRS. Only in part of these countries the accounting treatment of financial

institutions might differ from the accounting treatment of "normal" companies. However, in most of the latter countries there is in principle no difference in tax treatment of financial instruments.

234. **Examples.** The above considerations can be illustrated by the following examples:

- In Germany there are some specific accounting rules in place for banks and financial institutions e.g. with regard to the valuation of financial instruments and with regard to accounting reserves for general risks of the banking business. However, the tax treatment might differ from the specific accounting rules e.g. the accounting reserves for general risks of the banking business are disregarded for taxation purposes. The specific accounting rules could lead to a different tax treatment of the financial instrument (differences in timing);
- Poland applies specific accounting rules for (some) financial institutions (e.g. specific accounting rules for provisions for bad debts in banks), but this does not lead to a different tax treatment of the instruments;
- In the Netherlands banks and other financial institutions mostly use IFRS, and in some instances Dutch GAAP. There are no specific accounting rules for banks and financial institutions included in IFRS of GAAP, however there are certain accounting rules that have more impact on banks than other companies and thus banks primarily focus on these rules.

3.2.3. *Mark-to-Market in Relation to Financial Futures and Call Stock Options*

235. **Introduction.** One of the questions specifically asked in the questionnaires was whether mark-to-market is applicable in the survey countries in relation to financial futures and call options of stock. When mark-to-market is applied, the price or value of a security, portfolio or account is recorded in the accounting so as to reflect its current market value rather than its book value. For a general overview of the answers received to this question, reference is made to Enclosure 19, 20 and 21.

236. **Results.** The results can be summarised as follows:

- It appears that mark-to-market is not applied in most countries (e.g. Cyprus, Lithuania, Luxembourg, Switzerland).
- In some countries like Hungary, mark-to-market is optional, but is not usually applied. In the Netherlands, assets are generally valued at cost price or the lower market value, but valuation at mark-to-market is also allowed under Dutch tax accounting principles, for both financial and non-financial players. Note that taxpayers should of course use any valuation system consistently.

- Then there are also countries where mark-to-market is not in principle applicable to "normal" companies, while financial institutions in these countries might be permitted to apply or generally apply mark-to-market valuation (e.g. Finland, Austria, Romania). For example, in Sweden, financial companies apply mark-to-market but with an option to use cost instead of fair value, provided that cost is used for all securities in the company.
- In some countries, mark-to-market is generally applied by all companies, including financial institutions as well as normal companies (e.g. Bulgaria, Germany, Malta, Portugal, Slovakia, the Czech Republic for tax residents), though exceptions may apply (e.g. the USA). For example, provided that the underlying assets are not delivered under the swap or future contract, the contract will be taxed separately in Denmark according to the mark-to-market principle. Mark-to-market also applies in Greece to futures listed at the Athens Stock Exchange.

237. **Particularities.** In some countries the line is not easily drawn between the application of mark-to-market or otherwise. For example:

- In Ireland, mark-to-market is generally applied for financial companies, where it is used for accounting purposes. For non-financial companies, taxation generally only arises when there is a disposal. Where that is not at arm's length, mark-to-market is imposed for tax purposes.
- In Austria, mark-to-market valuation has to be used if the equity swap is held in the trading book or not held as fixed assets. If it is held as a fixed asset, the lower of cost or market valuation has to be used. For hedge accounting, rules similar to IAS 39 are applicable.

238. **Non-Financial Institutions Treated Differently.** Some of the survey countries report that the accounting rules for financial institutions differ from those applied by non-financial companies, which of course could indirectly cause differences in the timing of the taxation of a derivative instrument between financial and non-financial companies (e.g. Belgium, France, Luxembourg, Slovenia, Spain). However, this difference in tax treatment can primarily be explained by the difference in accounting treatment.

239. **Mark-to-Market Is Not More Beneficial.** In this context, we do not find any indications that the tax treatment of a financial instrument is more beneficial where the mark-to-market valuation method is applied. In some cases it will be more advantageous for a company to record a profit or loss at a given time in a given taxable period while in other cases the timing might be inconvenient.

240. **Mark-to-Market Less Beneficial.** The mark-to-market is sometimes even less beneficial from a tax perspective. For instance, as an increase in the market value of a financial

instrument should be recorded in the profit and loss account earlier based on a mark-to-market valuation than on a lower of cost or market valuation (below *"LoCoM"*), the income will also be taxable earlier in countries whose tax rules follow the accounting rules. This example shows that mark-to-market valuation is not necessarily always more beneficial in comparison to historical cost or a LoCoM valuation.

3.2.4. *Tax Treatment of Payments, Gains and Losses*

241. **Common Tax Treatment.** As mentioned above, in the absence of any specific tax rules with respect to derivatives, the accounting treatment plays an important role in the majority of the countries in determining the tax treatment of the derivative instrument. Of course, there are countries in which accounting treatment is less important. Having compared the tax regimes applied by all the survey countries in relation to equity swaps, financial futures and call options of stock, it can be established that the majority more or less apply the same tax treatment to income derived from these instruments. This common tax treatment will be used to compare exceptions to the general rule or curiosities in certain countries. Note that some exceptions where there is a difference in treatment between financial companies and non-financial companies are discussed separately under section 3.2.7 below.

242. **Comparative Tables.** To be able to compare the tax regimes in the different countries, we have drawn up a table for each selected security, containing a general overview of the answers received on the basis of the questionnaires (see Enclosures 19, 20 and 21). Note that these tables are not of course exhaustive and do not include all the qualifications made in the completed questionnaires, which can nevertheless be consulted *ad longum* in the annexes. When comparing the results for equity swaps and financial futures, we noticed that the tax treatment of both financial instruments is very similar. Therefore, we discuss the tax regime of equity swaps and financial futures under the same section. Call options on stock are dealt with under a separate section, given the extra dimension caused by the payment of a premium and potential acquisition of the underlying stock.

3.2.4.1. Equity Swaps and Financial Futures

243. **Overview Tables.** The tax treatment of equity swaps and financial futures is schematically summarised in Enclosures 19 and 20. We refer to Enclosure 22 for the detailed answers to the questions raised.

244. **Common Tax Treatment.** A comparison of the tables contained in Enclosures 19 and 20 clearly shows that, in the majority of the survey countries, income from equity swaps and futures is taxable and complementary losses are tax-deductible (e.g. Austria, Belgium, Bulgaria, Denmark, France, Germany, Ireland, Switzerland).

245. **Timing.** The question is when exactly these gains are taxable or these losses are tax-deductible: on an unrealised basis (e.g. Denmark) or when actual realisation takes place (e.g. Bulgaria, Finland), on an accrual basis (e.g. Austria) or on a cash basis? By application of the prudence concept, in Latvia, unrealised gains (or losses) are non-taxable (or fiscally non-deductible), while realised gains (or losses) are taxable (or tax-deductible). As these timing differences are mainly caused by the applicable accounting treatment (see section 3.2.2 above), they are not taken into consideration in the tables.

246. **Exceptions.** There are, however, countries that do not follow this general tax treatment or for which there are some particularities of note. This can be illustrated with the following non-exhaustive examples:

- In Cyprus, income from equity swaps is not taxable, losses are not deductible. As far as futures are concerned, if the underlying assets are shares, bonds, debentures, founders' shares, other securities issued by companies/legal persons or rights thereto, then gains are exempt from income tax and losses are deductible. Otherwise, if the underlying assets are none of the above, for example futures on forex/commodities, gains will be taxable and losses tax-deductible. In other words, here the asymmetrical tax treatment of equity and debt seems to be preserved.
- In Estonia, payments received under swaps and futures are taxable, but only upon distribution. Furthermore, there is no calculation of tax losses, as only distributions are subject to corporate tax.
- In Greece, equity swaps and financial futures fall under the definition of derivatives for taxation purposes. A difference should be made between listed and unlisted derivatives. Listed derivatives are exempt from taxation, provided they are posted in a special reserve account, which can be used to offset future losses from listed derivatives. This reserve account is subject to tax upon distribution or liquidation. Unlisted derivatives, on the other hand, are subject to tax based on general provisions. Losses from unlisted derivatives are tax-deductible on condition that the transaction has been effected for hedging purposes, which means that the payments cannot be considered separately. In Greece, accounting treatment does not affect the above rules.
- In Slovakia, the general rule is that the overall loss from transactions with derivatives is not tax-deductible unless the taxpayer is a company in the Financial Sector or the transaction involves a hedging instrument. On the other hand, cumulative gains from transactions with derivates are taxable.

3.2.4.2. Call options on stock

247. **Several Consecutive Transactions.** As previously mentioned, call options on stock can be distinguished from swaps and futures because they are acquired in exchange for a premium.

A call option on stock gives the holder the right to buy certain shares for a certain price during a certain period of time. As a result, a number of different stages can be distinguished. In a first stage, the call option is issued/acquired in exchange for a premium in the hope of later acquiring shares at an advantageous price. In a second stage, the call option might be exercised to buy the shares. Finally, in a third stage, the shares itself can be sold. It is clear that the second and third stages will not always be reached. For instance, if the option is not exercised, it will expire. It is also possible to sell the option itself to another party.

For each transaction the question can be raised whether the gain or loss realised is taxable or tax-deductible. The answers received in the questionnaires are schematically summarised in Enclosure 21. Of course, for more details, reference is made to the questionnaires themselves in Enclosure 22.

248. **Legal v. Beneficial Ownership.** As a preliminary remark, it should be mentioned that options could pose difficulties for the concept of ownership. For example, in Luxembourg, for call options specific attention should be paid to determination of who the beneficial or economic owner is. Generally, the economic owner is deemed to be the legal owner. However, in certain specific circumstances, the economic owner could be different and should normally prevail for Luxembourg tax purposes. This may lead to the option being disregarded and the option buyer being directly considered as already holding the underlying assets.

3.2.4.2.1. Tax Treatment of the Premium

249. **Premium and Stock Acquisition/Delivery Price.** First of all, we focus on the tax treatment of the premium paid by the holder to the writer of the option. It appears that, in the majority of the countries, the premium paid is part of the stock acquisition price (e.g. Austria, Belgium, Bulgaria, Germany, Luxembourg, Slovenia). However, in some of the same countries, the premium does not seem to form part of the stock delivery price in the hands of the option writer (e.g. Denmark, Finland, Germany, Slovakia). In a minority of the countries, the premium is not part of either the stock acquisition price or the stock delivery price (e.g. Poland, Portugal).

250. **Holder's Deductibility Timing.** In almost all the countries, the premium is tax-deductible in the hands of the holder, but the timing of the deductibility is in most countries delayed until the time of exercise or expiry of the option. Again, reference can be made to the applicable accounting treatment, which naturally plays a role in the timing of the deductibility.

251. **Writer's Taxability Timing.** Complementary to the tax treatment in the hands of the holder, it can be said that the premium received by the writer is taxable in the hands of the writer in most countries. However, here, too, the question arises as to when exactly the

premium is taxable. Again, timing often depends on when the premium is booked in the profit and loss account. In some of the countries, the premium is taxable upon exercise or expiry of the option (e.g. Austria, Bulgaria, Finland, France, Luxembourg, the Netherlands, Slovakia), whereas, in a few countries, the premium is already taxable upon the option being issued (e.g. Denmark, Germany).

3.2.4.2.2. Tax Treatment of Exercise and Disposal of the Option

252. **Exercise of the Option.** When the option is exercised to buy shares, the question is whether the gains or losses realised are taxable/tax-deductible. It appears that there is no uniform answer to this question. Half of the countries consider the gains taxable and the losses tax-deductible (e.g. Latvia, the Netherlands, Poland, Portugal, Romania), while the other half treat the gains as tax-exempted and the losses as not tax-deductible (e.g. Austria, Bulgaria, France, Hungary, Ireland, Italy, Lithuania, Luxembourg, Slovakia, Slovenia, Sweden, Switzerland, the USA).

253. **Disposal of the Option.** As mentioned above, situations occur where the option holder might decide itself to sell the option to a third party. In the majority of the countries, gains or losses realised on the sale of the option are taxable/tax-deductible.

3.2.4.2.3. Tax Treatment of the Sale of the Shares Obtained by Exercising the Option

254. **Sale of the Shares.** Gains or losses realised upon sale of the shares are also generally taxable/tax-deductible. However, in some countries, these gains may in very specific circumstances be tax-exempted based on local rules implementing a participation exemption regime (e.g. Austria, Belgium, Denmark, France, Hungary, Italy, Lithuania, Luxembourg, the Netherlands, Slovenia, Switzerland).

3.2.4.2.4. Particularities

255. **Exceptions.** Exceptions do of course exist to the common tax treatment of call options on stock. For example, in Cyprus, based on a ruling issued by the tax authorities on a specific transaction and the general interpretation in relation to securities, the premium paid by the holder is expected to be non-deductible, while the premium received by the writer is not taxable. The premium should be regarded as part of the stock acquisition price in the hands of the holder and as part of the stock delivery price in the hands of the writer. Gains realised by the holder upon disposal or exercise of the option are exempt. Gains realised upon sale of the shares acquired by exercising the option are generally exempt, except in certain circumstances. Furthermore, no gain can arise for a holder upon expiry of the option, as the premium already paid for its acquisition is expected to be treated as non-deductible. Gains upon exercise are not taxed in the hands of the writer.

256. **Packaged Product.** Options granted into a packaged product, such as an equity-linked note, are not taken into account on a stand-alone basis for accounting and tax purposes in some of the countries (e.g. Austria, Finland, Luxembourg, Sweden). The tax treatment will generally be that applying to the main product. In other countries, they should, however, be considered as two products (e.g. Lithuania, Poland, Romania). In some countries the answer to this question is not clear. Note that, in practice, questions with respect to packaged products should of course always be analysed on a case-by-case basis (e.g. Luxembourg).

3.2.5. *WHT on Payments to Non-Residents*

257. **No WHT on Payments to Non-Residents.** The question was asked whether there is any WHT (below, *"WHT"*) on payments to non-residents originating from (i) equity swaps or financial futures, (ii) the sale of such instruments, and (iii) premiums paid to non-residents further to the acquisition of call options on stock. In the majority of the survey countries, there is generally no WHT on these payments to non-residents (e.g. Austria, Cyprus, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Sweden, the UK), unless an exception can be applied (e.g. the USA). When the source state does not levy any WHT on payments to non-residents, this is of course not directly relevant to determine the payment's classification under the applicable double tax treaty (below, *"DTT"*). We refer to the next section in this respect.

258. **WHT in Specific Cases.** In some countries, WHT can be due depending on certain circumstances (e.g. 10% in Bulgaria, 19% in Slovakia). For example, in Singapore, swap payments to non-residents may attract WHT if they are made in connection with an underlying loan or indebtedness of the payer. However, if futures are concerned, there will usually be no Singaporean WHT.

3.2.6. *Double Tax Treaties*

259. **Diverging Views.** It appears that the survey countries sometimes take diverging views as far as the DTT classification of the income generated from derivative instruments and from the sale of such instruments is concerned. Of course, each DTT is different and should be analysed on a case-by-case basis, but it appears that the classification can generally differ from country to country. Also, in some countries, there exists uncertainty in relation to the appropriate classification, and so the matter is open to interpretation (e.g. Finland). Finally, in some countries, several potential classifications could be correct, depending on the facts. We refer to the tables contained in Enclosures 19, 20 and 21 for more details. The potential classifications can be summarised as follows.

260. **Nature of the Underlying.** In some countries the classification may depend on the nature of the underlying (e.g. Austria, Ireland), while in other countries this is not the case (e.g. Slovakia, Switzerland, Portugal).

261. **Classifications.** Some countries classify payments from an equity swap or financial future as "other income" (e.g. Austria, Belgium, Slovakia). In other countries, the classification of payments from these instruments is in principle "dividend income" for income from equity swaps and "interest income" for income from futures. Moreover, there are also countries that consider these payments as falling under "business profits" (e.g. Bulgaria).

Most countries classify payments upon the sale of an equity swap or a financial future as "capital gains" (e.g. Austria, Belgium, Bulgaria, the Czech Republic, Estonia, Slovakia, Slovenia, Switzerland), but there are also countries that classify them under "business profits".

In addition, there is no consensus with respect to the classification of premium payments paid to acquire call stock options. The classification could be "other income", "business profits", or "capital gain". In some countries this classification is even considered to be irrelevant (due to the absence of taxation in the source country in any case; the qualification being then more relevant for the country of residence of the beneficiary).

In Germany permanent payments (if any) should qualify as "other income". Where a sale of the swap agreement or futures is concerned, a differentiation should be made between two situations. If the underlying value is physically delivered the payment qualifies as "capital gain". On the other hand, cash settlements qualify as "other income".

3.2.7. *Difference if Counterparty is a Non-Financial Institution*

262. **No Difference.** In most countries, there is no difference in tax treatment if one or both counterparties are companies in the non-Financial Sector as opposed to the Financial Sector. If there is a difference, it is usually linked to a difference in accounting treatment. Some examples are listed below.

In Bulgaria, there is a difference in tax treatment between financial and non-financial institutions. Financial institutions recognise gains or losses on financial instruments (e.g. equity swaps, financial futures and call stock options) when they occur, whereas non-financial institutions recognise the gains or losses only on disposal upon the instrument's maturity.

In the USA, there could possibly be differences. For example, there may be a difference if a futures contract is used as a hedging transaction as opposed to a speculative transaction. As far as call options are concerned, dealers in securities, as opposed to non-dealers, typically have to apply mark-to-market accounting to options, potentially accelerating basis recovery.

Financial institutions in France usually apply a tax treatment that differs from that for non-financial companies, applying a mark-to-market approach, which results in taxation or deduction of unrealised gains or losses at each financial year closing date.

In Germany, as far as equity swaps and financial futures are concerned, taxes are deducted by the counterparty (generally a credit institution) paying any profit under the swap or future agreement to the recipient. Corporations can credit the deducted tax against their corporate income tax liability. However, if the recipient is a credit or financial institution, taxes are not deducted from the income. Instead, such institutions declare the taxable income in their corporate tax returns.

Contrary to normal companies, Greek banks are obliged to submit a tax return to pay tax on the balance of a special reserve in relation to capital gains deriving from listed derivatives. Following payment of this tax, the remaining profits should be booked in a special account and can be distributed or capitalised free of tax.

In Ireland and the UK, there is a difference in tax treatment depending on the trading nature of the transaction. In the case of transactions other than trading transactions, these countries' capital gains rules might apply as opposed to the Irish general tax rules or the UK's derivative contract rules. For example, if a non-financial player is involved and the underlying subject-matter relates to equities, then it is possible that the UK derivative contract rules will be inapplicable, in which case the general capital gains rules apply. In Ireland non-financial players are disadvantaged by comparison with financial players: if the tax category is Irish capital gains tax, to which the non-Financial Sector is most likely to be liable, gains are taxed at 25% while, if the derivative relates to a trading transaction, which is normally the case for the Financial Sector, trading treatment should apply at 12.5%.

In Sweden, if both parties are companies in the Financial Sector, the general tax regime, based on accounting treatment, will apply. However, for a party that is not a financial company, the capital gains rules apply, which typically deviate from the accounting treatment in terms of timing (i.e. recognition of gains and losses). In addition, there are some differences in treatment with respect to call stock options: a financial company (holder) may deduct an anticipated (unrealised) loss on expiration of the call stock option and deduct it from any kind of income, whereas a non-financial company may only deduct realised losses, and only from capital gains on stocks and other equity-based securities. Also, for the financial company that wrote the option, the premium received is taxable when it is recognised in the profit and loss account while, for non-financial companies, the premium received is taxable either when the option expires (for "marketable" options with a term not exceeding 12 months) or immediately (for other options).

In Slovakia, the overall loss from transactions with derivatives is generally not tax-deductible. However, this is not the case if the taxpayer is a company in the Financial Sector.

3.2.8. *Differentiation amongst Domestic Company, Subsidiary or Branch*

263. **No Difference.** Apart for Singapore and the USA, which are third countries, there is in principle no difference in tax treatment with respect to the above topics according to whether the (financial) institution is a domestic one or a subsidiary or a branch (considered as a permanent establishment for double tax treaty purposes, to which the operations under review could be attributed) of a non-domestic (financial) institution.

In Singapore, WHT may be deducted at source by other Singaporean-based payers for certain payments made to a branch (differentiation based on the tax residence of the beneficiary), unless it has obtained an appropriate administrative waiver from the tax authorities.

In the USA, there could be potential differences depending on whether the institution in question is a company or a branch. For example, in the USA, branches of foreign financial institutions are subject to complex rules regarding income inclusion and the availability of certain deductions.

3.2.9. *Practices*

264. **In line with Legal Provisions.** In most countries, there is generally no information as to whether actual practice differs from the relevant legal provisions.

265. **Inconsistencies.** Nevertheless, this does not mean that actual practice is always consistent in a given country (or between sectors). The different types of issues reported are closely linked to the level of sophistication of the relevant tax legislation (which is, in turn, linked to the existing local market with respect to the relevant financial instruments):

- It has been reported that, in some countries, the local market is not at present fully developed, so that there is no real actual practice to speak of (e.g. Slovenia);
- Other countries reported that tax rules regarding derivatives are not very detailed, nor is the official guidance from the tax authorities, so that it is necessary to refer to the general provisions and principles of tax law, which leads to uncertain/inconsistent practices (e.g. Cyprus, Latvia, Malta, Romania);
- In other cases, the law provides flexibility so that there could be more than one way to appropriately reflect a transaction in financial statements and, hence, for tax purposes (e.g. Switzerland);
- Other countries reported the need to refer to a pragmatic approach in complex situations (e.g. the UK) or to a substance-over-form principle (e.g. the USA);

- Other countries reported potential inconsistency between sectors of activity due to the lack of official guidelines or limited case law (e.g. France and Poland);
- Finally, the state of constant flux in the tax provisions applying to derivatives has also been reported (China).

It is therefore usually recommended that transactions should be analysed on a case-by-case basis.

4. CONCLUSION

266. **Two Parts.** This Chapter can be split into two parts: indirect taxation on the one hand (securities transaction tax), direct taxation on the other hand (selected derivatives).

267. **Securities Transaction Tax.** As far as the first part is concerned, it can be concluded that not all countries in scope apply securities transaction taxes, and those that do have this type of tax all apply different rules and rates. In other words, there is no uniformity with respect to the scope of the taxes, tax rates or taxable bases. In some countries, the securities in scope are more limited than in others, where, in addition to equities, derivatives and loan instruments are also targeted. Another crucial distinction that can be made is the public or private character of the transactions in scope.

268. **Selected Derivatives.** The second part of this Chapter addresses a more complex and technical matter, namely the tax treatment of equity swaps, financial futures and call options on stock. As explained above, few countries have developed any specific tax rules dealing with this kind of instrument and those that have not apply the general tax rules.

269. **Role of Accounting Treatment.** Since tax law is based on accounting law in the majority of the countries, it goes without saying that accounting treatment has a decisive impact on tax treatment. Differences in accounting treatment will indirectly result in differences in tax treatment.

These differences can be explained by the application of local GAAP versus IFRS, different valuation methods, such as mark-to-market versus the LoCoM or historical method, accrual accounting versus cash accounting, prudence principle versus matching principle, etc. The hedging or trading purpose of a financial instrument will in most cases also trigger a different accounting treatment. However, the differences that originate from a different accounting treatment in most cases come down to timing differences.

270. **Different Tax Systems.** The other main reason underlying differences in tax treatment between countries is the fact that some have a general corporate income tax regime that is

"original" compared to other countries. Some countries also provide for capital gains taxation for which separate rules apply. However, this does not necessarily mean that financial institutions in these countries are treated differently from "normal" companies.

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GENERAL CONCLUSION

271. **Corporate Taxation.**

We found no evidence that banks have a significantly lower or higher corporate income tax burden than companies active in other sectors, to the exclusion of bank levies. As a general rule, the applicable standard corporate tax rate (including any municipal rates), computation of the tax base, deductible items or tax reliefs and so forth are generally the same for banks as for companies active in other sectors. There may be some differences specific to the bank business, but *prima facie* these differences do not appear significant.

272. **Value-Added Taxation.**

Some key third countries like Switzerland and Singapore have VAT exemptions in place similar as those foreseen in the VAT Directive 2006/112/EC which do not allow a VAT deduction. Other key third countries, like China, have other systems in place such as for example a Business tax or have no special tax on financial transactions excluding insurance premium tax which is for example the case in the US.

Only seven EU member States have implemented the "option to tax" system in the EU community allowing a VAT deduction of input VAT on financial services. However there is a wide divergence in scope and application between these Member States. A similar system as the "option to tax regime" of the Directive cannot be retrieved in the key third party countries covered by this Study.

A lot of EU Member States have or will introduce other taxes on financial transactions. Only a few of these taxes have clearly been introduced to compensate for the application of VAT exemptions in Member States, while for the other countries such a direct link with the existence of the VAT exemptions on financial transactions does not exist. The most common additional tax on financial services is the insurance premium tax but there is again a wide divergence in scope and application between the EU Member States.

273. **Labour Taxation.**

We found no evidence that, prior to the financial crisis, lawmakers in the 31 surveyed countries adopted any specific tax concessions or surcharges exclusively applicable to pay in the Financial Sector. While 7 surveyed countries reported having taken legal initiatives to apply tax surcharges to pay in the Financial Sector after the financial crisis, only 3, being Greece, Italy and Ireland, still apply these surcharges today.

In addition, assuming that the Financial Sector has more intensively resorted to equity incentives in its pay packages, we found no evidence that this practice would have led to an actual alleviation of tax burdening pay in the Financial Sector. Indeed when tax concessions were applicable to equity incentives they were almost always conditional.

In conclusion, we found no evidence that pay in the Financial Sector would have benefitted from any specific explicit or implicit alleviation of tax in comparison with other sectors.

274. **Financial Instruments.**

It results from the Study that not all survey countries apply securities transaction taxes, and that there is no uniformity with respect to the scope of these taxes.

With respect to the tax treatment of equity swaps, financial futures and call options on stock, few countries have developed any specific tax rules dealing with this kind of instrument. In any case, since tax law is based on accounting law in the majority of the countries, the accounting treatment has often a decisive impact on tax treatment. Differences in accounting treatment will indirectly result in differences in tax treatment. Other than that, we have not found major differences in the tax treatment applicable to these instruments between Financial and Non-Financial Institutions.

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ENCLOSURE 1: GENERAL TAX REGIME APPLYING TO BANKS

Country (April 2011)	Corporate Income Tax Rate	Local Taxes	Special Levy	Remarks
AUSTRIA	25% (Annual min. CIT): ▪ EUR 5,452 for banking institutions; ▪ EUR 1,750 for private limited liability companies (non-financial institutions); ▪ EUR 3,500 for public limited liability companies (non-financial institutions).	No	1) Levy to finance the chamber of commerce 2) From 1/1/2011, Bank levy: 2 taxable bases: - Capital assets (based on the unconsolidated balance sheet total). Tax on capital assets calculated on a modified average unconsolidated balance sheet total – tax rate of 0.055%-0.085% depending on certain threshold – allowance if tax base < €1 billion; - Derivatives in the trading book: tax rate of 0.013% based on their nominal value – no allowance for derivatives.	
BELGIUM	33.99%	No	No	
BULGARIA	10%	No	No	
CYPRUS	10%	No	Proposed bank levy: legislation is being considered by parliament, to tax deposits excluding inter-bank deposits at a rate of 0.095% (total levy not to exceed 20% of taxable profits).	
CZECH REPUBLIC	19%	No	No	

Country (April 2011)	Corporate Income Tax Rate	Local Taxes	Special Levy	Remarks
DENMARK	25%	No	No	Payroll tax (applicable to all entities not subject to VAT), in effect applicable mainly to financial entities, including banks: 10.5% of the payroll total.
ESTONIA	21%	No	No	CIT only upon distribution of profits.
FINLAND	26%	No	No	
FRANCE	33.33% but a 3.3% 'social tax contribution' may also apply (if CIT exceeds K€ 763), i.e. effective tax rate may be 34.43%	No	Bank levy: financial bill for 2011 created a new 'tax on systemic risks' specific to banks, which will be paid in addition to contributions paid by the financial institutions to the deposit guarantee fund and supervision fees. In a nutshell, a 0.25% tax is assessed on the amount of the bank's equity over EUR 500 million. PEs of foreign banks resident in an EEA country are not subject to this levy.	

Country (April 2011)	Corporate Income Tax Rate	Local Taxes	Special Levy	Remarks
GERMANY	15% + 5.5% solidarity surcharge	Yes ('trade tax'), of between 7 and 17.1% depending on the relevant municipal rate (14.35% in Berlin)	- A bank levy (annual levy) is applicable from 1 January 2011 and falls due annually on 30 September. The base for calculating the levy is the sum of: 1) a progressive rate of 0.02 - 0.04% calculated on balance sheet total less liabilities to customers (without liabilities towards affiliate entities) less certain other items (such as funds for general bank risks) and liable equity capital; and 2) 0.00015% of nominal amount of derivatives. The bank levy is limited to a maximum of 15% of net profits plus certain other items and a minimum of 5% of the regular annual contribution. - Discussions have taken place regarding a financial transaction tax. However, there are currently no specific legislative proposals.	
GREECE	20% for accounting year 2011	No	Bank debt is subject to a special levy of 0.6% annually on the loan value (L. 128/75).	

Country (April 2011)	Corporate Income Tax Rate	Local Taxes	Special Levy	Remarks
HUNGARY	10% up to HUF 500 million tax base, 19% above	Yes (in Budapest: 2%). It is noted that the local business tax base is determined differently from the tax base of the corporate income tax.	Bank levy with start date on 27 September 2010: Progressive rate of 0.15% up to HUF 50 billion and 0.53% on the excess. The levy is calculated on the adjusted balance sheet total (i.e. less, inter-bank lending and loan receivables, etc.). The bank levy is also applicable to other financial institutions (i.e. insurance companies, broker-dealers, etc.), for which different rates may apply.	
IRELAND	12.5% on trading income; 25% on passive income	No	No	
ITALY	27.5%	Regional income tax (introduced in 1997): ▪ 3.9% for non-FS ▪ 4.82% for FS ▪ may vary according to region.	No	
LATVIA	15%	No	Yes, financial stability duty of 0.036% per annum, in force from 1 January 2011, payable by Latvian banks, foreign branches of Latvian banks and Latvian branches of foreign branches	
LITHUANIA	15%	No	No	

Country (April 2011)	Corporate Income Tax Rate	Local Taxes	Special Levy	Remarks
LUXEMBOURG	21% + 5% solidarity surcharge = 22.05% from 1/1/2011	Yes, 'municipal business tax': varies between 6.75% and approx. 9%. Banks established in Luxembourg city: total combined CIT/MBT rate = 28.8%	Net wealth tax (computed on net asset value), applicable to all corporations at a rate of 0.5%. No (proposed) bank levies or financial transactions tax.	
MALTA	35%	No	No	
NETHERLANDS	25% (with step-up of 20% on first EUR 200,000 of taxable income)	No	No	
POLAND	19%	No	No bank levy or financial activities tax. Currently, a bill to introduce a levy on banks and certain other financial institutions has been proposed by the opposition party in parliament. Given the make-up of parliament, even if the law is ultimately passed, it is unlikely that it will take the form presented in the bill.	
PORTUGAL	25%	1.5% maximum local surtax; Reduced rate for Madeira Region but not applicable to banks or FS.	In 2011 the banking sector will be subject to a new contribution regime in addition to the standard tax rates. *Taxable base & tax rates* Base I : Total liabilities less, amongst others: ▪ Items that are accounted for as equity; ▪ Liabilities for defined benefit retirement plans; ▪ Provisions;	

Country (April 2011)	Corporate Income Tax Rate	Local Taxes	Special Levy	Remarks
			▪ Liabilities concerning revaluation of financial derivatives; ▪ Receipts related to deferred income, irrespective liabilities' operations; and ▪ Liabilities related with assets which were not accounted for in securitization's operations. Part of the bank deposit actually covered by the Deposits Guarantee Fund Tax rate foreseen: 0.05% Base II: The notional amount of off-balance sheet financial derivatives, excluding hedging derivatives and back to back derivatives. Tax rate foreseen: 0.00015%	
ROMANIA	16%	No	Proposal of 'solidarity tax' on profits derived by the financial services sector, temporary tax, proposed rate: 2.5% on profits derived during previous fiscal year. As the proposal is still pending in parliament, it will probably not come into effect in the near future.	
SLOVAKIA	19%	No	- No - The Slovak Ministry of Finance has presented its proposal to introduce taxation of banks in 2012. It is not yet clear whether it will be a tax levied on the liabilities of the financial institution or a financial activities-based tax.	
SLOVENIA	20%	No	No	

Country (April 2011)	Corporate Income Tax Rate	Local Taxes	Special Levy	Remarks
SPAIN	30%	No surcharges or local direct taxes, but from a CIT/direct taxation perspective, rules differ depending on the territory (for instance special rules applicable to the Vasc region).	No	
SWEDEN	26.3%	No	Bank levy effective as from 30 December 2009, for financial years ending after that date: 0.036% of total amount of debt and provisions less intra-group liabilities and other items. This tax rate is halved for financial years 2009 and 2010.	
UK	Currently 28% but will drop by 1% each year from 1/4/2011 to reach 24%	No	Bank levy applicable as from 1 January 2011: 0.075% although lower rate of 0.04% for 2011 and 0.0375% for long-term liabilities. The bank levy is applicable to global consolidated balance Sheet liabilities less 'Tier 1', insurance liabilities, protected deposits, sovereign repo liabilities and other items (derivatives on a net basis). For calculation of the taxable base, a threshold of £20 billion is applied.	
CHINA	25%	No	No	
SINGAPORE	17%	No	No	Notwithstanding the standard corporate tax rate, concessions are available for specific types of income (see comments under 'Specific tax regime applicable to banks').

Country (April 2011)	Corporate Income Tax Rate	Local Taxes	Special Levy	Remarks
SWITZERLAND	For FY 2010, the applicable standard CIT rate (including cantonal/ communal and direct federal taxes) varies between 12.66% and 24.23%, depending on the canton where the company is located.	Surcharges and additional local taxes may be levied mainly in the French-speaking cantons (e.g. 'taxe professionnelle communale' in the Canton of Geneva)	No	
USA	Maximum 35% federal rate	State and local rates vary (can vary widely across jurisdictions).	Currently no bank levy in the USA; Proposals made in 2010 did not garner sufficient Congressional support; A recent 2011 proposal by the Obama administration is, at this point, also unlikely to receive sufficient Congressional support to be enacted, especially in the House of Representatives.	

ENCLOSURE 2: THIN CAPITALIZATION RULES

Country	1. Do you have thin cap rules in your country?	2. Are these thin cap rules applicable to related-party interest?	3. Are these thin cap rules applicable to third-party interest?	4. Do thin cap rules apply to banks?	5. If your answer to question 4. is yes, please specify, if applicable, the differences between the thin cap rules for banks and the thin cap rules for companies of other sectors/non-banks.
AUSTRIA	Yes	Yes	No	Yes	A specific minimum equity is required for banks (according to Basel II). Generally, for branches of foreign banks endowment capital has to be attributed for taxation purposes only (e.g. based on the equity requirements imposed by the Austrian Banking Act) according to the OECD report on the attribution of profits to permanent establishments dated July 17, 2008.
BELGIUM	No general thin cap rules. A debt-equity ratio may apply in the following cases: - 7:1 if interest is paid to taxpayers benefiting from a tax regime more advantageous than the Belgian one on the income received and provided certain limits are exceeded - 1:1 if interest is paid to a director or a person exercising similar functions and to the extent certain limits are exceeded	No	No	No	N/A
BULGARIA	Yes	Yes	Yes	No	N/A

Country	1. Do you have thin cap rules in your country?	2. Are these thin cap rules applicable to related-party interest?	3. Are these thin cap rules applicable to third-party interest?	4. Do thin cap rules apply to banks?	5. If your answer to question 4. is yes, please specify, if applicable, the differences between the thin cap rules for banks and the thin cap rules for companies of other sectors/non-banks.
CYPRUS	No	N/A	N/A	No	N/A
CZECH REPUBLIC	Yes	Yes	No	Yes	The debt to equity ratio for banks and insurance companies is 6:1, whereas for other companies the ratio is set at 4:1.
DENMARK	Yes	Yes	The calculation of the 4:1 debt to equity ratio is made based on all debt in the company. However, only related debt would be subject to limitations.	No	N/A
ESTONIA	No	N/A	N/A	No	N/A
FINLAND	No	N/A	N/A	No	N/A
FRANCE	Yes	Yes	No	No	N/A
GERMANY	Yes	Yes	Yes	Yes	The German thin cap rules are also applicable to banks. However, according to the mechanism of the German interest capping rules (interest expenses are always tax deductible to the extent they do not exceed interest income earned) banks are typically not burdened by the German thin cap rules.

Country	1. Do you have thin cap rules in your country?	2. Are these thin cap rules applicable to related-party interest?	3. Are these thin cap rules applicable to third-party interest?	4. Do thin cap rules apply to banks?	5. If your answer to question 4. is yes, please specify, if applicable, the differences between the thin cap rules for banks and the thin cap rules for companies of other sectors/non-banks.
GREECE	Yes: interest corresponding to loans exceeding the 3:1 debt to equity ratio is not tax deductible	Yes	No. However, loans granted by 3rd parties and guaranteed by a related party are taken into account for the calculation of the 3:1 ratio.	No	N/A
HUNGARY	Yes	Yes (except related party in the bank sector)	Yes (except third-party in the bank sector)	Yes	For the computation of the debt-to-equity ratio (=3:1), banks do not have to take into consideration their liabilities in connection with their financial services activities, whereas other companies do.
IRELAND	No (However, certain requalification may apply when interest payments are made to a 75% non-resident group member).	N/A	N/A	No	N/A
ITALY	No	N/A	N/A	No	Interesting to mention is that interest expenses incurred by banks are deductible at 96%, whereas for companies of other sectors/non-banks, interest expenses are fully deductible provide that they do not exceed specific ratios.

Country	1. Do you have thin cap rules in your country?	2. Are these thin cap rules applicable to related-party interest?	3. Are these thin cap rules applicable to third-party interest?	4. Do thin cap rules apply to banks?	5. If your answer to question 4. is yes, please specify, if applicable, the differences between the thin cap rules for banks and the thin cap rules for companies of other sectors/non-banks.
LATVIA	Yes	Yes	Yes, except for interest on loans from credit institutions (banks) resident in EU, EEA and double tax treaty countries and some other specified institutions (e.g. EBRD, WB, etc.)	No	N/A
LITHUANIA	Yes	Yes	Yes, provided that third party loan is guaranteed by related party.	Yes	The thin cap rules do not apply to financial institutions providing financial leasing services. There are no exceptions/differences for banks and companies of other sectors/non-banks.
LUXEMBOURG	Yes	Yes	In principle NO. But it could be applicable in specific cases.	Yes	No differences between banks and non-banks
MALTA	No	N/A	N/A	No	N/A

Country	1. Do you have thin cap rules in your country?	2. Are these thin cap rules applicable to related-party interest?	3. Are these thin cap rules applicable to third-party interest?	4. Do thin cap rules apply to banks?	5. If your answer to question 4. is yes, please specify, if applicable, the differences between the thin cap rules for banks and the thin cap rules for companies of other sectors/non-banks.
NETHERLANDS	Yes	Yes, the amount of non-deductible interest should only be limited to the extent that intercompany interest paid exceeds intercompany interest received.	Yes	Yes	No differences between banks and non-banks
POLAND	Yes	Yes	No	Yes	No differences between banks and non-banks
PORTUGAL	Yes, a 2:1 debt to equity ratio applies. A safeguard clause is available, in case the taxpayer is able to demonstrate that the level of debt and other conditions are at arm's length.	Yes, on interest from a related party that is resident outside the EU	Yes, if guaranteed by a related party	Yes	No differences
ROMANIA	Yes (also safe harbour rule according to which the deductibility of interest expenses on loans provided by entities other than banks/financial institutions is capped at a specific interest rate, which depend on the currency of the loans).	Yes	Yes	No	N/A
SLOVAKIA	No	N/A	N/A	No	N/A

Country	1. Do you have thin cap rules in your country?	2. Are these thin cap rules applicable to related-party interest?	3. Are these thin cap rules applicable to third-party interest?	4. Do thin cap rules apply to banks?	5. If your answer to question 4. is yes, please specify, if applicable, the differences between the thin cap rules for banks and the thin cap rules for companies of other sectors/non-banks.
SLOVENIA	Yes	Yes	No, unless the loan is guaranteed by a related party.	No [the tax haven rules apply to all entities and are not thin cap rules]	For non-bank entities, the thin cap rules restrict the tax deductibility of interest on loans from direct or indirect parents or subsidiaries (where the shareholding relationship is at least 25%), to the extent that the loan amounts exceed 4 times equity (from 2012 onwards, and 5:1 for 2011). This restriction does not apply to banks.
SPAIN	Yes. According to article 20 Corporate Tax Act, when the net remunerated direct or indirect borrowing of an entity from other related persons or entities which are not resident in Spanish territory, **excluding financial institutions**, exceeds the result of applying the coefficient of 3 to the fiscal capital, the accrued interest which corresponds to the excess will be regarded as dividends. Thin capitalization rule does not apply when the non-resident entity is located in a EU country (except tax havens jurisdictions).	Yes, this rule applies exclusively to related persons or entities (direct or indirectly).	No	No (except for interest related to payments to tax havens).	N/A

Country	1. Do you have thin cap rules in your country?	2. Are these thin cap rules applicable to related-party interest?	3. Are these thin cap rules applicable to third-party interest?	4. Do thin cap rules apply to banks?	5. If your answer to question 4. is yes, please specify, if applicable, the differences between the thin cap rules for banks and the thin cap rules for companies of other sectors/non-banks.
SWEDEN	No	N/A	N/A	N/A	N/A
UK	Yes	Yes	Yes	Yes	Banks cannot apply 'safe-harbours' and thin cap rules are based on the regulatory capital position. The 'debt cap' restrictions which limit interest deductions available in the UK by reference to the group's external borrowing do not apply to banks.
CHINA	Yes	Yes	No	Yes	The debt-to-equity ratio for banks (and for all the financial industry) is 5:1, whereas for the non-Financial Sector the ratio is set at 2:1.
SINGAPORE	No	N/A	N/A	No	N/A
SWITZERLAND	Yes	Yes	No	Yes (but not the same rules as for non-financial service, see next column)	For Swiss regulated banks, the minimal equity required for tax purposes is equal to the minimal equity required for Swiss regulatory purposes.
USA	Yes	**Please complete**	**Please complete**	Yes	**Please complete**

ENCLOSURE 3: INTEREST WHT RATE

Country	Interest WHT rate
AUSTRIA	25%
BELGIUM	15%
BULGARIA	10%
CYPRUS	0%
CZECH REPUBLIC	15%
DENMARK	25%
ESTONIA	21% on excessive part of interest
FINLAND	28%
FRANCE	0% (50% for NCST payments)
GERMANY	25%+5.5% solidarity surcharge
GREECE	40%
HUNGARY	0%
IRELAND	20%
ITALY	12.5%
LATVIA	5 or 10%
LITHUANIA	10%
LUXEMBOURG	0%

Country	Interest WHT rate
MALTA	15%
NETHERLANDS	0%
POLAND	20%
PORTUGAL	21.5%
ROMANIA	16%
SLOVAKIA	19%
SLOVENIA	15%
SPAIN	19%
SWEDEN	0%
UK	20%
CHINA	10%
SINGAPORE	17%
SWITZERLAND	35%
USA	30%

ENCLOSURE 4: DIVIDEND WHT RATE

Country	Dividend WHT rate
AUSTRIA	25%
BELGIUM	25% (15% on certain dividends)
BULGARIA	5%
CYPRUS	0%
CZECH REPUBLIC	15%
DENMARK	28%
ESTONIA	No
FINLAND	28%
FRANCE	25% (50% for NCST[7] payments)
GERMANY	25% + 5.5% solidarity surcharges
GREECE	25% (for profit distributions during 2011, the applicable WHT rate is 21%)
HUNGARY	0%
IRELAND	20%
ITALY	From 0 to 27%
LATVIA	10%
LITHUANIA	15%
LUXEMBOURG	15%
MALTA	No (subject to the satisfaction of certain statutory conditions)
NETHERLANDS	15%
POLAND	19%
PORTUGAL	21.5%
ROMANIA	16%
SLOVAKIA	0%
SLOVENIA	15%
SPAIN	19%
SWEDEN	No
UK	No
CHINA	10%
SINGAPORE	0%
SWITZERLAND	35%
USA	30%

[7] NCST: Non Cooperative States and Territories.

ENCLOSURE 5: INTEREST AND DIVIDEND PAYMENTS TO BANKS (AS BENEFICIARIES) – IS THERE A WHT EXEMPTION OR A REDUCED RATE FOR BANKS?

Country	Is interest paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (debtor or subsidiary) is resident in your country?	Are dividends paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (subsidiary) is resident in your country?	Is this regime specific to the bank sector? Are there specific WHT exemptions or reduced rates for banks?
AUSTRIA	No In general, only banks (domestic institutions, subsidiaries or branches licensed for banking business) are obliged to deduct WHT on interest in Austria. 1. Interest paid to a foreign Bank According to Austrian tax law, interest income received by non-residents in Austria is generally not subject to WHT taxation, if a proof of foreign residence is provided to the Austrian paying agent. Hence, interest paid to a foreign Bank is generally not subject to WHT in Austria. 2. Interest paid to an Austrian Bank In general, interest paid by an Austrian Bank to another Austrian Bank is exempt from WHT in Austria due to a specific exemption in the Austrian Income Tax Act.	Yes Generally, dividends paid by an Austrian resident to a Bank (resident in Austria or abroad) are subject to WHT in Austria. Austrian recipients (Austrian Banks and subsidiaries) may claim the Austrian WHT in the corporate income tax return. An exemption from WHT is generally granted for the distribution of dividends by an Austrian corporation to an Austrian or EU parent company if the parent holds a participation of at least 10 % over a period of more than 1 year. This exemption is applicable for all companies regardless of whether they are banks or not. Furthermore, some double tax agreements concluded by Austria provide for dividends (distributed by Austrian companies) to be exempt from WHT or to be subject to a reduced WHT rate. Requirement for the respective exemption/reduction is a proof of foreign residence.	A specific WHT exemption for the banking sector is that interest paid by one Bank to another Bank is explicitly exempt from WHT in Austria. This exemption is also applicable if the recipient is a foreign Bank (which is generally not subject to WHT taxation anyway).

Country	Is interest paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (debtor or subsidiary) is resident in your country?	Are dividends paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (subsidiary) is resident in your country?	Is this regime specific to the bank sector? Are there specific WHT exemptions or reduced rates for banks?
BELGIUM	The general Belgian WHT on interest payments amounts to 15%. The Belgian internal tax law as well as DTT concluded by Belgium provide for several reductions and/or exemptions in this respect. Please note that such reductions/exemptions generally depend on certain conditions such as amongst others the capacity of the debtor, the capacity of the receiver and the underlying interest generating financial instrument. The Belgian domestic law provides for specific exemptions in case the debtor and/or the receiver is a bank. For instance a WHT exemption is available in case of interest paid: - on loans by a Belgian credit institution to credit institutions established abroad; - on loans by professional investors (basically all Belgian corporate investors) to credit institutions established in, inter alia, the European Economic Area or in a country which has concluded a DTT. Other WHT exemptions on interest payments are available for Belgian standard companies	A Belgian WHT of 15% or 25% is due for dividends distributed by Belgian resident companies to foreign companies (including banks) or to a Belgian branch of a foreign entity, unless the conditions under the EU Parent-Subsidiary Directive are complied with. Other WHT reductions/exemptions can also be applicable according to domestic law or double tax treaties. Finally, as regards to WHT on dividend distributions, no immediate exemptions proper to banks come to mind as opposed to other companies.	We refer to our comments in column 1 (specific WHT exemption for interest payments, although other WHT exemptions are available under certain conditions for standard resident companies).
BULGARIA	There is 10% WHT on interest payment to non-resident banks. The WHT may be reduced to 5% under the rules of the Interest-Royalty Directive. No WHT applies on interest payment to corporate residents (including banks)	There is 5% WHT on dividend payment to non-resident banks. The WHT may be reduced to 0% under the rules of the Parent Subsidiary Directive. No WHT applies on dividend payment to corporate residents (including banks).	No

Country	Is interest paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (debtor or subsidiary) is resident in your country?	Are dividends paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (subsidiary) is resident in your country?	Is this regime specific to the bank sector? Are there specific WHT exemptions or reduced rates for banks?
CYPRUS	No	No	No
CZECH REPUBLIC	No	No	No
DENMARK	In principle, only WHT on intra-group debt from a Danish debtor to a creditor resident abroad.	Yes, 28% WHT (27% from 2012) on dividend payments on portfolio shares (less than 10% ownership) to a foreign bank. No Danish WHT on dividends on shareholdings of more than 10%, provided the recipient is the beneficial owner of the dividends and resident in an EU state or a state with which Denmark has a DTT.	No
ESTONIA	No, arm's length interest is not subject to WHT. Excessive interest exceeding the arm's length value may be subject to 21% WHT, if paid to non-residents.	No	No

Country	Is interest paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (debtor or subsidiary) is resident in your country?	Are dividends paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (subsidiary) is resident in your country?	Is this regime specific to the bank sector? Are there specific WHT exemptions or reduced rates for banks?
FINLAND	No WHT is levied on interest payments to Finnish resident companies (including banks). Finland does not levy WHT on interests paid to non-residents unless the tax authorities would deem that the true nature of the loan is equity capital.	No WTH is levied on dividends paid by Finnish resident limited companies to Finnish resident companies (including banks) Dividends paid by a Finnish resident to a non-resident bank are subject to a WHT of 28%, unless a tax treaty provides for a lower rate or an exemption. However, dividend payments to EU resident companies covered by the EU Parent - Subsidiary Directive and holding at least 10% in the distributing company are exempt from WHT. Further, no WHT is levied on dividend payments received by companies resident in the EU/EEA area (other than in Liechtenstein), which would have been tax-free if paid to a Finnish corporate body, if the WHTes cannot be credited in the company's state of residence.	The depicted rules are not bank sector specific but are generally applicable. There are no WHT exemptions or reduced rates for banks.
FRANCE	Interest paid to a bank should not be subject to WHT provided they are not paid on a bank account located in an Non Cooperative State or Territory ("NCST").	A 25% WHT could be levied on dividend paid to a bank. This rate can: - be reduced in accordance with the provisions of a DTT; or - be increased to 50% should the payment be made on a bank account located in an NCST. No WHT would be levied for payments made to a company located in an E.U. country (provided the payment is effectively made on a bank account located in the E.U.)	The nature of the activity of the company receiving the payment of the interest/dividend has no impact over the application of a potential WHT.

Country	Is interest paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (debtor or subsidiary) is resident in your country?	Are dividends paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (subsidiary) is resident in your country?	Is this regime specific to the bank sector? Are there specific WHT exemptions or reduced rates for banks?
GERMANY	Generally, interest on plain vanilla loans paid to a bank by a German resident are not subject to German WHT. A WHT of 26.375% would only be applicable if the interest payments were paid by a German bank to a foreign bank and the interest or the underlying loan facility were collateralized with German real estate or German ships.	Dividend paid to a resident or non resident bank by a German resident are subject to WHT of 26.375%. However, if the receiving bank is a foreign corporate entity, it would be entitled to a partial refund of the withheld tax effectively reducing the tax rate to 15.825%. Furthermore, the foreign bank may be entitled to a full or partial exemption or refund of the WHT under double tax agreements. Finally, dividend payments to a EU-resident bank qualify for a full refund of the WHT under the EC-Parent-Subsidiary-Directive.	It should be noted that a specific exemption from the obligation to withhold tax on interest payments (so called "bank privilege") is applicable in cases of German domestic interbank loans.
GREECE	Interest paid to a Greek Bank by Greek residents is not subject to WHT. Interest paid to a foreign Bank by Greek residents is subject to a 40% WHT, which can be reduced by application of the Interest-Royalty Directive or an applicable DTT.	Yes. Dividends paid by Greek companies are subject to a 25% WHT (21% for 2011), irrespective of the recipient (Greek or foreign, legal entity or individual). The only available exemption applies to dividends paid to an EU parent company provided the conditions of the Parent –Subsidiary Directive are met.	Interest paid by Greek residents to ordinary Greek companies is subject to a 20% WHT (as securities income). The exemption from WHT to interest paid to Greek Banks is based on the characterization of the interest as ordinary business income for the Banks. There is no differentiation to interest paid to foreign Banks or ordinary companies.
HUNGARY	No	No	No specific rule.

Country	Is interest paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (debtor or subsidiary) is resident in your country?	Are dividends paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (subsidiary) is resident in your country?	Is this regime specific to the bank sector? Are there specific WHT exemptions or reduced rates for banks?
IRELAND	In the case of interest, no WHT in the case of payments to an Irish resident bank. WHT applies in the case of interest payments to a non-resident (including a bank) except where the interest is paid by a bank in the course of its business. There are a number of other exceptions to this requirement and these are set out in Section 246 Tax Consolidation Act 1997. WHT applies where interest is paid to companies in the State other than banks.	No WHT where dividend paid by an Irish company to another Irish company. The dividend income is not taxable in the hands of the recipient company. In the case of payment to an individual, WHT is deducted and the individual is taxable on the dividend which is subject to a credit for WHT. In the case of a dividend paid by an Irish company to a foreign company, the foreign company can claim to have the dividend paid without WHT.	If interest is paid by a bank in the course of its business, no WHT applies.

Country	Is interest paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (debtor or subsidiary) is resident in your country?	Are dividends paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (subsidiary) is resident in your country?	Is this regime specific to the bank sector? Are there specific WHT exemptions or reduced rates for banks?
ITALY	- No WHT on interest paid to Italian banks; - No WHT on interest paid to foreign banks by Italian banks; - Generally speaking, interest on loans and advances paid to foreign entities (including foreign banks) are subject to a 12,5% WHT (27% if the foreign entity is located in a black list country). Broadly speaking, also interest collected by resident standard companies (other than banks) referring to loans are not subject to WHT. Instead, interest collected by "standard companies" with reference to bank deposits and bank accounts are subject to WHT at 27%. Finally, interest relating to bonds is subject to the same tax treatment both for banks and other companies: generally no WHT applies. Nevertheless there are some exceptions to this general rule.	Dividends paid by an Italian company (including banks) to other Italian banks or foreign banks are subject to the following tax regimes: - no WHT If paid to Italian banks; - no WHT if paid to banks resident in EU Member States under the provisions of EU Parent-Subsidiary Directive (as implemented by the Italian tax law); - 1.375% WHT if paid to other European banks subject to the CIT in one of the EU Member State or in an EFTA State; - 27% WHT if paid to non-residents banks other than those listed above. This rate decreased to 12.5% if the dividends are related to saving shares. Moreover the WHT rates can be reduced according to the provisions of double tax treaty when applicable. “Saving shares” are shares without voting rights. Compared with “ordinary shares” (having voting rights), saving shares grant to the owner some additional economic benefits. Also, no WHT applies on dividends paid to resident standard companies.	Domestic tax law provides the exemption of WHT on interest paid from Italian banks and Italian PE of foreign banks to foreign banks and foreign PE of Italian banks. As far as dividend, the same tax treatment applies both to banks and other companies.

Country	Is interest paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (debtor or subsidiary) is resident in your country?	Are dividends paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (subsidiary) is resident in your country?	Is this regime specific to the bank sector? Are there specific WHT exemptions or reduced rates for banks?
LATVIA	Only interest paid to related non-resident party is subject to WHT. Tax rate is 5% on interest to related EU/ EEA company (as defined by the law) and 10% on interest to any other related non-resident party. If the debtor is a Latvian bank, then it must deduct 5% WHT from interest paid to a non-resident related party (both EU/ EEA and non-EU/EEA).	Generally, dividends are subject to 10% WHT. Dividends paid to EU companies (i.e. companies that have certain legal form, pay corporation or similar tax and are tax residents in relevant EU/ EEA country) are not subject to WHT provided certain administrative requirements are fulfilled. WHT rate under most double tax treaties is reduced to 5%. All these rules are applicable both to the bank sector and to other sectors.	It is specific to the bank sector that banks are entitled to deduct 5% WHT from interest paid to a non-resident related party (both EU/EEA and non-EU/EEA). Debtors in other sectors must deduct 10% WHT from interest to related non-resident parties and may apply 5% WHT rate only on interest paid to related EU/ EEA companies (as defined by the law).
LITHUANIA	As from 1 January 2010 interest paid to foreign entity (no matter if it is a bank or other company) established in the European Economic Area or in countries with which Lithuania has a DTT signed is not subject to WHT in Lithuania (in other cases WHT of 10% is applied). Interest paid to Lithuanian entity (no matter if it is a bank or other company) is not subject to WHT.	Dividends paid to foreign or Lithuanian entities (no matter if it is a bank or other company) are not subject to WHT, provided that participation exemption rule is satisfied (not less than 10% of voting shares are held for not less than 12 months). In other cases WHT of 15% is applied.	There is no specific regime for banking sector.

Country	Is interest paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (debtor or subsidiary) is resident in your country?	Are dividends paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (subsidiary) is resident in your country?	Is this regime specific to the bank sector? Are there specific WHT exemptions or reduced rates for banks?
LUXEMBOURG	There is no WHT on interest under Luxembourg domestic law (except if the debt has very specific features).	Dividends on shares are in principle subject to a 15% WHT in Luxembourg except if they qualify for the participation exemption or if a reduction applies under the relevant double tax treaty. This is the standard WHT rate applicable to any Luxembourg taxpayer. The domestic WHT exemption will apply only if a 10% participation in the share capital (or EUR 1.2m acquisition price) of the distributing company is held (or commitment to hold) for an uninterrupted period of 12 months and the dividend is paid to a collective entity listed in the EU Parent-Subsidiary Directive or member of the EEA agreement and fully liable to a tax corresponding to Luxembourg CIT, a joint.-stock company tax resident in a country with which Luxembourg signed a double tax treaty and which is fully liable to a tax corresponding to the Luxembourg CIT, a joint-stock company tax resident in Switzerland and subject to corporate taxes in Switzerland without being exempt.	No

Country	Is interest paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (debtor or subsidiary) is resident in your country?	Are dividends paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (subsidiary) is resident in your country?	Is this regime specific to the bank sector? Are there specific WHT exemptions or reduced rates for banks?
MALTA	A WHT of 35% on the gross interest may apply (in certain determined instances the Revenue may provide for authorization for a lower WHT or for no WHT) in the case of payment by a Maltese incorporated or resident company of debenture interest or of interest on any other loan advanced to a company (including a bank) for a capital purpose (excluding interest on customer's deposits and current accounts). This is merely a provisional withholding of tax on account of the final tax liability due in respect of the recipient's chargeable income for the particular year (any excess withheld would be refundable and any under-deduction would have to be settled to the Revenue). An exemption from WHT, including the above, may apply in the case of payment of any interest to a non-Maltese-resident person (including a bank) subject to the satisfaction of certain statutory conditions.	There should be no WHT on the payment of a dividend to any person (including a bank) subject that (in certain instances) in the case where the recipient of the dividend is a non-Maltese-resident person (including a bank) such person is not owned and controlled by, directly or indirectly, nor acts on behalf of an individual/s who is/ are ordinarily resident and domiciled in Malta.	There are no special tax rules for banks in this respect.

Country	Is interest paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (debtor or subsidiary) is resident in your country?	Are dividends paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (subsidiary) is resident in your country?	Is this regime specific to the bank sector? Are there specific WHT exemptions or reduced rates for banks?
NETHERLANDS	No, The Netherlands does not levy a WHT on interest payments.	Yes, the payer of the dividend is in principle obliged to withhold 15% dividend WHT on dividend payments. This rate may be reduced by a Double tax treaty or due to the EU Parent/Subsidiary Directive. In addition an exemption to withhold the 15% WHT could apply in case of dividend distributions take place between two corporate entities established in the Netherlands (for example in case of a fiscal unity).	No
POLAND	Interest earned in Poland and paid to a Polish resident bank is not subject to WHT. Interest earned in Poland and paid to foreign resident bank may generally be subject to WHT at the standard rate of 20%, however reduced rates / exemptions resulting from Double Tax Treaties ("DTTs") may be applicable, and exemption resulting from Polish tax regulations implementing the Interest and Royalties Directive.	Dividends from Polish companies may generally be subject to the standard 19% WHT if paid to Polish or foreign resident. Reduced rates / exemptions from WHT resulting from DTTs may be applicable, as well as exemption resulting from Polish tax regulations implementing the Parent-Subsidiary Directive.	These are general rules, no specific regime for banks in the domestic tax regulations exist. However, specific regulations, in particular WHT exemptions, on interest paid to banks exist in some of the DTTs concluded by Poland.
PORTUGAL	Interest paid to a resident Bank is exempt from WHT. Interest paid to a non resident Bank is subject to WHT, except if paid by a resident Bank.	Yes	Interest paid to a company is generally subject to WHT, while interest paid to a resident bank is exempt from WHT. However, WHT is a mere payment on account for residents, so the final tax burden will be the same.

Country	Is interest paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (debtor or subsidiary) is resident in your country?	Are dividends paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (subsidiary) is resident in your country?	Is this regime specific to the bank sector? Are there specific WHT exemptions or reduced rates for banks?
ROMANIA	Yes, only if the beneficiary of the income (the Bank) is situated abroad.	Yes, irrespective of the place where the beneficiary of the income is situated.	Applies for all companies (not just banks). The general 16% WHT rate applicable for interest and dividend payments can be further reduced to the Double Tax Treaty rate or to nil based on EU Directives (i.e. Interest - Royalties for interest payments and Parent-Subsidiary for dividend payments), as implemented in the Romanian legislation.

Country	Is interest paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (debtor or subsidiary) is resident in your country?	Are dividends paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (subsidiary) is resident in your country?	Is this regime specific to the bank sector? Are there specific WHT exemptions or reduced rates for banks?
SLOVAKIA	-Interest received from a loan is considered income for a Slovak bank, taxable on an accrual basis at the corporate tax rate of 19%. -The WHT on interest received from a loan by a Slovak non-domestic bank is generally 19%, however the provisions of any respective double tax treaty should be applied. Under Slovak tax law, and consistent with the EU Directive on taxation of interest and royalty payments, interest from loans paid to a beneficiary owner resident in another EU country, is exempt from WHT if the following criteria are met: (i) ▪ the payer of the interest and the recipient of the interest are directly related via capital (minimum share of 25%) and ▪ the minimum shareholding period is 24 months before the day of interest payment. No WHT applies on interest received by a Slovak or Slovak non-resident bank from deposits on bank accounts.	Under Slovak domestic law , there is no WHT on dividends paid out of profits arising in 2004 or later years. In general, for dividends paid out of profits of 2003 or earlier years, a WHT of 19 % applies. This rate can be decreased to 0% for companies meeting specific criteria under the EU parent-subsidiary directive.	No other specific regimes, expect those already described, apply to banks.

Country	Is interest paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (debtor or subsidiary) is resident in your country?	Are dividends paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (subsidiary) is resident in your country?	Is this regime specific to the bank sector? Are there specific WHT exemptions or reduced rates for banks?
SLOVENIA	Interest paid to a bank abroad is subject to 15% WHT, unless reduced by an applicable double tax treaty or the provisions of the EU interest & royalty directive as implemented into Slovenian law.	Dividend paid to a bank abroad is subject to 15% WHT, unless reduced by an applicable double tax treaty or the provisions of the EU parent subsidiary directive as implemented into Slovenian law. Dividends are exempt from Slovene WHT if the recipient is an EU tax resident that is unable to obtain a tax credit for the WHT in its home country due to dividend income being exempt from tax in that country.	No. However, interest paid by Slovene banks is not subject to WHT unless paid to tax haven countries.
SPAIN	Interest is generally subject to WHT at the specific rate (currently 19%). Nevertheless interest paid to banks are exempt of WHT	Generally speaking dividend paid domestically is subject to WHT (currently 19%) except specific exemptions are applicable (for instance Corporate Tax Groups; deduction to avoid double taxation applicable; etc.). There are no specific rules for banks.	No, except the exemption mentioned for interest.
SWEDEN	No	No	No
UK	UK WHT does not apply to interest on an advance from a bank if that bank is within the charge to Corporation tax as respects the interest. However, there is also a general exemption from the requirement to withhold on interest payments between UK tax resident companies.	There is no UK withholding on dividends.	Yes – see comments re WHT on interest. There is additionally a general exemption for a bank making interest payments in the ordinary course of its business to a company (on payments to individuals withholding may be required).

Country	Is interest paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (debtor or subsidiary) is resident in your country?	Are dividends paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (subsidiary) is resident in your country?	Is this regime specific to the bank sector? Are there specific WHT exemptions or reduced rates for banks?
CHINA	The interest paid to the Bank abroad by the payer resident in China should be subject to WHT; while the local interest payment to the local Bank should not subject to WHT.	The dividend paid to the Bank abroad by the China subsidiary should be subject to WHT. On the other hand, normally, the local Bank are not allowed to make equity investment, thus the dividend paid to local Bank is not included in this summary.	No, this regime is not specific to the bank sector. There is no specific WHT exemption or reduced rates for banks under PRC domestic tax regime. WHT exemption or reduced rates could be applicable under the relevant Double Tax Agreements, which applies to other sectors as well.

Country	Is interest paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (debtor or subsidiary) is resident in your country?	Are dividends paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (subsidiary) is resident in your country?	Is this regime specific to the bank sector? Are there specific WHT exemptions or reduced rates for banks?
SINGAPORE	On the assumption that the payer is a non-bank entity, interest paid to a non-resident bank (i.e. Singapore branch of a foreign bank or foreign bank) will be subject to WHT at the prevailing corporate tax rate (currently 17%). However, this rate will be reduced to 15% if such payments are not derived by the non-resident from any trade, business, profession or vocation carried on or exercised in Singapore and are not effectively connected with any permanent establishment in Singapore of that non-resident. This tax rate is the final tax payable, meaning the non-resident cannot file a tax return to claim expenses so as to obtain a refund of taxes. Further, interest payments made to a Singapore branch of a foreign bank will not be subject to WHT if the recipient has obtained a relevant waiver from the Singapore tax authorities.	Not applicable. Dividend payments by a Singapore company are not subject to WHT in Singapore.	Yes, the comments in the earlier columns apply to banks. In addition, the government has granted a remission of WHT on all interest and related payments made by approved banks in Singapore to their overseas branches, head offices or another branch outside Singapore. Based on the recent Singapore budget, it was announced that with effect from 1 April 2011, the banks and certain financial institutions will be exempted from WHT on interest and related payments made to all non-residents (other than permanent establishments in Singapore) so long as these payments are made for trade or business purposes. This exemption is for such payments made during the period 1 April 2011 to 31 March 2021.
SWITZERLAND	WHT of 35% is only due if the interest paid to a foreign bank s related to a bond or a bond like instrument issued by a Swiss resident issuer or if the Swiss debtor qualifies as a bank for Swiss WHT purposes (i.e. interest bearing debt of more than CHF 500'000 towards more than 20 creditors).	Dividend distributions of Swiss resident legal entities are subject to a 35% Swiss WHT	There is no special WHT regime for banks. Note however that interest paid by a Swiss bank is in general subject to Swiss WHT, however, there is an exemption for interest paid by a Swiss bank to another (Swiss or foreign) bank.

Country	Is interest paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (debtor or subsidiary) is resident in your country?	Are dividends paid to a Bank (whether situated in your country or abroad) subject to WHT if the payer (subsidiary) is resident in your country?	Is this regime specific to the bank sector? Are there specific WHT exemptions or reduced rates for banks?
USA	Yes	Yes	No. Additionally a bank is ineligible for an exemption from withholding tax on portfolio interest income if from a loan made in the ordinary course of its business.

ENCLOSURE 6: TAX TREATMENT OF GAINS AND LOSSES ON FINANCIAL FIXED ASSETS

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
AUSTRIA	Generally deductible	Generally deductible	Generally taxable	Generally taxable	Same treatment of banks as for companies in other sectors
BELGIUM	Capital losses incurred on a shareholding, both realized and unrealized, cannot be deducted, except for (realized) losses incurred upon liquidation of the company up to the amount of the loss of the paid-up share capital of that company.	Realized losses are generally deductible. Unrealized losses are deductible provided certain conditions are met.	Capital gains realized on the alienation of shares are (if certain conditions are fulfilled) fully exempt from Belgian CIT. This exemption, which is not only applicable for banks, only applies to the net gains. As far as a foreign shareholding is concerned, the exemption is granted with respect to shareholdings that meet the "subject-to tax condition". Unrealized capital gains on share will be generally taxable.	Generally taxable at the standard CIT rate.	Same treatment of banks as for companies in other sectors
BULGARIA	Losses from disposal of shares are treated under the general rules – i.e. included in	Losses from disposal of fixed assets are treated under the general rules – i.e. included in the annual financial result as ordinary	Gains from disposal of shares are treated under the general rules – i.e. included in the	Gains from disposal of fixed assets are treated under the general rules – i.e.	Unlike other companies banks recognize for tax purposes both realized and unrealized capital gains /

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	the annual financial result as ordinary business losses (no basket taxation). Expenses on revaluation are not recognized for tax purposes in the year when the expense was accounted for (a temporary tax difference is created instead which is reversible upon certain conditions, e.g. disposal of the asset). As a result realized losses are tax deductible, not realized are not. Stock exchange losses are not deductible.	business losses (no basket taxation). Expenses on revaluation of fixed assets are not recognized for tax purposes in the year when the expense was accounted for (a temporary tax difference is created instead which is reversible upon certain conditions, e.g. disposal of the asset). Special rules apply to revaluation of financial instruments. As a result realized losses are tax deductible, not realized are not.	annual financial result as ordinary business income. There is no separate taxation. Income on revaluation are not recognized for tax purposes in the year when the income was accounted for (a temporary tax difference is created instead which is reversible upon certain conditions, e.g. disposal of the asset). As a result realized gains are taxable, not realized are not Stock exchange gains are not taxable.	included in the annual financial result as ordinary business income. There is no separate taxation on capital gains on fixed assets. Income on revaluation of fixed assets are not recognized for tax purposes in the year when the income was accounted for (a temporary tax difference is created instead which is reversible upon certain conditions, e.g. disposal of the asset). As a result realized gains are taxable, not realized are not	losses (revaluation income / expenses are recognized in the period when incurred).
CYPRUS	Unrealized revaluations on shares are reversed as they have not been	If the fixed assets are used by the business, they could be eligible to a "Wear and Tear" allowance. Upon disposal, there is a balancing	Unrealized revaluations on shares are reversed as they have not been realized	If the fixed assets are used by the business, they could be eligible to a "Wear and Tear"	Same treatment of banks as for companies in other sectors

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	realized (i.e. unrealized losses are non deductible). The position of the tax authorities is that any realized losses relating to shares are non tax deductible for Cyprus Income tax purposes.	addition (taxed at 10%) at an amount equal to: the lower of [a) initial cost and b) proceeds] - tax written down value. If the amount is negative, then a balancing deduction is available. If the fixed asset is not eligible for "Wear and Tear" allowances, then a gain is not taxable and a loss is not deductible. Unrealized losses in relation to fixed assets are non deductible (unless there is a justifiable "permanent diminution" and not simply an unrealized revaluation in the value of the fixed asset in which case the treatment is as per the realized gains/losses).	(i.e. unrealized gains are non taxable). Realized gains are explicitly exempt from Cyprus income tax according to a relevant provision of the income tax legislation.	allowance. Upon disposal, there is a balancing addition (taxed at 10%) at an amount equal to: the lower of [a) initial cost and b) proceeds] - tax written down value. If the amount is negative, then a balancing deduction is available. If the fixed asset is not eligible for "Wear and Tear" allowances, then a gain is not taxable and a loss is not deductible. Unrealized gains are not taxable.	
CZECH REPUBLIC	Shareholdings to up to 20% are valued to fair value (unrealized loss may arise). At the same time shareholdings above	Realized and unrealized losses on fixed assets may be claimed in the tax return towards other income coming from the Czech Republic during the taxable period	Shareholdings to up to 20% are valued to fair value (unrealized gain may arise). At the same time shareholdings above	Under the Czech Income Taxes Act, realized and unrealized gains on fixed financial assets enter the general tax base for tax residents.	Same treatment of banks as for companies in other sectors

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	10% are exempt from taxation in case of sale, therefore unrealized loss on shareholding up to 10% is deductible. For shareholdings 10-20% loss is non-deductible. For shareholdings >20% it is not relevant, as the unrealized loss does not arise. Realized loss is deductible only in case of sale of shareholdings up to 10%. For non-residents losses are non-deductible.		10% are exempt from taxation in case of sale, therefore unrealized gain on shareholding up to 10% is taxable. For shareholdings 10-20% gain is non-taxable. For shareholdings >20% it is not relevant, as the unrealized gain does not arise. Realized gain is taxable only in case of sale of shareholdings up to 10%. For non-residents gains are taxable.	For non-residents, realized gain - income from the sale of assets - is considered to be Czech-source income subject to corporate income tax. Tax non-residents are obliged to file a corporate income tax return and tax the gain at the 19% standard corporate income tax rate. The Czech tax rules may be overruled by the applicable double tax treaty.	
DENMARK	Losses on portfolio shares (shareholdings less than 10%) are deductible under the mark-to market principle. No	Losses are in general deductible. However some losses may only be utilized against gains from a similar source. Both mark-to market and realization principles may apply. It depends on the asset	Generally taxable (unless shareholdings >10%). No ownership period distinction.	Gains are in general taxable. Both mark-to market and realization principles may apply. It depends on the asset in	Same treatment of banks as for companies in other sectors.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	ownership period distinction.	in question.		question.	
ESTONIA	There are no specific tax rules for shares. Both unrealized and realized losses reduce profits available for distribution. If profits are distributed, then these are subject to tax upon distribution.	There is no adjustment of accounting profits for net operating losses for tax purposes**.** Both unrealized and realized losses reduce profits available for distribution. If profits are distributed, then these are subject to tax upon distribution.	Any gains are included in the corporate profits of the company, but these are not subject to the corporate tax, until the company makes any distribution of profits. If unrealized gains are distributed, then these are subject to tax upon distribution. These rules are not specific for shares.	Any gains are included in the corporate profits of the company, but these are not subject to the corporate tax, until the company makes any distribution of profits. Distributable profits are determined based on financial statements drawn up in accordance with IAS/IFRS. There are no specific rules on the tax treatment of gains and losses on fixed assets. If unrealized gains are distributed, then these are subject to tax upon distribution.	Same treatment of banks as for companies in other sectors.
FINLAND	1) Unrealized capital losses on fixed assets shares are not tax	1) Unrealized capital losses on alienation of other fixed assets items are not tax deductible.	1) Unrealized capital gains on fixed assets shares are not taxable	1) Unrealized capital gains on other fixed assets items are not	The rules concerning tax exempt capital gains on fixed asset shares are

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	deductible. 2) Realized capital losses on fixed assets shares are not deductible if the corresponding gains would be exempt from tax (i.e. in case the requirements for capital gains tax exemption on shares would be met – see the column on right). Under other circumstances (i.e. in case the gain would not be tax-exempt), such losses are deductible. However, the losses may be offset only against taxable gains on the sale of fixed business assets shares within the same tax year or the 5 following years (please note that there are some restrictions	2) Realized losses on other fixed assets items are tax deductible according to general rules. Losses incurred on the alienation of business assets are considered to be part of ordinary losses (and can hence be set off against all taxable business income for subsequent ten years).	income. 2) Realized capital gains on fixed business assets shares are tax-exempt provided the following requirements are met**:** a) The shares have been continuously owned for at least one year in a period of time that has ended not more than one year before the sale; 2) The ownership share in the company whose shares are sold is at least 10 %; 3) The company whose shares are sold is a resident in Finland or another EU Member State, or in a tax treaty country; 4) The company whose shares are sold is not a real estate	taxable income. 2) Realized capital gains on other fixed assets items are regarded as ordinary business income and taxed accordingly.	applicable to limited companies, cooperative associations, savings-banks, and mutual insurance companies. In the light of the above, as regards of banks the rules are applicable to *banks established as limited companies. cooperative banks and savings banks.*

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	to the above rule – e.g. certain items may be deducted in determining the deductible loss). Furthermore, as an exemption to the above, capital losses incurred on disposal of shares in real estate companies are deductible from all business income (i.e. are considered to be part of ordinary losses and can hence be set off against all taxable business income for subsequent ten years). Please note that the tax rules discussed in this table apply only to companies conducting business activities and which are taxed in		company, or a company, whose activities consist mainly of owning and holding real estates; and 5) The company selling the shares is not a company carrying out private equity activities (as defined by BITA). Please note that there are some exceptions to the above main rule. If above conditions are not met capital gains from selling fixed asset shares are taxable as ordinary business income according to general rules.		

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	accordance with Business Income Tax Act, BITA (this should be the case as regards of banks).				
FRANCE	**Realized losses:** Short term capital losses on non qualifying shareholding are deductible from the CIT basis of the company. Long term capital losses are not deductible and can only be offset by long term capital gains realized over similar assets. Long term capital losses can not be used to offset long term capital gains when the losses derive from a qualifying shareholding that	Capital losses are deductible from the taxable basis. Unrealized capital losses on other assets can potentially be reflected by booking a tax deductible provision for depreciation of the asset. Other financial instruments (e.g. derivatives instruments) are to be valuated at the end of each fiscal year. The unrealized capital loss is thus tax deductible (subject to the straddle rules limitations).	**Realized gains:** A 95% exemption may apply on capital gains deriving from qualifying shareholding. Unrealized capital gains **Unrealized gains:** Not taken into account for computing the CIT basis. Finally, in accordance with article 209-0 A of the FTC, the shares in UCITS held by a company are to be valuated at the end of each fiscal year in accordance with the mark to market principle. Unrealized	Capital gains on fixed assets are taxable at CIT. Unrealized capital gains are not taken into accounts for computing the CIT basis. Other financial instruments (e.g. derivatives instruments) are to be valuated at the end of each fiscal year. The unrealized capital gain is thus taxable.	Same treatment of banks as for companies in other sectors; It should also be mentioned that according to article 38 *bis* A of FTC, listed stocks, receivables traded on a regulated market or instruments from the banking sector initially booked as "short term investments" (*"titres de transaction"*, i.e. assets purchased and sold for speculation purposes within a short timeframe - classically during the 6 months following their acquisition) are to be valuated at year end in application of the mark-to-market valuation

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	would have benefit from the participation exemption regime for capital gains. **Unrealized losses:** According to article 38.9 and 39.1 5° of the FTC, specific shareholdings (e.g. qualifying shareholding, participation in real estate companies, shares in specific UCITS…) are annually evaluated at their FMV. A provision can be booked should the valuation of the participation crystallize an unrealized capital loss. Depending on the nature of the shareholding valuated, the		gains are thus taxable.		principles. Unrealized capital gains that may be crystallised further to this valuation are then subject to CIT. Similarly, unrealized capital losses over this specific kind of assets are deductible and no provision could be booked to reflect such unrealized loss. Same tax treatment applies in case of sale of the asset or modification of its accounting status in the books of the bank (e.g. transfer from the "transaction asset" accounting item to the "placement asset" accounting item). Also, article 38 *bis* B of the FTC compels banks, that acquire fixed income (e.g. treasury bonds, tradable receivables

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	provision could either be deductible (e.g. investment securities) or not included (e.g. provision on qualifying shareholding) in the CIT basis. Finally, in accordance with article 209-0 A of the FTC, the shares in UCITS held by a company are to be valuated at the end of each fiscal year in accordance with the mark to market principle. Unrealized losses are thus tax deductible.				generating a fixed income…) for a price differing from their face/reimbursement value, to reflect this difference (either a gain or a loss) within their taxable results. The difference in value will be spread from the date of acquisition until the date of effective reimbursement of the asset.
GERMANY	Losses on shares as financial fixed assets are generally realized within the disposal of the shares and are not tax deductible. In case of an expected permanent diminution	Losses on other financial fixed assets are generally realized within the disposal of the assets and are generally fully deductible. Moreover, in case of an expected permanent diminution in value the fixed assets may be depreciated for tax purposes, which generally	Gains on shares as financial fixed assets are generally realized within the disposal of the shares and are at 95% tax exempt. Unrealized gains have no impact on the	Gains on fixed assets are generally realized within the disposal of the assets and are fully taxable. Unrealized gains have no impact on the taxable income.	Yes - Provided the financial assets have not to be allocated to the financial trading assets of the bank.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	in value the share may be depreciated in the tax balance sheet. However, also this loss is not deductible for tax purposes.	results in a deductible loss.	taxable income.		
GREECE	Losses arising from the sale of listed and non-listed shares are not recognized as tax deductible; they are booked in a special reserve account to be offset against realized gains arising from the sale of listed shares. Unrealized losses from the valuation of shares are also booked in the above reserve account to be offset against realized gains from the sale of listed shares.	Losses arising upon disposal of fixed assets are treated as tax deductible expense. Unrealized losses are not, in general, recognized as tax deductible. Unrealized losses from the valuation of bonds are also booked in the above reserve account to be offset against realized gains from the sale of listed shares.	Realized gains from sale of non listed shares are treated as taxable income. Realized gains from sale of listed shares, initially acquired until 31/12/2011 are booked in a special reserve account to be offset against realized losses from sale of shares and unrealized losses from shares and bonds. Realized gains from the sale of listed shares, initially acquired as of 1/1/2012 shall be treated as taxable income.	Gains arising upon disposal of fixed assets are treated as taxable income. Unrealized gains are treated as taxable income, if booked in the accounting books.	Same treatment of banks as for companies in other sectors. The only difference is that Banks in specific are obliged to submit a respective tax return on the last day of the ninth month (i.e. September 30th) from the end of the fiscal year, in which the special reserves were formed, so as to pay tax at the standard CIT rate on the special reserves balance. Therefore, for Banks the taxation is effectively deferred for a few months. Other companies do not file this return.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
HUNGARY	Realized and non-realized losses are generally deductible, although, there are certain exceptions: 1) Loss realized on the sale / contribution in-kind of a registered shareholding (min 30% held for min 1 year and registered with the Tax Authority within 30 days of acquisition) are not deductible from the tax base. 2) Non-realized foreign exchange losses can be treated tax neutral until the share is cancelled from the books.	Realized and non-realized losses are generally deductible. However, non-realized foreign exchange losses can be treated tax neutral until the asset is cancelled from the books.	Realized and non-realized gains are generally taxable, although there are certain exceptions: 1) Gains realized on the sale / contribution in-kind of a registered shareholding (min 30% held for min 1 year and registered with the Tax Authority within 30 days of acquisition) are not taxable. 2) Non-realized foreign exchange gains can be treated tax neutral until the share is cancelled from the books.	Realized and non-realized gains are generally taxable. However, non-realized foreign exchange gains can be treated tax neutral until the asset is cancelled from the books.	Same tax rules apply for banks as for companies in other sectors. In general there are no differences in the accounting treatment of realized or unrealized gains/losses on financial trading assets and financial fixed assets if banks and non-banking enterprises are compared.
IRELAND	Capital Gains Tax is levied on a realized basis only, except where shares are deemed to be of	Losses arising on the disposal of fixed assets (i.e. non-wasting assets) are subject of the Capital Gains tax regime, therefore capital losses are available for set off, provided the capital loss arises in	Capital Gains Tax is levied on a realized basis only.	Gains arising on the disposal of fixed assets (i.e. non-wasting assets) are subject to capital gains tax at the rate of	The regime is the same for all classes of companies.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	negligible value. In that case the unrealized loss is allowed.	either the same accounting period as the capital gain or in a preceding accounting period; capital losses cannot be carried back against capital gains arising in a preceding period. Capital Gains Tax is levied on a realized basis only.		25%. The assets are the subject of the Capital Gains tax regime, therefore capital losses are available for set off, provided the capital loss arises in either the same accounting period as the capital gain or in a preceding accounting period. Capital Gains Tax is levied on a realized basis only.	
ITALY	For IAS adopters, realized losses are not tax deductible because of the PEX rules apply. Realized losses are tax deductible only if the Participation Exemption conditions are not met.	For IAS adopters, losses realized or unrealized on financial fixed assets (other than shares) are tax deductible when recorded in the P&L.	For IAS adopters, realized gains are taxed on 5% of their amount (PEX rule). Realized gains are fully taxed only if the Participation Exemption conditions are not met. Unrealized gains are	For IAS adopters, gains realized or unrealized on financial fixed assets (other than shares) are taxed when recorded in the P&L.	Same treatment applies to banks as IAS adopters. Please consider that for No IAS Adopter entities, different rules may apply.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	Unrealized losses are not deductible.		not taxed.		
LATVIA	Realized losses on sale of EU and EEA public securities are non-deductible. Realized losses on sale of other securities may be carried forward for 8 years and set against future gains from sale of such other securities. Unrealized losses on shares are non-deductible.	Realized losses on fixed assets are deductible, while unrealized losses on fixed assets are non- deductible.	Realized gains on shares are taxable, while unrealized gains on shares are non-taxable.	Realized gains on sale of EU and EEA public securities are non-taxable. Realized gains on sale of other securities are taxable. Unrealized gains on shares are non-taxable.	Same treatment of banks as for companies in other sectors
LITHUANIA	Realized losses are generally deductible, but may be utilized only against gains from a similar source. Not utilized losses may be carried forward for five years, provided that	Realized losses are generally deductible. Losses from derivatives may be utilized only against gains from a similar source. Not utilized losses from derivatives may be carried forward for five years. Other losses can be carried forward indefinitely. Unrealized losses (i.e. incurred on	Realized gains are non-taxable provided that holding exemption relief is satisfied (i.e. more than 25% of shares in a company established in EEA or in a country with which Lithuania has a	Realized gains are taxable. Unrealized gains (i.e. incurred on revaluation) are generally non-taxable. The exception is applied only for gains derived	Same treatment of banks as for companies in other sectors

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	they are incurred from the disposal of shares which are not subject to holding exemption relief. Not utilized losses incurred from the disposal of shares which are subject to holding exemption relief cannot be carried forward (they can be utilized only in a current year). For holding exemption relief requirements please refer to the box No. 3. Unrealized losses (i.e. incurred on devaluation) are non-deductible.	devaluation) are generally non-deductible. The exception is applied only for losses incurred on devaluation of derivatives held for hedging purposes – such losses are deductible.	DTT signed are held for not less than 2 years). In other cases realized gains are taxable. Unrealized gains (i.e. incurred on revaluation) are non-taxable.	on revaluation of derivatives held for hedging purposes – such gains are taxable.	
LUXEMBOURG	Losses on shares are fully tax deductible. Unrealized losses on shares are in principle tax deductible if	Losses on fixed assets are fully tax deductible. Unrealized losses on fixed assets are in principle tax deductible if recognized for accounting purposes (prudent	Participations held in qualifying companies may benefit from a tax exemption on the capital gain realized	Gains on fixed assets are fully taxable. Nevertheless, certain assets may qualify, under conditions, for	YES. This tax treatment is applicable to Banks as for any tax payer.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	recognized for accounting purposes (prudent approach).	approach).	upon disposal according to the participation exemption regime (same conditions as for article 166 LITL except that the acquisition price is EUR 6m instead of EUR 1.2m and recapture rules are not limited to the year in which the tax exempt gain is realized). Unrealized gains on shares are in principle not taxable by application of the valuation rules (art.23 LITL).	a roll-over relief (temporary neutralization) in case proceeds from the sale are reinvested in another qualifying asset (article 54 LITL). The capital gain will be taxed at least in case of disposal of the assets in which proceeds were reinvested. This roll-over relief is available for any taxpayer in Luxembourg and not only banks. Unrealized gains on fixed assets are in principle not taxable by application of the valuation rules (art.23 LITL).	

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
MALTA	Realized losses on the transfer of shares may be tax deductible subject to certain conditions. Trading losses (which are allowable for tax purposes subject to the conditions referred to above) may be set off against any chargeable income (subject to certain exceptions specified in the law) whilst capital losses (which are allowable for tax purposes subject to the conditions referred to above) may only be set off against those capital gains contemplated in the law. Allowable trading losses and allowable capital losses may be carried	If capital allowances (tax depreciation) were claimed on the particular fixed asset then, in general, upon the disposal (or if destroyed or put out of use) of such fixed asset the transferor should be required to prepare a balancing statement which would either result in an allowance (where the disposal value is less than the tax written down value) or a taxable charge (where the disposal value is higher than the tax written down value). The accounting gain/loss should be reversed for tax purposes. In the case where the particular fixed asset is caught by the Maltese income tax provisions regulating capital gains (e.g. transfer of immovable property), the transferor should be required to prepare a tax computation showing the capital gain/ loss in terms of the specific tax provisions (this computation would be over and above the aforesaid balancing statement depending on whether capital allowances were claimed on	Realized gains on the transfer of shares are in general taxable but there may be the possibility of a participation exemption under Maltese tax law subject to the satisfaction of a number of conditions. In respect of unrealized gains, the point of departure should be that such gains should not be taxable for Maltese tax purposes. However especially in the context of trading companies such as banks, if the particular shares should be treated as a trading asset (and subject that a consistent tax treatment is applied)	If capital allowances (tax depreciation) were claimed on the particular fixed asset then, in general, upon the disposal (or if destroyed or put out of use) of such fixed asset the transferor should be required to prepare a balancing statement which would either result in an allowance (where the disposal value is less than the tax written down value) or a taxable charge (where the disposal value is higher than the tax written down value). The accounting gain/ loss should be reversed for tax purposes. In the case where the particular fixed asset is caught by the	Same treatment of banks as for companies in other sectors

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	forward indefinitely. In respect of unrealized losses, the point of departure should be that such losses should not be tax deductible for Maltese tax purposes. However especially in the context of trading companies such as banks, if it can be shown that the particular shares should be treated as a trading asset then there may be an argument that the unrealized trading loss arising therefrom may still possibly be tax deductible on the assumption that any unrealized gains would be treated as taxable (and subject that a consistent tax	the asset). The capital loss (i.e. a loss derived from a capital asset and not from a trading asset) can only be tax deductible against a capital gain (where any deduction is actually allowed by law). The capital loss may be carried forward to future years indefinitely and absorbed against future capital gains (but not against trading gains/ profits). Hence the fact that there is no other capital gain during the particular year where a capital loss is realized should not mean that the capital loss is lost forever. In respect of unrealized losses, the point of departure should be that such losses should not be tax deductible for Maltese tax purposes. However especially in the context of trading companies such as banks, if it can be shown that the particular fixed asset should be treated as a trading asset then there may be an argument that the unrealized trading loss arising therefrom may still possibly be tax deductible on the assumption that	then there may be an argument that the unrealized trading gain arising therefrom may still possibly be taxable (subject to the possible applicability of the participation exemption – see above – where applicable). However this point is not specifically catered for by Maltese tax law and there are no written Revenue guidelines. Hence this point would need to be cleared in writing with the Maltese Revenue.	Maltese income tax provisions regulating capital gains (e.g. transfer of immovable property), the transferor should be required to prepare a tax computation showing the capital gain/ loss in terms of the specific tax provisions (this computation would be over and above the aforesaid balancing statement depending on whether capital allowances were claimed on the asset). The said capital gain should be taxable together with the other items of income. In respect of unrealized gains, the point of departure	

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	treatment is applied). However this point is not specifically catered for by Maltese tax law and there are no written Revenue guidelines. Hence this point would need to be cleared in writing with the Maltese Revenue.	any unrealized gains would be treated as taxable (and subject that a consistent tax treatment is applied). However this point is not specifically catered for by Maltese tax law and there are no written Revenue guidelines. Hence this point would need to be cleared in writing with the Maltese Revenue.		should be that such gains should not be taxable for Maltese tax purposes. However especially in the context of trading companies such as banks, if the particular fixed asset should be treated as a trading asset then there may be an argument that the unrealized trading gain arising therefrom may still possibly be taxable (and subject that a consistent tax treatment is applied). However this point is not specifically catered for by Maltese tax law and there are no written Revenue guidelines. Hence this point would need to be	

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
				cleared in writing with the Maltese Revenue.	
NETHERLANDS	Realized and unrealized losses incurred on shares should in principle be deductible for Dutch CIT purposes except for cases in which the Dutch participation exemption applies (short said shareholdings of 5% and more – and assuming certain other conditions are met).	Realized losses on fixed financial assets should in principle be deductible. The DCIT act also allows to claim a loss on an asset which is not yet realized (principle of prudence – "voorzichtigheidsprincipe").	Realized and unrealized capital gains on financial fixed assets should in principle not be subject to Dutch CIT assuming the Dutch participation exemption applies. Otherwise, the capital gain should be taxed upon realization (i.e. unrealized gains should not be taxable until realized in fact).	Realized capital gains on fixed financial assets should in principle be taxed. Unrealized gains should be taxed upon realization of the gain (i.e. when realized in fact).	Same treatment of banks as for companies in other sectors.
POLAND	Realized losses on shares are generally tax deductible. Unrealized losses on shares are not tax deductible.	As a rule, losses on fixed assets are tax deductible. Unrealized losses are not tax deductible.	Realized gains on shares are generally taxable. Unrealized gains on shares are not taxable.	The gain is subject to the general CIT rate (19%). There is no separate capital gains tax. Unrealized gains are not taxable.	Same treatment of banks as for companies in other sectors
PORTUGAL	Realized losses are included in the taxable income and generally deductible	Realized losses are included in the taxable income and generally deductible Unrealized gains or losses are	Realized gains are included in the taxable income and generally taxed, with the	Realized gains are included in the taxable income and generally taxed.	Same treatment of banks as for companies in other sectors

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	in 50%. Unrealized gains or losses are generally not considered for tax purposes.	generally not considered for tax purposes.	possibility of a reinvestment relief of 50%. Unrealized gains or losses are generally not considered for tax purposes.	Unrealized gains or losses are generally not considered for tax purposes.	
ROMANIA	Realized losses on fixed assets are treated as deductible for profit tax purposes. There is no basket taxation (e.g. losses on fixed assets can be offset against regular profits and vice-versa). The unrealized losses coming from unfavourable differences from revaluation of participation titles (e.g. shares) and bonds issued on long-term are non-deductible for profit	Realized losses on fixed assets are treated as deductible for profit tax purposes. There is no basket taxation (e.g. losses on fixed assets can be offset against regular profits and vice-versa). The unrealized losses coming from unfavourable differences from revaluation of participation titles (e.g. shares) and bonds issued on long-term are non-deductible for profit tax purposes	Realized gains on fixed assets are treated as taxable for profit tax purposes. The unrealized gains coming from favourable differences from revaluation of participation titles (e.g. shares) and bonds issued on long-term are non-taxable for profit tax purposes.	Realized gains on fixed assets are treated as taxable for profit tax purposes. The unrealized gains coming from favourable differences from revaluation of participation titles (e.g. shares) and bonds issued on long-term are non-taxable for profit tax purposes.	Same treatment of banks as for companies in other sectors

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	tax purposes.				
SLOVAKIA	Loss on sale of fixed assets is tax non-deductible under specific conditions. The revaluation of fixed financial assets is accounted through BS accounts and therefore not subject to taxation.	Loss on sale of fixed assets is tax non-deductible under specific conditions. The revaluation of fixed financial assets is accounted through BS accounts and therefore not subject to taxation.	Gains on the sale of financial assets should be subject to general income tax rate of 19%. The revaluation of fixed financial assets is accounted through BS accounts and therefore not subject to taxation.	Gains on the sale of fixed assets should be subject to general income tax rate of 19%. The revaluation of fixed financial assets is accounted through BS accounts and therefore not subject to taxation.	Same treatment of banks as for companies in other sectors
SLOVENIA	Losses on sales of shares are generally tax deductible. Revaluations of shares to fair value are also generally tax deductible, although provisions for impairments are not.	Losses on fixed assets are generally tax deductible as part of the tax base for CIT purposes. Unrealized losses on fixed assets are not tax deductible.	A gain on the sale of shares by a Slovene entity is taxable.	Gains on fixed assets are generally taxable as part of the tax base for CIT purposes. Unrealized gains arising from revaluations are generally taxable.	Same treatment of banks as for companies in other sectors
SPAIN	General rule establishes that losses obtained on shares are included on the taxable base (initially according to accounting principles).	Losses are generally deductible. In certain circumstances differences may apply between the accounting and the tax value of the assets (for instance for some unrealized losses, depending on the type of assets and some other circumstances). In those cases,	Gain obtained on shares is generally taxed (although tax credits to avoid double taxation are available, depending on several circumstances). In certain circumstances	Gain obtained on fixed assets are included on the taxable base (initially according to accounting principles) and subject to the general	Same treatment of banks as for companies in other sectors. Nevertheless, as accounting principles prevail, it should be taken into account that there are specific accounting rules for financial entities and,

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	Unrealized losses (for instance impairments) are tax deductible subject to several and specific rules (depending on the type of assets; relationship; listed vs unlisted shares; location of the issuer of shares; etc.).	unrealized losses would not be tax deductible.	differences may apply between the accounting and the tax value of the assets (for instance non-deducted impairments).	Corporate tax rate. In certain circumstances differences may apply between the accounting and the tax value of the assets .	consequently, it could be some differences between financial and non-financial entities as consequence of a different accounting rule.
SWEDEN	Realized losses are recognised for tax purposes unless subject to participation exemption. Unrealized losses are not recognised	Realized losses are deductible Unrealized losses are not deductible	Gains are recognised for tax purposes unless subject to participation exemption**.** Unrealized gains are not recognized.	Realized gains are taxable. Unrealized losses are not taxable	**T**he regime for banks is different. Other financial fixed assets than shares are generally subject tot a mark-to-market regime, causing unrealized as well as unrealized gains and losses to be recognised for tax purposes. The same regime is also applicable to shares, unless the shares are subject to participation exemption. The distinction between such shares and other shares is, as regards banks, complex and is partially unexplored.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
UK	Shares in subsidiaries -where the "substantial shareholdings exemption" applies (i.e., a shareholding of over 10% where certain other conditions regarding the subsidiary and disposing group are met) no tax deductible loss will arise. Other shares held on capital account are taxed under the capital gains tax regime, and losses will be realized on disposal. Losses may only be relieved against profits of a capital nature (and not against other income).	All debt finance (whether trading or non trading) is assessed to UK tax as income under the loan relationships code. Losses in relation to loan relationships are generally realized in accordance with their accounting treatment (although specific computational provisions apply to connected party lending).	Shares in subsidiaries - where the "substantial shareholdings exemption" applies (i.e., where a shareholding of over 10% is held and certain other conditions regarding the subsidiary and disposing group are met) gains will be exempt from tax. Other shares held on capital account are taxed under the capital gains tax regime, and gains will be realized on disposal. Any gains will be included in profits subject to corporation tax.	All debt finance (whether trading or non trading) is assessed to UK tax as income under the loan relationships code. Gains in relation to loan relationships are generally realized in accordance with their accounting treatment (although specific computational provisions apply to connected party lending).	The same treatment applies to banks as to other companies (although it is less common for a bank to hold shares, other than shares in subsidiaries, on capital account).
CHINA	Capital losses incurred on a	Losses incurred from fixed assets disposal could be deductible for	Capital gain derived from a shareholding,	Gains realized from fixed assets disposal	Same treatment of banks as for companies in other

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	shareholding, both realized and unrealized, cannot be deducted, except for (realized) losses incurred upon liquidation of the company up to the amount of the loss of the paid-up share capital of that company.	CIT if it is supported with special purpose report, subject to final assessment and approval of Chinese tax authority. Unrealized losses are generally not tax deductible.	both realized and unrealized, should be excluded from the taxable income for CIT purpose.	are liable to 25% CIT. Generally, unrealized gains could be excluded from taxable income for CIT purpose.	sectors.
SINGAPORE	Gains and losses of a revenue nature would be assessable and deductible respectively, whereas those of a capital nature are ignored for tax purposes (i.e. gains not brought to tax, losses not allowed for tax deduction). Strictly, gains will be taxed when they are realised, whereas	See comments under the column "Shares".	See comments under the column "Shares".	See comments under the column "Shares".	Same treatment of banks as for companies in other sectors

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	losses will be allowed a deduction when they are incurred. However, companies which adopt FRS 39 (the local equivalent of IFRS 39) in the preparation of their financial accounts may (subject to some exceptions) elect to report such gains and losses to tax based on the amounts reflected in the income statement.				
SWITZERLAND	Realized and unrealized losses generally tax deductible (according to the accounting treatment)	Realized and unrealized losses generally tax deductible (according to the accounting treatment)	Realized capital gains on the sale of participations exceeding 10% are subject to the participation relief, provided that the holding period exceeds one year. Other realized capital gains are taxable (according to the accounting	In principle, realized capital gains are taxable (according to the accounting treatment). Unrealized capital gains are generally not taxable (according to the accounting treatment; to the extent an unrealized gain leads	Generally same treatment, however, banks may apply the held to maturity principle and hedge accounting.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
			treatment). Unrealized capital gains are generally not taxable (according to the accounting treatment; to the extent an unrealized gain leads to a reversal of a value adjustment in the financial statements, such gain would be taxable).	to a reversal of a value adjustment in the financial statements, such gain would be taxable).	
USA	A realized loss on the disposal of such an asset is generally a capital loss and such loss can be deducted up to the amount of capital gain generated in the same tax year. An unrealized loss is generally not deductible. If the taxpayer is a dealer in securities or an electing trader in securities, it can deduct an unrealized	A realized loss on the disposal of such an asset is generally deductible as an ordinary expense. An unrealized loss is generally not deductible.	A realized gain on the disposal of such an asset is generally a capital gain and is taxable. An unrealized gain is generally not taxable. If the taxpayer is a dealer in securities or an electing trader in securities, the unrealized gain is generally taxable under the mark-to-market rules.	A realized gain on the disposal of such an asset is generally taxable with the amount equal to the depreciation previously taken generally subject to ordinary treatment, and the excess generally treated as a capital gain. An unrealized gain is generally not taxable.	Same treatment of banks as for companies in other sectors.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Others	
	loss under the mark-to-market rules.				

ENCLOSURE 7: TAX TREATMENT OF (FINANCIAL) TRADING ASSETS

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
AUSTRIA	According to the Austrian banking act financial trading assets may be recognized at the higher market value as at the balance sheet date. Realized and unrealized losses are tax deductible.	According to the Austrian banking act financial trading assets may be recognized at the higher market value as of the balance sheet date. Realized and unrealized losses are tax deductible.	According to the Austrian banking act financial trading assets may be recognized at the higher market value as of the balance sheet date. Realized gains are taxable. For tax purposes only appreciations up to the acquisition costs are tax effective.	According to the Austrian banking act financial instruments (not reported as fixed assets) are reported at acquisition costs in the case of a higher market value, this has to be reported in the notes of the financial statements. Realized gains are taxable. For tax purposes only appreciations up to the acquisition costs are tax effective.	Yes, these rules are applicable for banks.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
BELGIUM	Realized and unrealized tax losses are generally not tax deductible.	There are no specific tax rules for assets held for trading purposes. Generally, as they do not meet any conditions for tax exemption, their capital gains will be taxable and capital losses will be tax deductible.	With respect to shares, provided that the subject-to-tax condition of the participation exemption regime is met, realized capital gains can be 100% tax exempted. Unrealized capital gains on share will be taxable unless the 'intangible' condition is met.	There are no specific tax rules for assets held for trading purposes. Generally, as they do not meet any conditions for tax exemption, realized capital gains will be taxable. Unrealized capital gains will be taxable, unless the 'intangible' condition is met.	These rules apply equally for banks and for standard companies. Nevertheless, it is worthwhile mentioning that banks may have to apply the mark-to-market method for these assets held for trading purposes where for standard companies the lower of cost or market method ("LoCoM") is generally applied. As a consequence, unrealized gains may have to be booked in P&L and are subject to CIT.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
BULGARIA	Losses from disposal of shares are treated under the general rules – i.e. included in the annual financial result as ordinary business losses (no basket taxation). Expenses on revaluation are not recognized for tax purposes in the year when the expense was accounted for (a temporary tax difference is created instead which is reversible upon certain conditions, e.g. disposal of the asset). As a result realized losses are tax deductible, not realized are not. Stock exchange losses are not deductible.	Losses from disposal of fixed assets are treated under the general rules – i.e. included in the annual financial result as ordinary business losses (no basket taxation). Expenses on revaluation of fixed assets are not recognized for tax purposes in the year when the expense was accounted for (a temporary tax difference is created instead which is reversible upon certain conditions, e.g. disposal of the asset). Special rules apply to revaluation of financial instruments. As a result realized losses are tax deductible, not realized are not.	Gains from disposal of shares are treated under the general rules – i.e. included in the annual financial result as ordinary business income. There is no separate taxation. Income on revaluation are not recognized for tax purposes in the year when the income was accounted for (a temporary tax difference is created instead which is reversible upon certain conditions, e.g. disposal of the asset). As a result realized gains are taxable, not realized are not. Stock exchange gains are not taxable.	Gains from disposal of fixed assets are treated under the general rules – i.e. included in the annual financial result as ordinary business income. There is no separate taxation on capital gains on fixed assets. Income on revaluation of fixed assets are not recognized for tax purposes in the year when the income was accounted for (a temporary tax difference is created instead which is reversible upon certain conditions, e.g. disposal of the asset). As a result realized gains are taxable, not realized are not.	Unlike other companies banks recognize for tax purposes both realized and unrealized capital gains / losses (revaluation income / expenses are recognized in the period when incurred).

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
CYPRUS	Unrealized revaluations on shares are reversed as they have not been realized (i.e. unrealized losses are non deductible). The position of the tax authorities is that any realized losses relating to shares are non tax deductible for Cyprus Income tax purposes. Same treatment applies for other qualifying titles (including bonds, debentures, founders shares and rights thereon – the list also includes other titles).	Realized losses on trading assets (e.g. trading goods) are deductible. Unrealized losses in relation to trading assets are non deductible (unless there is a justifiable e.g. net realizable value permanent diminution and not simply an unrealized revaluation in the value of the trading asset).	Unrealized revaluations on shares are reversed as they have not been realized (i.e. unrealized gains are non taxable). Realized gains are explicitly exempt from Cyprus income tax according to a relevant provision of the income tax legislation. Same treatment applies for other qualifying titles (including bonds, debentures, founders shares and rights thereon – the list also includes other titles).	Realized gains on trading assets are taxable (e.g. trading goods). Unrealized gains in relation to trading assets are not taxable.	N/A

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
CZECH REPUBLIC	Gains are taxable and losses deductible (see Enclosure 6) Realized loss is non-deductible for non-residents	Gains are taxable and losses deductible (see Enclosure 6)	Gains are taxable and losses deductible (see Enclosure 6)	Gains are taxable and losses deductible (see Enclosure 6)	The treatment is the same for banks
DENMARK	Generally, losses would be deductible under the mark-to-market principle.	Both mark-to-market and realization principle may apply. It depends on the asset in question. Generally, the mark-to-market principle would apply to financial contracts. Generally, losses are deductible.	Generally, gains are taxable under the mark-to-market principle.	Both mark-to-market and realization principle may apply. It depends on the asset in question. Generally, the mark-to-market principle would apply to financial contracts. Generally, gains are taxable.	Same rules apply for banks.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
ESTONIA	The assets held for trading purposes must be accounted in accordance with IAS/IFRS. There are no specific rules on the tax treatment of such items. Both unrealized and realized losses reduce profits available for distribution. If profits are distributed, then these are subject to tax upon distribution.	Both unrealized and realized losses reduce profits available for distribution. If profits are distributed, then these are subject to tax upon distribution.	If unrealized gains are distributed, then these are subject to tax upon distribution. These rules are not specific for shares.	If unrealized gains are distributed, then these are subject to tax upon distribution.	Same treatment of banks as for companies in other sectors.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
FINLAND	We note that financial instrument is generally regarded as being held for trading purposes, if it is not subject to hedge accounting effectively meeting the conditions set out in IAS 39. 1) Unrealized losses on financial instruments held for trading purposes (including shares) which are recognized as expense in the profit and loss account are tax deductible (i.e. these are treated similarly for income tax and accounting purposes). 2) Realized losses on financial instruments held for trading purposes (including shares) are tax deductible.	Same treatments as with respect to shares (see column on left).	1) Unrealized gains on financial instruments held for trading purposes (including shares) which are recognized as income in the profit and loss account are taxable income (i.e. these are treated similarly for income tax and accounting purposes). 2) Realized gains on financial instruments held for trading purposes (including shares) are taxable income.	Same treatments as with respect to shares (see column on left).	The tax treatment as detailed in the columns on the left apply also to banks. In addition, the following rules apply to banks and credit institutions (but are not applicable to other entities). Unrealized gains and losses on ▪ financial instruments valued at fair market value on the basis of fair market value option; and ▪ hedging instruments used in fair market value hedging (effectively meeting the conditions set out in IAS 39) which are recognized as income/expense in the

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
FRANCE	**Realized losses:** Short term capital losses on non qualifying shareholding are deductible from the CIT basis of the company. Long term capital losses are not deductible and can only be offset by long term capital gains realized over similar assets. Long term capital losses can not be used to offset long term capital gains when the losses derive from a qualifying shareholding that would have benefit from the participation exemption regime for capital gains.	Capital losses are deductible from the taxable basis. Unrealized capital losses on other assets can potentially be reflected by booking a tax deductible provision for depreciation of the asset. Other financial instruments (e.g. derivatives instruments) are to be valuated at the end of each fiscal year. The unrealized capital loss is thus tax deductible (subject to the straddle rules limitations).	**Realized gains:** A 95% exemption may apply on capital gains deriving from qualifying shareholding. **Unrealized gains:** Not taken into account for computing the CIT basis. Finally, in accordance with article 209-0 A of the FTC, the shares in UCITS held by a company are to be valuated at the end of each fiscal year in accordance with the mark to market principle. Unrealized gains are thus taxable.	Capital gains on fixed assets are taxable at CIT. Unrealized capital gains are not taken into accounts for computing the CIT basis. Other financial instruments (e.g. derivatives instruments) are to be valuated at the end of each fiscal year. The unrealized capital gain is thus taxable.	Same treatment of banks as for companies in other sectors; It should also be mentioned that according to article 38 *bis* A of FTC, listed stocks, receivables traded on a regulated market or instruments from the banking sector initially booked as "short term investments" (*"titres de transaction"*, i.e. assets purchased and sold for speculation purposes within a short timeframe - classically during the 6 months following their acquisition) are to be valuated at year end in application of the mark-to-market valuation

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
	Unrealized losses: According to article 38.9 and 39.1 5° of the FTC, specific shareholdings (e.g. qualifying shareholding, participation in real estate companies, shares in specific UCITS…) are annually evaluated at their FMV. A provision can be booked should the valuation of the participation crystallize an unrealized capital loss. Depending on the nature of the shareholding valuated, the provision could either be deductible (e.g. investment securities) or not included (e.g. provision				principles. Unrealized capital gains that may be crystallised further to this valuation are then subject to CIT. Similarly, unrealized capital losses over this specific kind of assets are deductible and no provision could be booked to reflect such unrealized loss. Same tax treatment applies in case of sale of the asset or modification of its accounting status in the books of the bank (e.g. transfer from the "transaction asset" accounting item to the "placement asset" accounting item). Also, article 38 *bis* B of the FTC compels banks,

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
	on qualifying shareholding) in the CIT basis. Finally, in accordance with article 209-0 A of the FTC, the shares in UCITS held by a company are to be valuated at the end of each fiscal year in accordance with the mark to market principle. Unrealized losses are thus tax deductible.				that acquire fixed income (e.g. treasury bonds, tradable receivables generating a fixed income…) for a price differing from their face/reimbursement value, to reflect this difference (either a gain or a loss) within their taxable results. The difference in value will be spread from the date of acquisition until the date of effective reimbursement of the asset.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
GERMANY	Losses on shares as financial trading assets are generally realized within the disposal of the shares and are not tax deductible. In case of an expected permanent diminution in value the share may be depreciated in the tax balance sheet. However, also this loss is not deductible for tax purposes. Please note the special provisions for banks and financial institutions as outlined in the right column.	Losses on other financial trading assets are generally realized within the disposal of the assets and are generally fully deductible. Moreover, in case of an expected permanent diminution in value the fixed assets may be depreciated for tax purposes, which generally results in a deductible loss. Please note the special provisions for banks and financial institutions as outlined in the right column.	Gains on shares as financial trading assets are generally realized within the disposal of the shares and are at 95% tax exempt. Unrealized gains have no impact on the taxable income. Please note the special provisions for banks and financial institutions as outlined in the right column.	Gains on financial trading assets are generally realized within the disposal of the assets and are fully taxable. Unrealized gains have no impact on the taxable income. Please note the special provisions for banks and financial institutions as outlined in the right column.	Financial instruments held-for-trading by a bank or a financial institution are measured at fair value since 2010, as far as they are not part of a valuation unit. Additionally, a risk deduction has to be considered. Unrealized gains and losses increase or decrease the taxable income. Realized gains and losses on shares as financial trading assets increase or decrease the taxable income i.e. the 95% tax exemption is not applicable in case of shares held by a bank or a financial institution as trading assets. Correspondingly, losses resulting from a disposal of such shares are

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
GREECE	There are no general or special tax rules on assets held for trading purposes (see Enclosure 6).	There are no general or special tax rules on assets held for trading purposes (see Enclosure 6).	There are no general or special tax rules on assets held for trading purposes (see Enclosure 6).	There are no general or special tax rules on assets held for trading purposes (see Enclosure 6).	There are no general or special tax rules on assets held for trading purposes (see Enclosure 6).
HUNGARY	Realized and non-realized losses are deductible.	Realized and non-realized losses are deductible.	Realized and non-realized gains are taxable.	Realized and non-realized gains are taxable.	Same tax rules apply for banks as for companies in other sectors. In general there are no differences in the accounting treatment of realized or unrealized gains/losses on financial trading assets and financial fixed assets if banks and non-banking enterprises are compared.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
IRELAND	Accounts prepared under IFRS: treatment for tax purposes follows the accounts. Accounts prepared under Irish GAAP: in general the realisations basis applies, however it is permitted that 'mark to market ' may be applied by the accounting standard and in such cases Revenue will allow the company to elect to follow the accounting treatment for tax purposes. Such an election must be made at commencement and once made is irrevocable. Where a company is in the process of migration to IFRS then to the extent that an IFRS standard has been adopted, the tax	Where assets held for trading purposes are disposed of, any loss arising on disposal forms part of the company's allowable expenses.	Where assets held for trading purposes are disposed of, any profit arising on disposal forms part of the company's trading income.	Where assets held for trading purposes are disposed of, any profit arising on disposal forms part of the company's trading income.	The same treatment applies to banks and companies of other sectors

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
ITALY	For IAS Adopters, realized and unrealized losses are tax deductible when recorded in the P&L.	For IAS Adopters, realized and unrealized gains are taxed when recorded in the P&L.	For IAS Adopters, realized and unrealized losses are tax deductible when recorded in the P&L.	For IAS Adopters, realized and unrealized gains are taxed when recorded in the P&L.	Same treatment applies to banks as IAS adopter. Please consider that for No IAS Adopter entities, different rules may apply.
LATVIA	Realized losses on sale of EU and EEA public securities are non-deductible. Realized losses on sale of other securities may be carried forward for 8 years and set against future gains from sale of such other securities. Unrealized losses on shares are non-deductible.	Losses from other assets are deductible when realized.	Realized gains on sale of EU and EEA public securities are non-taxable. Realized gains on sale of other securities are taxable. Unrealized gains on shares are non-taxable.	Realized gains from other assets are taxable.	These general rules apply to all sectors, including the Financial Sector.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
LITHUANIA	Realized losses are generally deductible, but may be utilized only against gains from a similar source. Not utilized losses may be carried forward for five years, provided that they are incurred from the disposal of shares which are not subject to holding exemption relief. Not utilized losses incurred from the disposal of shares which are subject to holding exemption relief cannot be carried forward (they can be utilized only in a current year). For holding exemption relief requirements please refer to the box No. 3. Unrealized losses (i.e. incurred on devaluation) are non-deductible.	Realized losses are generally deductible. Losses from derivatives may be utilized only against gains from a similar source. Not utilized losses from derivatives may be carried forward for five years. Other losses can be carried forward indefinitely. Unrealized losses (i.e. incurred on devaluation) are generally non-deductible. The exception is applied only for losses incurred on devaluation of derivatives held for hedging purposes – such losses are deductible.	Realized gains are non-taxable provided that holding exemption relief is satisfied (i.e. more than 25% of shares in a company established in EEA or in a country with which Lithuania has a DTT signed are held for not less than 2 years). In other cases realized gains are taxable. Unrealized gains (i.e. incurred on revaluation) are non-taxable.	Realized gains are taxable. Unrealized gains (i.e. incurred on revaluation) are generally non-taxable. The exception is applied only for gains derived on revaluation of derivatives held for hedging purposes – such gains are taxable.	The same treatment for banks as for companies in other sectors.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
LUXEMBOURG	Losses on shares are fully tax deductible. Unrealized losses on shares are in principle tax deductible if recognized for accounting purposes (prudent approach).	There are no specific rules for assets held for trading purposes. Generally, as they do not meet any conditions for tax exemptions, their capital gains will be taxable and capital losses will be tax deductible. Interest received and dividends received before disposal should also be fully taxable. Unrealized losses on assets held for trading purposes are in principle tax deductible if recognized for accounting purposes (prudent approach).	Participations held in qualifying companies may benefit from a tax exemption on the capital gain realized upon disposal according to the participation exemption regime (same conditions as for article 166 LITL except that the acquisition price is EUR 6m instead of EUR 1.2m and recapture rules are not limited to the year in which the tax exempt gain is realized). Generally, as they do not meet any conditions for tax exemptions, their capital gains will be taxable. Unrealized gains on shares are in principle not taxable by application of the valuation rules (art.23	There are no specific rules for assets held for trading purposes. Generally, as they do not meet any conditions for tax exemptions, their capital gains will be taxable and capital losses will be tax deductible. Interest received and dividends received before disposal should also be fully taxable. Unrealized gains on assets held for trading purposes are in principle not taxable by application of the valuation rules (art.23 LITL).	YES. This tax treatment is applicable to Banks as for any tax payer.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
MALTA	Realized losses on the transfer of shares held as trading assets may be tax deductible subject to certain conditions. Trading losses (which are allowable for tax purposes subject to the conditions referred to above) may be set off against any chargeable income (subject to certain exceptions specified in the law). Allowable trading losses may be carried forward indefinitely. In respect of unrealized trading losses, the point of departure should be that such losses should not be tax deductible for Maltese tax	Realized losses arising from trading assets should in general be tax deductible subject to certain conditions including that if they were a gain they would have been brought to charge to tax. It is assumed that such trading assets would not qualify for capital allowances (tax depreciation) but this point may need to be verified on a case by case basis. In respect of unrealized losses, the point of departure should be that such losses should not be tax deductible for Maltese tax purposes. However especially in the context of trading companies such as banks, if it can be shown that the particular asset should be treated as a trading asset then there may be an argument that	Realized gains on the transfer of shares are in general taxable but there may be the possibility of a participation exemption under Maltese tax law subject to the satisfaction of a number of conditions. In respect of unrealized gains, the point of departure should be that such gains should not be taxable for Maltese tax purposes. However especially in the context of trading companies such as banks, if the particular shares should be treated as a trading asset (and subject that a consistent tax treatment is	Realized gains arising from trading assets should in general be taxable but it would be advisable that one would consider the nature of the gain on a case by case basis. It is assumed that such trading assets would not qualify for capital allowances (tax depreciation) but this point may need to be verified on a case by case basis. In respect of unrealized losses, the point of departure should be that such losses should not be tax deductible for Maltese tax purposes. However	A bank is generally treated as carrying on a trading activity and consequently the income generated thereby is normally treated as trading income. In respect of assets which are held as trading assets by the bank, there are no special tax rules outlining the tax treatment thereof and hence trading income/ gains arising from such trading assets should in general be subject to tax in the normal manner. Naturally it would be advisable that each case would be analysed on its own merits so as to ascertain the precise Maltese income tax treatment in the

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
	purposes. However especially in the context of trading companies such as banks, if it can be shown that the particular shares should be treated as a trading asset then there may be an argument that the unrealized trading loss arising therefrom may still possibly be tax deductible on the assumption that any unrealized gains would be treated as taxable (and subject that a consistent tax treatment is applied). However this point is not specifically catered for by Maltese tax law and there are no written Revenue guidelines.	the unrealized trading loss arising therefrom may still possibly be tax deductible on the assumption that any unrealized gains would be treated as taxable (and subject that a consistent tax treatment is applied). However this point is not specifically catered for by Maltese tax law and there are no written Revenue guidelines. Hence this point would need to be cleared in writing with the Maltese Revenue.	applied) then there may be an argument that the unrealized trading gain arising therefrom may still possibly be taxable (subject to the possible applicability of the participation exemption – see above –where applicable). However this point is not specifically catered for by Maltese tax law and there are no written Revenue guidelines. Hence this point would need to be cleared in writing with the Maltese Revenue.	especially in the context of trading companies such as banks, if it can be shown that the particular asset should be treated as a trading asset then there may be an argument that the unrealized trading loss arising therefrom may still possibly be tax deductible on the assumption that any unrealized gains would be treated as taxable (and subject that a consistent tax treatment is applied). However this point is not specifically catered for by Maltese tax law and there are no written Revenue guidelines. Hence this point would	particular circumstances. One point which may be noted is that if the assets are treated as trading assets for tax purposes then the capital gains provisions (taxation but also exemption provisions) should not be applicable in respect of gains arising from such assets. In other words, the provisions of the tax law regulating capital gains only apply in the case of "capital assets". If the particular asset is held as a trading asset then the capital gains provisions (both in respect of the taxing provisions and also in respect of any tax exemptions which may apply under such capital

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
	Hence this point would need to be cleared in writing with the Maltese Revenue.			need to be cleared in writing with the Maltese Revenue.	gains provisions) would not apply. Naturally any trading income arising therefrom should in general be taxable under the normal (i.e. not capital gains) tax provisions.
NETHERLANDS	Realized and unrealized losses incurred on shares should in principle be deductible for Dutch CIT purposes except for cases in which the Dutch participation exemption applies (short said shareholdings of 5% and more – and assuming certain other conditions are met).	Realized losses on (financial) trading assets should in principle be deductible. The DCIT act also allows to claim a loss on an asset which is not yet realized (principle of prudence – "voorzichtigheidsprincipe").	Realized and unrealized capital gains on (financial) trading assets should in principle not be subject to Dutch CIT assuming the Dutch participation exemption applies. Otherwise, the capital gain should be taxed upon realization (i.e. unrealized gains should not be taxable until realized in fact).	Realized capital gains on (financial) trading assets should in principle be taxed. Unrealized gains should be taxed upon realization of the gain (i.e. when realized in fact).	Same treatment of banks as for companies in other sectors;

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
POLAND	Realized losses on shares are generally tax deductible. Unrealized losses on shares are not tax deductible.	General rules apply, i.e. any valuation is, as a rule, tax neutral and the tax result is calculated as the difference between the sale price and the expenses made on acquisition of the securities. Interest is taxed on cash basis. However, if the taxpayer (a financial or non-financial institution) has chosen the so-called "accounting method" of foreign exchange recognition for CIT purposes and valuation of foreign currency securities is treated as "FX differences" for the accounting purposes, then the valuation of these securities can be considered a revenue or a cost for tax purposes as well.	Realized gains on shares are generally taxable. Unrealized gains on shares are not taxable.	General rules apply, i.e. any valuation is, as a rule, tax neutral and the tax result is calculated as the difference between the sale price and the expenses made on acquisition of the securities. Interest is taxed on cash basis. However, if the taxpayer (a financial or non-financial institution) has chosen the so-called "accounting method" of foreign exchange recognition for CIT purposes and valuation of foreign currency securities is treated as "FX differences" for the accounting purposes, then the valuation of these securities can be considered as a revenue or a cost for tax purposes as well.	No difference

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
PORTUGAL	The tax treatment follows the typical accounting treatment. The typical accounting treatment is the fair value through profit and loss accounts. The fair value is considered for tax purposes in case the financial instruments have an official price and, if the financial instrument is shareholdings, the participation does not exceed 5%. If it is not the case, fair value is not considered for tax purposes, and only realized losses are deductible.	The tax treatment follows the typical accounting treatment. The typical accounting treatment is the fair value through profit and loss accounts. The fair value is considered for tax purposes in case the financial instruments have an official price. Therefore, unrealized losses are considered for tax purposes.	The tax treatment follows the typical accounting treatment. The typical accounting treatment is the fair value through profit and loss accounts. The fair value is considered for tax purposes in case the financial instruments have an official price and, if the financial instrument is shareholdings, the participation does not exceed 5% . If it is not the case, fair value is not considered for tax purposes, and only realized gains are taxed.	The tax treatment follows the typical accounting treatment. The typical accounting treatment is the fair value through profit and loss accounts. The fair value is considered for tax purposes in case the financial instruments have an official price Therefore, unrealized gains are considered for tax purposes.	No differences

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
ROMANIA	From an accounting perspective, held for trading ("HFT") instruments are registered at market value. Such instruments are marked-to-market and the differences generated are included in the profit and loss ("P&L") accounts (i.e. income/expenses). From a tax perspective, the following rules should be observed: the unfavourable differences from revaluation of participation titles (e.g. shares) and bonds issued on long-term are non-deductible for profit tax purposes. Such differences become deductible upon realisation, e.g. sale of the financial assets.	From an accounting perspective, held for trading ("HFT") instruments are registered at market value. Such instruments are marked-to-market and the differences generated are included in the profit and loss ("P&L") accounts (i.e. income/expenses). From a tax perspective, the following rules should be observed: the unfavourable differences from revaluation of participation titles (e.g. shares) and bonds issued on long-term are non-deductible for profit tax purposes. Such differences become deductible upon realisation, e.g. sale of the financial assets.	From an accounting perspective, held for trading ("HFT") instruments are registered at market value. Such instruments are marked-to-market and the differences generated are included in the profit and loss ("P&L") accounts (i.e. income/expenses). From a tax perspective, the following rules should be observed : the favourable differences from revaluation of participation titles (e.g. shares) and bonds issued on long-term are non-taxable for profit tax purposes. Such differences become taxable upon realisation, e.g. sale of the financial assets.	From an accounting perspective, held for trading ("HFT") instruments are registered at market value. Such instruments are marked-to-market and the differences generated are included in the profit and loss ("P&L") accounts (i.e. income/expenses). From a tax perspective, the following rules should be observed the favourable differences from revaluation of participation titles (e.g. shares) and bonds issued on long-term are non-taxable for profit tax purposes. Such differences become taxable upon realisation, e.g. sale of the financial assets.	No differences, the tax treatment of the revaluation of HFT instruments mainly depends on the nature of such instruments (e.g. bonds issued on long term versus short term) and whether the differences are realized or not. In case the rules outlined are met, the unrealized expenses / revenues should be non-deductible/non-taxable for profit tax purposes.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
SLOVAKIA	The revaluation differences of assets held for trading are included in P&L for accounting purposes and are subject to corporate income tax. The loss from sale of such securities is tax non-deductible under specific conditions.	The revaluation differences of assets held for trading are included in P&L for accounting purposes and are subject to corporate income tax. The loss from sale of such securities is tax non-deductible under specific conditions.	The revaluation differences of assets held for trading are included in P&L for accounting purposes and are subject to corporate income tax. The income from sale of such securities is subject to income tax.	The revaluation differences of assets held for trading are included in P&L for accounting purposes and are subject to corporate income tax. The income from sale of such securities is subject to income tax.	Same treatment of banks as for companies in other sectors
SLOVENIA	Impairments of financial instruments are non deductible when accounted for, and deductible when realized, except for impairments of investments at fair value through profit and loss, which are deductible when booked. This is also the case for shares.	Impairments of financial instruments are non deductible when accounted for, and deductible when realized, except for impairments of investments at fair value through profit and loss, which are deductible when booked.	Gains on disposal of shares held as trading assets are taxable. Unrealized gains on trading assets are likely to be taxable when posted to income for accounting purposes.	Gains on disposal of financial trading assets are taxable. Unrealized gains on trading assets are likely to be taxable when posted to income for accounting purposes.	No differences – The tax treatment of assets held for trading purposes generally follows their IFRS accounting treatment as Slovenian tax law does not provide for any specific tax treatment for such items, and Slovenian banks prepare accounts under IFRS.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
SPAIN	General rule establishes that losses obtained on shares are included on the taxable base (initially according to accounting principles). Tax deductibility on impairments or depreciations is subject to specific rules.	Realized losses are generally deductible. Tax deductibility on impairments or depreciations is subject to specific rules.	Based on accounting principles. Income/gains obtained on shares are included on the taxable base (based on accounting principles) and subject to taxation at general Corporate Tax rate (although tax credits to avoid double taxation are available, depending on several circumstances). In certain circumstances differences may apply between the accounting and the tax value of the assets (for instance non-deducted impairments).	Based on accounting principles. Income/gains obtained on those financial assets are included on the taxable base (based on accounting principles) and subject to taxation at general Corporate Tax rate. In certain circumstances differences may apply between the accounting and the tax value of the assets.	Same treatment of banks as for companies in other sectors. Nevertheless, as accounting principles prevail, it should be taken into account that there are specific accounting rules for financial entities and, consequently, it could be some differences between financial and non-financial entities as consequence of a different accounting rule).

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
SWEDEN	As stock in trade - all gains and losses are taxable and deductible on a mark-to-market basis (i.e. unrealized), but may also be taxed on a realisation basis at the request of the tax payer	As stock in trade - all gains and losses are taxable and deductible on a mark-to-market basis, (i.e. unrealized), but may also be taxed on a realisation basis at the request of the tax payer	As stock in trade - all gains and losses are taxable and deductible on a mark-to-market basis, (i.e. unrealized), but may also be taxed on a realisation basis at the request of the tax payer.	As stock in trade - all gains and losses are taxable and deductible on a mark-to-market basis, (i.e. unrealized), but may also be taxed on a realisation basis at the request of the tax payer.	The same rules will apply to banks
UK	Shares held on trading account will generally be taxed in accordance with the UK GAAP or IFRS accounting treatment.	Bonds etc. held on trading account will generally be taxed in accordance with the UK GAAP or IFRS accounting treatment.	Shares held on trading account will generally be taxed in accordance with the UK GAAP or IFRS accounting treatment.	Bonds etc. held on trading account will generally be taxed in accordance with the UK GAAP or IFRS accounting treatment.	The treatment as outlined applies to any corporation which trades in financial assets, whether or not a regulated bank.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
CHINA	For assets held for trading purposes, generally CIT is reported following accounting standard (i.e. on accrual basis), but the market-to-market gain/loss could be excluded for CIT purpose whilst only realized gain/loss should be taxable/deductible for CIT purpose.	For assets held for trading purposes, generally CIT is reported following accounting standard (i.e. on accrual basis), but the market-to-market gain/loss could be excluded for CIT purpose whilst only realized gain/loss should be taxable/deductible for CIT purpose.	For assets held for trading purposes, generally CIT is reported following accounting standard (i.e. on accrual basis), but the market-to-market gain/loss could be excluded for CIT purpose whilst only realized gain/loss should be taxable/deductible for CIT purpose.	For assets held for trading purposes, generally CIT is reported following accounting standard (i.e. on accrual basis), but the market-to-market gain/loss could be excluded for CIT purpose whilst only realized gain/loss should be taxable/deductible for CIT purpose.	These rules apply equally for banks and for standard companies.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
SINGAPORE	Gains and losses from share trading are generally of a revenue nature in the hands of the companies that are trading shares in their ordinary course of business. Strictly, gains will be taxed when they are realized, whereas losses will be allowed a deduction when they are incurred. However, companies which adopt FRS 39 (the local equivalent of IFRS 39) in the preparation of their financial accounts may elect to report such gains and losses to tax based on the amounts reflected in the income statement.	See comments under the column "Shares".	See comments under the column "Shares".	See comments under the column "Shares".	Financial instruments are more likely to be trading (revenue) assets for banks as compared to non-Financial Sector. Banks which adopt FRS 39 in the preparation of their financial accounts may (subject to some exceptions) elect to report such gains and losses to tax based on the amounts reflected in the income statement.

Country	Realized and unrealized losses		Realized and unrealized gains		Does the tax treatment as detailed in the columns before also apply to Banks? Please detail if any specificities apply to Banks?
	Shares	Others	Shares	Shares	Others
SWITZERLAND	A mark-to market approach is applied for assets held for trading purposes under the current assets. Note in this respect that in principle the Swiss tax treatment follows the Swiss accounting treatment according to Swiss GAAP.	A mark-to market approach is applied for assets held for trading purposes under the current assets. Note in this respect that in principle the Swiss tax treatment follows the Swiss accounting treatment according to Swiss GAAP.	A mark-to market approach can be applied for assets held for trading purposes under the current assets. Note in this respect that in principle the Swiss tax treatment follows the Swiss accounting treatment according to Swiss GAAP.	A mark-to market approach can be applied for assets held for trading purposes under the current assets. Note in this respect that in principle the Swiss tax treatment follows the Swiss accounting treatment according to Swiss GAAP.	Generally same treatment as non-Financial Sector.
USA	Generally mark-to-market rule applies if the taxpayer is a dealer in securities or a trader in securities and makes a mark-to-market election.	If the asset fits into the broad definition of "security", generally mark-to-market rule applies if the taxpayer is a dealer in securities or a trader in securities and makes a mark-to-market election.	Generally mark-to-market rule applies if the taxpayer is a dealer in securities or a trader in securities and makes a mark-to-market election.	If the asset fits into the broad definition of "security", generally mark-to-market rule applies if the taxpayer is a dealer in securities or a trader in securities and makes a mark-to-market election.	General rule applies to banks as to companies in other sectors.

ENCLOSURE 8: TAX TREATMENT OF BAD AND DOUBTFUL DEBTS

Country	Are general provisions tax deductible?	Are specific provisions tax deductible?	Specificities applicable to banks? If yes, please briefly summarize.
AUSTRIA	No	Yes, provided certain conditions are met	No
BELGIUM	No	Yes, provided certain conditions are met	No
BULGARIA	No	Specific provisions required under BNB do not have a tax effect(not deductible/taxable) and are strictly intended for regulatory purposes	For banks provisions on financial instruments are tax deductible in the year when made
CYPRUS	No	Yes, provided certain conditions are met	No
CZECH REPUBLIC	No	Yes	Yes. There are special tax rules for creation of bank provisions against non-statute-barred receivables from credits. Banks may in the given year create tax deductible provisions up to 2% of all loan receivables towards these receivables (incl. accrued standard interest). The 2% is annual average balance calculated at the end of each month and 1 January. Only loans granted to EU companies are included into the base of 2% calculation and only to these loans tax provision may be created.
DENMARK	Only if the losses would be tax deductible at realisation	Only if tax deductible under general Danish tax rules, i.e. the loss must be ascertainable and identified and considered fully and undoubtedly irretrievable.	Banks are subject to special rules, whereby provisions for bad and doubtful debts must follow accounting principles.

Country	Are general provisions tax deductible?	Are specific provisions tax deductible?	Specificities applicable to banks? If yes, please briefly summarize.
ESTONIA	Yes (since no taxation unless distribution)	Yes (since no taxation unless distribution)	No.
FINLAND	Only depository banks and other credit institutions are entitled to make a tax deductible doubtful debt provision annually under certain conditions (see the column on right).	No specific provisions are available but all companies (conducting business activities) are entitled to deduct a permanent/final loss in value of a loan receivable for tax purposes provided the loan receivable has also been written off in the accounts (please note that write-downs on intra-group loan receivables are not deductible as a main rule). In addition, depository banks and credit institutions may include e.g. loan/client specific provisions in certain cases in the general provision (within the limits of the general doubtful debt provision – see the column on right).	Depository banks and other credit institutions are entitled to make a tax deductible doubtful debt provision annually. This provision cannot exceed 0.6% of the amount of total receivables outstanding at the end of the tax year. Other restrictions apply as well. As discussed in the previous column, also specific provisions (related to certain client etc.) may be included in the general doubtful debt provision (within its limits).

Country	Are general provisions tax deductible?	Are specific provisions tax deductible?	Specificities applicable to banks? If yes, please briefly summarize.
FRANCE	Yes, provided certain conditions are met	Yes, provided certain conditions are met, and cannot be combined with the general provision	Articles 2 and 3 bis of the Appendix 4 of the FTC entitle banks and credit establishments to deduct a specific provision for default risks over middle and long terms loans granted. The amount of the specific provision is capped at: - 5% of the accounting benefit of the bank - 0.5% of the amounts of credits effectively used. A specific practice recognised by the FTA allows bank establishments to maintain the tax deductibility of certain accounting provisions related to assets (classically loans, bonds, notes) held in risky jurisdictions (“provision pour risque pays”).

Country	Are general provisions tax deductible?	Are specific provisions tax deductible?	Specificities applicable to banks? If yes, please briefly summarize.
GERMANY	General provisions may be recorded based on experienced date of the past. As a general rule a minor provision of 1% or 2% should always be acknowledged for tax purposes.	Specific provisions based on specific facts present on the balance sheet date substantiating the likelihood of the default are acknowledged for tax purposes.	Yes - special guidelines for general allowances for tax purposes in case of credit institutions have been issued by the German Ministry of Finance. According to the guideline the percentage for general provisions has to be computed by relating 60% of the average amount of bad debts (not exceeding the amount of specific provisions) to the average amount of credit risk of the preceding five years.
GREECE	Banks are entitled to deduct for tax purposes a general provision at the rate of 1% (or 2% for Investment Banks, the term is not clearly defined in Greek Law) on the annual average of their advances , these comprising capital and receivables except for doubtful or non-collective interest related to doubtful or non-performing advances, which are monitored off-balance sheet in memo accounts, loans to the State and State-owned enterprises or loans guaranteed by the State.	Yes, provided certain conditions are met. Specific provisions are booked for certain non-performing loans. These provisions should be utilised for respective write-offs within 8 FYs starting in the year within which they were booked. In case where these amounts are not written-off during the 8 FYs, the Bank should submit a supplementary Income Tax return and suffer tax on the non utilised amount, plus late payment penalties.	The calculation of the general and specific provisions mentioned herein applies only to Banks. Different tax provisions apply to the bad debts provisions of ordinary companies.

Country	Are general provisions tax deductible?	Are specific provisions tax deductible?	Specificities applicable to banks? If yes, please briefly summarize.
HUNGARY	Expense accounted for bad debts are generally tax-deductible. Impairment created with respect to doubtful debts are not tax-deductible. Provisions (reserve created for various future costs and liabilities) are not tax-deductible.	Bad debts that are expired or cannot be enforced at Court are not deductible from the tax base. Specific provisions (i.e. reserves created on the basis of certain specific, not generally applicable regulation) shall be tax-deductible, however, the application of such provisions is rare outside the financial services sector.	<u>Bad debts:</u> No special rules. <u>Doubtful debts:</u> The impairment created with respect to doubtful debts from financial and investment services activity is a tax-deductible expense. <u>Specific provisions:</u> Specific provisions that were accounted for due to the special nature of the Financial Sector's activity e.g.: on bank risk are deductible from the tax base. General provisions for expected liabilities and future expenses (i.e. regarding the provisions not accounted for based on banks' special accounting rules) will be treated according to the general rules applicable.

Country	Are general provisions tax deductible?	Are specific provisions tax deductible?	Specificities applicable to banks? If yes, please briefly summarize.
IRELAND	In case of accounts under IFRS, no distinction is made between general and specific provisions and the full provision per the accounts is allowed. Under Irish GAP, there is no allowance for general provisions.	In case of accounts under IFRS, no distinction is made between general and specific provisions and the full provision per the accounts is allowed. Under Irish GAP, specific provisions are deductible, provided certain conditions are met.	The same rules apply to all taxpayers.
ITALY	For banks: Yes, provided certain conditions are met.	For banks: Yes, provided certain conditions are met.	For banks, bad debt provisions on advances and loans are deductible, in each tax period, within the limit of 0.30% of the total value of credits recorded in the balance sheet. The amount of the devaluations that exceeds 0.30% is deductible in equal instalments during the eighteen subsequent tax periods. For other companies, bad debt provisions are deductible in each tax period within the limit of 0.5% of total nominal value of credits. Total provisions can't exceed 5% of total nominal value of credits.

Country	Are general provisions tax deductible?	Are specific provisions tax deductible?	Specificities applicable to banks? If yes, please briefly summarize.
LATVIA	No	Yes	Banks are not allowed to deduct specific provisions on the following items -specific provisions for shares and other non-fixed income securities, investments into shares of related companies, own shares, losses due to theft, fixed assets and loans issued to persons in low tax jurisdictions.
LITHUANIA	General provisions (i.e. provisions for entire portfolio of doubtful assets) are generally non-deductible.	Specific provisions (i.e. provisions for a particular bad/doubtful debt) may be tax deductible, provided that specific requirements are met (e.g., debt was included into income in previous periods, specific evidence and documentation is obtained, etc.). These specific requirements are applied for non-financial institutions. For specificities applicable to banks please refer to the next box.	Yes. Banks are not subject to specific requirements applied to other companies from non-Financial Sector. Specific provisions for bad debts recorded by banks may be deducted to the extent allowed by the rules of the Bank of Lithuania. There is no requirement that debt should be included into income in previous periods for banks. Also there is no requirement to obtain specific evidence for banks.

Country	Are general provisions tax deductible?	Are specific provisions tax deductible?	Specificities applicable to banks? If yes, please briefly summarize.
LUXEMBOURG	Provisions for doubtful debts on advances and loans are in principle tax deductible if recognized for accounting purposes. The main conditions for a provision to be tax deductible are to be linked to the business of the company and to be economically justified.	Yes, provided certain conditions are met. For example: • Value adjustments made under article 58 generally comply with valuation rules for tax purposes (i.e. valuation at acquisition cost or lower market value) and are in principle tax deductible. On the other hand, value adjustments according to article 62 are only made to take into account the inherent banking risk for certain type of assets and are in principle not tax deductible. • Risks and charges provisions booked according to article 31 of the amended Law of 17 June 1992 are in principle tax deductible as the loss is clearly identified and either likely or certain to occur but uncertain as to the amount or to the date. Besides, country risk provisions reflecting the temporary risk of recovery due to economic/political situation of the country of the debtor are also tax deductible. • A lump-sum provision for risk-weighted assets could also be booked by the banks and is tax deductible if it meets certain conditions (i.e. limitation to 1.25% of the qualifying risk weighted assets) according to the Instructions form the Director of the Luxembourg Tax Authorities dated 16 December 1997.	Risk and charges, lump-sum and AGDL provisions are specific to banks due to their activity and inherent risks.

Country	Are general provisions tax deductible?	Are specific provisions tax deductible?	Specificities applicable to banks? If yes, please briefly summarize.
MALTA	No	No, however particular bad debts (which are not provisions, whether specific or otherwise) may be tax deductible provided certain conditions are met.	There are no special Maltese tax rules applicable for banks in this respect.
NETHERLANDS	Yes (provided certain condition are met)	Yes (provided certain condition are met)	No
POLAND	For banks: Yes, provided certain conditions are met. These regulations are specific for banks. Insurance companies also have the right for deductibility of technical provisions, under specific conditions. For other sectors, general provisions are not tax deductible.	For banks: Yes, provided certain conditions are met. For other sectors, provisions may be deductible under specific conditions as well, however only if the receivable due was previously recognized as a taxable revenue.	Deductibility of provisions created for loans and guarantees is provided for the banks only. The requirements for documenting the uncollectibility of loans are, in part, specific for the banks. For companies from other sectors, a provision for an uncollectible receivable may as a rule be tax deductible provided that its uncollectibility is properly documented and this receivable was a taxable revenue of the taxpayer.
PORTUGAL	No	Yes, provided certain conditions are met	Yes, conditions of tax-deductibility of specific provisions are less severe than for other companies, since for banks the aging of the debt is normally lower than in other companies. For example, a bank can achieve a 100% deduction in outstanding debt of 1 year, while a company can only deduct 100% upon 2 years.

Country	Are general provisions tax deductible?	Are specific provisions tax deductible?	Specificities applicable to banks? If yes, please briefly summarize.
ROMANIA	Yes, provided certain conditions are met	Yes, there are certain specific provisions that are fully tax deductible (e.g. specific credit risk provisions, provisions for guarantees of good execution, technical reserves constituted by insurance companies, risk provisions for transactions on capital markets in accordance with the National Security Commission, specific provisions constituted by airlines companies etc)	Yes, specific provisions for credit risk constituted by banks and non-banking financial institutions in accordance with the National Bank of Romania 'rules are fully tax deductible. The deductibility for specific credit risk provisions is allowed only for banks and non-banking financial institutions, whereas for regular companies the general deductibility conditions should be followed.

Country	Are general provisions tax deductible?	Are specific provisions tax deductible?	Specificities applicable to banks? If yes, please briefly summarize.
SLOVAKIA	No	Yes, provided certain conditions are met	Yes. Tax deductible expense is estimated based on the number of overdue days, the amount of bad debt provision created following the IFRS rules and the collateral amount, without taking into account interest provision, and: • For overdue between 361 and 720 days deductible expense is considered to be up to 20% of unpaid loan which exceeds the collateral value, • For overdue between 721 and 1080 days deductible expense is considered to be up to 50% of unpaid loan which exceeds the collateral value, • For overdue greater than 1080 days deductible expense is considered to be up to 100% of unpaid loan which exceeds the collateral value. Write-off of receivables could be treated as tax deductible expense in the amount of bad debt provision that would be treated as tax deductible following the conditions stated above.
SLOVENIA	Yes, if certain conditions are met.	Yes, if certain conditions are met.	Yes: general and specific provisions are tax deductible for banks, provided certain conditions are met. In particular, provisions for revaluations of loans are tax deductible up to the amounts set out in the Act regulating the banking activities.

Country	Are general provisions tax deductible?	Are specific provisions tax deductible?	Specificities applicable to banks? If yes, please briefly summarize.
SPAIN	Generally no. Please see comments on the following schedules	Yes,(bad debt provisions) provided certain conditions are met	Yes, tax rules for the deductibility of bad debt provisions are more restrictive for banks. Broadly speaking, ordinary companies can deduct bad debt provisions after 6 months the first unpayment is due. On the contrary, Banking entities register bad debt provisions according to accounting rules stated by Central Bank. These rules state a minimum percentage of provision based on the elapsed time from the unpayment date. Tax rules for the deductibility of bad debt provisions for banks are based on those percentages. Regarding general provisions, these are not tax deductible for ordinary companies. However, banks, in general terms, can deduct the annual charge of these provisions up to the limit of 1% of the positive difference of granted qualifying loans generated in the year. In general terms, bad debt provisions hedged with guaranty on rem, loan granted to related entities, etc are not tax deductible (both in the case of banks and ordinary companies).

Country	Are general provisions tax deductible?	Are specific provisions tax deductible?	Specificities applicable to banks? If yes, please briefly summarize.
SWEDEN	No	Yes, fully deductible if based on facts supporting the risk assessment in the specific case	The same rules apply to banks, but due to the nature of their business (in particular the large number of debts and claims handled) it is likely that banks will more easily be able to claim deduction for provisions based on statistical methods instead of facts relating to each bad or doubtful claim.
UK	No	Yes, provided they relate to bad or doubtful debts to third parties	The rules described apply also to Banks.
CHINA	No, except for banks.	No, except for banks.	Yes, banks are allowed to claim CIT deduction on loan provision at a rate of 1% on the prescribed doubtful debts. Besides, loan provision with higher rate by category on the specific loans is also applicable.

Country	Are general provisions tax deductible?	Are specific provisions tax deductible?	Specificities applicable to banks? If yes, please briefly summarize.
SINGAPORE	With the introduction of FRS 39, general and specific provisions for bad or doubtful debts will no longer be made. Impairment losses are recognised under certain circumstances as prescribed in the accounting standard. Impairment losses incurred on financial assets on revenue account will be allowed a deduction and any reversal amount will be taxed.	See comments under the column "Are general provisions tax deductible?"	Yes. In addition, banks which do not have a robust loss estimation process and are unable to provide for collective impairment under FRS 39 are required by the banking regulator to maintain a certain level of impairment provisions. As a concession, the amount of general provisions (computed based on a provisional formula provided in the tax legislation) will be deductible. An auditor's certification is required to support the deduction claim.
SWITZERLAND	Yes, within limitations.	Yes, but limited to the amount that can be justified from an economic perspective.	Yes, the safe harbour guidelines issued by the cantonal tax administration for banks may differ from the ones provided for the non-financial services sector and may e.g. state that the deductibility of general bad-debt provisions is more restrictive for banks.

Country	Are general provisions tax deductible?	Are specific provisions tax deductible?	Specificities applicable to banks? If yes, please briefly summarize.
USA	No	Yes, provided certain conditions are met. However, the deductibility of specific provisions against debt obligations (as opposed to trade receivables) is severely limited for non-banks.	1. Yes , banks and other regulated corporations that are subject to supervision by a federal authority may deduct specific provisions to the extent that a debt is charged-off in accordance with specific orders of the authority or if, upon audit by the authority, the authority confirms that the charge-off would have been ordered had it not been made voluntarily. (This is irrelevant if the Bank makes a conformity election, see point 3 below.) 2. Yes, the experience method applies for "small banks" defined as banks with less than $500,000 in average assets for the taxable year. 3. Yes, banks using the specific charge-off method are allowed to make a conformity election. This allows banks to deduct the specific provision in the tax year it is recorded, if either 1) it was recorded from a specific order of the bank's regulatory authority or 2) the charge-off corresponds to the bank's classification of the debt, in whole or in part, as a loss asset under applicable regulatory standards.

ENCLOSURE 9: CORPORATE TAXATION QUESTIONNAIRE TO EU MEMBER STATES

Austria	
A. General tax regime applicable to banks	
General comments	
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1. Banks as well as other corporations are subject to unlimited taxation in Austria for their entire (domestic and foreign) income. The standard corporate income tax rate is 25% and applies to all corporations (including banks) regardless of whether they retain earnings or distribute them. There are no other CIT rates applicable. There is an obligation to pay minimum corporate income tax for every full calendar quarter for which unlimited tax liability obtains. The amount of minimum corporate income tax differs for banks compared to other corporations. The annual minimum corporate income tax is EUR 5,452 for banking institutions. The annual minimum corporate income tax for non financial institutions is EUR 1,750 for limited liability companies and EUR 3,500 for stock corporations. 2. No 3. Generally, the corporate income tax base for banks is computed in the same way as for other corporations. Different tax calculations can apply to banks as there exist e.g. different accounting rules for financial instruments and CIT generally follows accounting. 4. Banking services (e.g. interest income) are in general tax exempt from Value Added Tax (VAT) with the loss of VAT recovery. The basis for the levy for financing the chamber of commerce is calculated differently for banks in Austria. All companies and independent entrepreneurs, who are a member of the chamber of commerce, are subject to the levy. Basically the

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	levy rate is 3 % based on the amount of input tax accumulated by invoices received. This calculation is applicable for all non-financial institutes. Banks calculate their basis for this levy on the gross total of commissions and the net total of interest income (excluding foreign business). An Austrian bank operating through branches in other countries would be charged for the assets/derivative trades of whole legal entity, i.e. including the branches
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	1. The treatment is the same as for other companies. Banks may benefit from general tax relief rules like any other company (e.g. international participation exemption, etc). 2. Generally, in Austria there are no specific CFC anti-avoidance rules for the financial sector. In Austria, there are generally no specific thin cap rules in the strict sense but according to the Austrian Banking Act, a specific minimum equity is required for banks (according to Basel II). Are there special rules to avoid offshoring of profits? The treatment is the same as for other companies. In Austria, there are no specific rules to avoid offshoring of profits. In practice, however, the Austrian tax authorities try to prevent the offshoring of profits (e.g. regarding the forwarding of profits via offshore companies or the interposition of holding companies) by not recognizing such structures/constellations. 3. Generally, any financial company is covered by Austrian double tax agreements. However, some double tax agreements concluded by Austria provide for certain types of interest income generated by banks to be exempt from withholding tax or to be subject to a reduced withholding tax rate (e.g. DTT Thailand, Venezuela,

Austria	
	Turkey, Nepal, Ukraine, Iran, Romania, Algeria, Armenia, Cuba). Additionally, some double tax agreements concluded by Austria provide for loans of whatever kind granted, insured or guaranteed by the Oesterreichische Kontrollbank AG (the Austrian export credit agency) for purposes of promoting exports to be exempt from withholding tax or to be subject to a reduced withholding tax rate. 4. Generally, there are no specific rules for the taxation of subsidiaries and branches of banks. Generally, for branches of foreign banks working capital has to be attributed for taxation purposes only (e.g. based on the equity requirements imposed by the Austrian Banking Act) according to the OECD report on the attribution of profits to permanent establishments dated July 17, 2008. Transfer pricing issues with respect to affiliated companies/permanent establishments are treated according to the respective OECD guidelines. 5. Other specific tax regime applicable to banks: Bank Levy From 2011, banks in Austria are subject to a bank levy. The total levy imposed is divided into a levy imposed on capital assets (based on the unconsolidated balance sheet total) and a levy on derivative trades. All banks which are regarded as credit institutions under the Austrian Banking Act (Bankwesengesetz) are subject to those levies. Financial services institutions, like e.g. leasing companies and investment companies are therefore not in scope. Generally, Austrian branches of foreign banks are also subject to the bank levy. Generally, the tax on capital assets shall be calculated on a modified average unconsolidated balance sheet total according to Austrian GAAP. The applicable tax rate shall depend on the amount of the average unconsolidated balance sheet total: < EUR 1 billion: no bank levy (allowance) EUR 1 to 20 billion: 0,055% tax rate

Austria	
	> EUR 20 billion: 0,085% tax rate The balance sheet of 2010 is generally used for calculating the taxable base for the years 2011, 2012 and 2013. Starting 2014, the balance sheet total of the previous fiscal year shall be used. Concerning the levy on derivative trades, the law basically covers all derivatives including sold options, which are subject to a 0,013% tax based on their nominal value. There is no allowance for this levy. For the years 2011, 2012 and 2013 generally the average value of the fiscal year 2010 determines the tax base. Starting 2014 the average value of the previous fiscal year shall be used. The average value is calculated by using the quarterly values as of 31 March, 30 June, 30 September and 31 December. Those values have to be reported to the Austrian central bank. From 2011 to 2013 the tax base should only be adjusted and calculated according to previous year figures if the average balance sheet total and the average value of the derivatives change by 50 % or more. Banks have to self-assess the bank levy and need to make quarterly prepayments (first prepayment based on the 2010 balance sheet value was due on 31 January 2011). Additionally, an annual tax return has to be filed by 31 October of each year. Both types of bank levies are deductible for corporate income tax purposes. "Allowance" in this context means, that for banks whose modified average unconsolidated balance sheet is less than 1 billion euro no banking levy on capital assets accrues. For those whose modified average unconsolidated balance sheet is higher than 1 billion euro, 1 billion euro is exempt from banking levy on capital assets. Example 1: Calculation base for banking levy on capital assets is 300 million euro: no banking levy on balance sheet accrues. Example 2: Calculation base for banking levy on capital assets is 25 billion euro:

Austria	
	- 0 to 1 billion EUR: tax rate= 0; banking levy= 0 - 1 billion to 20 billion EUR: tax rate= 0,055%; banking levy= 10.450.000 EUR - 20billion to 25 billion EUR: tax rate= 0,085%; banking levy= 4.250.000 EUR - Total banking levy: 14.700.000 EUR
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	1. The treatment is the same as for other companies. Interest paid is generally regarded as expenses for tax purposes. Dividends paid are not regarded as expenses for tax purposes but as allocation of profits. 2. The treatment is the same as for other companies. Interest received is generally regarded as taxable income. Dividends received may be tax exempt according to the regulations for the national participation exemption and the international participation exemption. However, the international participation exemption according to Sec 10 para 2 ACITA does not apply to dividends/shares in profit, capital gains, capital losses and other changes in value under the following conditions. ▪ The foreign company's main business focus is to (directly or indirectly) generate interest income, income from leasing of tangible or intangible assets and income from the disposal of shares/shareholdings. ▪ The taxation of the foreign company's income is not comparable to Austrian regulations with respect to the tax rate and the calculation of the tax base. 3. Generally, Austrian withholding tax (KESt) on dividends is at a rate of 25 %. The treatment is the same as for other companies. Generally, Austrian withholding tax (KESt) has to be withheld by the distributing company from dividends distributed unless special regulations apply (national exemption from the obligation to withhold

Austria	
	KESt on dividends in the case of 10 % holding over a period of 1 year; exemption from the obligation to withhold KESt according to the parent – subsidiary directive in the case of 10 % holding over a period of 1 year ; relief at source from withholding tax according to Austrian double tax treaties). 4. The treatment depends on the specific financial product but generally on an accrual basis (e.g. for zero-coupon bonds interest is periodically accumulated and considered in the value of the bond). 5. Generally, withholding tax on interest is only due if interest is paid by the bank. However, there are many exceptions. According to Sec 94 chiffre 3a Austrian Income Tax Act, no withholding tax has to be deducted by the bank obligated to such withholding on interest income from cash deposits and other receivables against banks if the creditor of the income is a domestic or foreign bank. Additionally, no WHT on interest has to be deducted by the bank if the beneficiary is a corporation and a declaration is submitted to the bank proving that the beneficiary is a corporation. Interest paid to foreign beneficiaries should not be subject to Austrian WHT provided that the respective documentation of the tax status is provided (limited tax liability). In other words, In order to get exempt from WHT on interest payments, non-resident beneficiaries have to substantiate their "non-resident status" (so called: tax status) with appropriate documents (e.g. Resident registration form, passport). No
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	Generally, gains and losses on fixed assets are tax effective in Austria (= gains are taxable and losses are deductible)**.** The treatment for banks is generally the same as for any other company.

Austria	
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	1.Assumption: Government bill and trade bill within the meaning of bonds. According to Sec 56 Austrian banking Act the difference between acquisition costs and the higher redemption value of bonds and other fixed interest securities may be reported as profit on a pro-rata basis. For tax purposes, this difference is reported as taxable income on a pro rata basis. According to the Austrian banking act, the difference between higher acquisition costs and the lower redemption value is deductible immediately but the Austrian administrative high court ruled that this difference amount generally has to be deducted on a pro rata basis for tax purposes. 2. According to the Austrian banking act, if financial instruments (not reported as fixed assets) are reported at acquisition costs in the case of a higher market value, this has to be reported in the notes of the financial statements. For tax purposes only appreciations up to the acquisition costs are tax effective.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	(i) In Austria, there are no minimum requirements for general provisions. (ii) General valuation adjustments on securities and loans (see above – (i)) are not tax effective (=deductible) in Austria if they refer to general risks regarding receivables and credits or general risks regarding the banking sector without allocating these risks to specific receivables or credits (lump sum provisions). For individual provisions see (iv). (iii) See (ii) Tax deductibility of general provisions. (iv) From a tax perspective, only individual provisions are tax deductible. On the asset side of the balance sheet banks may create/report valuation adjustments

Austria	
	on securities and loans. (v) Tax deductibility of specific valuation adjustments is only granted by the Austrian tax authorities if (at balance sheet date) specific risks can be allocated to separate specific receivables and the repayment has been stopped. It must be expected that a specific receivable (very likely) will not be repaid completely. Such risks may exist if ▪ The agreed repayment terms neglected ▪ Credit instalments are not settled permanently/ continuously ▪ The debtor reports a poor financial situation or poor liquidity ▪ Exchange rate losses are sustained General risks with respect to the banking sector are covered by the (not tax effective) annual transfer to the unallocated risk reserve which is obligatory for banks. By ruling of the Austrian administrative high court the mere outstanding of repayments or account overdraft does not justify (tax effective) specific valuation adjustments. (vi) See (v) Tax deductibility of specific provisions.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	Yes. The treatment is the same as for other companies.

Austria	
H. Specific questions regarding banks	
2. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 3. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1. There are two provisions regarding discretion to under/over-state the book value of capital relating to Article 37 and 38 of the Directive 86/635/EEC: - Claims of credit institutions, securities except for those held as fixed assets or included in the trading portfolio, loans and advances to credit institutions as well as exposures to nonbanks may be recognised at a lower value than that which would result from the application of the provisions of the Commercial Code where necessary for reasons of prudence in light of the particular banking risks. The difference from the values which would be applied in accordance with the Commercial code must not exceed 4% of the total amount of the assets indicated. - Credit institutions may create a special item on the liability side of their balance sheets – "Fund for general banking risks" for the purpose of protection against general banking risks. This fund may include those amounts which the credit institution considers necessary to cover special banking risks for reasons of prudence. The credit institution must have unrestricted and immediate access to this fund for the purpose of offsetting losses. Both these accounting discretions are not tax deductible. 2. There are no differences for subsidiaries of non-domestic banks. The accounting practices mentioned under 1 are not applicable for branches of non-domestic banks.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	We are not aware of any information that actual practices differ from legal provisions.

Belgium	
A. General tax regime applicable to banks	
General comments	
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) The standard CIT rate is 33,99% (including 3% of "crisis contribution"). The same CIT rate generally applies to all taxpayers (including banks). There are no local corporate income taxes. 2) No. 3) No, the rules of computing the tax base are generally the same for banks as for other legal entities. Different tax calculations can apply to banks as there exists e.g. different accounting rules for financial instruments and CIT generally follows accounting. 4) No
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of	1) There are no specific tax reliefs applicable to banks. The same tax reliefs (e.g. the Notional interest deduction, the participation exemption regime, the exemption for capital gains on shares, etc….) are applicable for banks and standard companies, but it can not be excluded that banks, because of their activities and their Balance sheet/ revenue structure, do enjoy more than other players from these tax reliefs. 2) The anti-avoidance rules are generally the same for all taxpayers: - No general thin cap rules. However, a debt-equity ratio may apply in the following cases: ▪ 7/1 debt-equity ratio, if interest is paid to taxpayers benefiting from a tax regime more advantageous than the Belgian one on the income received and to the

Belgium	
banks?	extent certain limits are exceeded; ▪ 1/1 debt-equity ratio, if interest is paid to a director or a person exercising similar functions (foreign company) and to the extent certain limits are exceeded. - Belgian tax law provides for a limitation of the deductibility of interest in case such interest exceeds the amount corresponding to the market interest rate taking into account the circumstances of the transaction (i.e. the at arm's length interest). However, these rules are not applicable for banks (i.e. for interest paid by Belgian banks as well as for interest paid to Belgian banks) since it is assumed in such cases that the interest is necessarily at arm's length. - No CFC rule. There exists an anti-abuse provision for transfer of cash, securities etc to non-residents benefiting from a favourable income tax regime but this anti-abuse provision does not apply specifically for banks. - There are no special rules regarding offshoring specifically dedicated to banks. 3) Generally, there are no exclusions specified for banks from DTTs (which are therefore normally treaty entitled). Some DTTs concluded by Belgium provide for a WHT exemption on interest if the interest is paid with respect to loans granted by banks (except sometimes where such loans are represented by bearer instruments). 4) Subsidiaries are subject to taxation on the general principles. Branches of foreign banks are generally subject to taxation on the same principles, with some exceptions regarding their non-resident status.
C. Tax treatment of interest and dividends	
	1) General rules apply. Interest paid is treated as a tax deductible cost (under certain conditions). Dividends are paid out of net income (=allocation of profits). Therefore

Belgium	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	dividends distributed are not tax deductible for the taxpayer. 2) General rules apply. Interest received is treated as taxable revenue. Dividends received are fully taxable except if they qualify for the participation exemption regime. Under this regime, 95% of dividends received are exempt from CIT provided the following conditions are met: ▪ participation condition: 10% or acquisition value of 2.5 MEUR*; ▪ minimum holding period: one year (full ownership); ▪ shares booked as "financial fixed assets"; Please note that following a formal request of the European Commission, a draft bill is currently pending at the chamber of representatives in which it is suggested to eliminate this qualitative condition; ▪ subject-to-tax condition to be complied with in the hands of the distributing company. *Previously, some of these conditions were not applicable for dividends distributed to banks (e.g. the participation condition). This differentiated treatment, in favour of banks, has been recently removed so that banks are now subject to the same conditions as standard companies. 3) Dividends are generally subject to a 25% WHT (15% provided certain specific conditions are met). In addition this WHT can be (further) decreased following certain specific exemptions/reductions provided by Belgian internal law (further to the implementation of the EU Parent-Subsidiary Directive) and/or DTTs concluded by Belgium. Finally, as regards to WHT on dividend distributions, no immediate exemptions proper to banks come to mind as opposed to other companies.

Belgium	
	As a general principle, a 15% WHT has to be levied when an interest is "attributed" or "made payable" by a Belgian company (the notions "made payable" or "attributed" mean that the interest is available for immediate collection by the beneficiary even if such interest has not yet been actually paid to the latter). Banks generally benefit from WHT exemptions on interest received from receivables and from debt securities where a similar WHT exemption generally only applies for standard companies on interest arising from receivables, which means that they may enjoy in this respect a cash-flow advantage for debt securities. However, this advantage has to be mitigated in practice since other WHT exemptions may apply for standard companies (e.g. the so-called X/N regime). 4) From an accounting point of view, interest on advances and on debt securities of all kind are generally reported on an accrual basis. The tax treatment follows the accounting treatment, thus taxation upon accrual. 5) As mentioned above, the general Belgian WHT on interest payments amounts to 15%. The Belgian internal tax law as well as DTT concluded by Belgium provide for several reductions and/or exemptions in this respect. Please note that such reductions/exemptions generally depend on certain conditions such as amongst others the status of the debtor, the status of the beneficiary and the nature of the underlying financial instrument generating interest income. In this respect and as already mentioned above, the Belgian domestic law provides for specific exemptions in case the debtor and/or the beneficiary is a bank. For instance a WHT exemption is available in case of interest paid: - on loans by a Belgian credit institution to credit institutions established abroad; - on loans by professional investors (basically all Belgian corporate investors) to credit institutions established in, inter alia, the European Economic Area or in a country which has concluded a DTT with Belgium.

Belgium	
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	General rules apply to banks: Gains are in principle taxable and losses in principle tax deductible. However, certain assets may qualify, under conditions, for a roll-over relief (temporary neutralization) in case proceeds from the sale are reinvested in another qualifying asset. This roll-over relief is available for any taxpayer in Belgium and not only for Banks. Other roll-over reliefs (for instance in case of restructurings under certain conditions) are available for banks under the same conditions as for standard companies. Capital gains realized on the alienation of shares are (if certain conditions are fulfilled) fully exempt from Belgian CIT. This exemption, which is not only applicable for banks, only applies to the net gains. As far as a foreign shareholding is concerned, the exemption is granted with respect to shareholdings that meet the "subject-to tax condition" as described above. Capital losses incurred on a shareholding, both realized and unrealized, cannot be deducted, except for (realized) losses incurred upon liquidation of the company up to the amount of the loss of the paid-up share capital of that company.
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	1) In principle taxable as interest income on an accrual basis. 2) There are no specific tax rules for assets held for trading purposes. Generally, as they do not meet any conditions for tax exemption, their capital gains will be taxable and capital losses will be tax deductible. With respect to shares, provided that the subject-to-tax condition of the participation exemption regime is met, realized capital gains can be 100% tax exempted whereas losses are generally not tax deductible. These rules apply equally for banks and for standard companies. Nevertheless, it is worthwhile mentioning that banks may have to apply the markt-to-market method for these assets held for trading purposes where for standard companies the lower of cost

Belgium	
	or market method ("LoCoM") is generally applied. As a consequence, unrealized gains may have to be booked in P&L and are subject to CIT.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	(i), (ii), (iii) General provisions are not tax deductible. (iv), (v), (vi) Provisions for doubtful debtors are tax deductible provided certain conditions are met such as: ▪ The losses for which the provisions are accounted for must be deductible business losses and must only relate to specific receivables not represented by bonds or similar securities, either under nominative, bearer or dematerialised form; ▪ These losses must be individualized and clearly specified and the probability that the receivable will result in a loss must be clearly documented and result, for each receivable, from particular circumstances which have occurred during the taxable year. As a result, provisions reflecting a general risk are not acceptable. ▪ The provisions must have been accounted for at the end of the taxable period and their amounts must be included in one or more separate accounts; ▪ Certain specific reporting requirements need to be complied with.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	In principle yes. Please note however that this generally depends on the settlement of the stock option plan. Should a stock option – payment be equated with a capital loss on shares, such payment will in principle not be tax deductible. For any company (not only banks).

Belgium	
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1) The accounting practices do not allow banks to use accounting discretion to under/over-state the book of their equity value. However, there could be some flexibility for the accounting treatment of financial products in the absence of precise rules and CIT generally follows accounting. 2) For the sake of completeness, please be informed that in relation to the Belgian notional interest deduction ("NID"), a specific tax deduction based on a notional interest calculation, a circular letter has been issued by the Belgian tax authorities providing a different calculation of the net equity (the basis of the NID calculation) for branches as opposed to subsidiaries. In practice however we experience that the circular letter, which generally provides for a less favourable treatment for branches, is generally not applied.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	We have not identified any actual practices that defer from legal provisions.

Bulgaria	
A. General tax regime applicable to banks	
General comments	No bank levies in Bulgaria, no financial activities taxes. We are not aware of any such pending proposals. Generally, banks are treated the same as non-finance companies for tax purposes in Bulgaria expect for the following: ▪ The taxable base for non-finance companies is calculated on the basis of the accounting result under the applicable accounting standards (IFRS). For financial institutions if there is a difference between the accounting result under the IFRS and the accounting result under the regulatory framework, the result under the regulatory framework will be valid for tax purposes. The regulatory framework usually imposes more rigid requirements for impairments of receivables to financial institutions compared to the IFRS. This is not more advantageous (the regulatory framework is under the control of the Bulgarian National Bank which adopts regulations governing the activities of the banks). ▪ Financial companies are obliged to recognise for tax purposes expenses / income originating from revaluations of financial assets in the year when the accounting income / expense is recognised (for companies outside the financial sector such income / expenses are not recognised for tax purposes in the year when incurred but they form temporary tax differences which are reversible upon certain conditions in future years – e.g. disposal of the asset or receivable, termination of the debtor, expiry of statute of limitations, etc.). ▪ Financial companies are required to add back / deduct in their annual corporate income tax returns income/expenses originating from revaluation of financial assets and liabilities reported directly into equity. The idea is that the tax treatment for financial institutions should not depend on the accounting approach – thus movements of held for sale securities reflected into equity are

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	taxed in the year when incurred, though they do not have effect in the profit and loss account in this particular year. ▪ Interest expenses on banks are not subject to the thin capitalisation rules.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1 The Bulgarian CIT rate is 10% and is levied on the financial result of Bulgarian tax resident companies adjusted for tax purposes. The general CIT rate of 10% applies also for banks. There are no local taxes levied on income apart from CIT. The local taxes relate to possession of certain types of property or disposals with such property (e.g. real estate, vehicles, garbage collection fees) - they are the same for banks and other companies. 2 No, there is no special tax rate applicable for banks. 3 Yes. The main differences in the rules to compute the corporate tax base for banks as opposed to the rules applicable for the other companies described in Section A above, should be considered. 4 No, there is no turnover tax in Bulgaria.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits?	1 No, except for the following: ▪ Tax relief on bank interest income for individuals – individuals are exempt from personal tax on interest from EU banks. This merely concerns a personal income tax relief (no WHT, etc). ▪ Bulgaria implements the EU Interest and Royalties Directive. Bulgaria Accession Agreement to the EU provides that the Directive would be gradually

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3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	implemented in the local legislation. The Directive applies for banks as well. As of 1 January 2011 interest payments to EU affiliated entities is subject to a reduced withholding tax rate of 5% (the general interest withholding tax rate is 10%). The Directive could be applied for affiliated companies subject to certain conditions: e.g. 25% shareholding for at least 2 years. The Directive would be fully implemented as of 1 January 2015 when the interest withholding tax on interest income accrued to EU affiliated shareholders would be lowered down to zero. ▪ In the area of withholding tax, non-Bulgarian EU entities (including banks) are entitled to claim a reduction of the withholding tax paid on gross basis by taking into account the corresponding attributable expenses incurred for the realisation of the income (i.e. to be taxed as if local companies compared to the gross taxation for WHT purposes). Under these rules EU based companies which pay WHT in Bulgaria may opt to submit a tax claim requesting taxation on a net basis (e.g.. the EU based company may want Bulgaria to tax the spread between interest income and interest and all related costs with 10% corporate tax and any excess up to the paid WHT which is not credited abroad to be refunded to the applicant). This option does not provide for special advantages for banks, as it applies for all companies, including banks. The regime is new and no practices yet. The relief could be applied for income realised as from 2010 onwards. 2 No. Just the general anti-avoidance rules and transfer pricing. The Bulgarian TP legislation is generally based on the OECD guidelines, although they are not explicitly referred to in the law. Bulgarian legislation does not contain explicit TP documentation requirements. However, internal guidelines of the tax authorities indicate what TP documentation might be required in the course of a tax audit. Allowed TP methods include: the Comparable Uncontrolled Price, Resale Minus, Cost Plus, Transactional Net Profit Margin and Profit Split methods. The Advance Pricing Agreement procedure is not available. In case the bank has a transfer pricing

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	policy and supporting transfer pricing documentation, in case of a tax audit the Bulgaria revenue authorities are obliged to examine the prepared TP documentation first. 3 To the best of our knowledge the Bulgarian double tax agreements do not exclude financial companies. To the contrary some tax agreements provide more favourable conditions for banks – e.g. Belgium, Luxembourg, etc. For example, the double tax treaties with Belgium and Luxembourg provide for a maximum interest withholding tax rate of 10%, unless the interest derives from bank loans in which case the double tax treaty provides for 0% withholding tax. 4 No, subsidiaries and branches of banks are subject to the general tax regime applicable to all companies. If the subsidiary of a bank is a financial institution, the specific rules for banks as described in this paper would apply.
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third	1) Interest expenses are tax deductible unless restricted under the thin capitalisation rules (not applicable to banks) or transfer pricing considerations. The thin capitalisation regime does not apply to banks under the Bulgarian corporate income tax act – i.e. banks are in more favourable position than other companies in this respect as no limitations for interest deductibility apply to them. The aim of thin capitalisation restrictions is to restrict debt financing. The bank's business is to attract deposits – that's why no thin capitalisation restrictions apply. In addition, the tax deductibility of interest expenses could be restricted under the general anti-avoidance rules which apply for banks as well. Under these rules in case a transaction is effected in such a way so that the effect is tax avoidance, the tax result of the companies is adjusted as if the transaction was market based. The anti – avoidance rules apply to transactions between unrelated parties as well. Paid dividends are treated as distributed from the retained earnings. In addition, as

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party?	per the applicable legislative framework, banks are required to be joint stock companies (JSC). JSC may distribute dividends in case the net value of the bank's assets as per the audited financial statements plus the dividends to be distributed is not less than the amount of the registered capital plus the amounts of the Reserve funds and the other funds of the JSC. Dividend may be distributed to the amount of the retained earnings less current year and past years losses. Bulgaria has implemented the EU Parent Subsidiary Directive under which dividend distribution to EU shareholders is not subject to Bulgarian withholding tax. The Directive applies for banks as well. 2) No special regime applicable for banks. Interest income is treated as ordinary income subject to 10% CIT. Income from dividends distributed by Bulgarian/EU subsidiaries is exempt from CIT in Bulgaria. Outside this dividend is taxable at 10% CIT. 3) No special regime applicable for banks. Dividend income distributed by a Bulgarian bank to a Bulgarian / EU based shareholder is exempt from Bulgarian withholding tax. Double tax treaty relief may be applicable to dividends remitted to non-EU shareholders. 4) Interest on advances is generally subject to taxation upon accrual. The taxation of the interest on securities would depend on the specific kind of the security and should be estimated on a case by case basis. 5) Yes, interest paid to third non-resident recipients is subject to Bulgarian withholding tax at the rate of 10% (please note our comments on the EU Interest and Royalties directive in Section A2 above). No Bulgarian withholding tax is due in cases where a non-resident PE of a Bulgarian

Bulgaria	
	company pays interest to a third party.
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	1) Gains and losses from disposal of fixed assets are treated under the general rules – i.e. included in the annual financial result as ordinary business income. There is no separate taxation on capital gains on fixed assets. This regime applies to banks and other companies alike. Income and expenses on revaluation of fixed assets are not recognised for tax purposes in the year when the expense / income was accounted for (a temporary tax difference is created instead which is reversible upon certain conditions, e.g. disposal of the asset). Special rules apply to revaluation of financial instruments.
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	1) Amortised over the useful life of the instrument – here the tax treatment follows the accounting treatment. 2) Gains and losses from revaluation of assets held for trade are recognised for tax purposes in the year of reporting the respective gain/loss into equity.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	(i) Revaluations on doubtful debts for banks should be performed in accordance with the IRFS. The accounting expenses and gains from such revaluations are recognised for tax purposes in the same year. The Regulations of the Bulgarian National Bank provide for some minimum required provisions on bad debts but these provisions are for purely regulative purposes, they do not have a P&L effect and do not have a corresponding tax effect. These provisions do not appear in the books, that is why no question for tax deductibility.

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	(ii) Provisions on financial instruments are tax deductible in the year when the provision was made. (iii) No limitations for deductibility on general provisions – tax treatment follows accounting treatment. Thus general provisions are tax deductible. (iv) The Regulations of the Bulgarian National Bank provide for some specific provisions for banks for the purposes of their capital adequacy. These provisions however are intended for strictly regulative purposes and do not have an accounting (not accounted in the P&L of Banks) or tax implications. (v)The specific provisions required under the BNB Regulations do not have a tax effect (=are not deductible/taxable) and are strictly intended for regulative purposes. (vi)The specific provisions required under the BNB Regulations do not have a tax effect and are strictly intended for regulative purposes.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	Generally, if the proceeds from a stock option plan are administered through the local payroll the benefit is taxed with the applicable personal income tax rate (10%). The respective expenses on the proceeds accrued by the banks should be tax deductible. The same treatment applies as for non FS sector companies.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1) The applicable accounting practice does not allow banks to use discretion to understate or overstate the book value of capital. 2) The tax treatment is the same for both subsidiaries and branches of non-domestic banks, i.e. there is no difference in treatment.

Bulgaria	
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	To the best of our knowledge, there are no practices adopted that differ from legal provisions as far as taxation is concerned. The banking sector in Bulgaria is strictly regulated, henceno deviances from the legislative framework exist.

Cyprus	
A. General tax regime applicable to banks	
General comments	There are discussions ongoing at parliament level in respect of additional taxes/levies that could be imposed to banks. However, as the questionnaire refers to legislation until January 2011, and as such legislation has not yet been enacted, we have not included any comments in this respect.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) The standard tax rate of 10% on the taxable profits of the company is applicable to the banks in the same way as to other companies. There are no local taxes in Cyprus levied on the same type of income as the corporate income tax. There are local taxes applicable for banks as for all companies but as they are not applicable on corporate income they should be regarded to be outside the scope of this analysis. 2) No. 3) The corporate tax base is computed in the same manner as with other companies in other sectors 4) There is no turnover tax on gross interest.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements?	1) There is no specific tax relief available for banks. 2) There are no CFC or Thin Cap rules in the Cyprus tax legislation. 3) No. 4) The applicable legislation is the same for banks as for all other companies. Profits of permanent establishments of Cyprus companies located abroad may be exempt from Cyprus income tax subject to certain conditions (if these exemption criteria are not fulfilled, the profits are taxable in the same manner

Cyprus	
4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	as the remaining profits of the company, subject to double tax relief where applicable).
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	1) Same treatment of banks as for companies in other sectors: Under circumstances, interest received by a Cyprus tax resident is subject to a 10% Special Defence Contribution (SDC). Under certain circumstances, the payer of such interest has an obligation to withhold at source any relevant SDC and remit it to the authorities. Banks are considered to be subject to such withholding requirements. Thus, interest paid by banks to Cyprus tax resident individuals and bank deposit interest paid to Cyprus tax resident companies is in general subject to withholding of SDC by the banks and paid to the authorities. Dividends paid to Cyprus tax resident individuals are subject to a 15% SDC. As for all other companies, when the bank pays such dividend it has an obligation to withhold such tax and pay it to the authorities. Companies tax resident in Cyprus (including banks) which do not distribute 70% of their profits after tax, as defined by the SDC legislation, during the two years after the end of the year of assessment to which the profits refer, will be deemed to have distributed this amount as a dividend. The DC at 15% will be payable on such deemed dividend to the extent that the shareholders (individuals and companies) at the end of the period of two years, from the end of the year of assessment to which the profits refer are Cyprus tax residents. The amount of this deemed dividend distribution is reduced by any actual dividend paid out of the profits of the relevant year at

Cyprus	
	any time within the two years. 2) Same treatment of banks as for companies in other sectors: Interest received accruing from ordinary (or closely related to its ordinary activities) of the taxpayer is considered as "active interest". Otherwise it is considered as passive interest. Active interest is taxed under corporation tax at the rate of 10%, after deduction of expenses wholly and exclusively incurred for the generation of the income. Passive interest is subject to Special Contribution for Defence (SDC) at the rate of 10% on the gross interest. SDC of 10% may be applicable under circumstances on interest payments to Cyprus tax resident companies and individuals. The banks have an obligation to withhold such SDC in respect of interest payable to Cyprus tax residents (in the event that the interest paid is subject to SDC). The legislation is the same as for all companies. However, according to a circular issued by the tax authorities, it is considered that all of the bank's interest income arises from its ordinary activities, and hence it is considered as active interest. Dividends received **from a Cyprus tax resident company** are exempt from income tax and SDC. Dividends received **from a non-Cyprus tax resident company** are exempt from income tax. They are also exempt from SDC provided that **either:**

Cyprus	
	▪ the dividend paying company engages directly or indirectly at least 50% in activities which emanate from non investment income (i.e. active income) **or** ▪ the foreign tax burden on the income of the company paying the dividend is not substantially lower than the tax burden of a company resident in Cyprus (taken to be not lower than 5%). Otherwise it will be subject to a, SDC at 15%. Credit may be available for any foreign tax that has been suffered on the same income against SDC (as explained earlier in the appendix). A tax credit is also available for underlying tax for dividends either from companies tax resident in EU Member States or where the double tax treaty provides so. 3) There is no WHT in Cyprus - except for dividends paid to individual Cyprus tax residents only and deemed distributions (refer to A.3.1 above). There is no withholding tax on dividends paid by Cyprus tax resident entities (including banks) to non residents. In addition there is no withholding tax on dividends payable to companies tax resident in Cyprus. There is a 15% Special Defence Contribution (SDC) payable for dividends received by individuals tax resident in Cyprus. As for all companies tax resident in Cyprus, if a bank resident in Cyprus pays dividends to Cyprus tax resident individuals, it has an obligation to withhold and pay this tax to the authorities. 4) Same treatment of banks as for companies in other sectors: In principle, interest income of banks resulting from advances or interest yielding securities is taxed on an accruals basis. 5) This is not applicable. There is no withholding tax on interest paid by

Cyprus	
	Cyprus tax resident entities (including banks) to non residents.
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	Same treatment of banks as for companies in other sectors: If the fixed assets are used by the business, they could be eligible to a "Wear and Tear" allowance. Upon disposal, there is a balancing addition (taxed at 10%) at an amount equal to: the lower of [a) initial cost and b) proceeds] - tax written down value. If the amount is negative, then a balancing deduction is available. If the fixed asset is not eligible for "Wear and Tear" allowances, then a gain is not taxable and aloss is not deductible.
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	Same treatment of banks as for companies in other sectors: There is no specific provision in the legislation in relation to the taxation of a discount on the purchase of interest yielding assets. In general, the discount effect (if it is considered to be a discount due to market conditions as opposed to a discount due to circumstances that may cause the discount to be perceived as being of a capital nature) is expected to be considered to be released over the period that the asset is held and taxed as interest. Interest income generated from such assets is taxable (see above on taxation of interest income). Gains or losses on trading assets are in general respectively taxable/deductible unless the trading assets are qualifying "titles" in which case any gain is exempt (and as per the interpretation of the authorities any loss not deductible). Qualifying titles include shares, bonds, debentures, founder's shares other

Cyprus	
	corporate titles and rights thereon. As per the recent circular issued by the authorities the list of titles also includes: preference shares, short positions, swaps, GDRs, ADRs, index participations, futures and forwards on titles units in open ended or close ended collective investment schemes (Investment Funds, Investment Trusts, Unit Trusts, Real Estate Investment Trusts, International Collective Investment Schemes, Undertakings for Collective Investments in Transferable Securities ….).participations in companies andRights of claim on bonds and debentures.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	Same treatment of banks as for companies in other sectors: Bad or doubtful debts are tax deductible provided that the Commissioner is satisfied that the Bank has taken all satisfactory measures for the collection of the loan (there is no specific provision in the legislation of what "satisfactory" measures encloses and thus it depends on the specifics of each case, i.e. certain cases the Commissioner may request that a legal action is taken against the debtor in order to grant the deduction). (i) No (ii) General provisions are not deductible. (iii) Not applicable, general provisions are not deductible. (iv) Specific provisions are not completely discretionary. The IFRS results of a company are the basis on which tax adjustments are made, the basis of the provision is in general expected to be satisfactory for IFRS. Whether or not the said provision is deductible, refer to (1) above. (v) Specific provisions are deductible subject to (1) above. (vi) No limitations are applicable, but the Commissioner may consider

Cyprus	
	whether specific provisions are excessive and seek to disallow a part of or the entire provision.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	Same treatment of banks as for companies in other sectors: Based on the law, any expenses incurred wholly and exclusively for the generation of the income of a company are tax deductible. Real expenses/costs related to a stock option plan are tax deductible. Certain principles in relation to the deductibility of such expenses are set out in a relevant tax circular.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1) Same treatment of banks as for companies in other sectors.Banks (as all companies that are tax resident in Cyprus) are required to prepare financial statements in accordance with IFRS as adopted by the European Union and the requirements of the Cyprus Companies Law. Therefore, a discretion or flexibility needs to be applicable within IFRS as adopted by the EU framework. 2) On the understanding that the branches form permanent establishments, there are no differences in applicable provisions..
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	Same treatment of banks as for companies in other sectors: Based on the law, any gains on titles are not taxable. The legislation is silent in relation to losses, however the practice followed by the tax authorities is that they are not deductible.

Czech Republic	
A. General tax regime applicable to banks	
General comments	There is nospecial bank levy or any Financial Activities Tax levied on banks in the Czech Republic. Till this moment, there are no proposals in this respect and we are not aware of any Government intentions in this area.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1. Banks are, like other entities, subject to a Czech corporate income tax at the general tax rate of 19%. No local or other taxes are imposed on banks activities, as is also the case for other sectors of activities. 2. No. 3. The rules for computing the tax base are generally the same as for other companies. Nevertheless, certain differences may occur (e.g., thin capitalisation rules, Banking Reserves and Provisions). 4. No.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	1) There are specific rules for thin capitalisation applied for banks' interest cost. The thin cap rules are not designed as an anti-avoidance measure, but they are applied as a general measure against tax base erosion. Interest and other financial costs related to the credits and loans received from a related party which exceed six times the equity of the bank are considered to be tax non-deductible expenses. Under Czech tax rules there are no special thin capitalisation rules for taxpayers with preferential tax regimes. If interest paid to a related party in the non-EEA country exceeds six times the equity of the bank, those interests are for Czech tax purposes reclassified as dividends, unless the relevant double tax treaty does not "switch" the classification back to "interest". 2) No. The thin capitalisation rules applicable for banks and insurance companies

Czech Republic	
	provide for a debt/equity ratio of 6:1, whereas for other companies this ratio is set at i 4:1. 3) No. 4) No. There could however be certain differences between taxation of subsidiaries and branches stemming from legal characteristics of branches. There are also difficulties for branches with attribution of the equity for thin capitalisation purposes.
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	1) Tax treatment of paid dividends and interest is the same as for other companies.There is withholding tax on outbound dividends and interest, unless there is an exemption under the EU Directives or under the applicable double tax treaty. 2) Tax treatment of received dividends and interest is the same as for other companies. This is a self-assessed tax in an annual corporate income tax declaration (inbound dividends from abroad are taxed in a separate tax base at 15% (credit available only from treaty countries), while inbound interest is taxed in the standard corporate tax base. Inbound dividends from EU countries and also from third countries are under certain conditions similar to those defined by the Parent-Subsidiary Directive, exempt from corporate taxation. In case of inbound interest, there is no tax exemption possible (Interest-Royalties Directive will be applied only for withholding tax in cases of outbound interest under the conditions set by the Directive). 3) Dividends paid to residents and also to non-residents tax payers are subject to a 15% final withholding tax unless there is a participation exemption applicable under the Parent-Subsidiary Directive or the rate is decreased based on the double tax treaty. 4) Interest income of non-residents may be considered taxable income in the Czech Republic based on the cash-flow (instead of accrual basis as in case of tax residents – accounting (and tax) treatment is close to IAS 39).

Czech Republic	
	5) Yes, a WHT is due when it is paid to individuals or foreign corporations (a tax treaty, if applicable, can alter the tax treatment stipulated by Czech tax law). A Czech permanent establishment is responsible for the correct application of the WHT on interest paid abroad. In case of a Head-Office situated in the Czech Republic, the foreign branch of the Czech bank is responsible for the correct withholding.However, in case the WHT has not been properly withheld, this will have a a direct effect in the books of the Head-Office as the Head-Office and the foreign branch are one entity.
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	Under the Czech Income Taxes Act, gains on fixed assets enter the general tax base for tax residents (banks and also the other corporate tax payers). For non-residents, income from the sale of assets is considered to be Czech-source income subject to corporate income tax. Tax non-residents are obliged to file a corporate income tax return and tax the gain at the 19% standard corporate income tax rate. The Czech tax rules may be overruled by the applicable double tax treaty. Losses on fixed assets may be claimed in the tax return towards other income coming from the Czech Republic during the taxable period.
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	1. Taxpayers keeping Czech double-entry accounting records follow the accounting rules and they are taxed in the corporate tax base. 2. Changes in the fair value of assets held for trading purposes are recognised in the P&L account. They are also relevant for tax purposes (taxed in the corporate tax base).
F. Tax treatment of bad or doubtful debts on advances and loans	
	(i), (iii) Under the Czech Income Taxes Act and the Act on Reserves, for the purposes of computing the income tax base, there are special tax rules for creation of bank provisions against non-statute-barred receivables from credits. General provisions are

Czech Republic	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	not allowed. The balance of provisions should be allocated to particular receivables. (ii), (vi) Provisions created under the accounting rules are not tax deductible, unless they meet the below criteria. There are special rules defined for banks. In a taxable period, the total amount of creation of provisions may not exceed 2% of the average balance sheet value of non-statute-barred receivables relating to principal and interest from credits. For the purposes of creating provisions , a receivable from a credit means a receivable relating to principal and interest if ▪ it arose from credit granted by a bank to a person that is not a bank, or ▪ receivable from fulfilment of a bank guarantee which concerns a person from another EU Member State and the contract was concluded as a credit contract or a contract on bank guarantee under the EU state legislation ▪ provisions have to be individualised, i.e. assigned to a particular debt (but the percentage of assigned provision covering a receivable in the given year may be up to 100% of the receivable (loan+ interest)) (iv) Yes – there is an option to claim a certain amount of accounted provisions as tax-deductible. If the criteria for creation of tax provisions are not met or the bank decides not to claim provisions for tax purposes, then the provisions are not-deductible (at release not-taxable). (v) Tax provisions can only be createdas specific provisions to a particular receivable.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	Employee stock options are considered to be employment (taxable) income for particular employees and a deductible (payroll) expense. The income is determined upon the exercise of an option as the difference between the fair market value of

Czech Republic	
	granted securities and their strike price.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1. Czech GAAP for banks is very similar to IFRS. Judgement is needed to prepare proper financial statements, but the framework is not considered more susceptible to capital manipulation than IFRS. 2. No, as long as the bank is an accounting entity under the Czech accounting rules.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	Not aware of any.

Denmark	
A. General tax regime applicable to banks	
General comments	No bank levy applicable and no Financial Activities Tax. There are no pending proposals in this respect. Please note that Danish banks are required to pay a payroll tax. The tax is calculated as 10,5% of the payroll total. The payroll tax is deductible in the corporate income tax. Payroll tax is in general applicable for all entities performing economic activity not subject to VAT. However, some exceptions may apply i.e. social aid, artistic activity, sale of real estate. There are four different methods for calculating the payroll tax depending on the nature of the VAT exempt activity, where one specific method (10,5 % of the total payroll) is applied in the financial sector. The tax is paid by the bank/financial institution and is due each month on the 15th day following the month.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) The CIT rate of 25% applies to the financial sector and non-financial sector. Denmark does not apply local taxes. 2) No 3) The computation of the tax base does generally not differ from other sectors. 4) No
B. Specific tax regime applicable to banks	
	1) No.

Denmark	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	2) CFC applies to both financial and non-financial sectors. However banks can be granted dispensation from the Danish tax authorities to not include CFC-income from Danish and foreign subsidiaries and branches in the Danish income. A permit is needed from the Danish Tax Assessment Committee. In order to qualify the following conditions must be met: It must concerne subsidiary of company with a license to be a financial company and subject to public supervision; A substantial part of the income must arise from customers (not affiliated) in the company's country of residence; The subsidiary's capital base must not exceed what is usual to operate the subsidiary; Any WHT dividends must be lowered or exempted due to the interest/royalty directive or a double tax treaty. The dispensation is applicable for financial companies (which comply with the above requirements) which are not regarded as a controlled financial company and as a result the company should not be taxed in Denmark as a result of the Danish CFC rules. Banks are in general not comprised by the Danish deductibility limitation of interest expense rules. The Danish interest deduction limitation rules are rather complex. However, on an overall basis the rules were introduced in order to prevent companies (in particular companies/Groups controlled by private equity funds) from avoiding paying taxes in Denmark due to large interest payments on loans. For the financial sector interest income and payments are in general not regarded as financial income/expenses under the Danish interest deduction limitation, but merely as "trading" income. As a result companies in the financial sector are in general not comprised by the rules.

Denmark	
	3) No. 4) No, see above under item 2
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	1: No special rules: Interest is in general deductible (however limitation of deductibility may arise due to Danish deductibility limitation of interest expense rules). Dividends paid are notdeductible. 2: No special rules: Interest received is in general taxed. Dividend received from subsidiaries (e.g. ownership of at least 10% for companies within EU) are nottaxable, while dividends received from portfolio-shares (<10%) are taxed. 3: WHT is levied on dividends which do not qualify for an exemption under the Parent-Subsidiary Directive. The WHT may be reduced if recipient qualifies for relief under a DTT. 4: Mark-to-market principle 5: In general there are no WHT on interest paid to third-party banks. WHT is not levied on interest payments to third parties. WHT can be levied on interest payments on controlled debt from affiliated companies (subject to exemption or reduction if receiving company qualify under DTT or directive).
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	1) No special rules. Gains and losses are in general respectively taxable/deductible. However some losses may only be utilized against gains from a similar source, e.g. losses due to sale of real estate can only be utilized against gains from sale of real estate.

Denmark	
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	1) We assume that government bills are to be understood as government bonds. Based on this assumption; Denmark does not grant discounts on government bonds, trade bills or other instruments. If a Danish company invests in government bills issued by other EU countries the bill would be treated as claim against the EU country. From a Danish tax point a claim held by a company in the financial sector would be taxable according to a mark-to-market principle. However, the tax may be reduced or exempted according to a DTT (we have no knowledge of any DTT with EU countries which exempt or reduce tax on interest on foreign government bonds) 2) Generally, the mark-to-market principle would apply. Gains are taxable and losses deductible
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	1) Banks are allowed to treat provisions for tax purposes in accordance with the Company's current accounting principles. In general tax treatment follows accounting treatment. However, the Danish tax authorities may not accept that the provision as being deductible if the loss on the underlying asset would not be deductible according to Danish tax law. (i) No (ii) Yes. (iii) Only if losses would not be tax deductible at realisation (iv) No (v) No

Denmark	
	(vi) Same as iii)
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	For stock options plans with an element of tax payments postponement and beneficial taxation for the employees, the stock option plan would in general not be tax deductible for the Company. The same treatment applies to FS- and non-FS companies. However, FS companies that have qualified to receive financial aid (act no. 67 of 3 February 2009) from the government following the financial crisis can only deduct 50% of wage to company executives. Companies can choose which stock options plans to use (of which some are tax deductible).
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1) Yes, interpretation relating to impairment is possible which has a direct impact on the underlying balance sheet assets. Impairments related to loans are in general treated identical from an accounting and a tax perspective. 2) No
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	We have no knowledge or experience with actual practices differing from legal provisions in Denmark.

Estonia	
A. General tax regime applicable to banks	
General comments	There is no bank levy applicable in Estonia, no Financial Activities Tax and no (pending) proposals in this respect
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) Under the existing Estonian corporate tax regime, any undistributed profits are exempt from corporate taxation, until the company makes an actual or hidden profit distributions. Actual profit distributions include dividends, share buy-backs, capital reductions and liquidation proceeds. Hidden profit distributions include transfer pricing adjustments, expenses and payments that do not have a business purpose, fringe benefits, gifts, donations and business entertainment expenses (exceeding established limits). Thus, the 21% corporate tax is deferred until the distribution of profits. There is no local corporate tax or other surcharge on corporate profits. 2) There is no special tax rate for banks. 3) There are no specific tax rules for banks. For all sectors, distributable profits are determined by financial statements drawn up in accordance with IAS/IFRS and there is no adjustment of accounting profits for tax purposes. 4) There are no turnover taxes on gross interest and other income of banks, as Estonia follows the principles of EU VAT Directive, under which the financial services are generally VAT exempt supply.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial	1) There are no specific corporate tax relief rules for specific items of income, such as interest income. 2) There are no CFC or thin capitalization rules for companies. Some specific anti-avoidance rules are different to the banks. For example, the list of payments which are deemed not to be related to business for other sectors (but

Estonia	
sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	not to banks) includes the following: ▪ acquisition of property not related to business; ▪ acquisition of securities issued by a legal person located in a low-tax territory, unless such securities meet the requirements specified in subsection 257 (1) of the Investment Funds Act; ▪ acquisition of a holding in a legal person located in a low-tax territory; ▪ payment of a fine for delay or a contractual penalty, or extra-judicial compensation for damage, to a legal person located in a low-tax territory; ▪ grant of a loan or making of an advance payment to a legal person located in a low- tax territory or acquisition of a right of claim against a legal person located in a low-tax territory in any other manner. The above payments are subject to monthly 21/79 corporate tax by companies of other sectors, but not by resident credit institutions, to which a following separate set of rules applies (Article 52 (3) of the Income Tax Act). Resident credit institutions pay 21/79 monthly income tax on the following payments and losses, unless income tax has been withheld on such payments and losses or 21/79 income tax has been paid according to provisions of Articles 48-51 of the Income Tax Act: ▪ acquisition of property not related to business; ▪ acquisition of securities issued by a legal person located in a low-tax territory, unless such securities meet the requirements specified in subsection 257 (1) of the Investment Funds Act; ▪ payment of a fine for delay or a contractual penalty, or extra-judicial

Estonia	
	compensation for damage, to a legal person located in a low-tax territory, unless such payments are made to a credit or financial institution which according to the law of its country of location meets the requirements for similar institutions equal to Estonian credit or financial institutions; ▪ losses incurred by a credit institution when it transfers a right of claim or waives the collection of a right of claim (including loans granted and advance payments made) acquired against a legal person located in a low-tax territory. 3) There are no provisions, under which some types of financial companies could be excluded from double-tax agreements. 4) There are no specific tax rules for subsidiaries and branches of banks. For banks, distributable profits are determined by financial statements drawn up in accordance with IAS/IFRS and there is no adjustment of accounting profits for tax purposes.
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of	1) Interest paid by all companies is generally "tax deductible", taking into account that in the absence of thin capitalization rules and with the exemption for undistributed profits there is no adjustment of corporate profits for tax purposes (= distributable profits are determined by financial statements drawn up in accordance with Estonian GAAP or IAS/IFRS and there is no adjustment of accounting profits for tax purposes.) The Estonian source taxable income of the non-resident does not include arm's length interest, regardless of the type of the underlying financial instrument. Under the domestic law the arm's-length interest paid to non-residents is not subject to any WHT.

Estonia	
the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	However, the excessive interest which significantly exceeds the arm's length interest at the time of granting the loan and the repayment of the loan is deemed to be Estonian source taxable income of the non-resident. In case of non-arm's length interest, the difference between the excessive and the arm's length interest is subject to a 21% WHT at source. Profits distributed as dividends trigger a deferred corporate income tax charge amounting to 21/79 of the net amount of the profit distribution. This is a grossed-up rate and provides the same result as if a 21% tax had been imposed on the gross income. For example, if in 2011 the company has profits available 100, then it can distribute as dividends 79 to its shareholder and must pay 21 as a monthly corporate tax upon distribution. This tax is regarded as a deferred corporate tax and not a withholding tax, so the tax rate of this distribution tax is not affected by double tax treaties. The corporate income tax liability associated with the distribution of dividends is accounted for as an expense at the time the dividends are declared, regardless of when the profits were generated or distributed. 2) Interest received is included in the corporate profits of the company, but such profits (like other types of profits and gains) are not subject to any corporate tax, until the company makes any distributions. Dividends received are included in the corporate profits of the company, but such profits (like other types of profits and gains) are not subject to any corporate tax, until the company makes any distributions. However, under the participation exemption rule, dividends distributed by companies are exempt from 21/79 corporate income tax if the distributions are paid out of: ▪ dividends received from Estonian, EU, European Economic Area (EEA)

Estonia	
	and Swiss tax resident companies (except tax haven companies) in which the Estonian company has at least a 10% shareholding; ▪ profits attributable to a permanent establishment (PE) in EU, EEA or Switzerland; ▪ dividends received from all other foreign companies in which the Estonian company (except tax haven companies) has at least a 10% shareholding, provided that either the underlying profits have been subject to foreign tax or if foreign income tax was withheld from dividends received; or ▪ profits attributable to a foreign PE in all other countries provided that such profits have been subject to tax in the country of the PE. Estonian participation exemption rules do not include any trading/fixed asset test. The main criteria is 10% participation in the shares or voting power of the other EU, Swiss or EEA company. 3) Under the Estonian domestic law, there is no WHT on dividend distributions to non-resident shareholders (regardless of their participation level in the Estonian company). There is also no WHT on dividends paid to tax haven entities. 4) The interest on advances and all securities must be accounted in accordance with IAS/IFRS. There are no specific rules on the tax treatment of such items. 5) Under the domestic law, the Estonian source taxable income of the non-resident does not include arm's length interest. However, the excessive interest which significantly exceeds the arm's length interest at the time of granting the loan and at the time of the payment of the interest is deemed to be Estonian source taxable income of the non-resident. Repayment of the loan is not subject to any WHT. This criteria applies to the time when arm's-length nature

Estonia	
	of the interest is determined. In case of non-arm's length interest, the difference between the excessive and the arm's length interest is subject to 21% withholding tax at source. Under the domestic law, only the excessive interest is subject to 21% WHT and there is no WHT on normal arm's-length interest paid to non-residents. Under the domestic law, dividends paid to non-residents and residents are not subject to any WHT. Thus, the WHT is due for excessive part of interest payments, including the payments paid to third parties by the head office situated in Estonia or by the Estonian branch of the foreign bank. There will be no WHT by the head office, if its foreign branch (situated abroad) pays non-arm's length interest to a third party.
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	Any gains are included in the corporate profits of the company, but these are not subject to the corporate tax, until the company makes any distribution of profits. There is no adjustment of accounting profits for net operating losses for tax purposes. Distributable profits are determined based on financial statements drawn up in accordance with IAS/IFRS. There are no specific rules on the tax treatment of gains and losses on fixed assets.
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	1) The financial practices/instruments must be accounted in accordance with IAS/IFRS. There are no specific rules on the tax treatment of such items. 2) The assets held for trading purposes must be accounted in accordance with IAS/IFRS. There are no specific rules on the tax treatment of such items.

Estonia	
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	The bad or doubtful debts on advances and loans must be accounted in accordance with IAS/IFRS. There are no specific rules on the tax treatment of such items. Thus, general and specific provisions are tax exempt – which is logic since no taxation unless distribution (whatever the amount and the justification).
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	As there is no annual taxation of net corporate profits, there is no "tax deduction" in its classical meaning. Stock option plans qualifying for an exemption from fringe benefit taxation upon the exercise at the level of the employer are "deductible" (i.e. not subject to monthly taxation). As described above, notwithstanding the fact that undistributed corporate profits are tax exempt in Estonia, certain payments and expenses are deemed to be hidden profit distributions, which are triggering monthly taxation. Non-qualifying stock option plans are subject to monthly fringe benefit taxation at the level of the local employer, whereas the total fringe benefit tax burden for the local employer would be approximately 68% of the value of the benefit received by employees. There is no corporate taxation, if the company will not make any profit distributions in form of dividends or hidden profit distributions during these 5 years. Such deferral of corporate taxation is not limited in time. The monthly income tax is triggered at the moment of making the profit distributions. It remains unclear for us whether at least 3-year vesting period for the exemption of fringe benefit taxes on the level of the local employer in itself

Estonia	
	can be considered as a condition for deductibility in the context of this section.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1) No. 2) There are no differences in the provisions applicable to subsidiaries and branches of non-domestic banks.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	Under the information available, for all the above questions the actual practices should not differ from legal provisions.

Finland	
A. General tax regime applicable to banks	
General comments	In Finland there is no bank levy or any Financial Activities Tax. There are no pending proposals in this respect, either.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1)The corporate income tax rate for banks does not differ from the general corporate income tax rate (26%).There are no local taxes in Finland 2) No special tax rates are available for banks. 3) Generally not but there are a few exceptions with regard to e.g.: ▪ group contribution regime (which is not applicable to banks). Group contribution regime enables Finnish resident group companies to even out their taxable profits and losses. A group contribution is tax deductible expense for the payer and taxable income for the recipient company for the tax year during which is has been given and received provided that certain specific requirements are met. Group contribution regime is not applicable to financial and credit institutions. The non-availability of the group contribution regime is disadvantageous for the financial and credit institutions. ▪ tax deductibility of general doubtful debt provision (which is applicable only to depository banks and credit institutions); ▪ taxation of unrealized gains and losses on certain financial instruments and investments recognized as income/expense in the accounts of banks and finance institutions according to Sec. 151 of the Law on Finance Institutions, Banks and Finance institution or in accordance with the international accounting standards meant in the Article 1 of Chapter 7a of the of the Finnish Bookkeeping Act, and ▪ tax deductibility of statutory payments e.g. to the Deposit Insurance Fund defined in the Law on Credit Institutions or the Investors' Compensation Fund

Finland	
	defined in the Law on Finance Institutions, Banks and Finance institutions. Apart from items a) and d), these rules are described in more detail below). 4) No differences in the regulations compared to other companies. There are no specific turnover taxes applicable to banks.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	1) No specific tax relief rules are applicable to banks. 2) There are no specific anti-avoidance rules or rules to avoid offshoring of profits for banks. 3) Generally no. Majority of double tax treaties concluded by Finland are based on the OECD Model Convention. 4) In principle there are no specific rules for the taxation of subsidiaries or branches of banks.
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)?	1) There are no differences with respect to corporate income tax treatment of dividends or interest paid by banks compared to other companies. We confirm that interests paid by banks are tax deductible and dividends paid by banks are non-deductible according to normal rules. Taxation of dividends received by banks from shares belonging to investment assets differs from the tax treatment of other companies. Please refer to our answer for

Finland	
4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	question A.3.2. **2)Interest income** There are no differences as regards of taxation of interest received compared to other companies. Interest received by banks is taxable. **Dividends received** Taxation of dividends received by banks slightly differ from the tax treatment of other companies e.g. in case the dividends are received from shares belonging to investment assets of the bank as only financial, insurance and pension institutions may have investment assets. Investment assets comprise e.g. securities and participations if they have the nature of a long-term investment or investment security. Dividends from shares belonging to investment assets are 75% taxable income instead of being tax-exempt. This was a compromise between alternative legislative solutions. However, if the recipient company holds directly at least 10% of the capital of a non-Finnish resident distributing company and the distributing company is mentioned in the EU Parent-Subsidiary Directive, the dividend is tax-exempt. Further, dividends received by a cooperative bank from a commercial bank operating as a central financial institution of the cooperative banks is tax-exempt income 3) There are no differences in WHT treatment of dividends received by banks compared to other companies. WHT levied in accordance with an applicable tax treaty is normally credited against the corporate income tax payable in Finland over the same period (unless the income is exempted according to the treaty/domestic tax legislation) in accordance with the Finnish Act on Elimination of International Double Taxation. The amount of tax credited is limited to the amount of tax payable

Finland	
	in Finland. The maximum credit is calculated based on source of income (business income, other income or agricultural income). If not all the tax paid in a foreign state can be credited (for example if the company is not in a tax paying position due to a loss or deduction of carry forward tax losses) the amount of tax which remains uncredited is deducted in the following five tax years from the tax on income derived from the same source of income. 4) Generally interest income (including interest on advances and on securities) is allocable on an accrual basis. There are no differences compared to other companies. 5) Pursuant to Finnish domestic law Finnish source interest paid by Finnish resident depositary bank or Finnish branch of a foreign financial institution to a Finnish resident individual or decedent's estate on bank account deposits and from certain bonds offered to the public for subscription is subject to interest WHT at a rate of 28%. Interest is regarded as Finnish source if the debtor is e.g. a Finnish resident corporate body. Generally, no WHT is levied on interest paid to non-residents unless the debt is regarded equivalent to equity. As a foreign branch of a Finnish resident bank is legally part of the bank, it could be argued that interest paid by a foreign branch of a Finnish resident depository bank on qualified bank account deposits and bonds to Finnish resident individuals or decedent's estates would be subject to the Finnish interest WHT pursuant to domestic tax rules. If interest is paid to a non Finnish third party, it would not be subject to the Finnish interest WHT pursuant to domestic tax rules.

Finland	
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	Generally, there are no differences compared to the tax treatment of other companies. Please note, however, that only cooperative banks, savings-banks and banks established as limited liability companies can be entitled to capital gains tax-exemption on fixed assets shares (belonging to business assets). Capital gains from selling fixed asset shares belonging to business source income are tax exempt, if the following conditions are met: 1) The shares have been continuously owned for at least one year in a period of time that has ended not more than one year before the sale, and 2) The ownership share in the company whose shares are sold is at least 10 %, and 3) The company whose shares are sold is a resident in Finland or another EU Member State, or in a tax treaty country, and 4) The company whose shares are sold is not a real estate company, or a company, whose activities consist mainly of owning and holding real estates, 5) The company selling the shares is not a company carrying out private equity activities (as defined by BITA). Rules concerning tax exempt capital gains are applicable to limited liability companies, cooperative associations, savings-banks, and banks established as limited liability companies and mutual insurance companies provided that the above-mentioned criteria are met. Please note that there are, however, some exceptions to the above main rule. If the conditions set above are not met the gain is taxable income as normal business income (unless regarded as income from other source).

Finland	
E. Tax treatment of some financial practices/instruments	
2. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 3. How are assets held for trading purposes treated for tax purposes?	1) No differences with regard to tax treatment of these instruments compared to other companies. 2) Generally, the tax treatment of assets held for trading purposes is similar for banks and other companies. According to the Government Proposal HE 176/2008 concerning the relevant tax provisions, financial instrument is regarded as being held for trading purposes, if it is not subject to hedge accounting effectively meeting the conditions set out in IAS 39. In addition to the above, unrealized gains and losses on ▪ financial instruments valued at fair market value on the basis of fair market value option and ▪ financial instruments that take part to fair market value hedging which are recognized as income/expense in the accounts of banks and finance institutions according to Sec. 151 of the Law on Finance Institutions, Banks and finance institutions or in accordance with the international accounting standards meant in the Article 1 of Chapter 7a of the of the Finnish Bookkeeping Act, are treated similarly for income tax purposes (i.e. unrealized appreciation gains are taxable and respectively, unrealized decrease in value is tax-deductible).
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions?	(i)No minimum amount is required for the general doubtful debt provision. (ii) Only depository banks and other credit institutions are entitled to make a tax-deductible doubtful debt provision annually. It is required e.g. that the provision is

Finland	
(ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	recognized as expense in the accounts of the bank. (iii) The doubtful debt provision cannot exceed 0.6% of the amount of total receivables outstanding at the end of the tax year. However, the amount of the annual provision together with the provisions made in previous years cannot exceed 5% of the amount of the outstanding receivables as of the end of the tax year. If the provision exceeds the maximum amount in any one year, the excess is regarded as chargeable income for that year. If a depository bank has previously transferred the bad debt provision to its reserve fund tax neutrally, the transferred amount will also be taken into account when calculating the maximum amount for the provision. Reserve fund is a specific reserve of a limited liability company. Reserve fund is part of the restricted equity of the company Further, if more receivables are transferred to another group company than what is left for the company that has transferred the provision to its reserve fund, the amount of the provision transferred to reserve fund is divided between the group companies in proportion of the receivables when calculating the maximum amount for the provision. Cash deposits to banks are not considered as receivables. (iv) There are no specific tax provisions on bad or doubtful debts. However, e.g. loan specific provisions can in certain cases be included in the general provision; see below (v). Further, banks are entitled to deduct a permanent/final loss in value of a receivable (other than a trade receivable) if the receivable has also been written off in the accounts The tax deductible general provision is calculated after the permanent/final loss in value of receivables has been deducted. (Please note that writedowns on intra-group receivables are not deductible as a main rule). Please further note that the final credit loss deduction is based on a tax rule

Finland	
	applicable to all companies (hence in this respect the taxation of banks does not differ from the taxation of other companies). (v) Even if no specific tax provisions on bad or doubtful debts exist, pursuant to Finnish case law e.g. loan/client etc. specific provisions deducted for accounting purposes has been accepted as tax deductible provided that the amount of such provision does not exceed the limits of the general doubtful debt provision. the limits of the general doubtful debt provision are those referred to under (iii).
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	There are no differences with regard to tax treatment of other companies. <u>A limited liability company grants its own shares to its employees</u> Generally, salaries and salary related costs are deductible in taxation in Finland. Finland has implemented new rules related to deductibility of costs regarding employee share plans which have been effective as of 1 January 2009. These rules apply to situations where a company gives its shares to its employees. According to the rules, costs related to shares that have been given to an employee based on employment are deductible in taxation if the company has acquired the shares in a public exchange (e.g. OMX) in Finland or abroad. The maximum amount of deduction is the fair market value of the shares at the time of subscription or assignment less the subscription price. In other words, it is required that there is actual cost. If only newly issued shares are used, the fair market value of the shares cannot be regarded as cost for the company. These new rules are not applicable to share plans where another company's (e.g.foreign parent company's) shares are offered (see below). <u>A group company's shares are granted to the employees of a Finnish resident limited liability company (deductibility of a recharge)</u> Based on Finnish published case law, recharged incentive plan related costs (e.g.

Finland	
	where foreign parent/group company's shares are given/offered to the employees of a Finnish group company) have been accepted as deductible in the Finnish group company's taxation where the amount of recharge has corresponded the actual costs that the group/parent company had faced and where the recharged costs have not exceeded the fair market value of the shares at the time of the delivery (to the employees). Please note, however, that based on the court practice the principles of the deductibility in relation to recharge of incentive plan costs/incentive shares are not fully developed.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1) Normal IFRS rules apply. 2) There are no differences in provisions applicable to subsidiaries and branches of non-Finnish banks.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	We are not aware that practises would differ from the legal provisions

France	
A. General tax regime applicable to banks	
General comments	There is a tax on systemic risks (see below I) applicable in France. To the best of our knowledge, there is no other pending proposal, the tax on systemic risks being the most recent tax enacted (i.e. in the Financial Bill for year 2011).
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1+2. There is no tax rate specifically applicable to banks. CIT is 33.33% plus a 3.3% social tax computed on the CIT when exceeding EUR 763,000. There are local taxes (e.g. the CET/CVAE - see our email sent on 11 April 2011 and our comments related to the determination of the value added for CVAE purposes in point A.4 below) but they are not part of what we call the CIT and are not specific to banks. As a comparison, France differs from certain countries such as Luxembourg or Germany that have both a CIT and a Municipal Business Tax/Trade Tax that varies depending on the location where a company is set up. 3. The computation of a bank's taxable result will also differ from other classic companies as a result of the application of specific accounting rules proper to banks and financial establishments. <u>Specific tax rules :</u> <u>Short term investments:</u> According to article 38 *bis* A of the French Tax Code ("FTC"), listed stocks, receivables traded on a regulated market or instruments from the banking sector initially booked as "short term investments" (*"titres de transaction"*, i.e. assets purchased and sold for speculation purposes within a short timeframe - classically during the 6 months following their acquisition) are to be valuated at year end in application of the mark-to-market valuation principles. Capital gains

France	
	that may be crystallised further to this valuation are then subject to CIT. Same tax treatment applies in case of a sale of the asset or modification of its accounting status in the books of the bank (e.g. transfer from the "transaction asset" accounting item to the "placement asset" accounting item). Fixed income: Article 38 *bis* B of the FTC compels banks, that acquire fixed income (e.g. financial instruments, treasury bonds, tradable receivables generating a fixed income…) for a price differing from their face/reimbursement value, to reflect this difference (either a gain or a loss) within their taxable results. The difference in value will be spread from the date of acquisition until the date of effective reimbursement of the asset. When the reimbursement value of bonds (e.g. indexed bonds) or negotiable debts' premium (*"titre de créance négociable"*) is not determined at the time of the acquisition of / subscription to the said asset, the specific provision of article 238 *septies* E would apply. This article compels companies to compute their premium by reference to an actuarial interest rate and to spread over their premium when the expectable reimbursement value of the receivable exceeds 10% of its issuance value. Assets denominated in a foreign currency: According to article 38-4 of the FTC, financial assets (e.g. stocks, bonds, negotiable debts…) recorded in the bank's account in a foreign currency are subject to a valuation in Euro at year end. Forex (gains or losses) generated by such valuation are to be included in the annual tax result of the company. It should be mentioned that investment securities and long term shareholdings

France	
	financed with euro denominated resources are excluded from this valuation obligation. Derivatives: Specific rules apply whereby tax treatment is entirely in line with accounting rules. Financial instruments such as swap contracts must be categorized and their accounting/tax treatments will depend on their specific category. For some derivatives (i.e. interest rate derivatives and Foreign exchange derivatives) the mark-to-market valuation is to be applied at the closing of each financial year. As a result, latent capital gains on derivatives are taxable while latent losses are deductible. According to market practice and due to the absence of specific regulated market allowing the mark-to-market evaluation of certain derivatives (e.g. equity swap) a mark-to-model valuation developed by banks and financial establishments is authorised by the French Tax Authorities ("FTA"). Please refer to the Questionnaire "Taxation of Financial Instruments" for more details. 4. According to French tax law, a value added contribution ("*Cotisation sur la valeur ajoutée des enterprises* – "CVAE") is assessed on the value added of any French companies (i.e. financial or non financial companies) when their turnover exceeds EUR 152,500. The tax is computed by applying a progressive tax rate ranging between 0% and 1.5% (for turnovers not exceeding EUR 50 million, 1.5% otherwise) to the added value of the company. For credit establishments and assimilated companies, the computation of both the turnover and the added value is following specific provisions (e.g. 95% of dividends deriving from long term shareholding are not taken into account instead of a total exclusion). Classically, dividends and other accounting items of the financial result are not taken into account in computing the added value of a company for CVAE purposes. However, bank establishment and companies

France	
	managing financial instruments may receive significant amounts of dividend; as such income is more in line with their activity. The fact that 5% of the dividends are taken into account is thus more a way to add result to the added value basis rather than excluding some. Besides, please note that the dividend exclusion only applies to dividend deriving from specific shareholding booked under specific accounting items (those items being specific to bank and credit establishment), i.e.: - shareholding in related companies (*"parts dans les enterprises liées"*), and - long term shareholding (*"titres de participations"*) As a consequence, dividends deriving from other shares recorded in the accounts of the banks will still be taken into account for determining the added value. This is mainly linked to the accounting regulation and the way the bank intends to record a shareholding in its accounts. The rational in adding back 5% of the dividends in the added value computation instead of granting a complete exemption is a way to ensure the FTA would accept the deduction of financial charges that can be connected with the shareholdings generating the dividends. Should the entire amount of dividends be excluded, the FTA would have considered the charges connected with the shareholding as non deductible from the added value basis. For banks and financial establishments, the definition of the value added is the difference between the turnover of the establishment and specific accounting items. **The turnover** mainly includes the income deriving from bank activities and

France	
	other products of activities (*"produits divers d'exploitation"*) **save for**: ▪ 95% of dividend deriving from long term shareholding, and ▪ capital gains on disposal of long term assets (other than shareholding) recorded as "other product of activities", and ▪ reversal of special provisions, ▪ portions of capital grants, ▪ portions of banking operations made in common. The other items to be subtracted from the turnover are for example the banking charges linked to provisions on long term assets given in lease, some external services and some accounting items refer to as "various charges of activities" (*"charges diverses d'exploitation"*).
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	1. Based on sole domestic legislation, there is no specific tax relief for interest income. 2. Same anti-avoidance rules apply to either a company or bank establishments. However, article 212 § II.2.2° of the FTC specifically exclude credit establishment (i.e. bank establishment having a regulated status) from the scope of the thin capitalisation rules. Same goes for French PE of foreign regulated credit establishments. The regulatory status of bank and credit establishment is indeed the reason.

France	
	For information purposes, it should be mentioned that article 238 *bis*-0 I of the FTC compels French companies to a tax consolidation of the result of defeasance entities located abroad. In essence, if the bank transfers assets or off balance sheet items (e.g. guarantees) to a foreign entity which purpose is to manage the assets/off balance sheet items for the benefit of the bank, income derived from such management shall be included in the taxable result of the bank. Though this provision of FTC is now generalised to any French company, it was originally drafted to prevent financial establishment from transferring their assets to other jurisdictions, hence avoiding French CIT on income deriving from the said assets managed abroad for their sole benefit. Finally article 209 B of the FTC compels French companies (credit establishment or not) to include in their taxable results the income generated by their subsidiaries, located in privileged tax countries, even if no effective distribution has been effectively made. 3. No 4 Generally speaking, same tax rules apply to banks' subsidiaries and PE According to FTA practice, the PE's level of equity is sometimes challenged when not in line with the solvability ratio of the foreign (bank) Head-Office or when not representing a solvability ratio of 8%. The PE may thus have to be provided with an appropriate amount of capital should its activity require to bear specific risks.

France	
	As mentioned above, thin capitalisation rules may not apply to French PE of foreign regulated credit establishments. Finally, French PEs of foreign banks resident in a country of the European Economic Area ("EEA") are not subject to the new "tax on systemic risk" (see part A.9). Save for the above rules, there are no specific provisions applicable to French PE of foreign bank establishments.
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	*Please note that the following developments are not specific to banks. We however decided to include them in sake of completeness of this questionnaire.* 1. For interest paid by a French company to its controlling shareholders, the maximum rate for deductible interest is equal to the average annual interest rates offered by banks on loans of two years and over. It should also be mentioned that save for very limited cases, there is no WHT on interest paid by a French resident debtor to a foreign recipient. However, as a consequence of the recent anti abuse legislation, interest paid to bank accounts located in a Non Cooperative State or Territory ("NCST") will be subject to a 50% WHT.

France	
	2. Interest is subject to CIT. Dividend payments received might benefit from the participation exemption regime provided the conditions are met[8]. Specific rules apply for computing the tax credit amount (both dividends and interests are aimed) which can be set off against payable corporate income tax. (We only refer to a foreign WHT paid in a DTT country that might be creditable over French CIT) Broadly speaking, in order to compute the maximum amount that can be used as a tax credit derived from bonds and some type of loans, the bank is entitled to make a "global computation" instead of a transaction per transaction ceiling (as this is the case for tax credit attached to dividend). 3. Unless a specific exemption applies (i.e. payment of dividends to a parent company that is tax resident of the E.U. or exemption provided pursuant to a double tax treaty), dividends paid by a French bank to a foreign resident are normally subject to a 25% withholding tax (that could be reduced with foreign tax credits). The withholding tax is however increased to 50% should the payment be made on a bank account located in a NCST. Interest payments are classically not subject to withholding tax in France. However, as for dividend payments, a 50% withholding tax may be levied should the payments be made to a bank account located in an NCST. 4. Accrual basis. To be noted that, according to administrative guidelines,

[8] Participation exemption applies on dividends received from qualifying shareholdings (representing at least 5% of the company's share capital) held for an uninterrupted 2-year period.

France	
	interest received from doubtful receivables that have been transferred to a "compromised doubtful receivable" accounting item are not taken into account for the purpose of computing the taxable result of the year. The rule applies to bank, financial companies, investment companies ruled by article L.531-4 of the French Monetary and Financial code and certain companies having an activity of compensation of financial instruments. For those companies, the taxation of the interest is only delayed to its effective payment date (instead of its due date). 5 There is no WHT on interest provided the payment is not made to a bank account located in a Non Cooperative State or Territory ("NCST"). Should the payment be made to an NCST, a 50% WHT is levied. The question on the levy of the withholding tax when payment is made by the foreign PE of a French bank would need significant development that we believe is out of the scope of this high level questionnaire. Plus, the treatment is often to be investigated on a case by case basis and can hardly be generalised.
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	There is no specific tax treatment applicable to banks. Classically, capital gains on fixed assets are taxable at CIT while capital losses are deductible from the taxable basis. A 95% exemption may apply on capital gains deriving from qualifying shareholding.
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for	1) To be clarified but we believe our comments set in part A.1 above could reply to this question.

France	
tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	2) See our comments in part A.1 above.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	When it is ascertained that a debtor of the bank will not be in a position to honour its financial engagement, the bank may book a charge corresponding to the amount lost. Conversely, a reduction of the bank liability toward one of its creditors will crystallise a taxable profit in the P&L of the bank. When the receivable is considered "doubtful", a provision may be booked. (i) No (ii) The general provision will be deductible provided: - the default risk of the debtor can clearly be identified during the exercise; and - the risk of a future loss is highly plausible based on events occurring before closing of the exercise. In principle, the estimation of the default risk has to be made on a case by case basis, i.e. in consideration of the situation of each debtor. However, when internal risk estimation policy and related documentation could be provided, the FTA may agree to consider deductible a general provision booked by the bank.

France	
	(iii) Should one of the conditions stated in point (ii) be missing, the deduction of the provision will be refused. (iv) No. The specific provision (see point (v)+(vi) below) is only optional. However, should a specific provision be deducted by the company, booking and deducting a general provision will not be acceptable for tax purposes. In essence, the same doubtful receivable cannot justify the booking of both the general and the special provision. (v)+(vi) Article 39-1, 5° of the FTC and articles 2 and 3 *bis* of the Appendix 4 of the FTC entitle banks and credit establishments to deduct a specific provision for default risks over middle and long terms loans granted. The amount of the specific provision is capped at: - 5% of the accounting benefit of the bank - 0.5% of the amounts of credits effectively used. Point (v)/(vi) refer to a specific provision. This specific provision cannot be combined with the general provision mentioned above. The tax payer has to choose which provision to book over its receivable.
G. Tax treatment of employees stock option plans	
	Yes. It should be mentioned that until 31 December 2010, bank establishments which have received specific funds from the State were not entitled to grant

France	
1. Are employees stock options plan deductible for CIT purposes?	stock option plans to their CEO/Directors.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1. Please refer to part A above. 2. Please refer to part B above.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	- Please note that the financial bill for the year 2011 created a new "tax on systemic risks" specific to bank which will be paid in addition to contributions paid by the financial institutions to the deposit guarantee fund and supervision fees. In a nutshell, a 0.25% tax is assed on the amount of the bank's equity when exceeding EUR 500 million. As mentioned above, PEs of foreign banks resident in an EEA country are not subject to this tax. There is currently no mention in the law about the non deductibility of the tax from the CIT basis. We thus believe the tax on systemic risks would be deductible for CIT purposes. - A specific practice recognised by the FTA allows bank establishments to maintain the tax deductibility of certain accounting provisions related to assets (classically loans, bonds, notes) held in risky jurisdictions ("*provision pour risque pays*").

Germany	
A. General tax regime applicable to banks	
General comments	A bank levy is applicable from January 1st 2011 onwards and becomes annually due on September 30th. The bank levy is not tax deductible. The base for calculating the bank levy (annual levy) is the sum of 0.02 - 0.04% of the so-called "contribution relevant total equities and liabilities" and 0.00015% of the nominal amount of derivatives. Contribution relevant total equities and liabilities are defined as total equities and liabilities less liabilities to customers, less jouissance rights capital, less special balance sheet item "fonds for general bank risks" according to sec. 340g of the German Commercial Code, less equity capital . The bank levy amount is limited to a maximum of 15% of net profits plus certain other items and a minimum of 5% of the annual levy mentioned above. However, the specific rules such as the calculation of the bank levy may be subject to changes as the respective regulation has not yet become effective. The bank levy has been implemented as a contribution to a restructuring fonds and can therefore not be regarded as a tax. Wome discussions over a financial transaction tax have taken place in Germany, however there are currently no specific legislative proposals in this respect.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect?	1) There is no special tax rate for banks. Therefore the general CIT rate of 15% plus 5.5% solidarity surcharge thereon applies. Moreover, Trade Tax between 7% and 17.1% depending on the respective municipality rate becomes due. Commonly, this arises in an overall tax burden of approx. 30%. The applicable Trade tax rate for Berlin is 14.35%. 2) n/a 3) No, generally the CIT base for banks does not differ from those of other sectors. However, the 95% tax exemption on dividends and capital gains on the disposal of

Germany	
4. Do countries impose turnover taxes on gross interest and other income of banks?	shares does not apply for shares held by banks in the trading book. 3) Generally, according to sec. 4 no. 8 VATA (Value Added Tax Act) the core business of banks such as credit granting, depository banking and securities business is VAT exempt. But there is the possibility to opt for VAT under certain circumstances which is quite often used with regards to loan granting.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	1) There is no tax relief for any specific income but for expenses according to sec. 8 no. 1 TTA (Trade Tax Act) companies have to add back 25% of interest paid to its Trade Tax base. Thus generally 25% of interest paid by non-banks is not tax deductible for Trade Tax purposes. This rule generally does not apply for banks. Under sec. 19 TTO (Trade Tax Ordinance, this rule applies to credit institutions) there is only an add back of interest paid, in case that certain fixed assets (such as properties, plant, equipment, shares, receivables resulting of capital investments of dormant partners and jouissance rights) exceed equity. According to our experience most banks do not have to add back interest under this rule. 2) Thin Cap: The general German interest capping rule generally has no detrimental impact on banks as their interest income generally exceeds their interest expense with the result that there is no interest capping at the level of the respective bank. CFC: A foreign credit institution, financial services companies or finance company which has a domestic parent entity and predominantly performs its business with affiliated entities or persons is deemed as controlled foreign corporation according to German tax law if the income generated is subject to foreign income tax at a level lesser than 25%. Consequently, the income is treated as taxable income at the level of the parent. This may lead to an economic double taxation, if the income generated by the CFC is also subject to foreign (non-German) income tax. Please note that generally foreign credit institutions do not qualify as controlled

Germany	
	foreign corporation as their activities are deemed as non-detrimental for CFC purposes. The alongside comments refer to an exemption from this rule which lead to a credit institution being deemed as a CFC. 3) No. However, according to general German tax principles banks that have to be qualified as transparent from a German tax perspective (e.g. partnerships) or branches of foreign banks are not entitled to claim benefits under double-tax agreements. 4) There are no specific rules for subsidiaries of banks. With regard to branches of banks, specific rules within the German Administrative Principles for Branches apply, such as allocation of margins and receivables. In addition, interests on financing between a banking branch and Head-Office are recognized for tax purposes. Moreover, German branches of foreign banks need an allotted capital for tax purposes which has to be calculated on base of the risk weighted assets. In case that the allotted capital is not sufficient for tax purposes, the interest on the lacking amount will be added back to the tax base of the branch.
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign	1) Interest paid is tax deductable for CIT purposes subject to the interest cap rules described under A.2 No. 2. Dividends distributed by a credit institution are treated as appropriation of earnings and are tax-neutral. 2) Interest and dividend received are treated as taxable income of the bank. However, according to sec. 8b par. 1 and 3 CITA the income resulting from dividends is 95% tax exempt as far as the shares are not held in the trading book. 3) On dividends 25% WHT plus 5.5% solidarity surcharge thereon are withheld at source. In case the investor is a German corporation the paid WHT may be deducted

Germany	
branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	within the tax assessment. In case the investor is a foreign corporate entity he could apply for a refund of 2/5 of the WHT. This means that the WHT burden would be reduced to 15% plus 5.5% Solidarity Surcharge thereon (totaling in a WHT rate of 15.825%). However, the foreign investor would only be authorized to benefit from the partial reclaim clause if it complied with the German anti-treaty-shopping rules. Under the German anti-treaty-shopping rule a foreign company is not entitled to full or partial treaty relief from WHT to the extent it has shareholders who would not be entitled to the same relief if they received the income of the foreign company directly, and ▪ there are no economic or other important non-tax reasons for the interposition of the foreign company; or ▪ the foreign company does not derive more than 10% of its gross income from its own commercial activities (this does not include income that the foreign company generates from the administration of its own assets (such as shareholdings), nor does it include activities that have been outsourced to other parties); or ▪ the foreign company does not have its own business infrastructure (e.g., office communication framework, employees) enabling it to participate in the business community. Furthermore, it may be possible to claim a partial (if not full) refund of the WHT suffered at source in Germany according to the applicable double tax agreement. However, in order to benefit from the double tax agreement the non-resident investor would also have to comply with the German anti-treaty shopping rules. Please note that dividend payments from a German-resident subsidiary to an EU-resident parent entity within the EC-Parent-Subsidiary-Directive qualify for a full

Germany	
	refund of WHT withheld at source provided that the parent entity complies with the German anti-treaty shopping rules. Furthermore, there is a possibility to exempt such dividend payments from Withholding tax at source by filing an application to the German Federal Central Tax Office prior to receiving the dividend payment. 4) In case the recipient is a German corporate entity the payments are recognized on accrual basis. In case the recipient is a foreign entity subject to a limited German tax liability the payments would immediately be treated as realized income for German tax purposes. 5) In case a domestic credit institution has to pay interest to a third party WHT of 25% plus 5.5% solidarity surcharge thereon (totalling in 26.375%) is withheld at source. However, this only applies if the third party as creditor is a domestic resident. In case the creditor is a foreign third party WHT would only be withheld in the single case that the receivable is secured by German real estate. Please note that an exemption from the obligation of a domestic bank to withhold tax on interest payments at source applies in case of domestic interbank loans. As far as a loan would have to be attributed to a foreign branch and the foreign branch pays interest to a third party, there should be no obligation of the domestic head office to withhold WHT on behalf of the branch.
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	Gains and losses on fixed assets are generally realized within the disposal of the assets and are fully taxable/fully deductible. Moreover, in case of an expected permanent diminution in value the fixed assets may be depreciated for tax purposes, which also result in a deductible loss.

Germany	
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	1) Discounts are treated as capital income (cf. sec. 20 par. 1 no. 8 ITA) and fall under the general CIT regime. The discount revenue is only realized when the party liable on a bill fulfils its obligation. If the payment on a bill is not made in the same year as the acquisition of a bill, then the discount revenue is only realized and taxable in the year of the payment on a bill. Please note that our comments refer to private persons only. However, credit institutions and other persons or entities which determine their profit by using balance sheets have to accrue the discount revenue. The credit institution has to tax the difference between the net present value at balance sheet date and the acquisition costs. 2) Financial instruments held-for-trading are measured at fair value since 2010, as far as they are not part of a valuation unit. Additionally, banks have to consider a risk deduction.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	Under local GAAP it is possible to make a specific allowance on bad debts or a general allowance on doubtful debts. Under German GAAP receivables have to be revalued at each balance sheet date. If a receivable is regarded as uncollectable (bad debt) it has to be depreciated. According to German tax law depreciation requires a permanent diminution in value. In case of doubtful debts an entity may perform a specific allowance and / or a general allowance. A specific allowance can only be performed if specific facts exist on the balance sheet date that substantiates the likelihood of a default of each respective receivable. A general allowance does not require a revaluation of each receivable. In fact, an entity may estimate the default risk of receivables based on the experience of the past. The German Federal Ministry of Finance has issued

Germany	
	special guidelines for general allowances for tax purposes in case of credit institutions described alongside. For tax purposes a specific allowance on bad debts is only possible if the entity anticipates a permanent diminution in value. The specific allowance reduces the tax base and is therefore deductible. The general allowance on doubtful debts will only be deductible by German fiscal authorities as far as it follows the respective guideline of the German Federal Ministry of Finance. E.g. the percentage for general allowance has to be computed by relating 60% of the average amount of bad debts (not exceeding the amount of specific allowance) to the average amount of credit risk of the preceding five years.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	The costs of stock options plans are deductable as expenditure for tax purposes in case that the issue of stock options is granted by purchasing own shares or transferring own shares to the employee. Please note, that the issuance of stock options by conditional increase in capital does not provide the right to deduct the stock options as personal expenditure. This is the same for financial and non financial sector.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1) Under local GAAP there is an option for depreciation of fixed financial assets in case of temporary decreasing value. For all other fixed assets depreciation has to be made in case of an expected permanent decreasing value. For tax purposes there is only an option to depreciate the assetsif a permanent decreasing value is expected. After introduction of the Accounting Law Modernization Act in 2010, it is possible

Germany	
	to exercise options for tax purposes independently from options under local GAAP. Credit institutions have an option to capitalize receivables, bonds, fixed interest bearing securities, stock and other non-interest bearing securities at a lower value than the respective value according to German GAAP as far this is deemed as necessary to protect against specific risks resulting from a credit institutions line of business. Please note that this option only exists for German GAAP but not for tax purposes. 2) No.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	No

Greece	
A. General tax regime applicable to banks	
General comments	A draft tax bill has been submitted before the Greek Parliament on 21/2/2010. The bill is still in draft and under discussion; therefore the final provisions may be different than the proposed draft provisions. Reference to the proposed draft provisions is made below where applicable. The draft bill has been adopted by the Greek Parliament (L.3943/2011) and published in the Government's Gazette on the 31/3/2011; therefore reference below is made to the new provisions. The special levy of L.128 mentioned below under A4 could be viewed as a bank levy.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) The CIT rate amounts to. 20% (the same as for other companies) and is applicable to accounting periods for which the annual tax return should be filed in 2012, e.g. accounting period 1/1/2011 -31/12/2011. 2) No. 3) Special rules apply to banks (and insurance companies) for the computation of the corporate tax base (article 99 par.1 of the Greek Income Tax Code). Key differences are outlined below: ▪ The taxable base of Greek banks is defined as the amount of the total net income or profits, generated in Greece or abroad, after the deduction of part of income corresponding to non taxable income (e.g. proceeds from Greek and EU mutual funds) or income subject to final taxation (namely interest on bonds and state bills, REPOS, etc.). This means, in practice, that non taxable income and income subject to final taxation (gross amount) is partly subject to annual CIT and part of it is not immediately subject to tax. This part derives from the following pro-rata formula:

Greece	
	Annual profit (after tax adjustments) x Tax Exempt/Subject to final tax Revenues Total Revenues (*) *(*) Excluding dividends or other tax neutral income and tax exempt profit booked in special reserves accounts such as securitization profit and capital gains from sales of listed shares.* The part that is not immediately subject to taxation is booked in a reserve. Banks are obliged to submit a respective tax return on the last day of the ninth month (i.e. September 30th) from the end of the fiscal year, in which the above reserve was formed, so as to pay tax at the standard CIT rate on the reserve's balance (art. 106 par. 12 of the Greek ITC). Therefore, the taxation of non taxable income and income subject to final taxation is effectively deferred for a few months. In the event that there is no sufficient annual profit (after carry forward accounting losses) to book a reserve as per the above, non taxable income and income subject to final taxation will be included in the taxable income. The withheld tax that corresponds to the period that the Bank had in its portfolio the securities in question (i.e. securities generating income subject to final taxation, namely bonds and state bills) is credited (deducted from) the CIT. According to the position consistently taken by the tax authorities the tax credit is up to the corresponding annual tax. Moreover, based on the provision of article 10 par.3 of L.3842/2010, the credit tax amount arising from the CIT tax returns of FY 2010 (accounting periods 2009) submitted by Banks is not refunded to the extent it represents tax withheld on bond interest. Effectively, the above tax treatment may result to increased taxation for banks, in case the amount of tax withheld on gross interest income is higher than the total tax liability of the Bank. To be noted that many Greek Banks and Greek branches of foreign Banks have initiated litigation procedures before the Greek Administrative Courts requesting the refund of the credit tax amount corresponding to the WHT on bond interest. ▪ According to art. 31, par. 8 of the Greek ITC there is a formula based on which

Greece	
	expenses corresponding to non-taxable income are not treated as tax deductible. The non-deductible amounts are: ▪ The amount of the debit interest calculated on a pro-rata basis (between taxable income and non taxable income or income subject to final taxation). **This provision is not applicable to banks.** ▪ An amount equal to 5% on the non taxable income or income subject to final taxation or income from participation in Greek companies, which cannot exceed the 20% of the total expenses. **Specifically for banks, only the 5% on the profits derived from dividends and profits from participations in other Greek companies is added to their taxable income as non-deductible item.** ▪ For all Greek companies, capital gains arising from sale of listed shares are booked in a special reserve account which can be used to offset future losses from the sale of listed or non-listed shares and losses arising from valuation. Moreover, capital gains arising from listed derivatives are booked in a special reserve account to be used to offset losses from the same cause. These reserves accounts are subject to tax upon distribution or capitalization. (*NOTE: based on new bill capital gains on the sale of listed shares initially acquired as of 1/1/2012 shall be subject to tax based on the general provisions and only the capital gains from listed derivatives shall continue to be booked in this special reserve account*). Banks in specific are obliged to submit a respective tax return on the last day of the ninth month (i.e. September 30th) from the end of the fiscal year, in which the above special reserves were formed, so as to pay tax at the standard CIT rate on the special reserves balance (art. 106 par. 12 of the Greek ITC). Therefore, for Banks the taxation is effectively deferred for a few months. Other companies do not file this return. ▪ The pre-payment of the tax for the next financial year is equal to 100% of the CIT due based on the final CIT return filed by the Banks (whereas for other companies the pre-payment is calculated at a rate of 80% on the CIT due). 4) No. To be noted that Bank debt is subject to a special levy of L. 128/75 (0.6%

Greece	
	annually on the loan value – art. 19 of L. 3152/2003). Such a special levy is imposed on loans provided by Greek and/or foreign credit institutions. In case of loans extended by Greek Banks and Greek branches of foreign Banks, the levy is reported and paid directly by the bank/branch to the Bank of Greece on the basis of the average monthly balance on the last working day of the month following the month that relevant amounts correspond to. In practice the cost is carried over to borrower. This special levy can be viewed as a bank levy
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	1) No. 2) No. Moreover, Thin Cap rules (interest corresponding to loans exceeding the 3:1 debt to equity ratio is not recognized as tax deductible) applicable to other companies are not applicable to banks operating in Greece (art. 31, par. 1, case d of the Greek ITC). 3) No. 4) No. The same tax rules apply to subsidiaries and branches of foreign banks.
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT	1) The same: interest paid is recognized as tax deductible subject to certain conditions set by the law. Distributed dividends are subject to a WHT: refer to point 3. 2) Interest income is taxable. Specifically, for Banks interest on bonds, state bills, REPO transactions, is subject to a 10% final tax (please refer to question A.1. (3) with respect to the tax treatment of income subject to final taxation). Dividend income is treated the same as with other companies. Domestic dividends are not included in the

Greece	
perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	taxable base of the recipient. Foreign dividends are taxable with a credit being provided for the tax paid abroad. The new L.3943/2011 introduced a participation exemption system, based on which dividends received by EU subsidiaries are not subject to tax provided they are booked in a special reserve account. 3) A WHT at the rate of 25% is due (for profits distributions during 2011 the applicable WHT rate is 21% WHT), which can be reduced by application of a DTT or the EU Parent-Subsidiary Directive. 4) The same: interest income is recognized for tax purposes when it becomes mature and due. 5) Under domestic law a WHT may be due on interest payments depending on the payer (individual or legal entity) and the recipient of the interest income (Greek or foreign). In any event no WHT is due in case of payment of interest by a foreign branch of a Greek bank to a third party. As a general rule interest paid to foreign recipient is subject to a 40% WHT, which can be reduced by applying a DTT or the Interest-Royalty Directive. Despite the above, the answer to your specific question is that no Greek WHT is due.
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	The same as for other companies: Gains or losses arising upon disposal of fixed assets are respectively treated as taxable income and tax deductible expense.
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes?	1) The same as for other companies. With respect to the valuation for tax purposes, securities either listed or non-listed and other financial instruments held by Banks are valued at year end as a portfolio at the lower value between the acquisition value and the fair market value (whereas other companies do not value their portfolio as a whole, but each security/financial instrument separately). For all companies, including

Greece	
2. How are assets held for trading purposes treated for tax purposes?	Banks, the valuation loss is not tax deductible, but it can be booked in a special reserve account to offset capital gains from the sale of listed shares – please refer to answer A.3. above). 2) There are no general or special tax rules on assets held for trading purposes.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	(i) The Banks are entitled but not obliged to form general and specific provisions for bad debt on advances and loans. (ii)- (iii) Only banks are entitled to deduct for tax purposes a general provision at the rate of 1% (or 2% for Investment Banks, the term is not clearly defined in Greek Law) on the annual average of their advances, these comprising capital and receivables except for doubtful or non-collective interest related to doubtful or non-performing advances, which are monitored off-balance sheet in memo accounts, loans to the State and State-owned enterprises or loans guaranteed by the State (art. 105, par. 4, case c of the Greek ITC). (iv)- (vi) Furthermore pursuant to par. 5 of art. 105 of the Greek ITC, specific provisions are booked for certain non-performing loans. These provisions should be utilised for respective write-offs within 8 FYs starting in the year within which they were booked. In case where these amounts are not written-off during the 8 FYs, the Bank should submit a supplementary Income Tax return and suffer tax on the non utilised amount, plus late payment penalties.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	The same as for other companies. : The tax deductibility of the expenses paid by companies, including banks, within the framework of stock options plans is not regulated by an explicit provision. The treatment is unclear; based on some recent private rulings – which are not binding by force of law– the Ministry of Finance seems to adopt the position that said expenses are not tax deductible.

Greece	
	Although not related to the deductibility of stock options plans, according to the art. 14 par. 9 of L. 2238/94 (inserted to it by the art. 8 par. 14 L.3248/2010), bonuses (benefits in cash, on top of regular remunerations and overtime payments) paid to executives of credit institutions until 2013 (i.e. financial year 2012) are taxed based on the general progressive tax scale applicable to individuals provided the total annual income of the executive does not exceed 60,000 Euros and the amount of the bonus does not exceed a percentage of 10% of the total annual regular remuneration (upper band 45%). For amounts exceeding the above, taxation at source is based on a progressive tax scale. For amounts exceeding Euro 80.000 the applicable WHT rate is 90%. Said tax is withheld by the credit institution at the time of the payment of bonus amount to the beneficiary employee. The above also applies in case of benefits granted from the profits of the credit institutions. Therefore, the grant of shares as dividend in kind by a credit institution to its employees within the framework of a profit distribution may be caught by this provision. To be noted that the application of abovementioned provision is limited in time, since it will apply to cash bonuses paid, up to the fiscal year 2013 (i.e. bonus paid during the accounting periods for which the annual corporate income tax return should be submitted during the calendar year 2013).
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1) Greek anks are obliged to maintain their accounting books based on IFRS. Therefore, their accounting practices and respective discretions depend on the IFRS accounting rules. 2) No. Tax rules apply equally to subsidiaries and branches of non-domestic banks.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	N/A

Hungary	
A. General tax regime applicable to banks	
General comments	
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) The CIT rate (10% up to HUF 500 billion tax base, 19% above) is the same as for companies in the non-financial sector. The local business tax rate in Budapest for both banks and companies in the non-financial sector is 2% (further details please see A.4). It is noted that the local business tax base is determined differently from the tax base of the corporate income tax. We note that banks are also subject to a special bank tax. In practise, the computation is as follows. Banks have to calculate their tax liability in two different ways: 1) they have to calculate 30% of their pre-tax profit ("profit-based tax"); 2) they have to calculate their adjusted balance sheet total of 2009 multiplied by the applicable progressive tax rate ("balance sheet-based tax"). The actual special tax liability will be the profit-based tax up to the amount of the balance sheet-based tax. If the balance sheet-based tax is higher, the excess tax should be paid in addition. 2) No special CIT rate. 3) Generally, the calculation of the corporate income tax base is the same as for companies in the non-financial sector (it is also governed by the same act), although there are 4 exceptions: ▪ Certain provisions: expenses accounted due to provision are deductible for CIT purposes, revenues accounted due to the release of provision are taxable for CIT purposes. Please note that these rules are only applicable to those provisions that were accounted due to the special nature of the financial sector's activity e.g.: on bank risk ("általános kockázati céltartalék" However, regarding general provisions for expected liabilities and future expenses (i.e.

Hungary	
	regarding the provisions not accounted for based on banks' special accounting rules), banks and companies in the non-financial sector follow the same rules (expenses due to the creation of provisions are not deductible, revenues due to the release of provisions created earlier are not taxable). ▪ Loss in value (more details in A.6.) ▪ Thin capitalization (more details in A.2.) ▪ Loss carry forward (losses incurred in and before 2008 cannot be carried forward for banks, from 2009 it is possible). 4) Local business tax (at a rate of up to 2%) is also levied on banks as levied on all companies in the non-financial sector by the local municipality. The difference is in the "net sales revenue" part of the tax bases. Other adjustment items are the same. For banks, the "net sales revenue" is the difference between interest received and paid, plus any revenues from financial, non-financial, investment and non-investment services activity and the net gain of derivative and hedged transactions. On the other hand, the "net sales revenue" for companies in the non-financial sector is the adjusted net sales revenues.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits?	1) No special tax relief. 2) Generally, the same anti-avoidance rules (e.g. CFC, substance-over-form, thin cap ratio etc.) are applicable for banks as for companies in the non-financial sector. Only regarding thin capitalization, there are some exemptions from such rules for banks. Namely, when calculating the debt-equity ratio (3:1) for thin capitalization

Hungary	
3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	purposes, banks do not have to take into consideration their liabilities in connection with their financial services activity. 3) No. 4) No difference.
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	1) No difference between banks and companies in the non-financial sector. In relation to dividend paid there are no special tax rules i.e. the tax treatment follows the accounting. In relation to interest paid only the thin capitalization rules have to be taken into consideration. Otherwise, the tax treatment follows the accounting treatment. 2) No difference between banks and companies in the non-financial sector. Generally, dividend received is exempt from corporate income tax purposes except when it is received from CFC. Interest received is subject to corporate income tax. 3) No WHT on dividend under domestic regulation either for banks or companies in the non-financial sector. 4) No difference. The general rule is the accrual basis accounting. 5) No WHT on interest paid to foreign corporate entities under domestic regulation. No difference in the case of banks or companies in the non-financial sector. If the foreign branch is situated in a country with which Hungary concluded a double tax treaty with, then the interest paid by that branch will not be subject to Hungarian domestic withholding tax rules. In this case the WHT rules of the foreign branch's country are prevailing. If the foreign branch is not situated in a country with which Hungary concluded a double tax treaty with, then the interest paid by that branch could be subject to 30% WHT in Hungary in 2010 (the applicability of

Hungary	
	the WHT regime of the respective foreign country should be analyzed separately). This 30% WHT was however abolished from 1 January 2011.
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	Gains are generally taxable, losses are generally deductible. No special rules for banks.
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	1) No special tax rules i.e. the tax treatment follows the accounting treatment. 2) No special tax rules i.e. the tax treatment follows the accounting treatment.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	General rules: According to the general rules for companies in the non-financial sector bad debts are deductible from the CIT base, but only up to the amount of the previously accounted impairment (if any). This is due to the fact that such impairment was not tax-deductible. Specific rules: In the case of banks, as impairment of debts from financial and investment services activity is a deductible expense for CIT purposes, the corresponding bad debts will not decrease the CIT base any further. Please note that provisions for banks risk is described in Section A.1.3. as an example. (Debts from other activities will be treated according to the general rules applicable for companies in the non-financial

Hungary	
	sector). Realized losses are tax deductible.
G. Tax treatment of employees stock option plans	
2. Are employees stock options plan deductible for CIT purposes?	No special tax rules i.e. the tax treatment follows the accounting treatment, i.e. when expense is accounted for, such expense should be deductible for CIT purposes.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1) Both banks and companies in the non-financial sector may create a revaluation reserve for their fixed assets and long-term financial investments if the market value significantly and permanently exceeds the book-value of such assets. This revaluation reserve directly increases the company's capital. As opposed to this, no revaluation may directly decrease the value of the capital. 2) No.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	No

Ireland	
A. General tax regime applicable to banks	
General comments	There is no bank levy applicable, Financial Activities Tax and there are no (pending) proposals in this respect.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) Corporate income tax rate (no difference between FS and non-FS cases): ▪ 12.5% on trading income ▪ 25% on passive income ▪ 10% surcharge for late filing returns No specific local taxes, the rates above are charged to all businesses. 2) No special corporation tax rate is applicable for banks. 3) Financial institutions are liable for corporation tax on their profits in the same way as other companies. In computing profits or gains of a trade chargeable to corporation tax, generally accepted accounting practice ("GAAP") must be followed, subject to any adjustments required or authorised by law. For this purpose: ▪ GAAP means International Accounting Standards ("IAS") in relation to a company that prepares accounts in accordance with those standards or if not, Irish GAAP, ▪ Irish GAAP means the generally accepted accounting practice of companies incorporated or formed under the laws of Ireland being accounts intended to give a true and fair view, and ▪ "adjustments required or authorised by law" includes adjustments in

Ireland	
	accordance with both legislation and case law. IAS (IFRS) must be applied in certain circumstances but, otherwise, companies may choose to apply either IFRS or local GAAP. Where a company makes up accounts per Irish GAAP, the accounting profit is the start point for tax purposes and this is adjusted in accordance with Tax Law (both Case Law & Statute) While IFRS accounts may be the subject to some adjustment in relation to established tax rules, the level of adjustment is generally not as significant. E.G.: ▪ Bad Debts - no tax adjustment if under IFRS; general provisions disallowed if under Irish GAAP ▪ Profits on disposals - no adjustment if under IFRS; Unrealised gains/losses adjusted out if under Irish GAAP. No difference in the treatment of trading items as between FS and non-FS. The position at present is somewhat fluid due to some companies being in the process of graduating to IFRS from Irish GAAP 4) No. Financial services are VAT exempt.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to	1) No specific tax relief rules for items such as interest income. Interest income on bank accounts generally accrues on a day-to-day basis and is recognised on this basis for tax purposes irrespective of the date on which it is charged to the customer. Other interest, premia and discounts that are commercially in the nature of interest (for example, original issue discount and predetermined premium on redemption), when they arise in the course of a trade are also generally

Ireland	
avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	taxable as and when they are included in the profits in the audited financial statements of a banking institution. (=Subject to the anti-avoidance measure, interest (or premia, discounts etc.) that are accounted for on a paid basis rather than on an accruals basis will generally be taxable as per the financial statements) However, interest that is received in the course of a lending trade, which has not already been included in that lender's taxable trading profits, is to be taxed when it is received rather than in a later taxable period. This is irrespective of when that interest accrues or arises to the lender. This means that both interest accruing as part of a trade for a taxable period and interest prepayments that are trading receipts received during a taxable period are included in the trading profits of a lender. 2) Generally there are no Thin Cap rules in Ireland. Interest paid by a resident company to a 75% non-resident group member is treated as a distribution and is not deductible for Irish tax purposes, unless the interest expense is incurred for trading purposes and the required election is made (the election is only available in respect of yearly interest). The 75% applies to a direct or an indirect holding. This was originally an anti-avoidance measure, which is effectively obsolete for EU and Treaty Countries due to the election available not to apply the provision. Where the interest payments are being made to countries outside the EU with which Ireland does not have a DTA, it may be more beneficial to opt not to elect and have the interest payments treated as distributions. There is an exemption from withholding tax on the payment of any dividend to a parent company where the principal class of shares of its ultimate parent company, are substantially and regularly traded on a recognised stock exchange in a tax treaty country. While the company would not get the benefit of the interest expense deduction at the rate of 12.5%, it would not suffer the cost of any withholding tax at the rate of 20% (arising due to the fact that payments are made to non EU/ non DTA countries), giving a tax benefit of 7.5% to the company. No CFC rules in Ireland.

Ireland	
	Ireland has introduced transfer pricing legislation which applies for accounting periods commencing on or after 1 January 2011 in relation to any arrangements entered into on or after 1 July 2010. 3) Generally, no. Certain types of funds may not qualify in respect of some of the double tax agreements Ireland has entered into. 4) Foreign subsidiaries are outside the scope of Irish corporation tax. Irish subsidiaries of banks are liable for corporation tax on their profits in the same way as other companies. **Foreign branch of Irish bank** An Irish company is liable to corporation tax on its worldwide income, this includes income arising in its foreign branches. Double tax relief should be available in Ireland in respect of tax incurred by the branch in the foreign jurisdiction. **Irish branch of foreign bank** A company not resident in Ireland is subject to Irish corporation tax if it carries on a trade in Ireland through a branch on its trading income arising directly or indirectly through or from the branch and any income from property or rights used by, or held by or for, the branch. In order to be tax-deductible as interest, interest expenses must actually be incurred, i.e., there is no deduction available for notional interest. However, reasonable interest charges appropriately apportioned by a non-resident head office to an Irish branch of a bank are an allowable deduction in the same way as other costs incurred. In particular, where the company is resident in a state with which Ireland has a double tax treaty, the deductibility of a reasonable proportion of head office expenses is reinforced by the usual rule that the profits of the branch be computed for Irish tax

Ireland	
	purposes as if it were an independent enterprise.
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	**Interest paid/ funding costs** There are no specific rules regarding the deductibility of these costs for banks and other financial institutions. Interest paid by a bank will generally be either a Case I deduction or a charge on income. In order to qualify for a Case I deduction, the interest must be of a revenue nature, wholly and exclusively incurred for the purpose of the trade and not statutorily prohibited as a deduction. This is in line with general principles for any Case I deduction. Irish tax legislation treats certain interest as a distribution for Irish tax purposes including interest paid insofar as it exceeds a market rate or where it is to any extent dependent on the financial results of the business. In practice, with regard to the tax deductibility of interest on a loan obtained in the ordinary course of the trade, generally a distinction is not made between interest payable on debts forming part of the long-term capital of a bank and interest payable on debts forming part of the circulating capital of a bank. However, it is important to note that in the case of banks Revenue practice is to disallow interest that is attributable to funds that form part of the Tier I regulatory capital of the bank. This is on the basis that interest on Tier I regulatory capital is by its nature akin to a distribution. Therefore, unless arising on Tier I regulatory capital, interest wholly and exclusively incurred for the purpose of a banking trade would normally be a deductible expense in computing the taxable profits of that trade whether or not the debt is on capital or on revenue account. Also, the costs of issue of capital debt will be tax deductible in accordance with Revenue practice where the tenor of the debt is expected to be less than ten years.

Ireland	
	Connected party interest The Irish tax legislation provides that in certain circumstances the deductibility of interest that would be allowable for corporation tax purposes is restricted. This restriction only applies where interest is payable either directly or indirectly by a person to a connected person who is resident in Ireland for tax purposes or who is ultimately under the control of persons resident in Ireland for tax purposes. Where interest is a trading expense of the person by whom it is payable, it is only deductible insofar as it is comprised in the taxable income of the connected person to whom it is payable. **Tax exempt income and interest** It may, on occasion be the case that a bank would incur interest charges in earning income which is exempt from taxation. However, there is no general preclusion from obtaining a tax deduction for such interest unless there is a specific provision requiring it. **Tax Based Loans – Interest Treated as a Distribution** As mentioned above, certain provisions in Irish law re-characterise certain interest payments made by a company as distributions of the company. A deduction for tax purposes is not available in respect of such interest, because a distribution is an appropriation of profits rather than a deduction in arriving at profits. Any such interest receivable is taxable as a distribution in the hands of the recipient if an exemption is not available subject to certain very limited exceptions. The Irish tax legislation outlines certain circumstances where interest is characterised as a distribution. However, Irish tax legislation provides that Irish licensed banks or persons who hold a licence or other similar authorisation under the law of any other EU Member State, incurring such interest in the course of their banking business in Ireland, where that interest is charged at an arm's length rate and would otherwise be

Ireland	
	tax deductible, may elect that such interest is not treated as a distribution. **Dividend paid** Dividends paid treated as a distribution and no deduction is available for corporation tax purposes 2) **Interest received** See question B (1) above **Dividend received** An Irish resident company is not chargeable to tax on a distribution received from another Irish resident company other than on dividends from certain preference shares. Foreign dividends received that form part of the income of an Irish resident company may be treated as trading income where that income arises in the course of the company's trade. Foreign dividends received by an Irish company where it holds no more than 5% of the share capital and voting rights in the foreign company will be exempt from corporation tax. This exemption will only apply where the Irish company is taxed on this dividend income as trading income. This measure was introduced to give effect to the ECJ ruling in the FII GLO case Foreign dividends from underlying trading profits sourced from (a) an EU country, (b) a country with which Ireland has a DTA, or (c) a non-EU/ non DTA country provided the company is a 75% subsidiary of a company, the principal class of shares in which are substantially and regularly traded on a recognized stock exchange in Ireland, the EU, a treaty country or on such other

Ireland	
	stock exchange as may be approved by the Minister for Finance will be taxed at the 12.5% rate. The full amount of the foreign dividend will be chargeable at the 12.5% rate when certain conditions are met, even though part of the dividend may not be paid out of trading profits. These conditions are: ▪ 75% or more of the dividend paying foreign company's profits must be trading profits from that company or lower tier companies resident in the EU or in a country with which Ireland has a double tax treaty; and ▪ on a consolidated basis, the aggregate value of the trading assets of the company that receives the dividend and all of its subsidiaries, must not be less than 75% of the aggregate value of all of their assets. If these two conditions are satisfied, there is no apportionment of the dividend received, between the 12.5% and 25% rates of tax. All of the dividend will be taxed at the lower 12.5% rate. Otherwise the dividend will be apportioned between the two rates. In taxing foreign sourced dividends, credit is available for any foreign withholding taxes suffered or underlying taxes on profits out of which the dividend is paid. Finance Act 2004 introduced a form of onshore pooling so that, where foreign dividends have suffered foreign tax in excess of the Irish rate, excess foreign tax credits in respect of these dividends may be offset against Irish tax on dividends which have suffered foreign tax at a rate lower than the Irish rate. i.e. excess foreign tax credits can be pooled. All other foreign dividends are subject to corporation tax at the passive rate of 25%. 3) The domestic withholding tax rate is 20%. Dividend withholding tax in most cases is eliminated by domestic law rather than treaties. Dividends from an Irish resident company to parent companies resident in the EU are exempt from dividend withholding tax under the EU Parent Subsidiary Directive.

Ireland	
	There are also a wide range of domestic exemptions from dividend withholding tax including an exemption for non-EU based treaty recipients (not under the control of Irish residents) and an exemption to apply where the 75% ultimate parent of the recipient is listed and the shares are substantially and regularly traded on a recognised stock exchange. 4) On the assumption that the entity is trading for Irish corporation tax purposes, the tax treatment should follow the accounting treatment of the interest. 5) There is an exemption from the general requirement to withhold tax on interest payments made by a bank carrying on a bona fide banking business in the State. Deposit Interest Retention Tax, or DIRT as it is commonly known, is a withholding tax on the consideration paid by certain banking institutions, known as relevant deposit takers, on certain deposits, known as relevant deposits, which if the correct procedures are followed is usually limited in application to the returns on deposits or investments of Irish resident individuals. Technically all deposit interest is liable to DIRT, however non - residents can obtain an exemption on proof of non - resident status. Where a foreign branch of an Irish bank pays interest to a third party, no Irish withholding tax should arise, rather you must look to the withholding tax legislation in the country where the branch is situated.
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	Gains and losses arising on the disposal of fixed assets (i.e. non-wasting assets) are subject to capital gains tax at the rate of 25%. The assets are the subject of the Capital Gains tax regime, therefore capital losses are available for set off, provided the capital loss arises in either the same accounting period as the capital gain or in a preceding accounting period; capital losses cannot be carried back against capital gains arising in a preceding period

Ireland	
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	1) Where such discounts arise in the ordinary course of the banking trade they should be treated as trading receipts and are liable to corporation tax. 2) Where assets held for trading purposes are disposed of, any profit (or loss) arising on disposal forms part of the bank's trading income (allowable expenses) of the bank.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	If the company prepares its accounts under IFRS, the tax treatment of bad debts will follow the accounting treatment. Where the accounts are prepared under Irish GAAP: (i) No deduction will be available for corporation tax purposes in respect of general provisions. (ii) As above at (i) (iii) As above at (i) (iv) A deduction is available in respect of specific provisions provided the bad debt is a known liability and accurate calculation of same. (v) As above at (iv) (vi) As above at (iv)
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	For Irish corporation tax purposes, share schemes granted to employees would be tax deductible if;

Ireland	
	(i) they have been actually incurred (i.e. paid) by the local company, (ii) the costs are wholly and exclusively for the purposes of the trade of the local company, (iii) the local company can demonstrate that the Irish trade has benefited from the participation of its employees in the scheme and that the cost is commensurate with the awards/benefits being provided, (iv) they are revenue, as opposed to capital, in nature, and (v) the costs incurred by the local company in respect of share schemes of the parent company must be at arm's length.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1) There is no difference in the treatment of capital for banks as compared to other entities. There is very little discretion within each accounting framework in the accounting for capital though there are some differences as between Irish GAAP and IFRS as regards the treatment of capital instruments. The selection of the accounting framework is partially at the discretion of each entity, but entities with listed equity must choose IFRS. 2) The same rules will apply to both domestic and non-domestic entities, subject to them being governed by the same accounting framework.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	No

Italy	
A. General tax regime applicable to banks	
General comments	At the moment in Italy there is no "bank levy" or "financial activities tax" and, as per our knowledge, there are no pending proposals of law in this respect.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1)The applicable Corporate Income Tax rate is 27.5%, while the applicable rate for the local tax (Regional Income Tax) in general is 3,9%, for the Italian Banks (and other financial entities) is increased up to 4,82%. Since the introduction of IRAP, in 1997, the tax rate for financial companies was higher than other sectors (5.25% for financial companies and 4.25% for other companies). Starting from fiscal period 2008, the rates have been reduced to 4.82% for financial companies and 3.9% for other companies. Being a local tax, the above-mentioned rates may vary in Region by Region (for instance: in some Regions both financial companies and other companies are subject to the 4.82% rate; in other regions the rate has been increased to 4.93%). 2) The banks do not receive a special Corporate Income tax rate, but they can be qualified for a higher Regional Tax Rate for IRAP purposes. As general rule, financial companies are subject to higher IRAP rate, nevertheless in some regions the IRAP rate is the same both for financial companies and other companies. No particular conditions are requested, just the "financial entity" status. 3) In general the Corporate Tax Basis derives from the results of the Profit and Loss Account. To compute the Corporate Tax Basis the banks apply the IAS Accounting Principles, while, generally speaking, the other companies apply the Italian GAAPs. The IAS Adopters (i.e. entities which prepare the Financial Statement according the International Accounting Standards) calculate the Corporate Tax Basis on the result arising from the P&L and also for tax purposes it is relevant the qualification, classification and time allocation criteria provided for IAS principle. For Regional Income Tax (IRAP) purposes, the Italian Banks determine the

Italy	
	Regional Income Tax Base by the sum of the following income statement items: ▪ Operating Income decreased by 50 per cent of dividends; ▪ The amortization of tangible and intangible assets for an amount equal to 90 cent ▪ The other administrative expenses in an amount equal to 90 percent. ▪ Labor costs are only partially deductible. In principle the differences in the computation of the taxable basis for Banks and other companies should be aimed to consider the different features of the different activities, nevertheless the fact that banks include in the taxable basis 50% of dividends, while manufacturer companies do not include dividends in its IRAP taxable basis can be seen as a disadvantage for Banks. Companies active in other sectors apply rules which are linked to the P&L format sets for the specific activity sector. 4) No, Italian Tax Authorities do not impose turnover taxes on gross interest and other income of banks.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits?	1) In Italy there are no specific tax relief rules for items connected to the business of the banks. 2) There are specific anti-avoidance rules (CFC, etc..) which in principle are applicable to all tax-payers including banks. The Italian tax law doesn't provide a Thin Cap rule at the moment. There are in force CFC rules aimed to tax in Italy profits realized" in "tax haven" jurisdictions through controlled or related foreign subsidiaries or enterprises. The CFC rules apply both to banks and other Italian tax

Italy	
3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	payers. 3) The Italian banks, being subject to tax in Italy, in principle are allowed to benefit of double-tax agreements concluded by the Italian State. Other financial entities (i.e. mutual funds, etc.) may suffer from some limitations. 4) Subsidiaries and branches of foreign banks are subject to the same tax treatment applied to Italian banks. Nevertheless, for subsidiaries and branches of foreign banks the fair value of the intercompany transactions and the presence of a proper endowment fund (for the Branches) are carefully monitored by the Tax Authorities. When foreign banks set up a branch in Italy without a proper allocation of capital (endowment fund) to the branch, the Italian tax authorities challenge the deduction of passive interests paid by the branch in relation to the amount of loans that, in the tax authorities' view, should be replaced by capital.
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	1) Dividends paid: they are not deductible from the income tax basis of the distributing company (same treatment for banks and other taxpayers). Interest paid: the Interest expenses incurred by the banks are deducted from the Corporate Tax basis at 96 per cent of their total amount. This percentage is provided. This percentage is provided for by the law and has no specific rationale. For the entities, other than those belonging to the financial sector, interest expenses can be fully deducted (provided that interest expenses meet certain limits stated in the Income Tax Code) 2) Dividends received: Generally dividends received are taxed at only 5 percent of their amount. For the IAS adopters (including banks) dividends on shares classified in the held for trading

Italy	
	portfolio are fully relevant for Ires purposes. In other words, for IAS adopters, dividends relating to HFT shares can not benefit of the 95% exemption. The rationale of this rule is connected to the fact that also capital gains/ and losses realized on HFT shares are taxed/deducted. Interest received: Both for financial companies and for companies belonging to other sectors, interests received contribute to the formation of the Corporate Tax Base for their full amount 3) Dividends received from an Italian bank are not subject to withholding tax in Italy. Dividends paid by an Italian company (including banks) to other Italian companies or foreign entities are subject to the following tax regimes: ▪ no WHT If paid to Italian companies; ▪ no WHT if paid to companies resident in EU Member States under the provisions of EU Parent-Subsidiary Directive (as implemented by the Italian tax law); ▪ 1.375% WHT if paid to other European companies subject to the CIT in one of the EU Member State or in an EFTA State; ▪ 11% WHT if paid to pension funds set up in the EU Member State or in an EFTA State; ▪ 27% WHT if paid to non-residents other than those listed above. This rate decreased to 12.5% if the dividends are related to savings shares. Moreover the WHT rates can be reduced according to the provisions of double tax treaty

Italy	
	when applicable. "Saving shares" are shares without voting rights. Compared with "ordinary shares" (having voting rights), saving shares grant to the owner some additional economic benefits. 4) The Italian banks, as IAS adopters, tax and deduct the interests, based on the method of accounting used to draft the Profit and Loss Account, in accordance with IAS/IFRS principles. 5) Yes. Pursuant to the Italian domestic law , WHT must be levied on interest paid to third parties. There are different WHT on interest paid to third parties that vary depending on ▪ the nature of the interest paid ▪ the individuals involved in the financing. ▪ Generally speaking, interest on loans and advances paid to foreign entities are subject to a 12,5% WHT. The Italian tax law does not provide any "recapture rule" aimed to apply WHT on passive interests paid by a branch located abroad.
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	For Italian banks, in principle, gains and losses realized on fixed assets (other than shares or quotas) are taxed or deductible. The same treatment is valid also for non FS sector. On the other side the year end evaluations are not tax relevant, except in specific cases. (i.e: the year end evaluation of securities other than shares or quotas).This specific tax rule prevails over the general rule also for IAS adopters.

Italy	
	Quotas are "unity of capital" of "Società a responsabilità limitata – Srl" (limited stock companies which do not issue shares).
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	In principle the discounts on government bills, on trade bills and on other instruments are taxed in the hand of the investors as interest. Incomes and costs related to held for trading assets (accrued in the Profit and Loss Account in accordance with IAS principles) are fully relevant for IRES purposes (=income is taxable and costs deductible).
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	For the Italian banks, bad debt provisions on advances and loans accounted in the balance sheet, for the amount not covered by insurance guarantee, which arise from the operations of lending to customers, are deductible, in each tax period, within the limit of 0.30 percent of the value of the credits accounted in the balance sheet, increased by the amount of the write off recorded during the fiscal year. The total amount of the devaluations that exceeds 0.30 per cent is deductible in equal installments during the eighteen subsequent tax periods. The rule described above is applicable both to general provisions (reducing the value of the loans in the balance sheet) and to specific provisions. Consequently, the rule applies to the total amount of specific provisions and general provisions recorded during the fiscal period.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	Italian banks generally deduct the costs of the employees stock options plans for CIT purposes according to the IAS/IFRS criteria. However the tax rules on this specific aspect is not clear and the tax authorities have not validated yet the behavior

Italy	
	kept by the banks. For sake of completeness be informed that the Italian government has recently introduced a provision that provides for a higher tax burden in the hand of the employees who receive the benefit of the stock option plans .
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1)The Italian banks are required to properly apply the evaluation criteria provided for by the IAS/IFRS principles. 2) No, the provisions applicable to the Italian banks are the same as those applicable to subsidiaries and braches of non-domestic banks.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	In principle, actual practices are compliant with the legal provisions.

Latvia	
A. General tax regime applicable to banks	
General comments	Recent development: Latvia has introduced financial stability duty payable by Latvian banks, foreign branches of Latvian banks and Latvian branches of foreign banks, in force from 1 January 2011. The duty of 0.036% per annum is assessed on the bank's liabilities less a) deposits subject to guarantee scheme in Latvia or other EU member states, b) mortgage bonds issued by the respective bank and c) subordinated capital accounted in the bank's shareholders equity.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) The standard CIT rate in Latvia is 15% and it is applicable to all sectors including the financial sector. There are no local taxes. 2) No. 3) Yes, special provisions for bad and doubtful debts are fully deductible for CIT purposes the year in which they are created. Tax payers in other sectors are not allowed to deduct special provisions for bad and doubtful debts. 4) No.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits?	1) There are no specific tax relief rules for items such as interest income. All interest income is taxable on an accrual basis for all sectors, including the financial sector. 2) Thin capitalisation rules do not apply to banks. Other sectors must comply with thin capitalisation rules that restrict deductibility of interest on loans from creditors other than credit institutions if certain criteria are not met. The debt-equity ratio which should be maintained for the companies in non-financial sector is 4:1.

Latvia	
3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	3) No. 4) Yes, Latvian branches of foreign banks may deduct for CIT purposes a notional interest equal to LIBOR + 3% irrespective of the actually agreed interest rate on loans granted by the head office to its Latvian branch. This is only applicable to branches, not subsidiaries. In other sectors, branches may not deduct any interest on the loans from head office, only actual interest on loans from third parties (also if sourced through the head office) is tax deductible.
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	1) Interest is treated as tax deductible expense for banks. No thin cap rules are applicable to the financial sector companies. Dividends paid are not taxable by CIT as paid out from after tax profits. 2) Interest received is taxable at the standard CIT rate of 15%. Dividends received from EU companies are exempt from tax in Latvia. Dividends received from low tax jurisdictions and tax exempt companies are taxable in Latvia. 3) See the answer to Q5. 4) Interest is taxed on accrued basis for all companies including financial sector companies. 5) No differences in respect of dividends. Interest payments made by Latvian banks to non-resident related parties are subject to 5% WHT. In other sectors: generally, interest payments to related non-resident parties are subject to 10% WHT, and only interest payments to related EU companies (as defined by the CIT law) are subject to 5% WHT and certain administrative procedure must be followed.

Latvia	
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	Realised gains/ losses on fixed assets are taxable/ deductible, while unrealised gains/ losses on fixed assets are non-taxable/ non-deductible for all sectors, including in the financial sector.
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	1) Tax treatment follows accounting treatment, i.e., usually, such discounts are accounted as interest income under IFRS (and under Latvian GAAP) and, as a consequence, are taxable on accrued basis. 2) Realised gains on sale of EU/ EEA public securities are non-taxable, while realised losses on sale of such securities are non-deductible. Gains on sale of other securities are taxable, while losses on sale of such other securities may be carried forward for 8 years and set against future gains from sale of such other securities. Gains / losses from other assets are taxable/ deductible when realised. These general rules apply to all sectors, including the financial sector.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	(i)-(iii) Banks may not deduct general provisions for bad and doubtful debts. In this respect there is no difference with other sectors. (iv) No. (v) Unlike other sectors, banks are allowed to deduct specific provisions for bad and doubtful debts. A specific provision is a provision created against specific debtor balance, as opposed to general provision created on a pool of debtor balances. (vi) Specific provisions for shares and other non-fixed income securities, investments into shares of related companies, own shares, losses due to theft, fixed assets and loans issued to persons in low tax (off-shore) jurisdictions (list published

Latvia	
	by the Cabinet of Ministers) cannot be deducted for CIT purposes.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	Yes, employee stock option plans are deductible - no difference with other sectors.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1. Banks keep their accounting records and prepare annual accounts based on IFRS. 2. No, except in respect to the deductibility of interest on loans granted by a foreign bank (head office) to its Latvian branch (see under A.2 (4)).
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	No information

Lithuania	
A. General tax regime applicable to banks	
General comments	
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) The applicable corporate income tax (CIT) rate to banks is the same as other business entities and equals to 15%. No other surcharges or local taxes are applied. There is no bank levy or Financial Activities Tax applicable in Lithuania. There are no pending proposals in this respect as well. 2) No. 3) The rules to compute the corporate income tax base by banks generally do not differ from those applied to other sectors. However, according to Article 27 of the Law on CIT, only credit institutions (including banks) are allowed to deduct specific provisions for doubtful loans. For details see answers to question A.6. 4) No.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of	1) Generally, no. However, interest on securities issued by Lithuanian Government, Lithuanian Municipalities, international institutions where Lithuania is a member are exempted, if the agreement on issuance of securities was concluded before 1 January 2003. 2) No. No specific anti-avoidance rules or rules to avoid offshoring of profits are applicable to banks. General anti-avoidance rules are applicable. Lithuanian anti-avoidance rules are the following: Lithuanian Tax Authorities are empowered to apply the "substance over form" principle and to tax any transaction according to its substance if the form or structure

banks?	of this transaction is chosen solely for tax purposes. ▪ According to the transfer pricing rules, all transactions between related parties should be performed at fair market prices. ▪ Lithuanian Thin Cap rules apply in respect to borrowings from related parties as well as to borrowings guaranteed by related parties. The debt to equity ratio is 4:1. These provisions do not apply if a Lithuanian company can prove that the same loan under the same conditions would have been granted by non-related party. ▪ Payments made by a Lithuanian entity or permanent establishment (except for payments made in respect of an acquisition of assets where the Lithuanian entity or permanent establishment can provide documents evidencing the entry of such assets into the state) to foreign entities registered or otherwise organised in black-listed (target) territories shall be substantiated with evidence that: (i) such payments are related to the usual activities of the paying and receiving entity; (ii) the receiving foreign entity controls the assets needed to perform such usual activities; (iii) there is a link between the payment and the economically feasible operation. 3) No. 4) No.
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT?	1) No specific rules related to interest and dividends paid are applied to banks. If interest expenses are related to earning taxable income, deriving economic benefit and are established at arm's length, these expenses are deducted based on the accrual

Lithuania	
2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	principle. Lithuanian thin capitalization rules apply to banks as well as to other business entities. However, they do not apply to financial institutions providing financial lease (leasing) services. The thin capitalization rules apply in respect to borrowings from related parties as well as borrowings guaranteed by related parties. The debt to equity ratio is 4:1. These provisions do not apply if a Lithuanian entity can prove that the same loan under the same conditions would have been granted by non-related party. Furthermore, interest which is established based on profits, income or any similar criteria as well as interest which are related to interest bearing liabilities with a right to convert the interest into part of the profits of Lithuanian entity cannot be deducted for CIT purposes. Dividends paid are not included into income statement, therefore, are non-deductible expenses. 2) No specific rules related to interest and dividends received are applied to banks. Interests received (interest income) should be established at arm's length and are taxed based on the accrual principle. Dividends received by a Lithuanian bank (as well as by other business entities) for the shares held in Lithuanian entities shall be subject to 15% CIT. However, dividends received by Lithuanian bank (as well as by other business entities) where the recipient has held at least 10% of voting shares (ownership interests) for a continuous period of at least 12 successive months including the moment of distribution are tax exempted. Dividends received by Lithuanian banks (as well as by other business entities) from foreign entities are not subject to taxation in Lithuania if a foreign company is registered in a country of European Economic Area and these dividends are

Lithuania	
	distributed from profit that was subject to CIT or similar tax. No minimum shareholding percentage or holding period is applied. 3) Generally, dividends paid are subject to withholding tax at 15%. However, dividends paid by Lithuanian banks (as well as by other business entities) where the recipient has held at least 10% of voting shares (ownership interests) for a continuous period of at least 12 successive months including at the moment of distribution are not subject to withholding tax. This relief is not applied if the recipient is registered or otherwise organised in an offshore jurisdiction included in the specific Ministry of Finance blacklist. 4) For CIT purposes interest (interest income) on advances and on securities of all kind is recognised based on the accrual principle. Mark-to-market is not applied. 5) According to the Law on CIT, as from 1 January 2010 interest paid from Lithuanian entities as well as from Lithuanian branches of foreign entities to foreign entities established in the European Economic Area and in countries with which Lithuania has a DTT are not subject to WHT in Lithuania.
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	Banks' gains and losses on fixed assets are treated in the same way as other taxable entities' gains and losses on fixed assets. The gains on fixed assets are considered as ordinary business income and are subject to 15% CIT. The losses on fixed assets are treated as allowable deductions provided that fixed assets were sold at arm's length price.
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments	For CIT purposes, following the substance over form principle, the discounts on government bills, trade bills and other like instruments are treated as interest income. Therefore, income from these instruments is recognised on time proportion basis

Lithuania	
treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	during the maturity term, i.e. based on the accrual principle. *Unrealised gains (income)/losses (expenses).*The gains recognised from revaluation of assets held for trading purposes except for derivatives held for hedging purposes are non-taxable and losses are non-deductible. Specific tax rules apply for revaluation of derivatives held for hedging purposes. The gains recognised from revaluation of derivatives held for hedging purposes are taxable and losses are deductible. *Realised gains (income)/losses (expenses)*. Gains/losses from realised transactions (i.e. recognised upon sale or the maturity of a contract) should be recognised based on an accrual principle and be subject to general tax regime: gains – taxable, losses – deductible provided that they are related to earning taxable income and deriving economic benefits of a bank (or a company).
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	(i) Not applicable (see the answer to part (ii) of this question). (ii) General provisions (i.e. provisions for entire portfolio of doubtful assets) are made at discretion of credit institutions. Loan value impairment may be assessed per group of similar loans. The bank should provide proof that the distinguished group of similar loans comprises loans bearing similar risk features. Groups of similar loans shall be formed having regard to loan characteristics (loan type, amount, collateral, defaulted maturity, loss previously incurred on similar loans (historical data, etc.) and the borrower (borrower's type), influencing the calculation of the loan value impairment. Value impairment loss amount per group of similar loans shall be calculated as the difference between the carrying amount of the group of similar loans and estimated future cash flows calculated in observance of the previously incurred loss on similar loans (historical data). For the purpose of discounting future cash flows the weighted

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	average of the original effective interest rate may be used. If it is possible to identify within the group of similar loans any particular loan, the value of which has impaired, such loan should be removed from the group of similar loans and assessed individually. According to Article 27 of the Law on CIT, general provisions (i.e. provisions for entire portfolio of doubtful assets) made by credit institutions are non-deductible. (iii)Not applicable. (iv) Yes, but only to extent allowed by the rules of the Bank of Lithuania (Minimum Requirements on Loan Valuation as established by Bank of Lithuania, Decree No. 114, 28 July 2005). These rules state: ▪ When recognising a loan for the first time, it should be assessed at fair value of consideration paid (transaction cost). ▪ If after initial loan recognition loss events are identified, such loans should be subject to individual assessment. ▪ The value impairment loss amount of loans assessed individually shall be calculated as the difference between the carrying amount of the loan and current value of estimated future cash flows discounted at the original actual interest rate of such loan. ▪ The bank should assess probability of loss events at least once a quarter. ▪ Upon existence of at least one objective evidence of impairment in the value of a loan, the bank must assess such impairment immediately. ▪ Loan value impairment may be calculated as one or several amounts ▪ ***The impairment (increase) in the value of a loan should be disclosed in the***

Lithuania	
	account of specific provisions. (For details please refer to the attached document "Minimum Requirements on Loan Valuation as established by Bank of Lithuania, Decree No. 114, 28 July 2005"). (v) According to Article 27 of the Law on CIT, specific provisions (i.e. provisions for a particular doubtful loan) made by credit institutions are deductible. (vi) No. Deductibility is allowed to the extent of the rules of the Bank of Lithuania (Minimum Requirements on Loan Valuation as established by Bank of Lithuania, Decree No. 114, 28 July 2005).
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	The issue of deductibility of expenses related to stock options is not explicitly described in Lithuanian Law on CIT, and therefore, has not been common in practice in Lithuania. Generally, employees' stock options plan should be non-deductible. However, we believe that it may be treated as deductible for CIT purposes since said amounts would be recognized as benefits-in-kind (employment related income) and be subject to Personal Income Tax (PIT) and social security contributions. Please note that deduction can only be taken if costs are actually incurred and taxed as mentioned above.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to	1) From accounting practice perspective, there is a mandatory requirement for banks to apply IFRS as adopted by the EU. Therefore, accounting discretion can only be used to the extent it is allowed under IFRS. 2) There are no differences in the provisions applicable to subsidiaries. From the

Lithuania	
subsidiaries and branches of non-domestic banks?	regulatory compliance perspective, there are significantly less mandatory regulatory compliance requirements for branches of non-domestic banks in comparison with domestic banks (which may be subsidiaries of non-domestic banks). For example, a branch of non-domestic bank should only comply with liquidity ratio established by the Bank of Lithuania. Other mandatory ratios are not applied.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	No

Luxembourg	
A. General tax regime applicable to banks	
General comments	Our Luxembourg tax comments are made assuming that banks run their accounts in LuxGAAP. We do not refer to IFRS accounting as the tax consequences of adopting IFRS standards is not yet clear (a draft bill is in discussion in this respect). However, based on the current draft, the same tax principles should remain applicable. The tax treatment for banks is the standard one with few differences. For sake of completeness, we answered all the questions and we indicated when the tax treatment described is applicable only to banks or is applicable to any taxpayer. There are currently neither bank levies nor financial activities tax currently applicable or envisaged in (pending) proposals in Luxembourg.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) The applicable Corporate Income Tax rate ("CIT") is 21% on which a 5% solidarity surcharge is computed, so that the total CIT is 22.05% as from 01.01.2011. Banks, as any corporations, are also subject to Municipal Business Tax ("MBT"), which rate varies between 6.75% and approx. 9% depending on the cities. For banks established in Luxembourg city, the combined CIT/MBT rate is 28.80%. Banks, as any corporations, are also subject to a yearly Net Wealth Tax ("NWT") which is computed on the net assets value (with some tax adjustments) of the bank each year at a rate of 0.5%. 2) There is no special tax rate applicable to banks except for the very specific case of credit cooperative companies ("CCC") which sole activity is to collect proceeds from its members to provide financing to them (article 174 (4) of the Luxembourg Income Tax Law, "LITL"). CCC may benefit from a reduced CIT rate (i.e. 7% instead of 21%) whereby the combined CIT/MBT rate is approx. 14.1% for Luxembourg city. If the conditions are not met however, the standard rate is applicable. In practice,

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	such reduced rate is more theoretical as generally the few CCC (2 out of 146 banks as at 28.02.2011) in Luxembourg do not meet the conditions for applying the reduced rate. 3) As for any taxpayer in Luxembourg, the tax treatment for banks generally follow the accounting treatment except if otherwise provided for by the tax legislation (article 40 LITL). Compared to other sectors, banks are entitled, according to the banking law, to book specific provisions in their accounts (see section A6) which are tax deductible to a certain extent. However, this is only an application of the general rules (i.e. tax follows accounting). Regardless of the currency of the capital of the bank and/or the accounting currency, the taxable profit must in principle be computed in EUR and tax returns should be filled in accordingly. The taxable profit corresponds to the difference between the net asset value of the bank expressed in EUR at the beginning of the financial year and at the end of the financial year. The evolution of exchange rates has, therefore, an impact on the tax profit. To mitigate this artificial effect, banks are entitled to benefit from a roll-over relief to neutralize this "artificial" forex under conditions (article 54bis LITL). This relief is only temporary and should normally be taxed at the latest at the time of liquidation of the company (except if a specific exemption could apply). Please note that this provision is also applicable to insurance and reinsurance undertakings as well as to any company mainly active in the trade of financial and currency assets. All tax incentives (investment tax credit, tax sparing credit granted under a double tax treaty …) or tax exemptions/reliefs applicable to banks are also applicable to other taxpayers. 4) There are no specific turnover taxes on gross interest and/or other income of banks

Luxembourg	
	in Luxembourg.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	1) No. 2) No. CFC rules derive from an administrative practice applicable to any taxpayer according to which, for instance, the financing of participations should normally comply with a 85-15 debt-to-equity ratio in case of related party financing. Thin capitalization rules do not apply only to the financial sector. 3) No. 4) No.
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad)	1) As for any taxpayer, interest payments made by banks are fully tax deductible for CIT/MBT purposes except if they are in direct economic link with a tax exempt asset/income. In addition, in case such payments do not respect thin capitalization or transfer pricing rules for instance, such payments may not be tax deductible. Thin capitalization rules do not apply only to the financial sector Dividends are not tax deductible for CIT/MBT purposes. This is the standard tax treatment applicable to any taxpayer. 2) Interest payments received are fully taxable for CIT/MBT purposes. Dividends are fully taxable for CIT/MBT purposes except if they qualify ***(i)*** for the participation exemption regime in Luxembourg (article 166 LITL) or ***(ii)*** for the half exemption (article 115.15a LITL). Both exemptions are available to any qualifying

Luxembourg	
pays interest (on a debt which is borne by the permanent establishment) to a third party?	taxpayers in Luxembourg. The exemption granted under article 166 LITL is a 100% exemption if the following requirements are met: (i) dividends are distributed by a collective entity listed in the EU Parent-Subsidiary Directive or by a non-resident joint-stock company fully liable (in its State of residence) to a tax corresponding to the Luxembourg CIT; (ii) at the time when the income is made available, the taxpayer hold (or undertakes to hold) directly a participation in the share capital of the subsidiary of 10% (or EUR 1.2m acquisition price) for an uninterrupted period of at least 12 months. Related expenses incurred during the year in which a dividend is received may only be deducted insofar as they exceed the exempt dividend for the year in question. The conditions to be met for the 50% exemption are those mentioned in ***(i)*** above. Besides, expenses in economic link with tax exempt income are not tax deductible. 3) Dividends on shares are in principle subject to a 15% withholding tax in Luxembourg except if they qualify for the participation exemption or if a reduction applies under the relevant double tax treaty. This is the standard withholding tax rate applicable to any Luxembourg taxpayer. The domestic withholding tax exemption will apply only if a 10% participation in the share capital (or EUR 1.2m acquisition price) of the distributing company is held (or commitment to hold) for an uninterrupted period of 12 months and the dividend is paid to a collective entity listed in the EU Parent-Subsidiary Directive or member of the EEA agreement and fully liable to a tax corresponding to Luxembourg CIT, a joint.-stock company tax resident in a country with which Luxembourg signed a double tax treaty and which is fully liable to a tax corresponding to the Luxembourg CIT, a joint-stock company tax resident in Switzerland and subject to corporate taxes

Luxembourg	
	in Switzerland without being exempt. 4) In principle, the following methods are used for valuation of investments: ***(i)*** acquisition price, ***(ii)*** lower of cost or market value and ***(iii)*** mark-to-market. For interest, generally the accrual method is used. 5) There is no withholding tax on interest under Luxembourg domestic law (except if the debt has very specific features).
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	Gains and losses on fixed assets are respectively fully taxable or tax deductible. Nevertheless, certain assets may qualify, under conditions, for a roll-over relief (temporary neutralization) in case proceeds from the sale are reinvested in another qualifying asset (article 54 LITL). The capital gain will be taxed at least in case of disposal of the assets in which proceeds were reinvested. This roll-over relief is available for any taxpayer in Luxembourg and not only banks. Moreover, participations held in qualifying companies may benefit from a tax exemption on the capital gain realized upon disposal according to the participation exemption regime (same conditions as for article 166 LITL except that the acquisition price is EUR 6m instead of EUR 1.2m and recapture rules are not limited to the year in which the tax exempt gain is realized). Capital losses are fully tax deductible.
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes?	1) Discounts on bills are fully taxable in Luxembourg. Generally, there will be a time difference on the recognition of the gain due to the discount between accounting and tax. From an accounting perspective, the discount will be recognized during the lifespan of the instrument (*prorata temporis*) whereas for tax purposes it will be only recognized at maturity (application of valuation tax rules, article 23 LITL). This tax

Luxembourg	
2. How are assets held for trading purposes treated for tax purposes?	treatment is applicable to any taxpayer in Luxembourg. 2) There are no specific rules for assets held for trading purposes. Generally, as they do not meet any conditions for tax exemptions, their capital gains will be taxable and capital losses will be tax deductible. Interest received and dividends received before disposal should also be fully taxable.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	As the tax treatment follows the accounting treatment, provisions for doubtful debts on advances and loans are in principle tax deductible if recognized for accounting purposes. The main conditions for a provision to be tax deductible are to be linked to the business of the company and to be economically justified. A distinction should be however be made between value adjustments booked according to article 58 or 62 of the amended Law of June 17, 1992. Value adjustments made under article 58 generally comply with valuation rules for tax purposes (i.e. valuation at acquisition cost or lower market value) and are in principle tax deductible. On the other hand, value adjustments according to article 62 are only made to take into account the inherent banking risk for certain type of assets and are in principle not tax deductible. Risks and charges provisions booked according to article 31 of the amended Law of 17 June 1992 are in principle tax deductible as the loss is clearly identified and either likely or certain to occur but uncertain as to the amount or to the date. Besides, country risk provisions reflecting the temporary risk of recovery due to economic/political situation of the country of the debtor are also tax deductible. A lump-sum provision for risk-weighted assets could also be booked by the banks and is tax deductible if it meets certain conditions (i.e. limitation to 1.25% of the qualifying risk weighted assets) according to the Instructions form the Director of the Luxembourg Tax Authorities dated 16 December 1997.

Luxembourg	
	Finally, the AGDL ("Association pour la Garantie des Dépôts Luxembourg") provision booked is also tax deductible according to article 167 (5) LITL and the Grand Ducal Decree dated 21 December 1991.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	Yes and for all companies (not only banks).
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1) Please refer to our comments on question A.6 notably on provisions according to article 31, 58 and 62 of the amended law dated 17 June 1992 2) No.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	No.

Malta	
A. General tax regime applicable to banks	
General comments	There are no special taxes in Malta for banks, such as bank levies or Financial Activities tax. Based on our knowledge, we are not aware that there are pending proposals in this respect.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) The Maltese normal corporate income tax rate is a flat rate of 35% chargeable on the taxable profits (including certain capital gains) of the company. There are no surcharges or other local taxes charged on income/ gains. 2) Banks are subject to the normal 35% tax rate as set out in 1 above. Furthermore, in general, banks are taxed in the normal manner as any other company. Naturally the Maltese income tax treatment of a bank (e.g. determination of taxable income, etc.) takes into consideration the particular trading activities/ characteristics of banks, however such an approach also applies in the case of any other trading company. 3) There are no specific tax rules to determine the corporate tax base for a bank. As outlined in point 2 above, the fact that a bank would be carrying out trading activities will be taken into consideration when computing the taxable income, but this is also the case for other trading companies which are not banks. 4) In respect of turnover taxes, Malta imposes VAT on the basis of EU VAT Directives with the standard VAT rate being 18%. However the Maltese VAT Act provides for an exemption without credit in the case of "credit, banking and other services", subject to certain conditions and also specific exclusions. This exemption includes inter alia "the granting and the negotiation of credit and the management of credit by the person granting it", i.e. interest income of banks should in general be covered by this VAT exemption without credit. Hence in general banks should not be required to charge Maltese VAT in respect of services falling within the terms of the above-mentioned exemption and should also

Malta	
	in general not be allowed to recover VAT incurred (the latter may be subject to certain exceptions, e.g. if the customers of the bank are established outside the European Union). If a bank provides any service/s which is/ are not covered by the aforesaid exemption without credit, then the bank should be required to charge Maltese VAT on such service/s (subject that the place of supply is in Malta and that the particular supply is VATable) and should also be in a position to recover that part of the VAT incurred (if any) attributable to such service/s.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	1)Certain items of non-Maltese source income (including, among others, profits of certain banks resulting from investments, assets or liabilities situated outside Malta - this provision is not limited to banks but applies in respect of a variety of foreign-related income sources as defined in the Maltese Income Tax Act which may be received by any company, irrespective of the activities carried on thereby) may, subject to the satisfaction of certain statutory conditions, qualify for a unilateral relief mechanism referred to as the Flat Rate Foreign Tax Credit (FRFTC). As stated above, the FRFTC is available to any company (i.e. not only to banks) in respect of income earned thereby which falls within the purport of the particular provision. 2) Maltese income tax law does not provide for CFC rules nor thin capitalisation rules. There are a few rather general anti-avoidance provisions in Maltese tax law but these do not draw a distinction between banks and other companies. There are no specific rules to avoid offshoring of profits but the above-mentioned general anti-avoidance provisions in Maltese tax law may possibly be invoked for this purpose by the Maltese Revenue – again there is no distinction in this respect between banks and other companies. 3) In general, Malta's double taxation agreements define "company" as any body corporate or any entity which is treated as a body corporate for tax purposes, and such definition should therefore include a bank where the bank is a body corporate

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	for Maltese tax purposes (naturally we have not made any comprehensive review of Malta's treaties to establish this point and thus this comment is based on general principles). 4) No.
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	1) Interest paid by a Maltese bank: Interest paid by a Maltese bank in respect of a deposit of money (except for bearer accounts) or interest payable in respect of a public issue, may be taxed at a favourable rate of 15% (through a withholding tax system) in the hands of Maltese-resident recipients as specifically defined in the Maltese Income Tax Act. This tax rate of 15% does not apply only in respect of payment of interest by Maltese banks but applies also in a variety of cases (also not including banks) specifically set out in the law. A Maltese-resident investor receiving the said interest may opt to be taxed in the normal manner, i.e. receive the interest without the deduction of the said 15% withholding tax. Interest paid to non-Maltese-residents should be exempt from Maltese income tax subject to the satisfaction of certain statutory conditions. The interest incurred by the bank should be tax deductible in the hands of the bank if such interest is wholly and exclusively incurred in the production of the bank's income. In the case of banks, interest expenses should normally be tax deductible on the basis that such interest expense would be incurred in the production of the interest income of the bank. Naturally each specific case may need to be considered on its own merits. Dividend paid by a Maltese bank: There are no different rules applicable to dividend distributions from banks, i.e. the rules are the same as any other company in this respect. In brief, there should be no further tax on a distribution of taxed profits, whilst a distribution of untaxed profits

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	should be subject to a withholding tax of 15% where the recipient of the dividend is (a) a Maltese-resident person other than a company, or (b) a non-resident person who is owned and controlled by, directly or indirectly, or acts on behalf of an individual who is ordinarily resident and domiciled in Malta. Dividends paid by a bank should not be tax deductible in the hands of the bank on the basis that dividends are an appropriation of income (this concept applies across the board i.e. not just for banks). 2) Interest received by a Maltese bank: Interest received by a Maltese bank is normally treated for tax purposes as part of its trading income (since this should be the trading activity of a bank) and hence the net interest income, i.e. after allowing for any tax-deductible expenses, should be charged to Maltese income tax. In the case of interest income derived from a non-Maltese source, such interest may qualify for double taxation relief under any applicable form of double taxation relief contemplated under Maltese tax law. Dividends received by a Maltese bank: Dividends received by a Maltese bank should be treated for Maltese income tax purposes in the same manner as any other Maltese company receiving dividends. In brief, there should be no further income tax payable on the receipt of a dividend from another Maltese company. Dividend income from holdings in foreign companies or foreign limited partnerships may qualify for the Maltese participation exemption subject to the satisfaction of a number of statutory conditions. The Maltese participation exemption on dividends/ gains may also apply in respect of trading assets. Naturally for the Maltese participation exemption to apply certain statutory conditions would have to be satisfied but the fact that the shares producing the dividend may be trading assets does not in itself disqualify the possibility for the Maltese participation exemption.

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	In Malta, banks may still qualify for a participation exemption on dividends even though the shares may be regarded as trading assets or portfolio shares. Naturally the participation exemption is still subject to the satisfaction of certain statutory conditions. 3) In general there is no withholding tax under Maltese tax law in respect of distributions of dividends from one Maltese company to another Maltese company (including where the recipient is a bank). In the local context (i.e. a distribution from a Maltese company to another), there may only be a withholding tax where the income would have been taxed at the level of the distributing company at a lower tax rate simply by reason of the fact that a different tax rate applied at the time that the profits were generated by the underlying company. In respect of dividends receivable by a Maltese bank from foreign shares, one would naturally need to verify the tax position of the foreign country involved in order to ascertain whether any foreign withholding tax applies in respect of the dividend. The above tax treatment is common to both banks and any other Maltese company. Malta does not impose a withholding tax on distributions to non-residents subject that such non-residents are not owned and controlled by, directly or indirectly, nor act on behalf of any Maltese-domiciled and ordinarily resident individuals. 4) In the context of banks, i.e. where the interest income should normally be treated as trading income of the bank, such interest income should in general be taxed on the accrual basis. Having said this, the specific circumstances of each case would have to be taken into consideration and if, for example, for accounting purposes the interest income in any particular situation is not accounted for under the accruals basis then one may possibly need to consider further the Maltese income tax

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	treatment thereof. It should be highly unlikely that interest income is not treated as trading income for tax purposes in the case of a bank given that interest is typically generated in the course of the bank's trading activity. In the unlikely scenario that the interest is not part of the trading income of a bank (for tax purposes) in a particular set of circumstances, then the interest may possibly be taxable on a receipt basis. Given that there is no specific rule in this respect and the normal approach should be to tax the interest on the basis of the accounting disclosure, if such a situation were to arise it would be advisable that the particular case is analysed and discussed on its own merits. 5) The payment of interest to a non-resident should not be subject to Maltese withholding tax subject to the satisfaction of certain statutory conditions, i.e. in brief that the debt claim from which the interest arises is not effectively connected to a Maltese permanent establishment of the non-resident recipient, and the beneficial owner of the interest is a person not resident in Malta and such person is not owned and controlled by, directly or indirectly, nor acts on behalf of an individual or individuals who are ordinarily resident and domiciled in Malta. If the recipient of the interest is a Maltese resident, there may be the requirement under Maltese tax law for a withholding tax of 35% to be applied on the payment of the interest if such interest arises from a debenture or from any other loan advanced to a company for a capital purpose (excluding interest on customer's deposits and current accounts). Similar withholding tax considerations to those set out above should in general also apply if the Maltese head office were to pay interest in respect of a debt claim borne by a non-Maltese permanent establishment of the said head office.

Malta	
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	We understand that this question is referring to gains/ losses arising on the disposal of fixed assets by a bank. There are no special tax rules in Malta applicable for banks in this respect. In brief, if capital allowances (tax depreciation) were claimed on the particular fixed asset then, in general, upon the disposal (or if destroyed or put out of use) of such fixed asset the transferor should be required to prepare a balancing statement which would either result in an allowance (where the disposal value is less than the tax written down value) or a taxable charge (where the disposal value is higher than the tax written down value). The accounting gain/ loss should be reversed for tax purposes. In the case where the particular fixed asset is caught by the Maltese income tax provisions regulating capital gains (e.g. transfer of immovable property), the transferor should be required to prepare a tax computation showing the capital gain/ loss in terms of the specific tax provisions (this computation would be over and above the aforesaid balancing statement depending on whether capital allowances were claimed on the asset). The said capital gain should be taxable together with the other items of income whilst a capital loss (i.e. a loss derived from a capital asset and not from a trading asset) can only be tax deductible against a capital gain (where any deduction is actually allowed by law). The capital loss may be carried forward to future years indefinitely and absorbed against future capital gains (but not against trading gains/ profits). Hence the fact that there is no other capital gain during the particular year where a capital loss is realised should not mean that the capital loss is lost forever. Capital losses can be carried forward indefinitely to future years and absorbed against future capital gains.

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E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	1) Discounts payable by the Government of Malta or by any agency thereof, discounts payable by a corporation or authority established by law, or discounts payable in respect of a public issue may be subject to a final withholding tax rate of 15%. However certain recipients of such income are excluded from benefitting from the said withholding tax rate and one of such exclusions applies where the recipient is a Maltese licensed bank. Hence given the non-applicability of the aforesaid 15% withholding tax in the case of a Maltese bank receiving such income and also the absence of any specific tax exemption, such discounts should in general be subject to tax in the hands of a Maltese bank at the normal corporate tax rate of 35%. 2) A bank is generally treated as carrying on a trading activity and consequently the income generated thereby is normally treated as trading income. In respect of assets which are held as trading assets by the bank, there are no special tax rules outlining the tax treatment thereof and hence trading income/ gains arising from such trading assets should in general be subject to tax in the normal manner. Naturally it would be advisable that each case would be analysed on its own merits so as to ascertain the precise Maltese income tax treatment in the particular circumstances. One point which may be noted is that if the assets are treated as trading assets for tax purposes then the capital gains provisions (taxation but also exemption provisions) should not be applicable in respect of gains arising from such assets. In other words, the provisions of the tax law regulating capital gains only apply in the case of "capital assets". If the particular asset is held as a trading asset then the capital gains provisions (both in respect of the taxing provisions and also in respect of any tax exemptions which may apply under such capital gains provisions) would not apply. Naturally any trading income arising therefrom should in general be taxable under the normal (i.e. not capital gains) tax provisions.

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F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	The general rule for tax deductibility under Maltese tax law is that an expense is tax-deductible to the extent to which such expense is wholly and exclusively incurred in the production of the income. Hence general or specific provisions/ provisions for doubtful debts should not satisfy this test and should not be tax-deductible for Maltese tax purposes. On the other hand, there is a specific rule (i.e. over and above the general rule set out above) which provides for the tax deductibility of bad debts subject to the satisfaction of certain conditions i.e. a tax deduction is provided in respect of "bad debts incurred in any trade, business, profession or vocation, proved to the satisfaction of the Commissioner to have become bad during the year immediately preceding the year of assessment notwithstanding that such bad debts were due and payable prior to the commencement of the said year …". A bad debt is a debt which has been recognised as unrecoverable. However in order for the bad debt to be tax deductible, it is not enough to be recorded as such in the financial statements but it has also to satisfy the conditions set out in the Maltese Revenue Guidelines on the subject. Hence subject that the bad debt on the advance/ loan arises from the trade/ business of the bank and subject that all the other statutory conditions would be satisfied, the bad debt arising on an advance/ loan should be tax- deductible on the basis of the above provision of the law. Furthermore the Maltese Revenue has issued Official Guidelines so as to provide guidance in respect of the tax deductibility of bad debts in respect of all taxpayers. These Guidelines primarily provide guidance to the taxpayer in respect of the parameters which the Revenue uses in determining that the bad debt should be treated as "bad" for tax purposes. Indeed a debt which is recognised as "bad" for accounting purposes may not necessarily be "bad" for tax purposes in that in the latter case the specific rules set out in the tax law and in the Revenue Guidelines

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	would have to be satisfied for the particular bad debt to be tax-deductible. (i) General provisions should not be tax-deductible. Thus there are no minimum requirements etc. for tax purposes in these respects. Regarding bad debts, the Revenue Guidelines provide inter alia that in the case that the total amount of bad debts during a particular year exceeds €4,658, then certain further information would need to be provided to the Maltese Revenue in order to be in a position to claim a tax deduction. (ii) General provisions should not be tax-deductible. (iii) General provisions should not be tax-deductible. (iv) Given that specific provisions should not be tax deductible there are no specific tax rules in their respect. (v) Specific provisions should not be tax deductible. (vi) Specific provisions should not be tax deductible.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	1) As outlined above, the general rule for tax deductibility under Maltese tax law is that the expense must be wholly and exclusively incurred in the production of the income. In the case of stock/ share options, tax deductibility should be subject to the aforesaid general rule for deductions. As the exercise of the share option should be treated for Maltese income tax purposes as a fringe benefit (part of the employment income) granted by the Maltese bank/ company to its employees as a reward for services rendered, such benefit should in general satisfy the said tax deductibility rule and on that basis should normally be tax-deductible in the hands of the employer.

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	Tax deductions for employee emolument expenses, including the fringe benefit arising on the exercise of a share option, are subject to the further condition (applicable generally, i.e. not just in the case of banks) that the respective emoluments have to be duly reported by the employer to the Maltese Revenue in terms of the Final Settlement System Rules. Failure on the part of the employer to properly report such fringe benefits (and within a specific period of time as specified in the law) results in a loss of the right to claim the tax deduction by the employer of such a fringe benefit provided to the employees.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1) Accounting principles in Malta require the adoption of IFRSs as adopted by the European Union. These requirements do not contemplate over or under valuation of capital for banks. Accordingly, if our interpretation of this question is correct, there seems to be no possibility for over/ under valuation of capital in the Maltese context. 2) We understand that this question is referring to the replies provided under parts A1 to A7 above. We also understand that the comparison being made in this question is between a non-Maltese bank owning a banking subsidiary in Malta and a non-Maltese bank holding a banking branch in Malta. Please come back to us if our above understanding is not correct. The Maltese subsidiary and the Maltese branch should be treated in a similar manner for Maltese income tax purposes and hence the replies provided under parts A1 to A7 above should in general apply to both a subsidiary and a branch.
I. Practices	
For all the above conditions is there any information as whether actual	We are not aware that actual practices in respect of the matters discussed above differ from the applicable legal provisions. Furthermore there are no Maltese Revenue Guidelines/ official practices in respect of most of the matters covered by

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practices may differ from legal provisions?	this Questionnaire and hence it is not possible to provide any meaningful reply to such a general question. Having said this, it is normal practice here in Malta, especially in cases where there are no specific Revenue Guidelines/ practices on the particular matters, that any tax issue which is not clearly tackled in the tax law would be clarified upfront in writing with the Maltese Revenue.

The Netherlands	
A. General tax regime applicable to banks	
General comments	There is no bank levy applicable or Financial Activities Tax applicable. At the moment there are also no (pending) proposals with respect to introducing a bank levy or otherwise in the Netherlands. Note that the Dutch Minister of Finance is a supporter of introducing a banking levy but only in case consensus of introducing such a levy is reached at EU level.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) The statutory Dutch corporate income tax rate of 25% applies, with a step up of 20% on the first Euro 200,000 of taxable income. There should be no local Dutch taxes. 2) Banks cannot qualify for (or receive) a special tax rate. Entities active in other industries should in principle also not qualify for a special tax rate. 3) In principle not (see further below). 4) N/A
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of	1) N/A. Interest received is in principle fully subject to DCIT. 2) We do not have specific anti-avoidance rules that only apply to the financial sector. Note that anti-avoidance or (for example) thin-cap rules , also applicable to the financial services sector, can limit the deduction of interest (mainly intra-group transactions). In principle the thin cap rules are applicable to interbanking debts, however, the amount of non-deductible interest under the Dutch thin cap rules should only be limited to the extent that intercompany interest paid exceeds intercompany interest received. As set out above, under the Dutch thin cap rules the amount of non-deductible interest should only be limited to the extent that

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banks?	intercompany interest paid exceeds intercompany interest received. Under circumstances the Dutch participation exemption (exemption of dividends and capital gains on shareholdings of 5% or more) may not apply to (foreign) shareholdings, for example if the entity is held as a passive investment and the entity is not sufficiently taxed or predominantly holds passive assets (direct or indirectly tested). This rule can be considered as (a kind of) CFC-rule. This rule is applied in the same way for FS players. 3) N/A. 4) In principle not. However, in the Netherlands banks have the option to make use of a special rule with respect to crediting foreign withholding tax. In the Netherlands, foreign withholding tax can only be credited on a net basis i.e. costs attributable to the foreign income have to be deducted from the foreign income which limits the tax payers credit basis. For example, if a Dutch entity is financed back-to-back the credit basis will be (maximum) the DCIT due over the interest received minus interest paid (the other limit is the tax withheld on the foreign income received). Under this special rule banks are, however, allowed to (short said) assume that its receivables are financed with approx. 10% equity, which could improve its position to credit foreign withholding tax in the Netherlands. In other words, in principle banks are sure that on 10 % of their interest income they can credit foreign WHT. However, some calculations have to be made to come up with the exact figure (see the attached document**).**
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT?	1) Interest In the Netherlands interest paid to third parties or to group companies should in principle be tax deductible. However, deduction of interest may be limited due to (for example) anti-avoidance rules, thin cap, or a requalification of a loan into

The Netherlands	
3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	equity. This is the same for FS and non FS sector. Dividend In the Netherlands dividends should not be tax deductible. 2) Interest In the Netherlands interest received should in principle be fully subject to tax. Dividend Dividends received should in principle be subject to DCIT unless the Dutch participation exemption applies. 3) Distributed dividends are in principle subject to 15% Dutch dividend withholding tax unless (for example) the Parent-Subsidiary applies or a lower withholding rate under a tax treaty. 4) Interest on advances should be attributed and taxed in the period to which the advance relates (matching principle). 5) In the Netherlands there should be no withholding tax on interest payments.
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	Gains and losses on fixed assets are in principle taxed /deductible.
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments	1) Discount (for example, the difference between issue price and face value) due to difference in interest or is the bill distressed? The difference in value due to the lower interest rate or the bill being distressed should not be taxed at the moment of

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treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	acquiring the bill but either during the remaining term of the bill or at maturity date (depends on the situation). 2) In principle these assets can be valued at book value or lower concern-value (lower concern-value refers to" lower going-concern value"). A gain on the assets should be taxed upon realisation of the profit.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	In principle bad debts can be written down for DCIT purposes. The asset can be valued at book value or the lower concern-value. (i) System for FS and non FS should be the same. (ii) The provision should in principle tax deductible (no specific limitation); (iii) There are different methods to calculate the provision – on a case by case basis for example or on an overall basis whereby based on experience a percentage of the loans and advances are assumed to be uncollectable.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	Costs relating to employees stock option plans should not be deductible for DCIT purposes.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to	1) As well under IFRS as Dutch Gaap a Bank should in principle not be allowed to use accounting discretion to under/over-state the book value of capital; the assets in principle have to be valued at fair market value or amortised cost (if for example a bond is held to maturity).

The Netherlands	
subsidiaries and branches of non-domestic banks?	2) In principle not.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	N/A

Poland	
A. General tax regime applicable to banks	
General comments	There is no bank levy or Financial Activities Tax in Poland Currently, a draft of the law introducing levy on banks and certain other financial institutions has been proposed by the opposition party in the Parliament. Based on parliament structure, even if the law is ultimately passed, it is unlikely that the law takes the form presented in the draft.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) The standard CIT rate is 19%. The same CIT rate generally applies to all taxpayers (including banks). There are no local income taxes. 2) No. 3) The rules of computing the tax base are generally the same for banks as for other legal entities. However, some important exceptions regarding specific costs and revenues may apply to banks. This includes: ▪ tax treatment of provisions for bad debts or write-offs of bad debts, ▪ revenues from expired bank accounts, ▪ securitisation of receivables, ▪ costs and revenues connected with financial restructuring under specific laws. 4) No.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest	1) There are no specific tax reliefs applicable to banks. 2) The anti-avoidance rules are the same for all tax payers. There are no special rules

Poland	
income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	regarding offshoring. 3) Generally, there are no exclusions specified for financial companies from DTTs. 4) Subsidiaries are subject to taxation on the general principles. Branches of foreign banks are generally subject to taxation on the same principles, with some exceptions regarding their non-resident status. The most important issue is the deductibility of interest paid by the branch to the head office. In this case the free capital analysis should be calculated based on the OECD guidelines.
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	1) General rules apply. Interest paid is treated as tax deductible costs (cash basis). Dividends are paid out of net income. Therefore dividends paid are not tax deductible for the payer. 2) General rules apply. Interest received is treated as taxable revenue (cash basis). Dividends received from residents are taxed at a rate of 19% and are not aggregated with other revenues of the taxpayer (the tax is withheld by the tax remitter, i.e. the entity paying out the dividends). Dividends received from non-residents are generally considered revenues aggregated with other revenues of the taxpayer. The withholding tax paid abroad can be deducted. Some exemptions for dividends paid between related entities are applicable – in accordance with the EU law. 3) General rules apply. The dividends on shares are subject to 19% WHT, unless the relevant DTT or EU law provisions are applicable. 4) General rules apply. Interest is generally recognized on a cash basis when paid. However, discount interest is tax deductible costs for the issuer upon the redemption of the security. At the same time it constitutes tax revenue for the holder. 5) General rules apply. Interest paid to a recipient abroad is generally subject to 20%

Poland	
	WHT. If a foreign branch of a Polish bank pays interest on a debt which is borne by that branch there should not be a WHT obligation in Poland. The WHT may arise if Poland is the source of interest. In the case of a foreign PE that pays interest on debt connected with the activity of this PE, Poland should not be regarded as the source country, hence no WHT in Poland should arise.
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	General rules apply to banks and the gain is subject to the general CIT rate (19%). There is no separate capital gains tax. As a rule, losses on fixed assets are tax deductible, identical rules apply to banks and other entities.
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	1) Discounts on securities are tax deductible (for the issuer) and are recognised as revenues (for the holder) as a rule upon the redemption or sale of the security. Some doubts may arise regarding the tax treatment of accrued coupon interest purchased. It could be argued that the purchased coupon is deductible upon receiving the revenue from the first coupon, but it is also possible to argue that the cost is deductible upon the redemption or sale of the security. The market practice in this matter is not uniform. 2) General rules apply, i.e. any valuation is, as a rule, tax neutral and the tax result is calculated as the difference between the sale price and the expenses made on acquisition of the securities. Interest is taxed on cash basis. However, if the taxpayer (a financial or non-financial institution) has chosen the so-called "accounting method" of foreign exchange recognition for CIT purposes and valuation of foreign currency securities is treated as "FX differences" for the accounting purposes, then the valuation of these securities can be considered a revenue or a cost for tax

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	purposes as well.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	(i) Under the Polish accounting standards (PAS) banks are allowed to create a "general risk provision" equal to no more than 1,5% of all outstanding loans (excluding classified as lost) but no more than the amount transferred from the net income to the general risk fund. (ii) If the bank uses the PAS the formation of the general risk provision allows the bank to tax-deduct it as a tax cost. On the other hand the release of the general risk provision is taxable revenue. If the bank uses the International Accounting Standards (IAS) the IBNR provision is treated for CIT purposes in the same way within the PAS limit (see below). IBNR stands for "incurred but not reported", it is a general risk provision that banks may create under IAS. (iii) If the bank uses the International Accounting Standards (IAS) and it wishes to deduct IBNR provision for CIT purposes it has to calculate a "hypothetical" general risk provision as it would be calculated under PAS. The tax deduction is limited to the smaller amount: general risk provision under PAS or provision for non-documented credit risk under IAS. (iv) No. (v) ▪ Doubtful loans. The CIT Law refers to the accounting standards and allows a tax deduction equal to 25% of the amount of doubtful loans with no obligation by the bank to document the uncollectibility of bad debts. ▪ Loans classified as lost can be tax deductible in full amount. However, formal documentation must be provided (e.g. court order declaring bankruptcy, a non-recovery letter issued by the proper authority or a declaration by the bank that

Poland	
	the costs of recovery would be greater than the debt). ▪ Note, that some special (beneficial) regulations may apply to financial restructuring under specific laws. (vi) If the bank uses the International Accounting Standards (IAS) and it wishes to deduct the impairment losses on loans and guarantees, it can do it only within the limits regarding deductibility of provisions on doubtful loans and loans classified as lost, mentioned in section v.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	In principle, costs of employment (regardless of the way of their calculation, thus including costs resulting from stock option plan) along with the social security contributions are recognizable as tax deductible costs.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	The accounting practices do not allow banks to use accounting discretion to under/over-state the book of their equity value. Generally, the same rules apply also to subsidiaries and branches of foreign banks. Some slight differences might apply to the branches, as they are not considered tax residents.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	No material differences between practices and legal provision exist. It is common practice of the taxpayers to obtain a binding ruling from the Polish tax authorities in any situation which is unclear or unregulated (unclear tax law provisions).

Portugal	
A. General tax regime applicable to banks	
General comments	
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) Tax rates are the same for banks and other companies: 25% CIT, plus 1,5% maximum local surtax, plus 2,5% for taxable income exceeding 2M€ (these additional 2.5% is not a local tax). Companies operating in the Madeira Region may benefit from a reduced rate, but this reduced rate cannot be applied to banks and other financial entities. 2) No. 3) Main differences relate to tax treatment of provisions/impairment, such as bad debts. Banks may under certain conditions deduct for tax purposes impairment on securities and assets received as reimbursement of credit in default, while other companies may not. 4) Additional contributions on the banking sector have been introduced for 2011. In 2011 the banking sector will be subject to a new contribution regime in addition to the standard tax rates. *Entities subject to the bank levy* ▪ Portuguese headquartered credit institutions; ▪ Portuguese subsidiaries of foreign credit institutions; and ▪ Branches in Portugal of foreign credit institutions, except EU residents. *Taxable base* Base I - Liabilities, which are defined as the set of elements accounted for in the

Portugal	
	balance sheet which represent liabilities towards third parties, irrespective of their form or nature. Excluded from the taxable base are, amongst others: ▪ Items that are accounted for as equity; ▪ Liabilities for defined benefit retirement plans; ▪ Provisions; ▪ Liabilities concerning revaluation of financial derivatives; ▪ Receipts related to deferred income, irrespective liabilities' operations; and ▪ Liabilities related with assets which were not accounted for in securitization's operations. The Order also clarifies that only the part of the bank deposit actually covered by the Deposits Guarantee Fund is excluded from the taxable base. Base II - The notional amount of off-balance sheet financial derivatives, excluding hedging derivatives and back to back derivatives. The taxable base is calculated by reference to annual average of the monthly balances of the qualifying items, as reflected in the accounts approved regarding the year to which the bank levy relates to. *Tax rates* The Order foresees: Base I – 0.05%

Portugal	
	Base II - 0.00015%
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	1) Interest received by banks are included in its taxable income and taxed at normal rates. However, while in other companies such interest is also subject to withholding tax, which is a payment on account of the final tax due, in case of banks an exemption of withholding tax applies. This means that the banks do not need to make this advanced payment on interest income. A specific exemption from taxation of interest earned by foreign credit institutions arising from loans granted to resident banks in Portugal. This exemption is solely applicable to interbank loans and not to intercompany loans. 2) No 3) No 4) Although not specific ruled by the tax law, it is commonly accepted that banking branches may deduct interest paid on loans (funding) received from the head-office, while for other companies' branches such deduction is not straightforward.
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual	Note: The only difference to the normal tax regime is the withholding tax aspect referred by us in B. 2) Interest and dividends are included in the taxable income and subject to the standard rate. Under certain conditions, a participation exemption can be achieved for dividends. 3) As a general rule, it is subject to 21.5% WHT, but under certain conditions it can be exempt (example: participation exemption for dividends).

Portugal	
basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	4) As a general rule, it is on an accrual basis. 5) There is no WHT in case a foreign branch pays interest, to the extent that interest paid is a cost attributed to the foreign branch. Same regime for companies.
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	Gains or losses are included in the taxable income and taxed at the standard rate. A reinvestment relief of 50% on gains may be available, subject to certain conditions.
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	1) The tax treatment follows the typical accounting treatment. The typical accounting treatment refers to the amortized cost. 2) The tax treatment follows the typical accounting treatment. The typical accounting treatment is the fair value through profit and loss accounts. The fair value is considered for tax purposes in case the financial instruments have an official price and, if the financial instrument is shareholdings, the participation does not exceed 5%
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions?	There are specific tax rules for provisions constituted by banks. General provisions are not tax deductible. Specific provisions are deductible according to the rules imposed by the Bank of Portugal (BoP). However, only the minimum limits imposed by the BoP are tax deductible. Limits imposed by the BoP depend on the aging of the bad debts and

Portugal	
(vi) Limitation on deductibility of specific provisions?	guarantees provided by the client. Companies may also deduct specific provisions for bad/doubtful debts that also depend on the aging, but are subject to different (and more severe) tax restrictions.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	Yes
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1) No 2) Branches and subsidiaries have normally the same tax treatment. One difference relates to contributions for the banking sector, because Branches of EU Banks are not liable to the contributions on the banking sector referred in A1, while subsidiaries are.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	No

Romania	
A. General tax regime applicable to banks	
General comments	Our below answers cover the tax implications applicable to banks (including subsidiaries and branches of non-resident banks), while considering the tax legislation in force. We have not covered the tax implications applicable to the National Bank of Romania ("NBR"), whose activity and tax regime is regulated by specific legislation. We have not undertaken an analysis of the accounting treatment applied to banks when considering the questions raised. We have only indicated potential accounting implications where these were relevant for understanding the underlying tax treatment and as such our answers should not be viewed as an accounting advice.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) **<u>CIT / Profit tax</u>** The general 16% CIT rate is applicable to both companies acting in the financial sector (e.g. banks) as well as to companies active in the non-financial sector. Currently there is no bank levy or any similar tax applicable to the financial services sector. However, we are aware of a legislation initiative started by the Romanian Parliament in respect of the assessment of a "*solidarity tax*" on profits derived by financial institutions. As per the discussions surrounding this measure, it would be only a temporary one (e.g. 3 years) and the tax rate is proposed to be 2.5% on profits derived during a previous fiscal year (in addition to the 16% regular CIT). Note that considering the current status of the proposal, we do not expect for this initiative to take effect in the near future. **<u>Local taxes</u>** The local taxes provided by the Romanian Fiscal Code (e.g. building tax, land tax, tax

Romania	
	on means of transport etc) are also applicable to banks. There are cases where such taxes (e.g. quotas) applied by the local authorities in Bucharest are higher than those used by the local authorities in Romania outside the capital city (within a range). The building tax ranges between 0.25 % - 1.25% of the value of the building (or between 5% - 10% for buildings that have not been revalued in the last three years). Land tax is a lump sum per square metre and tax on means of transport is also a lump sum depending on capacity, etc. (there are some grids in respect of land tax and tax on means of transport). 2) Banks cannot apply for special tax regimes that may be available to other types of companies (e.g. micro-company regime which allows small companies to apply a tax on turnover instead of a tax on profits). There are no special tax regimes available for banks or tax surcharges for banks. Banks can only apply the regular corporate income tax system (with 16% corporate tax). 3) The Romanian Fiscal Code generally provides for the same rules for computing the profit tax base for banks and companies acting outside the financial sector (some differences have been however pointed out below). There are however some differences in respect to the profit tax payment systems: Banks apply an advance profit tax payment system with quarterly payments (in four equal instalments). The payment for one quarter is equal to ¼ of the profit tax liability due for the previous year, which is adjusted by the inflation rate. The inflation rate used is the one estimated once the initial budget is planned for the year when the advance payments are made. On the contrary, regular taxpayers pay profit tax on a quarterly basis, considering the effective results for each quarter. The advance payment system would be applicable to all entities (not only banks) starting with fiscal year 2012. 4) No

Romania	
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	1) No 2) There are no CFC rules under the Romanian tax legislation. There is only a general anti-abuse substance over form rule that applies to all taxpayers equally. There are thin cap rules, but these are not applicable to banks and financial institutions or to financing received from banks or financial institutions. There is also a "safe harbour" rule according to which the deductibility of interest expenses on loans provided by entities other than banks / financial institutions is capped at a specific interest rate (the rate depends on the currency of the loans). For loans denominated in foreign currency (e.g. EUR), the limit is set at an annual rate (i.e. currently of 6%), while for local currency loans the limit is set at the level communicated by the National Bank of Romania in the last month of the quarter for which profit tax is computed (i.e. for March 2011, this interest rate was set at 6.25%). 3) Investment funds set up as non-legal entities (e.g. pass-through) are exempt from tax but the participants are considered subject to tax. 4) Not specifically, but please refer to rules on provisions for banks vs. branches in question A6 below.
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)?	1) Under the general deductibility rule set out in the Romanian Fiscal Code, expenses are tax deductible if they are incurred for the purpose of generating taxable revenues. Interest paid to/by banks is therefore generally tax deductible if loan proceeds are used for business purposes. Dividends are to be distributed out of net profits and are not tax deductible. 2) There are no differences in the tax treatment applicable to banks and entities acting

Romania	
4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	outside the financial sector: ▪ the income from interest is taxable for profit tax purposes; ▪ the income from dividends distributed by Romanian legal entities is taxed by means of withholding at the level of the payer of the dividend (unless there is a minimum participation of 10% and a 2-year holding, in which case no withholding tax applies); dividends received from EU residents are considered taxable income (unless there is a minimum participation of 10% 2-year holding, case in which case no withholding tax applies); dividends from non-EU residents are included in the taxable base for CIT. 3) There are no differences in the tax treatment applicable to banks and entities acting outside the financial sector: Dividends (either to residents or to non-residents) are generally subject to 16% WHT in Romania. Nil WHT may be applied under certain conditions (e.g. minimum holding percentage and minimum holding period under the EU Parent-Subsidiary Directive, dividends distributed to pension funds etc) or reduced WHT rate (under double tax treaties). Please note that in case dividends are declared payable but not yet distributed, the WHT will still be due by 25th January of the following year. 4) The Romanian accounting system is based on the accrual principle in respect of interest expenses and revenues. 5) Under the Romanian Fiscal Code, interest payments made to non-resident companies by Romanian legal entities are subject to 16% domestic WHT. Generally, based on the “source” principle, income derived by non-residents from Romania is subject to domestic WHT. The Romanian tax law states that interest is subject to WHT if paid by a Romanian resident. In your specific case, as the branch is not a separate legal entity and is part of its head office, one may interpret that such a payment falls under the general rule of

Romania	
	income subject to WHT in Romania (being paid by a resident). However, we note that the Romanian Fiscal Code provides that interest borne by a Romanian permanent establishment and paid to a non-resident should be subject to WHT in Romania (sourced in Romania). Interpreting this provision per a contrario, there may be arguments to support that the interest paid by a foreign branch of a Romanian entity would not be subject to WHT in Romania. Given the two possible interpretations and the fact that the law is not very clear in this regard, we would recommend obtaining clarification from the tax authorities.
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	There are no differences in the tax treatment applicable to banks and entities acting outside the financial sector- namely gains and losses on fixed assets are treated as taxable, respectively deductible for profit tax purposes. There is no basket taxation (e.g. losses on fixed assets can be offset against regular profits and vice-versa).
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	1) There are no differences in the tax treatment applicable to banks and entities acting outside the financial sector. Discounts are considered as taxable income for profit tax purposes. 2) From an accounting perspective, held for trading *("HFT")* instruments are registered at market value. Such instruments are marked-to-market and the differences generated are included in the profit and loss ("P&L") accounts (i.e. income/expenses). From a tax perspective, the following rules should be observed (applicable to all taxpayers): ▪ the favourable differences from revaluation of participation titles (e.g. shares) and bonds issued on long-term are non-taxable for profit tax purposes. Such differences become taxable upon realisation, e.g. sale of the financial assets.

Romania	
	▪ the unfavourable differences from revaluation of participation titles (e.g. shares) and bonds issued on long-term are non-deductible for profit tax purposes. Such differences become deductible upon realisation, e.g. sale of the financial assets. In conclusion, the tax treatment of the revaluation of HFT instruments mainly depends on the nature of such instruments (e.g. bonds issued on long term *versus* short term) and whether the differences are realized or not. In case the rules outlined above are met, the unrealized expenses / revenues should be non-deductible/non-taxable for profit tax purposes.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	(i), (ii), (iii), (iv), (v), (vi) The Fiscal Code provides for certain deductibility rules for provisions recorded by companies. Such rules are applicable either to entities acting in the financial sector or to all entities, including those acting in the non-financial sector. Specific provisions for banks As compared to other entities acting in the non-financial sector, credit institutions (e.g. banks) as well as non-banking financial institutions registered in the General Register of the NBR are allowed to deduct in full the *specific risk provisions* (e.g. credit risk provisions) as provided for by statutory laws governing their administration and operation. It should be noted that in case of branches of non-resident banks, the specific risks provisions are recorded according to the laws in their foreign jurisdictions. We are aware of a letter issued by the Ministry of Finance which confirms that in case of the branches of foreign banks (i.e. EU), the deductibility of credit risk provisions should be granted at the level of the provisions set up according to the internal policy of the group/ IFRS and not to the level of the provisions created according to NBR norms.

Romania	
	General provisions Besides the specific risk provisions applicable to banks, there are general tax rules covering the deductibility of provisions recorded by entities. Such rules apply to all entities alike, as follows: a. 30% of the value of provisions for receivables from clients are deductible if the following conditions are cumulatively met: ▪ are registered after 1 January 2004; ▪ are not collected for a period exceeding 270 days as of the due date; ▪ are not guaranteed by another person; ▪ are due by a person that is not a related party of the taxpayer; ▪ were included in the taxable income of the taxpayer; b. 100% of the value of provisions for receivables from clients are deductible if the following conditions are cumulatively met: ▪ - are registered after 1 January 2007; ▪ - are due by a legal person undergoing bankruptcy proceedings, based on a court ruling; ▪ - are not guaranteed by another person; ▪ - are due by a person that is not a related party of the taxpayer; ▪ - were included in the taxable income of the taxpayer. In addition to this, losses recorded further to writing-off of uncollected receivables are deductible either **if covered by a deductible provision**, or whenever one of the

Romania	
	following conditions is met: ▪ - the debtors' bankruptcy procedure was declared closed by a court order; ▪ - the debtor deceased and the receivable cannot be recovered from the heirs thereof; ▪ - the debtor went under dissolution, in case of limited liability companies with a sole shareholder or under liquidation, without any successor; ▪ - the debtor is encountering major financial difficulties that affect his entire patrimony.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	There are no differences in the tax treatment applicable to banks and entities acting outside the financial sector. Under the general rules of the Fiscal Code, any expenses incurred by a company for the benefit of shareholders/associates, other than those incurred for the services rendered by them are considered as non-deductible for profit tax purposes. The Norms of the Fiscal Code includes in this category of non-deductible expenses, as an example, the expenses incurred by a company with stock-option plans granted (i.e. the difference between market price and preferential price of shares). Thus the law is not very clear in what concerns tax treatment for CIT purposes of stock option plans. However, under the current wording of the law, we consider that there are arguments to sustain the deductibility of the expenses incurred with stock-options plan, while considering that such expenses are incurred for services rendered by employees. We are also aware of an informal interpretation of the Ministry of Finance according to which such expenses should be deductible. In order to obtain certainty on the tax treatment, we would recommend applying for a ruling or obtaining a written answer from the Romanian tax authorities (although not

Romania	
	binding).
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1) In this respect, we highlight that the Romanian accounting standards provide very descriptive rules for valuation of assets and provisioning which do not allow discretion in the way banks present their balance sheets. 2) Yes – provisions for branches, as set out in section A.6 above.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	N/A

Slovakia	
A. General tax regime applicable to banks	
General comments	There is no special tax for financial institutions in Slovakia. Currently, the Slovak Ministry of Finance presented its proposal to introduce taxation of banks in 2012. It is not yet clear whether it will be a tax levied on the liabilities of a financial institution or a financial activities based tax.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	Except for the rules relating to tax treatment of bad debts provisions and write-off of bad debts (described in detail under section A.6.), no special corporate income tax rules apply to banks in Slovakia, i.e. the tax treatment for banks is the same as for companies active in other sectors. The standard corporate income tax rate in Slovakia is 19%. Banks are not subject to any other income tax yet, however special bank tax (see above) is planned to be introduced from 1 January 2012. Interest income earned on bank accounts, when the account holder is not a bank, is not subject to Slovak VAT. In general, any other income earned by the bank from providing financial services is VAT exempt.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements?	In Slovakia, no special corporate income tax rules apply to banks i.e. the tax treatment for banks is the same as for companies active in other sectors. 1) No 2) No 3) No 4) No

Slovakia	
4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	In Slovakia, no special corporate income tax rules apply to banks i.e. the tax treatment for banks is the same as for companies active in other sectors. 1) Interest charges for loans would generally be tax deductible on an accrual basis when incurred for company's business purposes and set at arm's length. There are currently no thin capitalisation rules. Dividends paid are non-tax deductible. 2) Interest received by Slovak tax residents are subject to a corporate income tax rate of 19%. Under Slovak domestic law, there is no tax on dividends paid out of profits generated in 2004 or later years. Dividends paid out of profits generated before 1 January 2004 are exempt from tax provided specific conditions are met. 3) See our answer relating to dividends under point 2. 4) Interests on advances and on securities are treated on accrual basis. 5) The withholding tax on interest paid abroad is generally 19%, however the provisions of double tax treaties may be applied and reduce the rate. Interest on loans paid to a beneficiary owner resident in another EU country is exempt from withholding tax if specific criteria are met. The WHT applies only on Slovak source income.

Slovakia	
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	In Slovakia, no special corporate income tax rules apply to banks i.e. the tax treatment for banks is the same as for companies active in other sectors. Gains on the sale of fixed assets should be subject to general income tax rate of 19%, the loss on sale of fixed assets is tax deductible.
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	The corporate income tax treatment on financial instruments listed under point 1. and 2. follows the accounting treatment and is the same for banks as for non-banking companies. 1) The tax treatment of discounts follows their accounting treatment, i.e. should be included in taxable revenues on accrual basis. 2) The revaluation differences of assets held for trading are included in P&L for accounting purposes and are subject to corporate income tax. The income from sale of such securities is subject to income tax, the loss is tax non-deductible under specific conditions.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	In Slovakia, only specific bad debts provisions can be treated as tax deductible. Tax deductible expense is estimated based on number of overdue days, the amount of bad debt provision created following the IFRS rules and the collateral amount, without taking into account interest provision, and: ▪ For overdue between 361 and 720 days deductible expense is considered to be up to 20% of unpaid loan which exceeds the collateral value, ▪ For overdue between 721 and 1080 days deductible expense is considered to

Slovakia	
	be up to 50% of unpaid loan which exceeds the collateral value, ▪ For overdue greater than 1080 days deductible expense is considered to be up to 100% of unpaid loan which exceeds the collateral value. Write-off of receivables could be treated as tax deductible expense in the amount of bad debt provision that would be treated as tax deductible following the conditions stated above.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	In Slovakia, no special corporate income tax rules apply to banks i.e. the tax treatment for banks is the same as for companies active in other sectors. In general, expenses incurred in connection with the introduction and operation of the employees stock options plans are not tax deductible for CIT purposes.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	The banks in Slovakia, including subsidiaries and branches of non-domestic banks, are obliged to prepare their financial statements according to IFRS.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	We are not aware of situations where the actual tax treatment of banks would differ from the legal provisions.

Slovenia	
A. General tax regime applicable to banks	
General comments	
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) 20% CIT rate, with no surcharges or local taxes. This rate applies to all entities subject to corporate tax. 2) No 3) Generally no, although there are some specific differences (see A.2) 4) No
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	1) No 2) Thin capitalisation rules apply to most companies, but not to banks. There are also specific rules concerning payments to and by entities located in tax havens (non-EU countries with a general or average nominal corporate tax rate of 12.5% or less, which are included on a list published by the Ministry of Finance and the tax authority). These tax haven rules apply to all Slovenian entities. 3) No 4) No

Slovenia	
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	1) Interest is tax deductible on an accruals basis (subject to potential transfer pricing restrictions), unless the interest is paid to an entity in a tax haven (see A2, question 2). Dividends are tax non-deductible. The same treatment applies to banks as to other entities subject to CIT, except that the thin capitalisation rules do not apply to banks. 2) Interest income is taxable. Dividend income is generally tax exempt, with a nominal non-deductible expense of 5%, which means that in effect 95% of dividend income is deductible. However, where the company paying the dividend is located in a tax haven (see A2, question 2), the exemption does not apply. This tax treatment is the same for banks as for other entities. 3) Payments of dividends are subject to 15% WHT, unless a double tax treaty reduces the rate, or the holding company is an EU tax resident and certain conditions are met, in which case there is no WHT payable under Slovenia's implementation of the EU parent subsidiary directive. 4) There are no special rules and the tax treatment of interest should follow the accounting treatment. Banks in Slovenia have to prepare their accounts under IFRS. 5) There is no WHT on payments of interest made by banks, unless the payments are made to an entity resident in a tax haven (see A2, question 2). Entities other than banks must withhold 15% tax on interest payments to third parties, unless a double tax treaty provides for a lower rate.
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	Gains and losses on fixed assets are generally taxable / tax deductible as part of the tax base for CIT purposes. The same treatment applies to banks as to other entities subject to CIT.

Slovenia	
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	1) The tax treatment of discounts on such instruments follows their IFRS accounting treatment as Slovenian tax law does not provide for any specific tax treatment for such items, and Slovenian banks prepare accounts under IFRS. 2) The tax treatment of assets held for trading purposes generally follows their IFRS accounting treatment as Slovenian tax law does not provide for any specific tax treatment for such items, and Slovenian banks prepare accounts under IFRS. Impairments of financial instruments are non deductible when accounted for, and deductible when realised, except for impairments of investments at fair value through profit and loss, which are deductible when booked.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	The tax treatment of bad or doubtful debts on advances and loans differs for banks compared to the treatment for other entities subject to CIT. The treatment for banks is as follows: (i) There is no minimum amount for general provisions (ii)Provisions for warranties, restructuring, expected losses on onerous contracts, pensions, jubilee awards, and termination payments are 50% tax deductible when accrued, and 50% deductible when realised. Other provisions are generally fully deductible (except as outlined under (vi) below). (iii) See (ii) above (iv) The tax law does not address this. (v) Provisions which must be created for special risks under the Act regulating the banking activities are tax deductible up to the amount required by the Act.

Slovenia	
	Revaluation of loans due to impairment is tax deductible for banks up to the amounts set out in the Act regulating banking activities. Provisions for bad debts are non tax deductible unless certain conditions are met (these bad debt rules are the same for all companies). (vi) See (ii) and (iv) above.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	Costs related to employee stock option plans are generally deductible, provided that the employees are being taxed on the related income.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1) Banks should account under IFRS. 2) Generally, banks that are subsidiaries and branches of foreign banks are subject to the same corporate tax treatment as domestic banks, although branches are taxable only on their Slovenian source income.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	As far as we are aware, actual practice does not differ from legal provisions.

Spain	
A. General tax regime applicable to banks	
General comments	In Spain there is no bank levy or any Financial Activities Tax. There are no pending proposals in this respect, either.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) 30%. No differences with ordinary companies. From a direct taxation perspective (Corporate Income Tax) there are some different rules depending on the territory (for instance specific rules applicable to the Vasc region), but these are not surcharges or local direct taxes. 2) No. 3) Tax base is based on accounting profits +- tax adjustments. The only difference with ordinary companies is the tax adjustment regarding bad debt provisions. 4) Two regions in Spain (Extremadura and Andalucía) tax client deposits; rates vary between 0.3% to 0.5%; tax base is the balance of client deposits. These taxes are not turnover taxes but taxes on deposits taken from clients.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of	1) No. 2) Thin Capitalization rules do not apply to financial entities (except tax havens). 3) No. 4) No regarding subsidiaries. Regarding branches, interest payments they make to their head office or to other PEs are tax deductible when calculating the tax base of non residents income tax (in the case of PEs, corporation income tax rules apply, except some exceptions). Interest payments made by branches of ordinary companies are not tax deductible.

Spain	
banks?	
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	1) No differences. Our initial understanding is that we should identify differences between the applicable taxation on financial entities and other industries. In all of them the tax treatment is similar (interest paid are tax deductible and dividend distributed are not tax deductible) 2) Interest payments are subject to, in general terms, corporation income withholding tax; this WHT is an advance payment of final corporation tax. Interest paid to banks are exempt from WHT. 3) No differences. As a general rule dividends on shares are subject to 19% WHT. Nevertheless, there are some domestic exemptions (for instance dividend paid to shareholders with a specific level of interest on the entity; intra-tax consolidation group dividends; etc.) 4) No differences. 5) Depending of the recipient (no differences with ordinary companies). No, the head office has not to pay any WHT to Spanish tax office because of the payments made by foreign branches of Spanish companies to third parties. The general interest withholding tax rate is 19%.
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	No differences. Gain/losses obtained on fixed asset are included on the taxable base (initially according to accounting principles) and subject to the general Corporate tax rate. In certain circumstances differences may apply between the accounting and the tax value of the assets (for instance different depreciation rates;

Spain	
	tax updating coefficients; non-deductible assets depreciation; etc.).
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	1) No differences. Income obtained on those financial assets are considered as "interest" and included on the taxable base (based on accounting principles) and subject to taxation at general Corporate Tax rate. Please note that tax deductibility on impairments or depreciations is subject to specific rules. 2) No differences. Based on accounting principles. Income/gains obtained on those financial assets are included on the taxable base (based on accounting principles) and subject to taxation at general Corporate Tax rate. Please note that tax deductibility on impairments or depreciations is subject to specific rules.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	Ordinary companies can deduct bad debt provisions 6 months after the first unpayment. Banking entities register bad debt provisions according to accounting rules stated by the Central Bank. These rules state a minimum percentage of provision based on the elapsed time from the unpayment date. Tax rules for the deductibility of bad debt provisions are more restrictive for banks. Regarding general provisions, these are not tax deductible for ordinary companies. In the case of banks, and in general terms, banks can only deduct the annual charge of these provisions up to the limit of 1% of the positive difference of granted qualifying loans generated in the year. In general terms, bad debt provisions hedged with guaranty on rem, because of loan granted to related entities, etc are not tax deductible (both in the case of banks and ordinary companies).

Spain	
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	No differences. It is not possible to analyse this issue briefly, as it is a complex matter and theoretically the answer could depend on the particular circumstances of each case. Nevertheless, the general criteria from the Spanish tax perspective is to considerer as a tax deductible expenses the charge referred to stock options plans for the staff that (i) are registered on P/L account (ii) properly documented and (iii) and based on a contractual or legal obligation to be supported by the entity.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1) No 2) No
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	I cannot see clearly the purpose of this question. All prior questions seem to cover general aspects of the Corporate Tax, and consequently actual practices cannot differ at all from tax provisions in that general aspects. Sorry again, but I would need more background on this question to try to understand its purpose and how to answer it.

Sweden	
A. General tax regime applicable to banks	
General comments	Bank levy, effective as from 30 December 2009, for financial years ending after this date is applicable to: Credit institutions and other undertakings that can receive support under the Act: ▪ Swedish banks and other credit institutions that are regulated in the Banking and Financing Business Act, companies set up by such institutions for the purpose of financial reconstruction ("bad banks") ▪ Swedish branches of foreign credit institutions are out of scope of the levy, and are not automatically entitled to Government support Base: ▪ The sum of the liabilities and provisions of the party required to pay the fee – though not untaxed reserves – at the end of the financial year according to the balance sheet adopted ▪ The fee basis for a party required to pay the fee where such party forms part of a group according to the Annual Accounts Act shall be reduced by the corresponding liabilities to other fee-paying undertakings in the Group ▪ The fee basis for a credit institution shall be reduced by the subordinated debt securities that may be included in the capital base under the Capital Adequacy and Large Exposures Act and by the amount of debt which subject to a specific guarantee under the Government Support to Credit Institutions Act Rates

Sweden	
	▪ 0.036 per cent of the fee basis for a full financial year ▪ If the financial year is longer or shorter than twelve months the rate is adjusted accordingly ▪ Reduced by half for financial years 2009 and 2010
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) The national income tax rate is 26.3 %. No local taxes are charged. 2) No, banks are taxed at the general corporate rate as per previous answer 3) No. 4) No.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	1) No specific tax relief rules exist for certain income items. 2) No specific anti-avoidance rules apply. The general anti-avoidance rule applies to all tax payers, but is not specifically aiming at any industry. 3) No. 4) No. These are subject to the general tax rules for Swedish corporates.

Sweden	
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	1) Interest paid is generally deductible as accrued for CIT purposes (subject to general anti-avoidance provisions) and dividends paid are non-deductible 2) Interest received is taxed on an accrual basis. Dividends received are tax on a cash basis unless the participation exemption applies, i.e. dividends on shares in subsidiaries and similar participations may be received tax exempt. 3) Dividends received from domestic companies are not subject to withholding tax. Withholding tax on dividends received is creditable against the Swedish tax liability. 4) Interest is taxable on an accrual basis. The underlying security is taxed on a mark-to-market basis, with an option to tax on a realisation basis if applied to the whole securities portfolio. 5) Not generally, only on interest payments to Swedish resident individuals (natural persons).
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	1) Fixed assets in the form of machinery, equipment or intangible property - gains and losses are recognised for tax purposes, but not necessarily in correspondence with accounting gains and losses as there are special tax rules for the calculation of the gains and losses, rules which operate together with the tax rules on accelerated depreciation. 2) Fixed assets in the form of financial assets - gain and losses are recognised for tax purposes unless subject to participation exemption.

Sweden	
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	1) The discount is taxable on an accruals basis 2) As stock in trade - all gains and losses are taxable and deductible on a mark-to-market basis, but may also be tax on a realisation basis, see A.2.4
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	(i) General provisions for losses are not deductible (ii) For deductibility a loss must be seen as "probable", after an assessment on an individual basis. This assessment should be based on circumstances relevant for the specific bad debt. Statistical methods are generally not permitted. (iii) N/A since general provisions are not allowed (iv) Should be based on facts, se (ii) above. (v) Fully deductible if based on facts supporting the risk assessment in the specific case. (v) No, the estimated loss is fully deductible
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	Swedish tax rules on employee stock option plans are complex. Depending on the terms of the plan the costs incurred by the employer are deductible or non-deductible. Broadly speaking, plans with a vesting schedule are deductible (and will be tax at a higher rate for the employee) and plans which vest immediately are non-deductible (and will be tax at a lower rate for the employee. There is no difference

Sweden	
	in treatment with respect to banks.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1) No. 2) No.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	No such differences are known.

UK	
A. General tax regime applicable to banks	
General comments	
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) The corporation tax rate applicable to banks is the same as for other corporations (i.e., currently 28% but will drop by 1% each year from 1 April 2011 to reach 24%). 2) N/A 3) There are differences in the way that a financial trader will calculate its tax liability which primarily relate to items being taxed on trading rather than investment account (for example where shares are held as trading assets a bank will be assessed to corporation tax on dividend income while a non-bank would be exempt on that income). In some instances the accounting treatment will differ between financial traders and other UK companies, and therefore the tax treatment may also change. As a rule, however, the corporation tax rules are similar for banks and other UK companies (although note that there is a separate regime for securitisation vehicles). 4) N/A
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to	1) There are specific computational rules which apply to the taxation of loan relationships and derivative contracts, but these apply to all UK companies and not just banks. 2) While the UK CFC rules apply to all UK companies, there are some additional specific rules which apply only to financial service sector companies (e.g. specific additions to the exempt activities test).

UK	
avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	Thin capitalisation rules apply to all UK companies, but are applied differently to financial services sector companies which cannot apply "safe-harbours" and where the rules are broadly based on the regulatory capital position. Financial services sector companies are additionally excluded from the UK "Debt Cap" rules which limit interest deductions in the available in UK by reference to the group's external borrowing. 3) Not generally. 4) There are specific rules which relate the determination of profits attributable to a permanent establishment of a non-resident bank. These relate to the attribution of loans for tax purposes, and closely follow the principles outlined by the 1984 OECD *Three Taxation Issues report* (e.g. the six loan booking criteria). Branch banks are able to deduct interest paid to other parts of the entity (e.g. to the head office) if the lending is on arm's length terms (subject to branch capital attribution rules).
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign	1) Interest payable to third parties is generally deductible for UK corporation tax purposes (subject to the application of the thin capitalisation rules and unallowable purposes rules). Financial services companies are not generally subject to the "Debt Cap" restrictions applicable to other UK corporations. Dividends payable are not deductible. 2) Interest receivable will generally be taxable in accordance with the UK GAAP or IFRS accounting treatment. Credit relief for overseas withholding tax suffered is restricted by reference to the UK tax payable on the net (rather than gross) income received. Dividends received are taxable where shares are held for the purposes of a trade.

UK	
branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	Credit relief for any withholding tax suffered on dividends received as part of a trade will be restricted such that the credit allowed will not exceed the UK corporation tax on the net (rather than gross) income. 3) No UK withholding on dividends (with the exception of manufactured dividends on net paying non-UK securities, on which tax may be withheld depending on the status of the counterparty). 4) Interest income is generally taxed in line with the UK GAAP or IFRS accounting treatment. 5) Tax is generally withheld at 20% on interest payments, although there is a general exemption for a bank making interest payments in the ordinary course of its business to a company (on payments to UK individuals withholding may be required). The combination of the exemption for banks from withholding tax for payments to a company, and the restriction of withholding to UK individuals only, as well as potentially the UK sourcing rules, means that in practice UK withholding tax on lending from an overseas permanent establishment is not an issue.
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	The same treatment applies to a bank as for other UK companies – i.e., chargeable gains are included in profits chargeable to corporation tax. A tax deduction for depreciation in the form of capital allowances may also be available in relation to classes of allowable expenditure.
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments	1) Discounts on government bills / trading bills are generally taxed in accordance with the UK GAAP or IFRS accounting treatment.

UK	
treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	2) Bonds etc. held on trading account will generally be taxed in accordance with the UK GAAP or IFRS accounting treatment.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	Bad and doubtful debts on advances and loans to third parties are generally relieved in accordance with their accounting treatment provided that the accounts are prepared in accordance with UK GAAP or IFRS. Please note that a different treatment will apply in the case of loans to connected parties. (i) General provisions for bad or doubtful debts are not deductible for UK tax purposes until they are utilised, but, in practice GAAP compliant accounts under UK GAAP or IFRS will only make specific provisions (i.e. impairments) which are generally allowable deductions for tax purposes. (ii) See above. (iii)See above. (iv) Specific provisions in relation to bad or doubtful debts with third parties are generally allowable deductions for corporation tax purposes. (v) See above. (vi) See above.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	Deductions for employee stock options plans are available to banks (and other UK corporations) broadly on the same basis (and at the same time) as they are assed to personal income tax by the employee. There are various specific criteria that must be met in order for a tax deduction to become available, but these are in line with

UK	
	the rules for non-Bank UK corporations. [Please also note that additionally the UK implemented a "Bank Payroll Tax" of 50% for discretionary bonuses above £25k awarded to banking employees between 9 December 2009 and 5 April 2010. The UK Government is also currently consulting in relation to disguised remuneration rules].
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1) Banks prepare accounts under either IFRS or modified UK GAAP (which is substantially similar). There is a degree of discretion as regards the application of these accounting standards. 2) The UK adopts the OECD approach of hypothesising a permanent establishment of a non-UK company as being a distinct and separate enterprise engaged in the same or similar activitiesand operating under the same or similar conditions. The profits of the PE will be taxed on the basis of GAAP (i.e., UK GAAP or IFRS) in the same way as a UK corporation. As above there are specific rules around attribution, but within these parameters the tax regime which applies to a UK branch and a UK company will be substantially similar.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	No significant divergences between practice and the legal provisions.

China	
A. General tax regime applicable to banks	
General comments	
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) 25%, There are no local taxes upon the CIT. Please note that there are local surcharges (Urban Maintenance and Construction Tax of 7%, Education Surcharge of 3%, local education surcharge ranging from 2%-5%, etc) in China, however, imposed only upon the turnover taxes liability, e.g. Business Tax liability. 2) Not applicable. 3) Not applicable. 4) Generally 5% business tax on gross interest and other income of banks.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	1) For interest income derived from government bonds issued by the Ministry of Finance in China, CIT exemption should be applicable. 2) There are CFC, thin-cap, transfer pricing, anti-avoidance rules under the prevailing China taxation regime. Generally speaking, these rules are applicable to both financial sector and other sectors. However, for thin-cap rules, there are two prescribed debt/equity ratios -- one for enterprises in the financial industry and the other one for non-financial enterprises. The former is set at 5:1, while the latter at 2:1. Where the ratio of the debts from related parties to the equity exceeds the certain prescribed debt/equity ratio in a year, the interest expense pertaining to the debts from related parties shall not be deductible in that year (and no carry-forward to future years), except in situations where certain criteria is met. The prescribed ratio for enterprises in the financial industry is higher than that for non-financial enterprises as financial arrangements in finance industry have their particular

China	
	features. 3) China has concluded double-tax agreements with many countries, and generally these double-tax agreements have not specifically excluded financial companies. 4) There are specific rules for the taxation of subsidiaries and branches of banks, such as bad debt provision, foreign exchange gain or loss, overdue interest income, overseas head office allocation expense, etc.
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	1) Interest paid on arm's length basis is generally deductible for CIT purpose by the financial company. Dividend is distributed out of after-tax profit. For interest and dividend paid to overseas companies, generally 10% withholding income tax (or preferential rate under double-tax agreements) will be imposed on such payment. 2) Interest received (after netting of expense) will be liable to 25% CIT. Assuming that the financial company is a Tax Resident Enterprise ("TRE") in China, dividend pick-up from its subsidiaries in China should be exemptible for CIT purpose. For dividend received from its overseas subsidiaries, it is liable to 25% CIT but foreign tax credit might be possible under the double-tax agreements. 3) Generally 10% withholding income tax (or preferential rate under double-tax agreements) will be imposed upon dividend distribution. 4) The PRC tax rules governing the timing for CIT reporting on interest on advances and on securities of all kind are still in a state of flux. Generally CIT is reported following accounting standard (i.e. on accrual basis), but the market-to-market gain/loss could be excluded for CIT purpose whilst only realized gain/loss should be taxable/deductible for CIT purpose.

China	
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	Gains realized from fixed assets disposal are liable to 25% CIT. Losses incurred from fixed assets disposal could be deductible for CIT if it is supported with special purpose report, subject to final assessment and approval of Chinese tax authority.
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	1) Generally the discount should be amortized over the tenor of the bond in accordance with effective interest rate method under the PRC GAAP and should be recognized as interest income or a credit to interest income respectively in accounting book. Interest income which is recognized and calculated based on the effective interest rate method should be treated as taxable income and accordingly be subject to 25% CIT. 2) For assets held for trading purposes, generally CIT is reported following accounting standard (i.e. on accrual basis), but the market-to-market gain/loss could be excluded for CIT purpose whilst only realized gain/loss should be taxable/deductible for CIT purpose.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	(i) No. (ii) Deduction allowed within limitation. (iii) Limited to 1% on the permitted scope of loan assets, subject to the following calculation formula: *CIT deductible loan provision for the current year = closing balance of permitted scope of loan assets at the current year end x 1% - CIT deducted loan provision as of the end of previous year* (iv) Specific provisions are allowed for agricultural-related loans and loans to small

China	
	and medium-sized enterprises where certain criteria are met. (v) Deduction allowed within limitation. (vi) Limited to 2% on attended loan, 25% on subprime loan, 50% on doubtful loan, and 100% on loss loan
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	The prevailing PRC taxation regime has not clarified the CIT treatment on employees stock options plans. In practice it is difficult for financial companies to claim CIT deduction for equity compensation charges. However, there might be an argument to claim CIT deduction if the employees stock options is treated as expense related to the financial company's business operation and the related PRC individual income tax is reported.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	1) Generally not allowed. 2) No.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	Please kindly note that the PRC taxation system governing financial institution is in a state of flux and there might be inconsistencies in the application and enforcement of the PRC tax rules by different cities and provinces.

Singapore	
A. General tax regime applicable to banks	
General comments	There is no bank levy and we are not aware of any proposal to introduce one in Singapore.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) Prevailing corporate tax rate is 17% but there are certain concessions available to banks (see comments in A2). There are no local taxes. 2) Yes. See comments in A2. 3) There is generally no difference in calculating the corporate tax base for companies in the financial and non-financial sectors. 4) Singapore does not impose turnover taxes. However, Singapore imposes a goods and services tax (GST), which is akin to value added tax in the UK and Europe. Very broadly, under the GST legislation, financial supplies (as defined) are either exempt from tax (if supplied to a person belonging in Singapore) or zero-rated (if supplied to a person belonging outside Singapore).
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits?	1) Yes. Banks can apply to enjoy concessionary tax rate(s) for a range of activities under the Financial Sector Incentive (FSI) Scheme. Under the FSI Scheme, qualifying activities are grouped into two main categories, Standard-Tier (ST) and Enhanced Tier (ET) where qualifying income from the respective categories is taxed at 12% and 5% respectively. The FSI-ET award caters for high growth and high value-added activities. Such activities include those relating to bond market, derivatives market, equity market

Singapore	
3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	and credit facilities syndication etc. For example, income derived from arranging, underwriting or distributing certain debt securities will qualify for 5% tax. FSI-ST caters to a broader range of financial activities that are important to Singapore's financial sector development objectives. Examples include lending (in foreign currencies), treasury and various debt and equity capital market activities (not covered in the ET scheme). 2) Singapore does not have CFC or thin capitalisation rules. The tax treatment of certain financial transactions is subject to the observance of anti-avoidance considerations and/or arm's length requirement e.g. stock lending, securitisation and withholding tax treatment of financial derivatives payments to non-residents. (These financial transactions are more commonly entered into by financial institutions). In addition, general anti-avoidance rules do apply to both banks and non-banking entities. 3) There are no specific exclusions of financial companies from double-taxation agreements. 4) There are generally no special tax rules that treat a bank organised as a branch differently from one organised as a subsidiary. Unlike a subsidiary, a Singapore branch of a foreign corporation is regarded as a non-resident. For this reason, certain types of payments made by Singapore-based payers to the Singapore branch are subject to withholding tax. However, application for waiver can be obtained through an application to the Singapore tax authorities on the basis that the Singapore branch is already paying tax locally. Further, as a branch is unlikely to be a resident in Singapore, it cannot claim foreign tax credit nor claim tax exemption for foreign income received in Singapore.

Singapore	
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	Dividend Dividend payments by a Singapore company are not subject to withholding tax in Singapore. Foreign dividends received in Singapore are **taxable** unless they are specifically exempted under the Income Tax Act (ITA). The exemption is only available to Singapore resident companies and is subject to meeting certain conditions. Where the conditions for exemption are not met, the Singapore resident company may claim foreign tax credit. A branch, not being a resident, will not be able to enjoy tax exemption on foreign-sourced dividends nor claim double tax relief. However, as a concession Singapore branches of foreign banks may claim a deduction of the foreign tax suffered, subject to certain conditions. Interest Generally, interest expenses that are incurred in the production of taxable income are deductible. Interest income is *generally* taxed on accrual basis for banks. Interest income is taxable at the prevailing rate (currently 17%) unless it is reduced under an applicable tax incentive (see our comments in A2). In respect of interest income derived on loans made by Singapore branches of foreign banks to foreign borrowers, the banks will generally adopt one of the following approaches: (1) Lender bears tax (LBT) – bank being the lender bears the withholding tax on the interest from loans (2) Borrower bears tax (BBT) – the borrower bears the withholding tax, i.e.

Singapore	
	interest income accrued to the lending bank from the loan is net of any foreign withholding tax. For loans made under the LBT approach, the tax deduction to be allowed for the foreign tax shall not exceed the net income from the loans in respect of which foreign tax has been deducted. This capping will be applied on a per country basis for each category of income. Interest income will be brought to tax at gross. For loans made under the BBT approach, the Singapore branches of foreign banks are dispensed with the requirement to regross the interest income with foreign tax and apply the capping rule. The interest income under this approach will be brought to tax net of foreign tax deducted. 5) Under domestic law, withholding tax is applicable on interest paid to non-residents. However, the government has granted a remission of withholding tax on all interest and related payments made by approved banks in Singapore to their overseas branches, head offices or another branch outside Singapore. Based on the recent Singapore Budget, it was announced that with effect from 1 April 2011, banks and certain financial institutions will be exempted from withholding tax on interest and related payments made to all non-residents (other than permanent establishments in Singapore) so long as these payments are made for trade or business purposes. This exemption is for such payments made during the period 1 April 2011 to 31 March 2021. Under domestic law, interest paid to non-residents is subject to withholding at the prevailing corporate tax rate (currently 17%). However, this rate will be reduced to 15% if such payments are not derived by the non-resident from any trade, business, profession or vocation carried on or exercised in Singapore and are not effectively connected with any permanent establishment in Singapore of that non-resident. This tax rate is the final tax payable, meaning the non-resident cannot file a tax return to

Singapore	
	claim expenses so as to obtain a refund of taxes. In your example, interest payment is arising from a business carried on outside Singapore through a PE located outside Singapore. Withholding tax is not applicable as the interest is not derived from Singapore.
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	Singapore does not impose tax on capital gains. Hence, gains and losses of a capital nature are ignored for tax purposes (i.e gains not brought to tax, losses not allowed for tax deduction), That being said, tax depreciation is available for qualifying assets. There is no difference in tax treatment for fixed assets between banks and other industry sectors.
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	It is likely to be trading (revenue) assets compared to non-financial sector. Very broadly, gains and losses arising from financial instruments of a revenue nature would be assessable and deductible respectively, whereas those of a capital nature will be ignored for tax purposes. Gains and losses from financial instruments are *generally* of a revenue nature in the hands of financial institutions that deal in these instruments in their ordinary course of business. Strictly, gains will be taxed when they are realised, whereas losses will be allowed a deduction when they are incurred. However, banks which adopt FRS 39 (the local equivalent of IFRS 39) in the preparation of their financial accounts may (subject to some exceptions) elect to report such gains and losses to tax based on the amounts reflected in the income statement.

Singapore	
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	With the introduction of FRS 39, general and specific provisions for bad or doubtful debts will no longer be made. Impairment losses are recognised under certain circumstances as prescribed in the accounting standard. Impairment losses incurred on financial assets on revenue account will be allowed a deduction and any reversal amount will be taxed. For banks which do not have a robust loss estimation process and are unable to provide for collective impairment under FRS 39, they are required by the banking regulator to maintain a certain level of impairment provisions. As a concession, the amount of general provisions determined will be deductible subject to the conditions stipulated in the ITA. An auditor's certification is required to support the deduction claim.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	There is no difference in tax treatment for the employees stock options plan (ESOP) between a financial institution (FI) and non-FI. The tax treatment of ESOP is as follows: (i) Income statement adjustments required by the application of the Financial Reporting Standard (FRS) 102 and the gain/losses recognised upon transfer/disposal of treasury shares are disregarded. (ii) Tax deductions are allowed in relation to the ESOP only in the following situations:

Singapore	
	A. Where the ESOP shares are shares in the Company, the shares were bought by the Company as treasury shares for that purpose. b) Where the ESOP shares are shares in the Company's parent company, ▪ The shares are bought by the parent company as treasury shares for the Company's employees; and ▪ An amount was recharged to the Company by the parent company. In either case, the amount to be deducted is restricted to (a) the cost of acquiring the shares, less the amount, if any, paid by the employees for the shares or (b) the amount of recharge from parent (in the case of treasury shares of the parent), whichever is the lower. And the cost of the treasury shares purchased is to be computed on a "First-in-first-out" (FIFO) or weighted average method. Please also note that should the expenses in the profit and loss account relates to the recharge from the parent company for new shares issued by the parent company to the Company's employees, no tax deduction can be claimed for the recharge. With the Budget announcement 2011, the tax authorities have expanded the scope of deduction to allow ESOP scheme administered through a special purpose vehicle. Details have yet to be released.
B. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to	None that are not already stated above.

Singapore	
subsidiaries and branches of non-domestic banks?	
C. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	Generally no.

Switzerland	
A. General tax regime applicable to banks	
General comments	▪ Swiss banks are regulated by the Swiss Financial Market Supervisory Authority (FINMA) and therefore subject to stricter regulations compared to companies in the non-financial sector (e.g. equity basis). ▪ In general the Swiss tax treatment follows the Swiss accounting treatment according to Swiss GAAP. Compared to other accounting standards, Swiss GAAP provides a lot of flexibility and has fewer strict rules. Hence, there is usually more than one way to appropriately reflect a transaction in the financial statements, although slightly stricter rules apply for financial services industry. ▪ There is no bank levy or special financial activities tax in Switzerland. We are not aware of any (pending) proposals in this respect.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	1) Same treatment as non-financial sector. The applicable effective CIT rate (including cantonal/communal and direct federal tax) for FY 2010 varies between 12.66% and 24.23%, depending on the canton the company is located. Based on the respective cantonal tax law, surcharges and added local taxes may be levied mainly in the French speaking cantons (e.g. "Taxe Professionnelle Communale" of the Canton of Geneva). 2) Same treatment as non-financial sector. There is no special tax rate applicable for banks in Switzerland. Swiss companies may benefit of a privileged tax status (e.g. holding company or mixed company), however, banks usually do not fulfil the respective requirements 3) In general same treatment as non-financial sector i.e. the taxable profit corresponds to the profit according to the statutory financials, which are based on Swiss GAAP. However, depending on cantonal tax practise there are some rules regarding depreciation and provisions, that slightly differ between banks and non-banks; e.g.

Switzerland	
	canton Zurich with respect to limitation of tax deductibility, for banks there are slightly lower lump sum adjustments on securities and precious metal (up to 10% on Swiss bonds and up to 20% on other values), on client credit balances and on mortgage claims (up to 5% on Swiss clients and up to 7% on foreign clients, compared to 10%/20% for non-banks). 4) Same treatment as non-financial sector. Please note, that most financial service income, i.e. cash and capital market revenues like interest, turnover on securities or dividend, are not taxable for VAT purposes.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of banks?	1) Same treatment as non-financial sector. 2) Same treatment as non-financial sector, except the Swiss Thin Cap rules: the general Swiss Thin Cap rules do not apply for Swiss banks; the equity base of Swiss banks is determined by the Swiss Financial Market Supervisory Authority (FINMA) and considered as sufficient by the tax authorities. 3) Same treatment as non-financial sector. 4) Same treatment as non-financial sector.
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT?	1) Same treatment as non-financial sector. Interest payments are principally tax deductible (arm's length principle to be considered); dividend distributions are not tax deductible.

Switzerland	
3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	2) Same treatment as non-financial sector. Interest income is subject to ordinary CIT; dividend income from portfolio shareholding is subject to ordinary CIT; participation relief is applicable if the participations exceeds 10% or its has a fair market value of above CHF 1m. 3) Same treatment as non-financial sector. Dividend distributions are subject to 35% Swiss WHT; refund possible for Swiss shareholders based on Swiss tax law or based on a double tax treaty / bilateral agreement with the EU for foreign shareholders. ; 4) Same treatment as non-financial sector. For Swiss statutory accounting, interest is recognised on an accrual basis. (i) In general no WHT is due if interest is paid by non-banks. However, WHT of 35% is due for interest paid by banks to third parties. If the interest is paid from a bank to another bank, the income is not subject to WHT. (ii) Yes, if the foreign branch qualifies as Swiss resident for WHT purposes. This is not the case, if (1) the foreign branch qualifies and is regulated as a bank in the foreign jurisdiction, (2) does not promote its products in Switzerland and (3) the client bears the transfer risks. Under these circumstances, the interest paid by the foreign branch is not subject to Swiss WHT. In general no Swiss WHT is due if the foreign branch does not qualify as Swiss resident for Swiss WHT purposes.
D. Tax treatment of some specific gain/losses	
	Same treatment as non-financial sector. In general the Swiss tax treatment follows the Swiss accounting treatment according

Switzerland	
1. How are gains and losses on fixed assets treated for tax purposes?	to Swiss GAAP. In principal, capital gain is taxable, losses are tax deductible. Note that (a) capital gains on the sale of participations exceeding 10% are subject to the participations relief, provided that the holding period exceeds one year and that (b) a special capital gains tax may be levied on the sale of real estate (depending on the canton).
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes? 2. How are assets held for trading purposes treated for tax purposes?	1) Same treatment as non-financial sector. The lower of cost or market applies; for accounting purposes, the discount is realised at pay back. Note in this respect that in principle the Swiss tax treatment follows the Swiss accounting treatment according to Swiss GAAP. Compared to other accounting standards as IFRS or US GAAP, Swiss GAAP does not follow the true and fair view approach. 2) Same treatment as non-financial sector. A mark-to market approach can be applied for assets held for trading purposes under the current assets. Note in this respect that in principle the Swiss tax treatment follows the Swiss accounting treatment according to Swiss GAAP. Compared to other accounting standards as IFRS or US GAAP, Swiss GAAP does not follow the true and fair view approach.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes?	Same treatment as non-financial sector. (i) No minimum required

Switzerland	
(i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	(ii)/(iii) Note that from a Swiss accounting perspective, general provisions are in principle not limited (as Switzerland is not follow the true and fair view approach). However, from a tax perspective, the cantonal tax administration have issued respective safe harbour guidelines, which may slightly differ between banks and non banks (e.g. canton Zurich with respect to limitation of tax deductibility, for banks there are slightly lower lump sum adjustments on securities and precious metal (up to 10% on Swiss bonds and up to 20% on other values), on client credit balances and on mortgage claims (up to 5% on Swiss clients and up to 7% on foreign clients, compared to 10%/20% for non-banks). (iv)/(v)/(vi) There is in principle no limitation from a Swiss accounting perspective. From a tax perspective however, the deductibility is limited to the amount that can be justified.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	Same treatment as non-financial sector Costs for employee stock options should be deductible for CIT purposes (as personnel expense). In general the Swiss tax treatment follows the Swiss accounting treatment according to Swiss GAAP. In principal, any expenses in connection with stock option plans should be tax deductible if they qualify as commercially justified expense.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital? 2. For all above questions, are there differences in the provisions applicable to	1) Same treatment as non-financial sector. Swiss GAAP does not apply the true and fair view approach. Therefore, significant hidden reserves may be possible (i.e. difference between fair market value and lower book value). However, over-statement is not accepted.

Switzerland	
subsidiaries and branches of non-domestic banks?	2) No.
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	No.

The United States of America	
A. General tax regime applicable to banks	
General comments	There is currently no bank levy in the United States. Proposals made in 2010 did not garner sufficient Congressional support. A recent 2011 proposal by the Obama Administration is, at this point, also unlikely to garner sufficient Congressional support to be enacted, especially in the House of Representatives.
1. What is the applicable corporate income tax ("CIT") rate, including possible surcharges and local taxes (in which case the capital city is considered)? 2. Do banks receive a special tax rate or can they qualify for a special tax rate? 3. Do rules to compute the corporate tax base generally differ from those applied to other sectors? If yes, in which respect? 4. Do countries impose turnover taxes on gross interest and other income of banks?	Maximum 35% federal rate. State and local rates vary. Some special rates may apply to banks locally. This can vary widely across jurisdictions. Foreign banks are subject to special tax base computation rules. Domestic banks are not. No federal turnover tax.
B. Specific tax regime applicable to banks	
1. Do countries have specific tax relief rules for some specific items such as interest income? 2. Are there specific anti-avoidance rules (CFC, Thin Cap, etc.) that apply to the financial sector (banks) or that differ from other sectors? Are there special rules to avoid offshoring of profits? 3. Are (some) types of financial companies excluded from double-tax agreements? 4. Do countries have specific rules for the taxation of subsidiaries and branches of	Specific exemptions apply to certain types of income (e.g., municipal bond interest). There are specific anti-avoidance rules that apply to the financial sector. Many of these relate to profit offshoring. Certain types of financial companies are subject to special rules regarding treaty applicability, though no exclusions come to mind immediately. Special rules apply for the taxation of certain subsidiaries and branches.

The United States of America	
banks?	
C. Tax treatment of interest and dividends	
1. How are interest and dividend paid treated for tax purposes under CIT? 2. How are interest and dividend received treated for tax purposes under CIT? 3. How are dividends on shares treated for tax purposes (from a WHT perspective)? 4. How are interest on advances and on securities of all kind treated? Accrual basis, mark-to-market or included with the value of the security? 5. Under your domestic law, is there WHT due for interest paid to third parties? If so, is there WHT due by the head office (situated in your country) in case a foreign branch of the same bank (i.e. its permanent establishment situated abroad) pays interest (on a debt which is borne by the permanent establishment) to a third party?	1) Generally interest is tax deductible. Dividends paid are not. Exceptions and special deductions may apply. Rules are too complex to generalize. 2) Generally interest and dividend income is taxable. Exceptions and special deductions may apply. Rules are too complex to generalize. 3) Subject to withholding (generally). Treaty-based rate reduction may apply under certain circumstances. 4) Interest generally subject to tax on accrual basis though exceptions may apply. 5) Interest is generally subject to withholding tax. Special rules apply to foreign bank branch interest expense - generally not subject to US withholding (treated as foreign source income).
D. Tax treatment of some specific gain/losses	
1. How are gains and losses on fixed assets treated for tax purposes?	If "fixed assets" are real property assets, special tax rules apply that generally subject gains to withholding. Complex rules apply. If "fixed assets" refers to something else, please clarify.
E. Tax treatment of some financial practices/instruments	
1. How are discounts on government bills, trade bills and other like instruments treated for tax purposes?	1) Define "discounts". This is unclear. If original issue discount, then generally taxable on an accrual basis based on constant yield amortization. 2) Complex rules apply to trading assets. This question would need to be made

The United States of America	
2. How are assets held for trading purposes treated for tax purposes?	more specific for us to provide a concrete answer.
F. Tax treatment of bad or doubtful debts on advances and loans	
1. How are bad or doubtful debts on advances and loans treated for tax purposes? (i) Are there minimum required for general provisions? (ii) Tax deductibility of general provisions? (iii) Limitation on deductibility of general provisions? (iv) Are specific provisions discretionary? (v) Tax deductibility of specific provisions? (vi) Limitation on deductibility of specific provisions?	Generally deductible. Depending on the nature of the taxpayer holding the debt, deductions may be allowed for partially worthless instruments or for wholly worthless instruments. Applicable rules are extremely complicated. In the case of a bank or other corporation subject to supervision by federal or certain state authorities, the U.S. regulations provide a presumption of worthlessness to the extent that a debt is written off in accordance with specific orders of the authority or if, upon audit by the authority, the authority confirms that the write off would have been ordered had it not been made voluntarily. Since 1992, such a bank or thrift institution may, by making a "conformity election," adopt a method of tax accounting under which it claims the bad debt deduction in the year the debt is charged off pursuant to the taxpayer's method of regulatory accounting; provided, the institution's supervisory authority has made an express determination that the bank maintains and applies loan loss classification standards that are consistent with the regulatory standards of the supervisory authority.
G. Tax treatment of employees stock option plans	
1. Are employees stock options plan deductible for CIT purposes?	Generally yes, though special timing rules apply. These rules are too complex to summarize, and will almost certainly create a book/GAAP - tax difference.
H. Specific questions regarding banks	
1. Do accounting practices allow banks to use accounting discretion to under/over-state the book value of capital?	This is not a tax question. I cannot answer it. Please advise if you require a referral to a bank regulatory expert.

The United States of America	
2. For all above questions, are there differences in the provisions applicable to subsidiaries and branches of non-domestic banks?	
I. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	

ENCLOSURE 10: VAT QUESTIONNAIRE TO EU MEMBER STATES

Country:

General remark

When providing your answers, please take into account the fact that the reference tax year is 2011.

QUESTION 1: Option for taxation

Article 135(1) of Directive 2006/112/EC applies, which exempts financial services, for your country.

Can you please confirm that your country has adopted article 137(1)(a) of Directive 2006/112/EC to allow taxable persons a right of option to tax financial transactions referred to in points (b) to (g) of article 135(1)?

- Yes/No

If not, does your country envisage adopting article 137(1)(a) of Directive 2006/112/EC in the near future?

If so, to what extent does your country use article 137(1)(a) of Directive 2006/112/EC?

We would appreciate it if you could provide your comments with respect to the extent to which article 137(1)(a) has been implemented in the attached template. We have already completed the template for Belgium as an example.

QUESTION 2: Taxes to compensate for the general VAT exemption

Has your country introduced other Taxes to specifically compensate for the general VAT exemption for the Financial Sector (e.g. payroll taxes, a tax on insurance contracts similar to VAT but not allowing for the deduction of input VAT, stamp duties, Contracts for Difference, etc.)?

- Yes/No
- If so, please provide us with an overview of the taxes concerned and their procedures

We would appreciate it if you could provide your comments with respect to the procedures governing these taxes in the attached template.

ENCLOSURE 11: VAT TEMPLATE

Option to Tax:

Country	Transactions envisaged	Application	Formalities	Taxable base	Revocation	Treatment of cross-border transactions	Extent of use
BELGIUM	Limited to payment and receipt transactions, including negotiation but excluding debt collection (article 44, § 3, 8° of the Belgian VAT Code) Payment transactions are transactions whereby a person takes care of payments for the account of another person. Receipt transactions are transactions whereby a person collects payments for the account of another person	Once exercised, applicable to **all** payment and receipt transactions Not limited to banks and insurance companies No specific requirements with respect to customer	Option exercised, via signed written declaration (in twofold) mentioning the name, address and Belgian VAT number of the VAT'able person The Belgian VAT authorities will send one of the declarations back to the VAT'able person with stamp and date of receipt	The normal VAT rules with respect to the taxable base apply	Once exercised, the option is irrevocable	**Outgoing payment and receipt transactions:** Applicable to local and cross-border transactions The VAT'able person will have a right to deduct Belgian VAT with respect to cross-border payment and receipt transactions, even in case the service is not subject to VAT in the Member State of the recipient **Incoming transactions**: a VAT'able person who has exercised the option, should also subject its incoming payment and receipt transactions from foreign service providers located in Belgium following the general B2B rule to VAT	The big and several medium-sized banks in Belgium have opted to tax in view of optimising their right to deduct Belgian VAT with respect to IT costs. The option to tax is also used by payment factories established in Belgium

Country	Transactions envisaged	Application	Formalities	Taxable base	Revocation	Treatment of cross-border transactions	Extent of use
YOUR COUNTRY							

Other Indirect Taxes to Compensate for the General VAT Exemption:

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base
BELGIUM					
YOUR COUNTRY					

ENCLOSURE 12: VAT QUESTIONNAIRE TO KEY THIRD COUNTRIES

Country:

General remark

When providing your answers, please take into account the fact that the reference tax year is 2011.

QUESTION 1: Exemption for financial services

For EU Member States, article 135(1) of Directive 2006/112/EC applies, which exempts financial services.

Article 135(1) of Directive 2006/112/EC: Member States shall exempt the following transactions:

1. ***a) insurance and reinsurance transactions, including related services performed by insurance brokers and insurance agents;***
2. ***b) the granting and the negotiation of credit and the management of credit by the person granting it;***
3. ***c) the negotiation of or any dealings in credit guarantees or any other security for money and the management of credit guarantees by the person who is granting the credit;***
4. ***d) transactions, including negotiation, concerning deposit and current accounts, payments, transfers, debts, cheques and other negotiable instruments, but excluding debt collection;***
5. ***e) transactions, including negotiation, concerning currency bank notes and coins used as legal tender, with the exception of collector's items, that is to say, gold, silver or other metal coins or bank notes which are not normally used as legal tender or coins of numismatic interest;***
6. ***f) transactions, including negotiation but not management or safekeeping, in shares, interests in companies or associations, debentures and other securities, but excluding documents establishing title to goods and the rights or securities referred to in article 15(2);***
7. ***g) the management of special investment funds as defined by Member States.***

Do similar provisions apply for your country for VAT, sales taxes or consumption taxes of the same nature?

- Yes/No

If so, please gives us more information on these provisions as well as the specific procedures? Please inform us whether there is a specific regime with respect to the right to deduct VAT, sales tax or consumption taxes of the same nature for financial service providers.

QUESTION 2: Option for taxation

Article 137(1)(a) of Directive 2006/112/EC:

Member States may allow taxable persons a right of option for taxation in respect of the following transactions:

a) the financial transactions referred to in points (b) to (g) of article 135(1);

Does your country have similar provisions?

- Yes/No

If so, please gives us more information on these provisions as well as the specific procedures?

ENCLOSURE 13: VAT, SALES TAX OR CONSUMPTION TAXES IN THIRD COUNTRIES

US

In the United States, there is no VAT regime. The tax on consumption is a Sales Tax which is imposed at State level on the supply of tangible items and certain specific services. There is no national consumption tax.

The State level Sales Taxes vary from state to state both as to their base and their rates. Rates generally range from 4% to 10%, with the average at 7%. None of the States imposes Sales Taxes on any of the financial services listed in article 135(1) of EU VAT Directive 2006/112/EC.

Many States do, however, have distinct taxes on insurance companies. These taxes are known as "Premium Taxes", and are levied as a percentage of the premiums received by insurance companies for insuring risk in that particular State.

China

We first provide an overview of China's indirect tax system. VAT and Business Tax are the two main types of indirect taxes in China.

The sale or importation of goods and the provision of repairs, replacement and processing services are subject to VAT. The input VAT incurred on purchases is generally creditable (i.e. recoverable) against output VAT. The normal VAT rate is 17%.

Non-vatable services (i.e. services that do not constitute repair, replacement or processing services) that are provided in China, along with the transfer of real property and intangible assets, are normally subject to Business Tax. Non-vatable service providers are liable for Chinese Business Tax where either the service provider or the service recipient is located in China. Business Tax is generally charged on gross revenue and cannot be credited (i.e. unlike VAT, no offsetting amount can be recovered). Business Tax rates range from 3% to 20%. The normal rate is 5%.

Specifically in relation to financial transactions, the current Chinese indirect tax system results in financial institutions generally being subject to Business Tax, where applicable, at the rate of 5% (and not to VAT). Business Tax is generally assessed on financial institutions on a gross basis (i.e. loans, interest income, service fees and bank charges). However, there are certain circumstances where it may be calculated on a net basis (i.e. the trading of financial products such as bonds, stocks, etc.). This model therefore creates uncertainty as to which revenue streams will, for Business Tax purposes, be calculated on a net basis as against a gross basis and how to treat revenue streams derived from new financial products.

As it currently stands, levying Business Tax on revenue derived by financial institutions continues to be an effective method for raising tax revenues for the Chinese government and, therefore, there may be some reluctance to change the existing rules.

Notwithstanding, the Chinese government is currently carrying out a process of VAT reforms, one of which may entail merging the existing Business Tax system into VAT.

Whilst it is too early in the reform process to comprehend the exact scope of any such reforms and when/how they will affect the financial services industry, there are likely to be ramifications for the industry should the reforms proceed.

Singapore

Under the fourth Schedule to the Singapore Goods and Services Tax Act, the following financial services are exempt:

- operation of any current, deposit or savings account;
- exchange or grant of an option for the exchange of currency (whether effected by the exchange of bank notes, currency notes or coin, by crediting or debiting accounts, or otherwise) other than the supply of a note or coin as a collector's item, investment article or item of numismatic interest;
- any supply by a person carrying out a credit card, charge card or similar payment card operation made directly in connection with that operation to a person who accepts the card used in the operation when presented to him in payment for the goods or services;
- the issue, payment, collection or transfer of ownership of any note or order for payment, cheque or letter of credit or notification of the issue of a letter of credit;
- the issue, allotment, transfer of ownership, drawing, acceptance or endorsement of a debt security;
- the issue, allotment or transfer of ownership of an equity security;
- the provision of any loan, advance or credit;
- the provision of an instalment credit finance facility under a hire-purchase, conditional sale or credit sale agreement, for which facility a separate charge is made and disclosed to the recipient of the supply of goods;
- the transfer or assignment of provision of an instalment credit finance facility under a hire-purchase agreement;
- the grant of a right or option relating to an obligation to pay interest or exchange or grant of an option for the exchange of obligations to pay interest;
- renewal or variation of a debt security, equity security or contract for the provision of any loan, advance or credit;
- the provision or transfer of ownership of a life insurance contract;
- the provision of insurance cover or annuities under any specified CPF scheme;
- the provision or assignment of any futures contract, including a futures option transaction that does not lead to a delivery of any goods from the seller to the buyer;
- the provision or assignment of any option or contract for the sale of any unallocated commodity that does not lead to delivery of the commodity from the seller to the buyer;
- the grant of a right or option to acquire any unallocated commodity where the right is exercisable at a future date and any sale resulting from exercise of the right would constitute a sale that does not lead to delivery of the commodity from the seller to the buyer;
- the issue or transfer of ownership of a unit under any unit trust or business trust;

- the arrangement, provision or transfer of ownership of any contract of re-insurance;
- the provision of financing in connection with a qualifying Islamic financial arrangement in relation to non-residential property, for which the provider of the financing derives an effective return;
- the issue or transfer of ownership of Islamic debt securities under an Islamic debt securities arrangement;
- the provision of financing under an Islamic debt securities arrangement for which the provider of the financing derives an effective return.

Some examples where the exemption does not apply include:

- direct insurance (only the provision of life insurance and reinsurance (including reinsurance broking) is exempt);
- management services (e.g. for funds);
- services consisting of arranging, broking, underwriting or advising on exempt financial services.

A bank registered for Goods and Services Tax in Singapore will recover its Goods and Services input Tax based on a fixed rate, which is revised annually. The fixed rate is dependent on the type of licence the bank holds.

Other than banks, all other financial institutions have to use a standard input tax recovery formula to compute the amount of Goods and Services Tax they can claim if they make exempt supplies (and if the exempt supplies made do not qualify under the exception rules such that the input tax can be claimed in full). Financial institutions can also seek approval from the tax authority to use a special formula.

Switzerland

Under section 21(2) of the Swiss VAT Act, the following services are exempt from VAT without credit:

- par.18: insurance and reinsurance, including turnover from acting as an insurance agent or insurance broker;
- par.19: the following turnover in the field of money and capital transactions:
  - (a) granting and intermediation in the granting of credits and the management of credits by lenders;
  - (b) the intermediation in and assumption of liabilities, bails and other securities and guarantees and the management of collaterals by lenders;
  - (c) turnover, including intermediation, in deposit and current account transactions, payment and transfer transactions, business with money claims, cheques and other negotiable paper; however, the collection of debts on behalf of a creditor (debt-collection business) is taxable;
  - (d) turnover, including intermediation, relating to legal tender (domestic and foreign legal tender, such as currencies, bank notes, coins); however, collectors' items (bank notes, coins) that are not normally used as legal tender are taxable;
  - (e) turnover (spot and forward transactions), including intermediation, of securities, rights and derivatives and of interests in companies and other forms of associations; however, the safe-keeping and management of securities, rights and derivatives and of interests (especially safe-keeping) including fiduciary investments are taxable;
  - (f) the sale of interests in and the management of collective investments under the Swiss Federal Schemes Act of 23 June 2006 by persons managing or keeping them, fund management companies, depositary banks and their agents; agents are all individuals or legal entities, to whom the collective investment scheme may delegate tasks according to the Act; the sale of interests in and the management of closed-end investment companies under section 110 of the Act is covered by par. (e).

The Swiss regulations on the taxation of financial services are fairly similar to those in the European Union but vary in detail from the EU rules.

However, at the end of 2010, the Swiss Federal Tax Administration published a draft of its new administrative guidance for the financial services industry on the new Swiss VAT Act, which came into force on 1 January 2010. The most important change the Administration intends to implement is the new definition of intermediary services for financial transactions. Basically, it looks as if they will adopt the European Court of Justice's interpretation of Directive 2006/112/EC in the cases of CSC Financial Services Ltd (C-453/05 of 21 June 2007) and Volker Ludwig (C-235/00 of 13 December 2001).

No specific regime has been implemented in the Swiss VAT Act with respect to the right to deduct input VAT for financial service providers. In particular, there is no equivalent in Switzerland of the EU rule that services supplied exempt from VAT to a recipient resident in a third country entitle the supplier to deduct his input VAT.

However, in order to reduce administrative costs, in its administrative guidance, the Swiss Federal Tax Administration offers insurance companies and banks industry-specific lump-sum methodologies as a partial exemption method.

ENCLOSURE 14: OPTION TO TAX FINANCIAL SERVICES IN EU MEMBER STATES

Country	General remarks	Transactions envisaged	Application	Formalities	Taxable basis	Revocation	Treatment of cross-border transactions	Extent of use	Discussion for future implementation
AUSTRIA	Option to tax adopted to a very limited extent, i.e. for certain very specific financial services according to article 135(1)(b) and (c) of Directive 2006/112/EC	Grant of a loan in direct connection with a supply of goods or a supply of services, i.e. the supplier gives credit for the consideration for the supply of goods/supply of services to the recipient (purchaser)	The option can be exercised for each supply of goods/supply of services Not limited to financial institutions No specific requirements with respect to the customer	The Austrian VAT Act does not lay down any specific formalities The option is exercised by the supplier (taxable person) reporting the interest as a service subject to Austrian VAT in the monthly/ annual VAT return. The Austrian VAT rate depends on the VAT rate applicable for the underlying supply of goods/services	The normal VAT rules apply with respect to the taxable basis	Once exercised, the option is revocable until the VAT assessment comes into effect. This means that a transaction that was initially treated as subject to VAT can be treated as VAT-exempt until such time as the VAT assessment comes into effect	**Outgoing transactions:** If the service rendered is deemed to be carried out in another EU Member State, the supplier of the service is entitled to input VAT deduction under the following conditions: - if the service was deemed to be carried out in Austria, the supplier could opt for taxation - the VAT legislation of the other EU Member State also provides the possibility to opt for taxation for this supply of services - the supplier of the service has to prove that the customer has treated the supply of service as subject to VAT in the other EU Member State	There is no statistical data available on the use of the option to tax	N/A
		Dealing in credit guarantees in connection with credit-card business, i.e. guarantee of payment by the credit card company to the merchant	The option can be exercised for each service rendered Limited to credit card companies No specific requirements with respect to the customer	The Austrian VAT Act does not lay down any formalities The option is exercised by the supplier (taxable person) reporting the service rendered as subject to 20% Austrian VAT in the monthly/annual VAT return	The normal VAT rules apply with respect to the taxable basis	Once exercised, the option is revocable until the VAT assessment comes into effect. This means that a transaction that was initially treated as subject to VAT can be treated as VAT-exempt until the VAT assessment comes into effect	**Outgoing transactions:** If the service rendered is deemed to be carried out in another EU Member State, the supplier of the service is entitled to input VAT deduction under the following conditions: - if the service was deemed to be carried out in Austria, the supplier could to opt for taxation - the VAT legislation of	There is no statistical data available on the use of the option to tax	N/A

Country	General remarks	Transactions envisaged	Application	Formalities	Taxable basis	Revocation	Treatment of cross-border transactions	Extent of use	Discussion for future implementation
							the other EU Member State also foresees the possibility to opt for taxation for this supply of service - the supplier of the service has to prove that the customer has treated the supply of service as subject to VAT in the other EU Member State		
BELGIUM	Option for taxation adopted to a very limited extent, i.e. for certain very specific financial services according to article 135(1)d of Directive 2006/112/EC	Limited to payment and receipt transactions, including negotiation but excluding debt collection (article 44, § 3, 8° of the Belgian VAT Code) Payment transactions are transactions whereby a person takes care of payments for the account of another person. Receipt transactions are transactions whereby a person collects payments for the account of another person	Once exercised, applicable to **all** payment and receipt transactions Not limited to financial institutions No specific requirements with respect to customer	The option is exercised by means of a signed written declaration (in duplicate) stating the name, address and Belgian VAT number of the vatable person The Belgian VAT authorities will send one of the declarations back to the vatable person with a stamp and date of receipt	The normal VAT rules apply with respect to the taxable basis	Once exercised, the option is irrevocable	**Outgoing payment and receipt transactions:** Applicable to local and cross-border transactions (EU & non-EU) The vatable person will be entitled to deduct Belgian VAT with respect to cross-border payment and receipt transactions, even if the service is not subject to VAT in the EU Member State of the recipient **Incoming transactions**: A vatable person that has exercised the option should also pay VAT on its incoming payment and receipt transactions from foreign service providers located in Belgium under the general B2B rule	The big, and several medium-sized, banks in Belgium have opted to tax so as to optimise their right to deduct Belgian VAT mostly on IT costs. The option to tax is also used by payment factories established in Belgium There is no statistical data available on the use of the option to tax	N/A
BULGARIA	Option for taxation adopted to a very limited extent, i.e. for certain very specific financial services according to	Limited to the provision of credit for the supply of goods under lease arrangements (article 46, paragraph 2 from the Bulgarian VAT	May be applied to all or separate transactions at the discretion of the person providing the financing Not limited to	No formal declarations or notices are required to exercise the option	The normal VAT rules apply with respect to the	There are no provisions in the Bulgarian VAT legislation restricting revocation of the option to tax. In principle, when applying the option to	**Outgoing finance lease:** There is no guidance on whether the option to tax can be applied to cross-border leasing transactions, i.e. where the place of supply is outside Bulgaria	The option can be used by banks involved in financial lease transactions to optimise their partial VAT credit ratio. The banks in Bulgaria usually set up separate leasing	N/A

Country	General remarks	Transactions envisaged	Application	Formalities	Taxable basis	Revocation	Treatment of cross-border transactions	Extent of use	Discussion for future implementation
	article 135(1)b of Directive 2006/112/EC	Act)	financial institutions No specific requirements with respect to the customer The lessor has a right to deduct Bulgarian VAT incurred on purchase of the subjects of lease, subject to the usual documentary compliance requirements, irrespective of whether or not the option to tax is exercised		taxable basis	tax, it applies to the contract as a whole. Hence, once it has been applied to the financing element of a given leasing agreement, the option to tax could be irrevocable	The lessor has the right to deduct Bulgarian VAT incurred on purchase of the subjects of lease used for cross-border financial lease arrangements, even if the service is not subject to VAT in the EU Member State of the recipient According to guidance from the Bulgarian revenue authorities, exercise of the option to tax should be evidenced with an invoice on which VAT is charged. For example, in the case of a cross-border lease provided to a taxable person, the invoice should not show Bulgarian VAT because the place of supply in that case is outside Bulgaria. In view of this, VAT incurred on a cross-border leasing transaction, other than the VAT charged upon purchase of the subjects of lease, may be non-deductible	companies, which exercise the option to tax and recover most of the input VAT incurred on purchases The Bulgarian Lessors Association informed PwC that there is no statistical data available on the use of the option to tax	
CYPRUS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	The Ministry of Finance is not considering adopting article 137(1)(a) of Directive 2006/112/EC in the near future PwC Cyprus has carried out a study for the Association of Cyprus Banks in which it has recommended

Country	General remarks	Transactions envisaged	Application	Formalities	Taxable basis	Revocation	Treatment of cross-border transactions	Extent of use	Discussion for future implementation
									adoption of the option to tax in Cyprus and has analysed the possible benefits that would come from this The initial response of the Ministry was positive. However, in view of current market conditions, no progress has been booked in this respect
CZECH REPUBLIC	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
DENMARK	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ESTONIA	Option for taxation adopted for financial services according to article 135(1)(b) to (g) of Directive 2006/112/EC	All exempt financial services as listed in section 16(2[1]) of the Estonian VAT Act: (1) deposit transactions for the receipt of deposits and other repayable funds from the public; (2) borrowing and lending operations, including consumer credit, mortgage credit and other transactions for financing business transactions; (3) leasing transactions; (4) settlement, cash transfer and other money transmission transactions; (5) issue and administration of non-cash means of payment, inc. electronic payment	Option to tax may be exercised on a transaction-by-transaction basis Not limited to financial institutions No specific requirements with respect to customer	The option is exercised by means of a signed written declaration detailing the transactions for which the supplier wants to opt to tax There are no other formalities	The normal VAT rules apply with respect to the taxable basis	The supply for which the option to tax is exercised is subject to VAT for at least two years starting from the taxable event. As a result, the choice to opt is irrevocable for at least 24 months	Not applicable to cross-border transactions	The option is not widely exercised by credit or financial institutions Sometimes used in stock financing transactions There is no statistical data available on the use of the option to tax	N/A

Country	General remarks	Transactions envisaged	Application	Formalities	Taxable basis	Revocation	Treatment of cross-border transactions	Extent of use	Discussion for future implementation
		instruments, traveller's cheques, bills of exchange; (6) guarantees and commitments and other transactions creating binding obligations on persons; (7) transactions for their own account or for the account of clients in traded securities provided for in section 2 of the Securities Market Act and in foreign exchange and other money market instruments, including transactions in cheques, exchange instruments, certificates of deposit and other such instruments; (8) transactions and acts related to the issue, sale and purchase of securities;							
		(9) money broking; (10) negotiation services related to the services specified in clauses (1)–(9) of this section; (11) management of investment funds provided for in the Investment Funds Act and other investment funds of a contracting party to the EEA Agreement and subject to financial supervision, inc. the							

Country	General remarks	Transactions envisaged	Application	Formalities	Taxable basis	Revocation	Treatment of cross-border transactions	Extent of use	Discussion for future implementation
		provision of services related to the management of funds to the funds in the case of transfer of duties of a management company							
FINLAND	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
FRANCE	The scope of the option is widely defined by a legal provision. However, another provision explicitly excludes from that scope a series of transactions or of kinds of transactions	The option applies to transactions relating to banking and financial activities and, in general, to trading in securities and money (article 260B of the French VAT Code) The option can be applied by banks and other financial institutions, as well as other entities whose main business is to carry out financial or banking transactions Several financial services are excluded from the scope of the option such as foreign exchange transactions, commissions received upon issue of securities and bonds, consideration assimilated to interest and agio and transactions subject to Insurance Premium Tax	Once exercised, applicable to **all** transactions eligible for the option Limited to banks and other financial institutions, as well as other institutions whose main activity is to carry out financial or banking transactions No specific requirements with respect to customer	The option is exercised by means of a letter to the relevant tax office It is applicable as from the first day of the month following that during which the option is exercised and is valid for a period of five years	The normal VAT rules apply with respect to the taxable basis	The option can be revoked as from 1 January of the fifth year following that during which the option is exercised	**Outgoing transactions:** Applicable to local and cross-border transactions (EU & non-EU) The vatable person can deduct French VAT on cross-border banking and financial transactions, even if the service is not subject to VAT in the EU Member State of the recipient **Incoming transactions**: A vatable person that has exercised the option is not liable to French VAT on banking and financial transactions received from foreign service providers	The trend is that: - the big retail banks have revoked the option whilst the medium-sized banks prefer to keep the option, - financial intermediaries tend to keep the option, - management companies have rather revoked the option. As this is only a trend, we cannot rule out that certain service providers have not followed it due to e.g. the nature/location/VAT recovery position of their clientele or the intensity of competition in their market There is no statistical data available on the use of the option to tax	N/A
GERMANY	Option for taxation adopted for financial services	Exempt financial services including negotiation (except management of	Option to tax exercised on a transaction-by-transaction basis	No formal declarations or notices are required for	The normal VAT rules	The option to taxation and the revocation must be exercised no later than the time the	**Outgoing transactions:** If the service rendered is deemed to be carried out in another EU Member	Especially, local savings banks and cooperative banks use the option to tax for optimisation of	N/A

Country	General remarks	Transactions envisaged	Application	Formalities	Taxable basis	Revocation	Treatment of cross-border transactions	Extent of use	Discussion for future implementation
	according to article 135(1)(b) to (f) of Directive 2006/112/EC Not applicable for insurance transactions according to article 135(1)(a) of Directive 2006/112/EC and management of special investment funds according to article 135(1)(g) of Directive 2006/112/EC	investment funds and insurance transactions including the negotiation of insurance transactions)	Not limited to financial institutions The recipient must be a taxable person and the financial service must be used for his economic activity	exercising the option	apply with respect to the taxable basis	relevant annual VAT return is assessed and provided an appeal against the assessment can still be lodged	State, the supplier of the service is entitled to deduct input VAT under the following conditions: - if the service was deemed to be carried out in Germany, the supplier was able to opt for taxation - the VAT legislation of the other EU Member State also provides the possibility to opt for taxation for this supply of services - the customer has treated the supply of service as subject to VAT in the other EU Member State Please note that the above is based on a court case in the real estate sector. At this moment, there is no practical experience with regard to financial services in this respect **Incoming transactions in the case of non-resident suppliers:** It is possible to opt for taxation where the customer is a taxable person in Germany and the supplier is not established in Germany	their input VAT deduction (but only towards taxable persons with a right to deduct VAT) There is no statistical date available on the use of the option to tax	
GREECE	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
HUNGARY	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
IRELAND	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Country	General remarks	Transactions envisaged	Application	Formalities	Taxable basis	Revocation	Treatment of cross-border transactions	Extent of use	Discussion for future implementation
ITALY	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
LATVIA	N/A	N/A	N/A	N/A	N/A		N/A	N/A	The Association of Latvian Credit Institutions has submitted a letter to the Ministry of Finance with request to review the possibility of implementing the option to tax in the National VAT Act, particularly in relation to credit card processing services
LITHUANIA	Option for taxation adopted to a limited extent, i.e. for certain very specific financial services according to article 135(1)(b) to (e) of Directive 2006/112/EC	The right to opt to tax is applicable to: - granting and negotiation of credit and the management of credit by the granter; - the grant and management of financial guarantees or other security for money by the granter; - the collection and management of deposits and other repayable funds, clearing services between banks, other services connected with the arrangement of settlements, money transfer, organisation of non-cash settlements, issuing letters of credit and transactions related to debts and debt obligations (with the exception of debt collection);	The option to tax is applied to a specified group of financial services for at least 24 months (not on a transaction-by-transaction basis) Not limited to financial institutions The option can only be applied to services supplied to taxable persons registered for VAT (not applicable to legal entities that do not perform any economic activities)	The option is exercised by means of a signed written notification to the local tax authorities no later than the 25th of the following month where the first time VAT is charged. However, the notification can be sent before the option to tax is exercised The notification should include the name, address, VAT number and contact details of the VAT payer, identification of the services and the date when the option is intended to be applied/has been applied The notification is confirmed (with the an official note) by the local tax	The normal VAT rules apply with respect to the taxable basis	The option to tax cannot be revoked within 24 months. Revocation is done by sending a signed written notification to the local tax authorities (following the same procedure as for the option to tax). Note that discontinuation of the VAT calculation is not treated as a revocation of the option to tax if the notification is not sent to the tax authorities	**Outgoing transactions:** Not applicable to cross-border transactions, applicable to local transactions According to a recent interpretation by the tax authorities, the Lithuanian taxable person that has exercised the option to tax for a specified group of financial services does not have a right to deduct input VAT with respect to services provided to a foreign taxable entity. However, this is not expressly stated in the VAT legislation **Incoming transactions:** No regulations on whether the taxable person that has exercised the option should have to account for VAT, following the general B2B rule to VAT	Banks in Lithuania have not opted to tax financial services The Lithuanian Ministry of Finance and the competent Tax Authorities informed PwC that there is no statistical data available on the use of the option to tax	N/A

Country	General remarks	Transactions envisaged	Application	Formalities	Taxable basis	Revocation	Treatment of cross-border transactions	Extent of use	Discussion for future implementation
		- currency transactions, accepting contributions in cash and disbursing payments, cash management and other services directly connected with bank notes and coins of any currency The right to opt to tax is not applicable to: - transactions, including negotiation, in securities; - management of special investment funds		authorities within 5 business days The first calculation of VAT on financial services (notwithstanding the fact that no notification to the tax authorities has been sent) is treated as an option to tax					
LUXEMBOURG	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
MALTA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
NETHERLANDS	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
POLAND	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
PORTUGAL	N/A	N/A	N/A	N/A	N/A		N/A	N/A	N/A
ROMANIA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
SLOVAKIA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
SLOVENIA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
SPAIN	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
SWEDEN	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
UK	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

ENCLOSURE 15: OTHER TAXES COMPENSATING FOR THE GENERAL TAX EXEMPTION

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
AUSTRIA	**Insurance Premium Tax**	Insurance services rendered by an insurance company to a customer for which the insurance company receives a premium, if the insured risk is deemed to be in Austria	No specific comments	The Insurance Premium Taxes are to be reported on the annual Insurance Premium Tax Return which has to be filed annually with the Austrian tax authorities However, the Premium Taxes are due (have to be paid to the Austrian tax authorities) by the 15th of the second following month in which the premiums were paid	The insurance premiums received by the insurance company Fire insurance premiums at a rate of 8%; life insurance premiums at a rate of 4-11%; premiums for old age pension at a rate of 2,5%; health insurance premiums at a rate of 1%; all other insurance premiums at a rate of 11%; motor vehicle tax (EUR 0,6 per kilowatt, at least EUR 6 per month)	N/A
	Stamp Duty	- security declaration ("Bürgschaft") - the cession of accounts	No specific comments	The legal transaction has to be notified to the Austrian tax authorities by the 15th	- the value of the warranted payable (at a rate of 1%)	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
		receivable or other rights - the issuance of bills of exchange		of the second following month in which the Stamp Duty liability has occurred	- the consideration paid (at a rate of 0,8%) - the value of the bill of exchange (at a rate of 0,125%)	
	Bank Levy **(as from 1 January 2011)**	Financial institutions with a concession according to the Banking Act (BWG) as well as registered branches of EU/EWR financial institutions, which are allowed to offer services in Austria according to the Banking Act (BWG) without a concession, are within the scope of this levy	No specific comments	A tax return has to be filed by October 31 of the year concerned (i.e. for 2011 October 31, 2011) Quarterly prepayments are required (the first one due by January 31, 2011)	The average unconsolidated balance sheet total (with certain adaptations) Between EUR 1 and 20 billion the tax rate is 0,055% , above 0,085% An exemption applies if the balance sheet total is below EUR 1 billion	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
	Bank Levy for Derivatives **(as from 1 January 2011)**	Financial institutions with a concession according to the Banking Act (BWG) as well as registered branches of EU/EWR financial institutions, which are allowed to offer services in Austria according to the Banking Act (BWG) without a concession, are within the scope of this levy	No specific comments	A tax return has to be filed by October 31 of the year concerned (i.e. for 2011 October 31, 2011) Quarterly prepayments are required (the first one due by January 31, 2011)	The average volume of derivatives in the trade book (at a rate of 0,013%)	N/A
BELGIUM	**Annual Tax on Insurance Operations** **The standard Belgian Insurance Premium Tax is set to 9,25%.**	Insurance operations are subject to an annual tax if the insured risk is located in Belgium. If the insured person is a legal entity, the risk is in any case considered to be located in Belgium when the insurance contract relates to an	Always applicable unless explicitly exempt under Belgian Insurance Premium Tax legislation (e.g. relating e.g. to reinsurance contracts, pensions, insurance contracts with the	As a rule, the insurance company is liable to collect the tax and make the payments to the Belgian tax authorities The Insurance	Insurance Premium Tax is levied on the gross premium. (i.e. on the total of the premiums and contributions, increased by the costs payable or to be suffered during the year by the insured,	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
	However, reduced tax rates exist (4,40%, 1,40%, 1,10%) for certain types of (both life and non-life) insurance contracts	establishment of this legal entity situated in Belgium (i.e. the main establishment of the legal entity or any other permanent presence of this legal entity, whatever its form) In practice, applies to transactions which are exempt of VAT	Belgian State and certain eligible public entities, ...)	Premium Tax has normally to be paid by the liable person at the latest on the last working day of the month following the month during which a premium, a personal contribution or an employers' contribution fell due An advance payment of the Insurance Premium Tax is due each January and can be paid as from the 15th December preceding the month of January. This advance payment amounts to the Insurance Premium Tax paid in November of the current year	the beneficiary or the employer)	

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
	National Sickness and Invalidity Institute parafiscal contribution **Motor vehicle insurances (10% or 5%); Fire risks and related risks (6,56% out of which 0,06% is borne by the insurer), Motor vehicle insurances (7,56% out of which 0,06% is borne by the insurer), and Insurances against accidents at work (5,03% out of which 0,06% is borne by the insurer); Additional hospitalization insurance (10%);**	Insurance operations linked to specific risks (e.g. car insurance, fire risks insurance, etc.) when the risk is located in Belgium (basically, same rule as for the Insurance Premium Tax) In practice, applies to transactions which are exempt of VAT	Parafiscal contributions are cumulative with each other and with the Insurance Premium Tax	The insurer itself has to declare and pay the taxes or, in the case of free provision of a service from abroad, the sub-office, agency, the place of business, insurance broker, fiscal representative, etc.	On the premium paid by the insured person when taking out an insurance policy	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
	Allowance of complementary financial means to the Belgian Red Cross (0,35%) **Additionally: Tax to subsidize the Security fund for fire prevention and fire control (3%)**					
	Tax on Stock Exchange Transactions **(various rates applicable 0,07%; 0,5%; 0,17%; subject to a tax ceiling of EUR 500 or EUR 750 per transaction)**	The tax is due on the following transactions concluded or executed in Belgium through a Belgian professional intermediary to the extent that they relate to public funds, irrespective of their (Belgian or foreign) origin: - every sale, purchase and, in general, every transaction for valuable consideration (secondary	The tax is not due if no Belgian intermediary acting in the course of its business intervenes in the deal. There are also specific exemptions (e.g. transactions made for its own account by some	The Belgian professional intermediary is liable to pay the stamp duties to the competent Belgian tax authorities (payment at the latest on the last working day of the month following the month during which the transaction was executed)	The tax is due: - for acquisitions or purchases, on the sums to be paid by the purchaser after deduction of the brokerage commission - for sales, on the sums to be received by the seller or assignor, without deducting the brokerage commission	Increase of the tax rates and/or removal of the tax ceilings

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
		market transactions); - every redemption of its own shares by an investment company provided that the redemption relates to accumulating shares. In practice, applies to transactions which are exempt of VAT	financial institutions, such as banks, insurance companies, etc…; transactions made for its own account by non-resident taxpayers).	On the day of the payment also a special form has to be filed with the same Belgian tax authorities in which all the elements for the calculation of the stamp duties should be mentioned	- for redemptions of own accumulating shares by a Sicav, as a rule, on the net asset value, without any deduction of lump sum charges	
BULGARIA	**Tax on Insurance Premiums at 2% flat rate** **(as from 1 January 2011)**	With Tax on the insurance premiums are taxed the insurance premiums received under taxable contracts As taxable contracts are considered all insurance contracts covering risks located in Bulgaria under the insurance legislation, except for the contracts	The tax on insurance premiums is to be applied upon the receipt of premium payments by the insurer Insurers have to pay the tax due on a monthly basis by the end of the month following the month	Insurers have to file a declaration to the revenue authorities on a quarterly basis by the end of the month following the respective quarter Foreign insurers who will provide insurance services covering risks located in Bulgaria	The taxable base is the insurance premium, received by the insurer under the taxable contract In case of deferred payment of the premium, the taxable base is each instalment received by the insurer	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
		for: - reinsurance and retrocession - life insurance and annuity - marriage and child insurance - life insurance related to investment funds - permanent health insurance - acquisition of equity - additional insurance for permanent/temporary loss or reduced working capacity as a result of an incident or an illness, for work incapability as a result of injury, for hospitalization, for a heavy illness or medical	for which the tax is due. Where insurance premiums for which insurance premium tax has been paid are reimbursed, the insurance companies are entitled to a refund of the tax paid on the returned premium.	under the rules for free provision of services have to register with the Bulgarian revenue authorities or appoint a local fiscal representative, where the local representative will be jointly liable for any liabilities of the insurer under the Insurance Premium Tax Act The fiscal representative or the insurer who provides insurance services under the rules for free provision of services (if the latter does not appoint local fiscal representative) should also file a one-off declaration for the first month for which tax is	The taxable base is to be reduced with the amounts which the insurer should attribute to the obligatory guarantee funds as per the local insurance legislation The taxable base does not include the bonuses and discounts from the insurance premiums provided to the insured person upon the payment of the premium	

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
		expenses - insurance of aircrafts and vessels, as well as the civil liability insurance related to them - international cargo insurance where the starting and the end points of the transportation are outside Bulgaria		due by the end of the following month		
CYPRUS	**Life Insurance Premium Tax**	Life insurance contracts	The income tax calculation of life insurance companies is carried out under the normal corporation tax rules and rates but also based on the life insurance Premium Tax at the rate of 1,5% on the gross premium	The payment of the Life Insurance Premium Tax is done in the same way as corporation tax	Gross premium deriving from life insurance contracts	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
			The Premium Tax is set off against the income tax as calculated based on the normal tax rules and rates and the difference/excess, if any, is paid to the Treasury			
CZECH REPUBLIC	N/A	N/A	N/A	N/A	N/A	Insurance Premium Tax may be implemented in the Czech Republic as of 2013
DENMARK	**Special Payroll Tax**	Most VAT exempt activities, including VAT exempt financial activities, are liable to a Special Payroll Tax	Applicable to all companies having VAT exempt financial activities Not limited to banks and insurance companies	The company must register for this Special Payroll Tax	Financial services companies (or companies whose main activity is financial services) must pay the highest tax rate, namely 10,5 % of the payroll related to VAT exempt activities. The taxable	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
			Also branches and representative offices are liable if they have employees in Denmark		base will as a main rule include all payroll and all taxable benefits The supply of services subject to VAT are not subject to the Special Payroll Tax. This means that if employees are engaged in both VAT taxable and VAT exempt activities, the Payroll Tax should only be applied according to the time usage related to VAT exempt activities. Most commonly it is not possible to specify this time usage and therefore the taxable base should be estimated. In practice this estimation could be equal to the inverse fraction of the	

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
					calculated pro rata VAT recovery right. However, payroll used for financial transactions to customers outside the EU will also be liable to the Special Payroll Tax	
	Insurance Premium Tax regime regarding automobiles, yachts and floodings	Insurance contracts regarding automobiles, yachts and floodings	Applicable to insurance companies	Danish and foreign companies (local representative needed)	Yachts: 1 % of the yearly insurance amount Automobiles: main rule 42,9 % of the liability insurance premium Floodings: 30 DKK (4 Euro) each year per insurance	N/A
	Stamp Duty	General insurance contracts concluded in Denmark and general	It is the insurance contract that is liable	Each part of the insurance contract is	The Stamp Duty for general loss and damage insurance is	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
		insurance contracts if the risk is placed in Denmark	to the Stamp Duty	liable to the Duty	calculated as 0,0058 % of the insured amount *or* as 14 % of the insurance premium	
ESTONIA	N/A	N/A	N/A	N/A	N/A	N/A
FINLAND	**Insurance Premium Tax**	Tax is payable when the insured assets are in Finland or the insurance relates to activities taking place in Finland	Certain insurance contracts are not covered by Insurance Premium Tax	Monthly returns and payment of the Tax	Tax rate is 23 % from the insurance payments in which the Tax is not included	N/A
FRANCE	**Payroll Tax**	Not applicable to transactions but paid by a French-established employer on the salaries (progressive in accordance of salary threshold) to the extent that its turnover is either VAT exempt (without credit) or outside scope of VAT In this respect, the	Payable on the salaries paid in year N on the basis of the Payroll Tax prorata of calendar year N-1 There is a threshold of VAT exempt /outside scope of VAT revenue and conditions under which the business would not be liable to	None except special form and payments on a monthly basis to be regularized the following year	Salaries as defined for social security purposes	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
		Payroll Tax is apportioned on the basis of the following ratio: **Numerator**: the VAT exempt and the outside scope of VAT revenue, and **Denominator**: the total revenue (taxable, VAT exempt and outside scope of VAT)	Payroll Tax			
	Insurance Premium Tax	Insurance contracts concluded with a insurance company; either French or foreign, wherever the place where, and the date when it was concluded Certain insurance contracts are Insurance Premium Tax-exempt such as life insurance, group insurance,	Insurance Premium Tax is due at the time when the payment of premium or of contribution by the insured becomes due	Paid on a monthly basis by the insurer. Foreign insurers have to appoint a representative The insurer, intermediaries and insured persons are jointly liable to pay the Tax	The consideration paid for the benefit of the insurer (premium, contribution, ancillary payments by the insured, etc.) The insurer, intermediaries, brokers and insured persons are jointly liable to pay the Tax	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
		insurance covering a risk located outside of France, etc. Various rates apply depending on the nature of the risk (from 7% for health insurance to 30 % which is the main rate for fire insurance through 9, 18, 19 and 24% for other types of insurance)				
GERMANY	**Insurance Premium tax and Fire Brigade Tax:** if subject to such tax, the insurance is exempt from VAT (as a general rule)	Insurance Premium Tax is a transaction tax linked to remuneration for the provision of insurance cover, i.e. insurance transactions. A key issue is determining whether an insurance transaction actually exists, as even remuneration for certain sureties and guarantees can be subject to Insurance Premium Tax	Always applicable unless explicitly exempt under German Insurance Premium Tax Law	Separate registration for Insurance Premium Tax and Fire Brigade Tax with the Federal Central Tax Office (Bundeszentralamt für Steuern) In first year returns to be submitted and tax to be paid quarterly, for following years	For Insurance Premium Tax: taxable base is generally the net insurance premium, different tax bases apply for some types of insurance; standard Insurance Premium Tax rate is 19%, different rates apply for some types of insurance	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
		The exact Insurance Premium Tax treatment of an insurance transaction will depend on the location of the insurer with which the contract is concluded and the location of the policyholder. As a general rule for insurance contracts concluded with EU insurers the EU principle of risk location states that Insurance Premium Tax shall be exclusively levied in the EU Member State in which the insured risk is situated. For non-EU insurers the Insurance Premium Tax treatment depends on the location of the policyholder or the location of the insured object		monthly returns may have to be submitted if certain thresholds were exceeded in the previous year Returns to be submitted and tax to be paid by the 15th of the month following the end of the reporting period Person responsible for submitting the return (insurer, Insurance Premium Tax representative or policyholder) depends on whether the insurer is located in the EU or has an Insurance Premium Tax representative in the EU; an Insurance	For Fire Brigade Tax: taxable base is a percentage of the insurance premium (depends on type of insurance); standard Fire Brigade Tax rate is 19%, for certain types of fire insurance 22%	

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
		Certain types of insurance transaction are exempt from Insurance Premium Tax, e.g. life insurance, reinsurance Fire Brigade Tax is only payable for certain types of insurance transactions covering fire risks and which are also subject to Insurance Premium Tax Insurance Premium Tax is ultimately borne by the policyholder; Fire Brigade Tax is borne by the insurer		Premium Tax representative in Germany is not mandatory		

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
GREECE	**Stamp Duty** **Levied on documents - accounting entries are equivalent to documents**	Only on documents concluded and executed in Greece, such as : - loan agreements between legal entities (neither of which is a bank) or between an individual and a corporate entity (not a bank) - deposits to corporate non-banking entities by the shareholders - debt recognition or debt assignment	Limited to loans concluded and executed in Greece provided by non-banking entities Specific exemptions apply (mainly pertaining to the territoriality principle)	Stamp Duty is due within five days starting from the agreement date The person liable to pay the Stamp Duty is to be determined freely by the contracting parties. In the case of non-payment, both parties are jointly liable against the State	For loans: the principal and interest amount of the loan paid For other transactions falling within the scope of Stamp Duty: the amount of the transaction (in certain cases the value of charges may be deducted) Stamp Duty rates: 2% for commercial transactions (e.g. loans concluded between	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
		- assignment of receivables Collateral agreements to transactions that fall within scope of VAT are exempt from stamp duties No stamp duty is imposed with respect to the acquisition or disposal of shares or other securities			non-banking corporate entities) 3% for private transactions 1% for other transactions specifically provided for in the Stamp Duty law (e.g. deposits to corporate entities by the shareholders) The Stamp Duty amount is increased by a 20% contribution (surcharge) collected in favour of the Insurance Organization for Farmers	

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
	0,15% Stock Exchange Transaction Duty **Duty will increase to 0,2% for listed share transactions effected up to 31 December 2011 based upon new Tax Bill which is expected to be ratified by the Parliament. Transaction Duty will be abolished as from 1 January 2012**	Sale of listed shares	Transfer of listed shares either in the Greek Stock Exchange or in foreign Stock Exchanges acquired by Greek tax residents (individuals or legal entities)	Greek listed shares: 0,15% is withheld by the Greek Stock Exchange Foreign listed shares: 0,15% is paid by the beneficiary to the respective Tax Office within the first 15 days of the month following the one the shares have been sold	Sale price of the listed shares	N/A
	0,6% Special Contribution of L. 128/75	Loan and credit agreements	Limited to loans and credits extended by Greek or foreign credit institutions to Greek companies or individuals liable to tax reporting in	For loans extended by Greek banks: contribution is paid directly by the banks to the Bank of Greece	Total amount of loans and credits	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
			Greece	For loans extended by foreign banks: contribution is paid by the borrower through a monthly return submitted to the competent Tax Office on the last day of each month		
	Insurance Premium Tax	Insurance agreements	Limited to insurance contracts concluded in Greece	Insurance Premium Tax is rolled over to the policyholder and attributed to the Greek State by the Insurance Company, by submitting Insurance Premium Tax returns	Gross premiums The rates vary depending on the risks covered: - 4% for life insurance premiums (but is levied only for contracts with duration of less than ten years) - 20% for fire insurance premiums -10% on all other	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
					insurance premiums	
HUNGARY	**Special Tax on Financial Organizations - General description**	On 22 July 2010, the Hungarian Parliament passed the Bill on the special Tax (or "Bank Tax", as it is generally known), which is payable by a wide range of financial organizations. The various financial organizations will have to use different methods to calculate the special Tax (tax base and rate). The Government expects a sum of 187 billion HUF income for 2011 and plans to reduce it by half over the subsequent 3 years		The special Tax for 2011 must be self-assessed and reported by 10 Match 2011, and then paid in four equal instalments. Financial organizations shall pay the Tax quarterly, by the tenth day of the last month of the quarter in question. The special Tax has to be declared on a standard form that the Tax Authority designates for this purpose		N/A
	Special Tax on Financial Organizations - Credit institutions				For credit institutions, the special Tax base is the adjusted balance sheet total calculated from the figures of the 2009 financial statements. The definition of the adjusted balance sheet total is very detailed and is included in the Act. The adjusted balance sheet total is the balance sheet total	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
					reduced e.g. by the following items: receivables that arise from domestic inter-bank lending, the amount of debt instruments and shares issued by other domestic credit institutions, financial enterprises and investment enterprises, receivables that arise from loans, subordinated loan capital and additional subordinated loan capital provided to domestic financial enterprises and investment enterprises (including receivables that arise from genuine sale and repurchase transactions, from custody repurchase transactions and from specified delivery repurchase	

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
					transactions), as well as debt instruments issued by credit institutions in the Either Tax rate is 0,15% of the part of the Tax base that does not exceed HUF 50 billion, and the part of the Tax base above HUF 50 billion is taxed at 0,53%	
	Special Tax on Financial Organizations - Insurance companies				For insurance companies, the special Tax base is the adjusted fee calculated from the figures of the 2009 financial statements. The adjusted fee is the amount of the premiums earned from non-life insurance business without re-insurance, plus the gross premium earned from life insurance business, minus 90%	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
					of the insurances with single premiums and 90% of the ad-hoc premiums, and minus the amount of certain premiums of pension supplement insurances with payment at a later stage. Below 1 billion HUF, the rate will be 1,5%, below 8 billion HUF it will be 3% and above 8 billion HUF it will be 6,4%	
	Special Tax on Financial Organizations - Financial enterprises				For financial enterprises, the special Tax base is the interest income, and the income from fees and commission based on the figures of the 2009 financial statements. The Tax rate is 6,5% of the Tax base in both cases	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
	Special Tax on Financial Organizations - Investment enterprises, stock exchanges, commodities exchange service providers and venture capital fund managers				The Act specifies different methods for calculating the Tax base for investment enterprises, stock exchanges, commodities exchange service providers and venture capital fund managers. In all cases, the Tax base is determined on the basis of definitions of adjusted revenue, and the Tax rate is 5,6%	
	Special Tax on Financial Organizations - Investment fund managers				For investment fund managers, the Tax base is the total amount of net asset value of funds managed as of 31 December 2009 and the value of financial funds and other portfolio assets managed as of 31 December 2009. The Tax rate is 0,028% of the Tax base	
	Special Tax on Credit Institutions	A new special Tax on credit institutions has been added to the general Bank Tax, which amounts to 30% of the profit. This sum will be deductible from the Bank Tax, which is paid on the basis of the 2009 balance sheet total. The aggregate amount of the Tax and the balance sheet based Tax cannot exceed the Tax calculated on the basis of the balance sheet				N/A
	Tax Liability of Credit Institutions ('Bankers Contribution')	Credit institutions shall assess and pay Bankers Contribution at the rate of 5% on their interest and similar income earned during the Tax year from loans which are directly or indirectly		Credit institutions shall pay the Bankers Contribution advance on interest and similar income earned quarterly, by the twelfth day of the month following the quarter in question,		N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
		affected by any interest subsidy or interest compensation system (including the interest rate subsidies provided to loans secured by mortgage in accordance with specific other legislation), shown under interest paid and similar charges in accordance with specific other legislation on loans which are directly or indirectly affected by any interest subsidy or interest compensation system, less any interest margin due and payable to the Hungarian State. By way of derogation from the above, the Contribution on subsidized interest rates shown by the mortgage loan company under income shall be paid by the credit institution to which financing was provided, if the mortgage loan company notifies the credit institution of the sum payable in writing		where the Bankers Contribution advance for the last quarter shall be due by the twentieth day of the last month of the tax year		
	Fire-protection Contribution	Applicable to insurance companies		The Contribution is payable quarterly: on the 30th day of the next month after each quarter	The premium-income of the insurance company from certain types of insurances defined in the corresponding law. The Contribution has to be determined by calculating the 1,5% of the premium	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
					income earned on a number of types of insurance-products	
IRELAND	**Stamp Duty**	Non-life insurance policies	The Duty arises were the premium is greater than EUR 20 were there is one premium only or, were there is more than one premium payable, and the total amount payable in respect of that premium in any 12 month period exceeds EUR 20. There are certain exemptions to this provision, for example in respect of certain health insurance contracts	A composition agreement is usually put in place with Revenue to deal with the EUR 1 duty on creation of a policy of insurance	A EUR 1 charge to Irish stamp duty arises in respect of policies of insurance (other than life insurance) where the risk to which these policies relate is located in Ireland	N/A
	Government Levy	Non-life insurance premiums	A 3% levy is imposed on the gross amount of premiums received by an insurance company on certain	Quarterly returns are required to be made in respect of this Levy	Gross amount of premiums	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
			non-life insurance premiums written in respect of risks located in the State. Key exemptions are reinsurance, voluntary health insurance, marine, aviation, transit insurance, export credit insurance and certain dental insurance contracts			
	Government Levy	Life assurance premiums	A 1% levy is imposed on life assurance premiums. It is levied on the gross amount received by the insurer by way of premium to the extent to which the risks to which those policies relate are located in the State or deemed to be located in the State	Quarterly returns are required to be made in respect of this Levy	Gross amount of premiums	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
	Government Levy	Health insurance levy	The Finance Bill 2011 contains two amendments in relation to the Levy payable by health insurance providers. The Levy has been increased for all renewals and new contracts entered into from 1 January 2011 to EUR 66 (from EUR 55) for each insured person aged less than 18 years and EUR 205 (from EUR 185) for each insured person aged 18 years or over	The due dates for payment of the Levy have also been brought forward from 30 September 2011 and 31 January 2012 to 21 September 2011 and 21 January 2012 respectively	Lump sum	N/A
ITALY	**Stamp duty**	Bank, securities and credit card statements	The Stamp Duty is due based on documents filed	Tax is paid trough the application of a stamp on the document or, alternatively, in "virtual way" (on a yearly basis) by following a special procedure	Depending on the recipient (individual or company) and the frequency of issuance of the statement (annual, per semester, quarterly, monthly)	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
					Stamp Duty on credit card statement is due on a fixed amount of EUR 1,81 Stamp Duty on financial bills is due at 1% rate, draft bills are subject to 1,2% rate	
	Substitute Tax on Medium/Long Term Loans	Loans having a duration of more than 18 months (medium/long term loans) granted by the banks for transactions territorially relevant in Italy special rules apply for specific sectors (agricultural credit, handicraft credit, etc.)	At the date of drawing up the loan	The bank is required to submit to the authorities a tax return by the end of March, declaring the amount of loans granted and the Tax due The payment of Substitutive Tax is due within 30 days from the filing of tax return	0,25% (with regard to loans related to the purchase of a second-home the percentage is increased up to 2%)	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
	Registration Tax	Medium/long term loan carried out by non-banks	At the date of registration	Payment through F23 Form	Fixed amount of EUR 168 when the lender is subject to VAT 3%, if the loan is granted by individual 0,50% on any guarantee on the loan allowed by third parties	N/A
	Mortgage Tax	Mortgage loans granted	Date of mortgage deed	Payment through F23 Form	2% (and 0,5% for the cancellation)	N/A
	Registration Tax	Transfer of securities registered to the authorities (so called registration of the agreement in case of "use")	At the date of registration	Payment through F23 Form	Fixed amount of EUR 168	N/A
	Registration Tax	Loans granted trough	At the date of	Payment through F23	0,50%	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
		transfer of debts	registration	Form		
	Insurance Premium Tax	Insurance policies offered to Italian clients	At the date of collection of the premium	Payment is due by the insurer, through F23 Form by the month following the collection of payment Tax return has to be filed to the Italian authorities to declare premiums collected and Insurance Premium Tax paid	Rate ranging from 0% up to 21,5%, depending on the nature of the risk No Insurance Premium Tax is due on life insurance policies, unit-linked policies and capitalization policies	N/A
LATVIA	**Bank Levy of 0,036%**	The Duty is imposed on the taxpayer's total liabilities at the end of the tax year as reduced by the total of: - the deposits which are subject to the deposit guarantee system in Latvia and other EU Member States	The Duty is levied on the Latvian credit institutions, their foreign branches, and also on the Latvian branches of foreign credit institutions Electronic money institutions (the	The Duty is chargeable on an annual basis (for a calendar year), in four quarterly advance payments equalling ¼ of the annual charge of the Duty		N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
		- the mortgage bonds issued by the credit institution - the subordinated liabilities reported as subordinated capital in the equity capital calculation of the credit institution under the requirements of the Financial and Capital Market Commission	undertakings, other than banks, which are issuing and servicing e-money) are not subject to the Duty			
LITHUANIA	N/A	N/A	N/A	N/A	N/A	N/A
LUXEMBURG	**Insurance premium Tax**	Insurance contracts	Applicable on all insurance contracts except on life-insurance and re-insurance contracts	Insurance Premium Tax is paid to the authorities by submitting Insurance Premium Tax returns	Insurance premium	N/A
	Registration Duty	- life insurance contracts - bill to order - certificate of debt	The percentage of Registration Duty due on these transactions ranges from 0,24% to 1.2%	Registration Duty is payable at the time the contract is presented for voluntary registration to the	Regarding the life insurance contracts the Registration Duty is levied on the value of the capital insured. For	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
		- bankable bill - transfer of debt - acknowledgement of debt		registration office. No Duty is payable if the contract is not registered. There is no specific form used to declare the amount payable. Depending on the type of transaction to be registered, the deadline for registration may differ	other acts, on the amount declared at the time of the registration	
MALTA	**Stamp Duty in terms of the Duty on Documents and Transfers Act (Chapter 364 of the Laws of Malta) (the Act)**	Duty is chargeable on the following insurance contracts: policies of life insurance which are not renewable every year, policies of insurance, that are not life insurance policies, endorsements of insurance policies if the effect thereof is to make certain prescribed alterations to the existing policy No Duty is chargeable on	The transactions constitute documents chargeable with Stamp Duty upon their origin for the purposes of the Act, which are subject to Duty either from the origin of the document if it is executed in Malta or by reason of its use if it is executed outside Malta. A document executed outside Malta is deemed to be made use of in Malta,	Any person issuing or signing the policies of insurance referred to herein are bound to pay Duty	The taxable base with respect the policies is as follows: - policies of life insurance: a Duty of ten cents for every one hundred Euro or part thereof of the sum assured - non-life insurance policies: a Duty of ten	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
		policies of insurance in respect of aviation, marine cargo, marine hull or boat, credit and suretyship and medical cover. Duty on policies relating to risks as defined in the Insurance Business Act is restricted to risks situated in Malta	where it is produced before a Court, arbitrator or referee as evidence or is produced before any person or authority in Malta for its enforcement or registration. Duty with respect to the latter type of policies should be paid before use thereof is made in Malta		cents for every Euro or part thereof of the agreed yearly premium or if a compounded premium is agreed upon as a lump sum payment, or a once only premium is otherwise payable, then of the agreed consideration. The same amount of Duty applicable to non-life policies is payable upon endorsements of policies as an endorsement is deemed to constitute a new policy to the extent that the alteration in the policy has the effect of altering the person or thing insured, the risks insured or the duration of the policy. Duty of two euro and thirty-three cents is payable upon any other	

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
					endorsement	
THE NETHERLANDS	**Insurance Premium Tax**	- The insurance is supplied to a Dutch legal person, - the risk is located in the Netherlands, and/or - the goods insured (such as an automobile) are located in the Netherlands	The following are exempt from Insurance Premium Tax: - life insurance - accidents, infirmities and incapacity for work insurance - medical insurance - unemployment insurance - insurance of sea ships and aircraft	There are registration requirements with associated Insurance Premium Tax return requirements	The taxable amount for Insurance Premium Tax purposes is the insurance premium payable including any amount payable for the insurance related services. The tax rate is 9,7% as from 1 January 2011.	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
			- transport insurance - reinsurance - export credit insurance			
POLAND	N/A	N/A	N/A	N/A	N/A	There are discussion about a Bank Tax. However the possibility that it will be implemented is rather low Other planned changes are: - Extension of the Capital Gains Tax. Nowadays, the Capital Gains Tax does not concern some of the bank deposits with the daily capitalization

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
						of interest. It is planned that the said Tax will also be levied on these types of banks' deposits - Taxation of the assets of certain financial institutions. The taxable base of those financial institutions will be the institution's total assets indicated in the approved annual financial statement. The tax rate is expected to be 0,39% tax base
PORTUGAL	**Stamp Duty**	Financial transactions VAT exempt	Financial transactions VAT exempt	Payable by the 20th of the month following the taxable event	Different rates (between 0,04% and 4%) apply depending on the financial transaction, e.g.	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
					granting of credit: 0.04% to 1% current account: 0.7% interest: 4% commissions: 3%	
	Stamp Duty	Insurance	Insurance contracts	Payable by the 20th of the month following the taxable event	5% to 9%	N/A
	FAT **Labour Accidents fund**	Insurance	Labour	Payable by the end of the month following the taxable event	0,15%	NA
	SNB **National Fireman Service**	Insurance	Agricultural, automotive, livestock, fire, multi-risks, transport of goods, boats and aircraft	Payable by the end of the second month following the taxable event	6% to 13%	N/A
	INEM	Insurance	Labour, personal, automotive, health,	Payable by the end of the second month	2%	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
	National Medical Emergencies Institute		life	following the taxable event		
	ISP **Portuguese Insurance Body**	Insurance	Insurance contracts	Payable by the end of January and July, on the policies issued on the previous 6 months	0.048% to 0.242%	N/A
	FGA **Automotive Insurance Fund**	Insurance	Automotive	Payable quarterly in the first month of each quarter on the policies issued on the previous year	2,50%	N/A
ROMANIA	N/A	N/A	N/A	N/A	N/A	Further to the latest discussions held by the Romanian political parties, there was an intention of introducing a Tax for financial transactions, but no actual measures were taken in this respect so far

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
SLOVAKIA	N/A	N/A	N/A	N/A	N/A	N/A
SLOVENIA	**Insurance Premium Tax**	Insurance	Non recoverable Tax Are exempted from the Tax: life insurance and health insurance policies of more than ten years duration, pension contributions, disability insurance, reinsurance and insurance outside Slovenia	Payable by insurance companies	Flat rate of 6,5% of insurance premiums	N/A
SPAIN	**Insurance Premium Tax (introduced for premiums payments from 1st January 1997)**	According to the Spanish Insurance Premiums Tax Law, premiums paid by Spanish residents are subject to this tax. Nevertheless, the following kinds of insurance are exempt from Insurance Premium Tax as established by the	Compulsory	N/A	The taxable basis is the total premium paid by each policy holder (not including any other surcharge levied on it), being the tax rate of 6%. The taxpayer is the insurance company, but it must recharge	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
		Law: - the operations relating to mandatory social security and group insurance contracts which implement the pension commitments assumed by the employers in the terms provided for in the First Additional Provision of Royal Decree 1/2002 on the Regulation of Pension Schemes and Funds. That is, group insurance contracts which cover the contingencies of retirement, disability and death - the operations relating to life insurance contracts - the capitalisation			the Tax to the policyholder. The Tax is accrued when premiums are paid (in case of partial payments, the Tax is accrued when each of them takes place)	

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
		operations based on actuarial techniques - the reinsurance operations - the surety insurance operations - the export credit insurance and combined agricultural insurance operations - the insurance operations connected with international freight or passenger transport - the insurance operations connected with ships or airplanes for international transport, except for those used for the purposes of private recreational navigation or aviation - the healthcare and				

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
		medical insurance operations - the operations relating to private welfare schemes insured (which are known in Spain as "planes de previsión asegurados")				
SWEDEN	**Traffic Insurance Tax**	Tax on traffic insurance premiums for vehicles	All motor vehicles used on road except lorries	Paid via the premium to the insurance company	32% of the insurance premium	N/A
THE UK	**Insurance Premium Tax**	A premium received by an insurer if the premium is received under a taxable insurance contract Certain fees charged by intermediaries under a higher rate contract	Insurance Premium Tax is payable by the insurer and taxable intermediary	Insurers receiving taxable premiums and taxable intermediaries are liable to register for Insurance Premium Tax and file Insurance Premium Tax returns on a quarterly basis	General insurance premiums, but not long term insurance, reinsurance and insurance of some commercial goods which are exempt from Insurance Premium Tax From 2011, standard rate 6% and higher rate of 20% (in line	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
					with VAT rate) for travel insurance and some insurance for vehicles and domestic/electrical appliances	
	Bank Levy **(Commences for accounting periods ending after 1 January 2011, awaiting Royal Assent)**	Levy based on the liabilities on balance sheet of banks subject to some exclusions Applies where the chargeable liabilities are greater than £20 billion	UK banks, banking groups and building societies on their worldwide profits Foreign banking groups operating in the UK through permanent establishments or subsidiaries, on their UK operations UK banks and banking sub-groups in non-banking groups	Paid in quarterly instalments, at the same time as corporation tax is paid	No levy on the first £ 20 billion of chargeable liabilities (apportioned to long and short maturing liabilities according to the overall proportions) In determining chargeable liabilities, certain liabilities can be excluded (e.g. deposits and sovereign repo liabilities) and other specified liabilities netted against assets	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
					(although not below zero) Equity capital is not taxed 01 January 2011 – 28 February 2011: 0,05% for short-term chargeable liabilities and 0,025% for long-term chargeable equity and liabilities 01 March 2011 – 30 April 2011: 0,1% for short-term chargeable liabilities and 0,05% for long-term chargeable equity and liabilities 01 May 2011 – 31 December 2011: 0,075% for short-term chargeable liabilities and 0,0375% for long-term chargeable equity	

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
					and liabilities (Long-term liabilities are those with over one year remaining to maturity at the balance sheet date) Not deductible for corporation tax purposes	
	Gross Profits Tax **(Betting Duty)**	Tax levied on 'net stake receipts': profits made by business from its Financial Spread Betting services	The business providing the service pays this Tax Applies where the business is carried on in the UK, even if the business is established outside	A "General Betting Duty Spread Betting Return" has to be submitted quarterly to HMRC Standard accounting periods are calendar months but different	3% for financial spread bets	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
			the UK (even for corporation tax purposes)	periods can be agreed with the HMRC The completed return and payment must be submitted no later than 15 days following the end of the accounting period		
	Stamp Duty	Transfer of shares in companies, OEICS and unit trusts	Payable by the purchaser, on the purchase price Applies to UK assets Applies to non-UK assets where documents are created in the UK	Payable when the purchase is made The purchaser has to file a return Deadline for filing return and making payment is 30 calendar days	0,5% of the purchase price For shares in companies, the first £1,000 is not taxed, any amount over that is taxed No minimum for shares in OEICS or	N/A

Country	Tax	Transactions envisaged	Application	Formalities	Taxable base	Pending discussions for future implementation
					unit trusts	

ENCLOSURE 16: QUESTIONNAIRE ON LABOUR TAXATION IN THE FINANCIAL SECTOR

Labour Taxation in the Financial Sector
1. Salaries and bonuses Are salaries (including cash bonuses) paid to employees in the Financial Sector treated differently for income tax, social security tax purposes or for any other salary tax purposes than salaries paid in other sectors of activities? (*e.g. are salaries subject to specific wage withholding rates, are employee's and employer's social security contributions levied at rates specific to the financial sector, are salaries paid to employees in the financial sector benefiting from specific tax concessions (lower tax rate, …)*…) In the affirmative, please clarify under which conditions and to which extent salaries in the financial sector would be treated differently (e.g. more favourably) and clarify the rationale of this differentiated treatment
2. Stock Options Are stock options schemes in the Financial Sector benefiting from specific tax concessions (from an income tax, a social security tax perspective or from any other salary tax perspective) in comparison to those stock option schemes implemented in other sectors of activities? In the affirmative please clarify under which conditions and to which extent stock option schemes in the Financial Sector would be treated differently (e.g. more favourably) and clarify the rationale of this differentiated treatment

Labour Taxation in the Financial Sector
3. Other incentive pay schemes Amongst other incentive pay schemes (e.g., restricted stock units, stock appreciation rights, ….) is there any or more than one of these incentives in the Financial Sector benefiting from specific tax concessions (from an income tax, a social security tax perspective or from any other salary tax perspective) in comparison to those incentive schemes implemented in other sectors of activities? In the affirmative please clarify under which conditions and to which extent these other incentive schemes in the Financial Sector would be treated differently and clarify the rationale of this differentiated treatment
4. Dividend income and capital gain on shares Is dividend income on shares issued by a financial institution taxed differently for an individual shareholder than dividend income on shares issued by a company of another sector of activities? Does your answer differ if the shareholder is an employee of the company having issued the shares? Is capital gain on shares issued by a financial institution taxed differently for an individual shareholder than capital gain on shares issued by a company of another sector of activities? Does your answer differ if the shareholder is an employee of the company having issued the shares?
5. Differentiation For all the questions above would your answers be different according to whether the financial institution is a domestic one or a subsidiary or a branch of a non-domestic financial institution?

Labour Taxation in the Financial Sector
6. Practices For all the above conditions is there any information as whether actual practices may differ from legal provisions?
7. Miscellaneous Are you aware of any other information on the basis of which one might conclude that the individual tax treatment (including social security tax treatment or any other salary tax treatment) of salaries and incentives in the Financial Sector might be treated differently than in other sectors of activities?

ENCLOSURE 17: ADDITIONAL QUESTIONNAIRE ON THE LABOUR TAXATION IN THE FINANCIAL SECTOR

Additional Questionnaire on the Labour Taxation in the Financial Sector	
1. Could you please confirm that the answers that you provided in the first questionnaire remain valid irrespective of whether the pay (i.e. fix pay, bonuses, equity incentives,…) is allotted to board members or people who are not board members? If "No" please clarify shortly.	Yes - No
2. Could you please confirm that the corporate tax deductibility of costs of pay (for both board members and non board members) is the same in the Financial Sector as in other sector of activities? If "No" please clarify shortly.	Yes – No
For both board members and non board members, 3.1 Is there a favourable tax treatment applicable to stock options in your country? 3.2. In the affirmative, is this favourable tax treatment subject to conditions? 3.3. Is this favourable tax treatment applicable in the Financial Sector in the same way as it is in the other sectors?	 Yes - No N/A - Yes - No N/A - Yes - No
For both board members and non board members, 4.1 Is there a favourable tax treatment applicable to some other equity incentives in your country? 4.2. In the affirmative, is this favourable tax treatment subject to conditions? 4.3. Is this favourable tax treatment applicable in the Financial Sector in the same way as it is in the other sectors?	 Yes - No N/A - Yes - No N/A - Yes - No

Additional Questionnaire on the Labour Taxation in the Financial Sector	
5. If you answered affirmatively to questions 3.1 and 4.1. above, based on your experience, do you believe that pay structures in the Financial Sector might include stock options and/or some other equity incentives in a proportion structurally different than in other sectors so that indirectly pay packages in the Financial sector might be taxed differently (less or more) than in other sectors of activities. (Note: we appreciate that a scientific approach would require you to be aware of the possible different pay practices in the financial sector on the one hand and other sectors of activities on the other hand. At this stage we just need your thoughts based on your basic knowledge of the market practices).	Yes - No

ENCLOSURE 18: SECURITIES TRANSACTION TAXES

Country	Securities transaction taxes applicable in principle	On regulated markets	Type of securities in scope	Provision	Rate	Remarks
BELGIUM	Tax on Stock Exchange Transactions	Yes	All securities	Sections 120 *et seq.* of the Belgian Miscellaneous Duties and Taxes Code - "MDTC"	0.17% (or 0.5% or 0.07% depending on the type of security)	There is an exemption for non-residents and the Financial Sector acting for its own account
CYPRUS	Levy on transactions effected in respect of securities listed at the Cypriot Stock Exchange	Yes	'Titles', meaning shares, stocks, debentures, founding and other titles of companies that are listed at the Stock Exchange	Law 161 (I)/99	0.15%	This legislation ceases to be of effect from 31 December 2011
	Stamp Duty	No, exempt if listed at stock exchange	Securities issued by Cypriot-resident companies	Stamp Duty Law L19/1963	0.15% (on the first EUR 170,860) plus 0.2% (on amounts over 170,860)	Stamp duty is applicable to the agreement and not to the transaction
FINLAND	Transfer tax	No, exempt if traded on a qualifying market	Finnish securities, e.g. equities, PPL, stock options, but not debt securities or derivatives	Transfer Tax Act (29.11.1996/931)	1.6%	
FRANCE	Registration tax	No	French listed or non-listed stocks, bonds	Sections 680 and 726 of the French Tax Code.	3% (or 5% in relation to a shareholding in a real estate company), after a reduction of EUR 23,000	This tax cannot strictly speaking be considered a securities transaction tax, as it is a registration tax
GREECE	Transaction duty	Yes, but also OTC transfers of Greek listed shares are subject to the duty	Greek or foreign listed shares and compound products such as equity swaps, call options, futures	L.2703/1999	0.15%	Draft bill in which amendments are proposed, for example abolition of transaction duty for the sale of listed shares initially acquired after 1.1.2012

Country	Securities transaction taxes applicable in principle	On regulated markets	Type of securities in scope	Provision	Rate	Remarks
IRELAND	Stamp duty		Stocks or marketable securities (including derivatives) of an Irish company or Irish immovable property	Sections 2, 88 and 90 and Schedule 1 of the Stamp Duties Consolidation Act 1999	1% but possibly up to 6%	
ITALY	N/A	N/A	N/A	N/A	N/A	The Italian Securities Transfer Tax has been repealed for contracts signed on and after 31 December 2007
POLAND	Taxation of sale or exchange of property rights	No, exemption for transactions within an organised market	Securities and derivatives, except Polish treasury bonds etc.	Civil Law Activities Tax Law dated 9 September 2000	1%	
ROMANIA	Securities transaction taxes	Yes, whether on the regulated market or not	All types of securities	Regulation No. 7/2006 regarding revenues of the National Securities Commission ("NSC"); Emergency Ordinance No. 25/2002 for approval of the NSC Statute; Decision No. 1/2010 for approval of the NSC budget for 2010 (Annex 1)	A commission of a maximum of 0.08% or a monitoring fee of 0.15%; a commission of 0.10 RON when derivatives are involved	
UK	Stamp Duty and Stamp Duty Reserve Tax		Equities, certain equity derivatives (cash-settled derivatives excluded) and some loans having equity-like features	Finance Act 1986, Section 87	0.5% (or 1.5%)	Certain recognised intermediaries (Financial Sector traders) are given an exemption
SINGAPORE	Stamp duty	No, not applicable to transactions on the Singapore Exchange via the scripless settlement system	Stocks and shares, including debt with certain features		0.2%	
SWITZERLAND	Transfer stamp tax	Yes	Bonds, shares (including shares in investment funds)	Swiss Federal Stamp Duty Act (StG)	0.15% for domestic securities and 0.3% for foreign securities	Foreign banks and securities dealers are exempt parties, amongst others

ENCLOSURE 19: EQUITY SWAPS

Country	General / specific tax rules	Difference FS / non-FS (exc. timing)	Taxation payment received (exc. timing)	Deduction of payments made (exc. timing)	WHT on payment to non-residents (under the swap)	WHT on payment to non-residents (sale of the swap)	DTT classification	
							(under the swap)	(sale of the swap)
AUSTRIA	General	No	Yes	Yes	No	No	Other	Gain
BELGIUM	General	No	Yes	Yes	No	No	Other	Gain
BULGARIA	General	No	Yes	Yes	Yes	Yes	Profits	Gain
CYPRUS	General	No	No	No	No	No	N/A	N/A
CZECH REPUBLIC	General	No	Yes	Yes	No	Yes	Other	Gain
DENMARK	General	No	Yes	Yes	No	No	N/A	N/A
ESTONIA	General	No	Yes	Yes	No	No	Other	Gain
FINLAND	General	No	Yes	Yes	No	No		
FRANCE	General	Yes	Yes	Yes	No	No	Other	Other
GERMANY	General	Yes	Yes	Yes	No	No	Other	Gain / other
GREECE	Specific (listed derivatives) / General (others)	Yes / No	Yes / Yes	Yes / Yes (if hedging)	No	No	Profits	Profits
HUNGARY	General	No	Yes	Yes	No	No	N/A	N/A

Country	General / specific tax rules	Difference FS / non-FS (exc. timing)	Taxation payment received (exc. timing)	Deduction of payments made (exc. timing)	WHT on payment to non-residents (under the swap)	WHT on payment to non-residents (sale of the swap)	DTT classification	
							(under the swap)	(sale of the swap)
IRELAND	General	Yes	Yes	Yes	No	No		
ITALY	Specific	No	Yes	Yes	No	No		
LATVIA	General	No	Yes	Yes	No	No		
LITHUANIA	Specific (unrealised items)	No	Yes	Yes	No	No	N/A	N/A
LUXEMBOURG	General	No	Yes (No: if substance over form)	Yes (No: if substance over form)	No	No		
MALTA	General	No	Yes	Yes	Unclear	Unclear	Unclear	Unclear
NETHERLANDS	General	No	Yes	Yes	No	No	Other	Other
POLAND	General	No	Yes	Yes	No	No		
PORTUGAL	Specific	No	Yes	Yes	No	No		
ROMANIA	General	Yes	Yes	Yes	No	No	Other / Profits	Other / Profits
SLOVAKIA	Specific	Yes	Yes	Yes (FS only)	Yes	Yes	Other	Gain
SLOVENIA	General	No	Yes (No: PER)	Yes (No: PER)	Yes	No	Other (div.)	Gain
SPAIN	General	No	Yes	Yes				
SWEDEN	General	Yes	Yes	Yes	No	No	N/A	N/A

Country	General / specific tax rules	Difference FS / non-FS (exc. timing)	Taxation payment received (exc. timing)	Deduction of payments made (exc. timing)	WHT on payment to non-residents (under the swap)	WHT on payment to non-residents (sale of the swap)	DTT classification	
							(under the swap)	(sale of the swap)
UK	Specific	Yes	Yes	Yes	No	No	Other	Other
CHINA	General	No	Yes	Yes	Yes		Profit	
SINGAPORE	General	Yes	Yes	Yes	No (in principle)			
SWITZERLAND	General	No	Yes	Yes	No	No	Gain	Gain
USA	Specific	Yes	Yes	Yes	No	N/A	Other	Other

ENCLOSURE 20: FINANCIAL FUTURES

Country	General / specific tax rules	Difference FS / non-FS (exc. timing)	Tax treatment of gains / losses (exc. timing)		Mark-to-market	Payment to non-residents		DTT classification		
						Expiration	Sale			
			Taxable / Deductible	When / How		WHT	WHT	Expiration	Sale	Nature underlying
AUSTRIA	General	No	Yes	Upon accrual	No, but permitted for FS	No	No	Other	Gain	Yes, if closed items
BELGIUM	General	No	Yes	P/L	No, but in general applied by FS	In principle, no	In principle, no	Other	Gain	Possibly
BULGARIA	General	No	Yes	Receipt (10% CTX)	Yes	Yes	Yes	Profits	Gain	
CYPRUS	General	No	No	10% CTX	No	No	No	N/A	N/A	
CZECH REPUBLIC	General	No	Yes	Changes in fair value	Yes	Yes	Yes	Other	Gain	
DENMARK	General	No	Yes	Unrealised basis	Yes	No	No	N/A	N/A	
ESTONIA	General	No	Yes (losses are not deductible)	Upon distribution (21% CTX)	No	No	No	Gain	Gain	
FINLAND	General	No	Yes	Realisation principle (26% CTX)	No	No	No			
FRANCE	General	Yes	Yes	Accrual (33.33% CTX)	N o	No	No	Other	Other	
GERMANY	General	Yes	Yes		Yes	No	No	Other	Gain/ other	

Country	General / specific tax rules	Difference FS / non-FS (exc. timing)	Tax treatment of gains / losses (exc. timing)		Mark-to-market	Payment to non-residents		DTT classification		
						Expiration	Sale			
			Taxable / Deductible	When / How		WHT	WHT	Expiration	Sale	Nature underlying
GREECE	Specific (listed derivatives) / General (others)	Yes / No	Yes / Yes		Yes	No	No	Profits	Profits	
HUNGARY	General	No	Yes	When accounted	Optional	No	No	N/A	N/A	
IRELAND	General	Yes	Yes	Based on accounting	Generally yes	No	No			As per the underlying asset
ITALY	General	No	Yes		No	No	No			
LATVIA	General	No	Yes	When realised (15% CTX)	No	No	No	N/A	N/A	
LITHUANIA	Specific (unrealised items)	No	Yes		No	No	No	N/A	N/A	
LUXEMBOURG	General	No	Yes (No: if substance over form)	28.80 % CTX	No	No	No			Possibly
MALTA	General	No	Yes	35% CTX	Yes	Unclear	Unclear	Unclear	Unclear	
NETHERLANDS	General	No	Yes		No, but allowed	No	No	Other	Other	
POLAND	General	No	Yes		No	No	No			
PORTUGAL	Specific	No	Yes		Yes	No	No			No
ROMANIA	General	Yes	Yes		No	No	No	Other/profits	Other/profits	

Country	General / specific tax rules	Difference FS / non-FS (exc. timing)	Tax treatment of gains / losses (exc. timing)		Mark-to-market	Payment to non-residents		DTT classification		
						Expiration	Sale			
			Taxable / Deductible	When / How		WHT	WHT	Expiration	Sale	Nature underlying
SLOVAKIA	Specific	Yes	Yes taxable; yes deductible for FS only		Yes	Yes	Yes	Other	Gain	No
SLOVENIA	General	No	Yes		Yes	No	No	Other	Gain	
SPAIN	General	No	Yes	30% CTX	No	No	No			No
SWEDEN	General	Yes	Yes	Accrued (FS) / Receipt (non-FS)	Yes for FS	No	No	N/A	N/A	
UK	Specific	Yes	Yes	Usually accounts basis	No	No	No	Other	Other	
CHINA	Not permitted									
SINGAPORE	General	Yes	Yes		Yes	No, in principle				
SWITZERLAND	General	No	Yes	P/L	No	No	No	Gain	Gain	No
USA	Specific	No	Yes		Yes	No	N/A		Gain	

ENCLOSURE 21: CALL OPTIONS ON STOCK

Country	Generalities		Holder												Write			
	General / specific tax rules	Difference FS / non-FS (exc. timing)	Premium				Taxation/ deduction of gains/ losses				Mark-to-market	WHT (premium to non-residents)	DTT classification (premium)	Packaged product	Premium			
			Deductible	When / How	Difference FS / non-FS	Stock acquisition price	Disposal	Exercise	Sale (shares)	Expiration					Taxable	When / How	Difference FS / non-FS	d
AUSTRIA	General	No	Yes	Expiration	No	Yes	Yes	No	Yes (No: PER)	Yes	Permitted (FS)	No	N/A	One product	Yes	Exercise / Expiration	No	Ye
BELGIUM	General	No	Yes	Expiration	No	Yes	Yes	No	Yes (No; PER)	Yes	Yes (FS)	No	N/A	One product	Yes	P/L	No	No
BULGARIA	General	Yes	Yes	Expiration / exercise	Yes	Yes	Yes	No	Yes	Yes	Yes (FS)	Yes	Profits	General rules	Yes	Expiration	Yes	Ye
CYPRUS	General	No	No	N/A	No	Yes	No	No	No	No	No	No	N/A	General rules	No	N/A	No	Ye
CZECH REPUBLIC	General	No	Yes	P/L	No	Sometimes	Yes (P/L)	Yes (P/L)	Yes	Yes (P/L)	Yes	Yes	Other	Option	Yes	P/L	No	So
DENMARK	General	No	Yes	P/L	No	Yes	Yes (P/L)	Yes (P/L)	Yes (P/L; No if PER)	Yes (P/L)	Yes	No	N/A	N/A	Yes	Issuing	No	No
ESTONIA	General	No	Yes	Expiration	No	Yes	Yes (N/A)	Yes (N/A)	Yes (N/A)	Yes (N/A)	Yes	No	Other	General rules	Yes	Distribution	No	Ye

Country	Generalities		Holder												Write			
	General / specific tax rules	Difference FS / non-FS (exc. timing)	Premium				Taxation/ deduction of gains/ losses				Mark-to-market	WHT (premium to non-residents)	DTT classification (premium)	Packaged product	Premium			
			Deductible	When / How	Difference FS / non-FS	Stock acquisition price	Disposal	Exercise	Sale (shares)	Expiration					Taxable	When / How	Difference FS / non-FS	d
FINLAND	General	No	Yes	Exercise / expiration / closing out / P/L	No	Yes	Yes	Yes (Cash) / No (Delivery)	Yes	Yes	Sometimes	No	Unclear	One product	Yes	Exercise / expiration / closing out / Receipt / P/L	No	No
FRANCE	Specific	Yes	Yes	Exercise	Yes	Yes (non-listed) / No (listed)	Yes	No (non-listed) / Yes (listed)	Yes (No: PER)	Yes	Yes (listed)	No	Other	Option	Yes	Exercise / P/L	Yes	Ye lis
GERMANY	General	No	Yes	Exercise / offsetting	No	Yes	Yes	Yes (Cash) / No (Delivery)	Yes	No	Yes	No	Gain	Option	Yes	Issuing	Yes	No
GREECE	Specific (listed derivatives) / General (others)	Yes / No	Yes		Yes	No	Yes (N/A)	Yes (N/A)	Yes (N/A)	Yes (N/A)	No	No	Profits		Yes		Yes / No	
HUNGARY	General	No	Yes	P/L	Yes	Sometimes	Yes	No	Yes (No: PER)	N/A	Option	No	N/A	Case by case	Yes	P/L	Yes	No
IRELAND	General	Yes	Yes	P/L	Yes	No (FS) / Yes (other)	Yes	No	Yes	No	If in the accounts (FS)	No	Underlying		Yes	P/L	Yes	So

Country	Generalities		Holder												Write			
	General / specific tax rules	Difference FS / non-FS (exc. timing)	Premium				Taxation/ deduction of gains/ losses				Mark-to-market	WHT (premium to non-residents)	DTT classification (premium)	Packaged product	Premium			
			Deductible	When / How	Difference FS / non-FS	Stock acquisition price	Disposal	Exercise	Sale (shares)	Expiration					Taxable	When / How	Difference FS / non-FS	d
ITALY	Specific	No	Yes	P/L	No	Yes	Yes	No	Yes (No: PER)	Yes	Sometimes	No			Yes	P/L	Yes	
LATVIA	General	No	Yes	P/L	No	Sometimes	Yes	Yes	Yes (No: EEA listed shares)	Yes	No	No	N/A		Yes	P/L	No	So
LITHUANIA	Specific (unrealised items)	No	Yes	Acquisition	No	Sometimes	Yes	No	Yes (No: PER)	Yes	No	No	N/A	Two products	Yes	Accrual	No	No
LUXEMBOURG	General	No	Yes	Expiration	No	Yes	Yes	No	Yes (No: PER)	Yes	No	No		One product	Yes	Expiration	No	Ye
MALTA	General	No	Yes		No	Unclear	Unclear	Unclear	Unclear	Unclear	Yes	Unclear	Unclear	Unclear	Yes	Unclear	No	Ur
NETHERLANDS	General	No	Yes (No: PER)			Yes (if PER) / unclear (other)	Yes	Yes	Yes (No: PER)	Yes	Option	No	Other	General rules	Yes	Exercise / expiration	No	No
POLAND	General	No	Yes	Exercise / expiration	No	No	Yes	Yes	Yes	Yes	No	No		Two products	Yes	P/L	No	No
PORTUGAL	General	No	Yes	P/L	No	No	Yes	Yes	Yes	Yes	Yes	No	Profits / other	P/L	Yes		No	No

Country	Generalities		Holder												Write			
	General / specific tax rules	Difference FS / non-FS (exc. timing)	Premium				Taxation/ deduction of gains/ losses				Mark-to-market	WHT (premium to non-residents)	DTT classification (premium)	Packaged product	Premium			
			Deductible	When / How	Difference FS / non-FS	Stock acquisition price	Disposal	Exercise	Sale (shares)	Expiration					Taxable	When / How	Difference FS / non-FS	d
ROMANIA	General	Yes	Yes	Acquisition	No	No	Yes	Yes	Yes	Yes	No	No	Other / profits	Two products	Yes	P/L	No	Ur
SLOVAKIA	Specific	Yes	No		No	Yes	Specific (FS / other)	No	Specific (FS / other)	Yes	Yes	Yes	Other	General rule	Yes	Exercise / Expiration	No	No
SLOVENIA	General	No	Yes	Expiration	No	Yes	Yes	No	Yes (No: PER)	Yes	Unclear	No	Gains / other	Unclear	Yes	P/L	No	Ur
SPAIN	General	No	Yes	P/L	No	Unclear (P/L)	Yes (P/L)	Yes (P/L)	Yes (P/L)	Yes (P/L)	Yes			Case by case	Yes (P/L)	P/L	No	Ur
SWEDEN	General	Yes	Yes	Expiration	Yes	Yes	Yes	No	Yes	Yes	Yes (FS)	No	Other income	One product	Yes	P/L	Yes	Ye
UK	Specific	Yes	Yes	Yes	Yes	Yes (non-FS)	Yes	Yes(FS) / No (non-FS)	Yes	Yes	Sometimes	No	Other	P/L	Yes	P/L	Yes	No sor (no
CHINA	N/A		N/A												N/A			
SINGAPORE	General	Yes	Yes	P/L	Yes	P/L	Yes (P/L)	Yes (P/L)	Yes (P/L)	Yes (P/L)	Sometimes	No (in principle)	Profits / interest		Yes	P/L	Yes	P/I
SWITZERLAND	General	No	Yes	P/L	No	Yes	Yes	No	Yes (NO: PER)	Yes	No	No	Gain	Case by case	Yes	P/L	No	Ye

Country	Generalities		Holder												Write			
	General / specific tax rules	Difference FS / non-FS (exc. timing)	Premium				Taxation/ deduction of gains/ losses				Mark-to-market	WHT (premium to non-residents)	DTT classification (premium)	Packaged product	Premium			
			Deductible	When / How	Difference FS / non-FS	Stock acquisition price	Disposal	Exercise	Sale (shares)	Expiration					Taxable	When / How	Difference FS / non-FS	d
USA	Specific	Yes	Yes		Yes	Yes (delivery) / No (cash)	Yes	No (delivery) / Yes (cash)	Yes	Yes	Sometimes	No	N/A	Case by case	Yes		Yes	Ye (de / N

ENCLOSURE 22: QUESTIONNAIRE ON TAXATION OF FINANCIAL INSTRUMENTS

The purpose of this part of the study is to examine the tax treatment of different financial instruments, either when taxed indirectly via securities taxes or when accounted for in the calculation of other taxes, notably the corporate income tax. Please provide a high level answer to the following questions based on law as applicable on financial year 2011 (January 2011).

For certain questions, we provided the involved countries with a clarification and/or an illustrative example in order to have additional insights about the answers given to these questions. The clarifications and examples provided are the following:

B. Corporate income tax treatment of equity Swaps

Clarification as regards an equity swaps:

Definition: an equity swap is a financial derivative contract (a swap) where a set of future cash flows are agreed to be exchanged between two counterparties at set dates in the future. The two cash flows are usually referred to as "legs" of the swap; one of these "legs" is usually pegged to a floating rate such as LIBOR. The other leg of the swap is based on the performance of either a share or a stock market index. This leg is commonly referred to as the "equity leg". Most equity swaps involve an interest leg v. an equity leg, although some exist with two equity legs.

Example: Equity swap arrangement between A and B. Both companies have an accounting year and a tax year closing at calendar year-end (31 December). A is paying every quarter to B dividends and capital gains from the underlying stocks where B is paying A an interest rate and capital losses on the same underlying stocks. Let's assume that the swap arrangement has been signed end of November, and first payment has to be made end of January.

- The market value of the swap based on future payments is 200 end of December in favour of B.
- One month later, a payment of 300 has to be made by A to B.

From an economic point of view, this payment can be broken down into 100 from B to A (interest leg) and 400 from A to B (equity leg, including 30 of dividends received and 370 of capital gains).

This amount of 300 is thus the netted amount and constitutes a payment under the swap arrangement and includes economically a "dividend component" (30 in this example).

E. Corporate income tax treatment of Call options on stocks in the hands of the holders

Example:

- The holder has paid 10 to acquire a call on shares with a strike price of 100.
- At maturity, the market value of the shares is 130.
- The call is exercised by the holder and the latter will pay the strike price of 100 to the issuer.

F. Corporate income tax treatment of Call options on stocks in the hands of the writers

3. Example:

- The issuer has acquired shares for 80, issued a call on these shares for a strike price of 100 and received a premium of 10.
- At maturity, the market value of the shares is 130.
- The call is exercised by the investor and the latter will pay the strike price of 100 to the issuer.
- The issuer has received cash-wise 110 (10 premium and 100 strike price).

- What is the result in this case from a tax perspective? Is it a gain on shares of 20 and a premium of 10, or a gain on shares of 30 since the premium received is part of the share delivery price? We assume that it can make a difference since premiums are often considered as taxable whereas gains on shares may, under certain conditions, be tax exempted.

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J. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 8. Are there securities transactions taxes on transfers of financial instruments? 9. What securities are in scope and which are exempt? 10. What are the tax provisions (reference to applicable tax section)? 11. Tax base? 12. Tax rate? Is there a maximum amount of tax due? 13. Tax event? 14. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 15. Who is liable for levying the tax? Who is liable to support the tax?	In Austria there are no taxes on the transfer of financial instruments.
K. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time.	1. In Austria there are no specific rules applicable to swap transactions. The general tax regime applies. 2. Generally there is no difference if one or both of the counterparties are companies in the non Financial Sector. 3. The CIT follows the accounting rules. There are no specific accounting rules for swaps. The general rules are applicable. In General, flows of payment are taxable on an accrual basis for corporations, but each transaction has to be evaluated

AUSTRIA	
16. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 17. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 18. Are the flows of payments received taxed, if yes, when and how? 19. Are the flows of payments made tax deductible, if yes, when and how? 20. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 21. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 22. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	individually. From an accounting point of view, if the equity swap is held as fixed assets the lower of cost or market valuation has to be used. If the equity swap is held in the trading book or not held as fixed assets the mark to market valuation has to be used. As for hedge accounting similar rules to IAS 39 are applicable. 4. The exchange of dividend payments could be tax neutral: If dividends are transferred as a part of an equity swap equity, those dividends could be tax free because they are treated as if they would be distributed to the beneficial owner directly. E.g. Dividends distributed from an Austria corporation to another Austria corporation are tax exempt. The CIT follows the accounting rules; in General, flows of payment are tax deductible, but each transaction has to be evaluated individually. Flows of payments are deductible on an accrual basis for corporations. From an accounting point of view, we refer to 3. 5. Generally in Austria there is no WHT for non residents with the exception of dividends in some cases. In other words, there should not be WHT on the payments made under an equity swap agreement excluding manufactured dividends under the involvement of Austrian banks. 6. No 7. In most Double tax treaties the payments are (if taxable) qualified as “other income“ or as “Capital gains”. E. g. in case the hedging transaction is regarded as closed items with the corresponding underlying transaction, the payments could be qualified the same (for e.g. dividend) as the underlying. Manufactured dividends and interests are qualified as dividends and interests. WHT could only be made on manufactured dividends in the case an Austrian bank is involved (the bank is the party who gets the shares). Other payments are qualified as other income or capital gains.

AUSTRIA	
L. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	1. In Austria there are no specific rules applicable to Financial Futures. The general tax regime applies. 2. Generally there is no difference if one or both of the counterparties are companies in the non Financial Sector. 3. Gains and losses are taxed / deductible, either when payment accrues or when the transaction is entered in the accounting (CIT follows the accounting rules). Hence there are no specific rules; each transaction has to be evaluated individually. 4. For non financial companies mark-to-market is not applied. For financial institutions mark-to-market valuation is permitted. For conditions under which this method applies we refer to B.3 above. 5. Generally in Austria there is no WHT for non-residents. 6. Generally in Austria there is no WHT for non-residents. 7. In most Double tax treaties the payments are (if taxable) qualified as “other income“ or as “capital gains”. E. g. in case the hedging transaction is regarded as closed items with the corresponding underlying transaction, the payments could be qualified the same (for e.g. Interest) as the underlying.

AUSTRIA	
M. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	General overview about the accounting of premiums: I. From the writer's perspective: a. At the time of receipt the premium is shown as liability. b. At the time of exercise and expiration the premium is shown as income (and taxable). II. From the holder's perspective: a. At the time of payment the premium is shown as other accounts receivable. b. At the time of exercise the premium becomes part of acquisition costs. c. At the time of expiration the premium becomes other expense (and taxable). 1. In Austria there are no specific rules applicable to Call Options. The general tax regime applies. 2. In general there is no difference if one or both of the counterparties are companies in the non Financial Sector.
N. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any	General overview about the accounting of premiums: From the holder's perspective: a. At the time of payment the premium is shown as other accounts

AUSTRIA	
specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (iv) exercise of the options, (v) sale of the shares acquired through the option, (vi) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	receivable. b. At the time of exercise the premium becomes part of acquisition costs. c. At the time of expiration the premium becomes other expense (and taxable). 1. At the expiration date of the call, the premium is deductible. This is the only scenario where the premium is a deductible item for the investor. 2. Generally there is no difference if the holder is a bank/insurance company or a company active in the non Financial Sector. 3. Yes, the premium paid is part of the future acquisition price. 4. (i) Gains or losses realised at the disposal of the option are tax effective. By "effective", we mean "taxable" for the gains / "deductible" for the losses. (ii) The premium paid is part of the acquisition costs at the exercise of the option. (iii) in general the sale of the shares acquired through the option is tax effective. In the case the share are from a foreign corporation and held by an Austrian corporation and the stake in the company is ≥ 10% and the Holding Period is ≥ 1 year, the sale of shares acquired through the option is NOT tax effective. (iv) The premium paid is classified as expenses at the time of expiration. 5. For non financial companies mark-to-market is not applied. For financial institutions mark-to-market valuation is permitted. For conditions under which this method applies we refer to B.3 above. 6. There is no WHT on premium to non-residents.

AUSTRIA	
	7. In Austria premium payments to non-residents are not subject to (withholding) tax. 8. Options are generally not separated if they are part of a packages product; i.e. is seen as one product.
O. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	General overview about the accounting of premiums: From the writer's perspective: a. At the time of receipt the premium is shown as liability. b. At the time of exercise and expiration the premium is shown as income (and taxable). 1. For writers, the premium received is not taxable in the time of receipt. It is taxable in the time of exercise and expiration of the option. 2. Generally there is no difference if the writer is a bank/insurance company or a company active in the non Financial Sector. 3. Yes. Based on the example, in our opinion the premium is part of the delivery price and in the time of exercise generally taxable. In most cases it makes no difference except the "International tax exemption" is applicable. In this case capital gains are tax exempt. 4. Yes 5. For non financial companies mark-to-market is not applied. For financial institutions mark-to-market valuation is permitted.

AUSTRIA	
P. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	Generally there will not be any difference, except certain security transactions where the bank has to withhold tax on dividend payments to other countries.
Q. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	No.

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A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	1. There is securities tax (referred to as “tax on stock exchange transactions” or “stamp duties”) which applies to certain transactions concluded or executed in Belgium through a Belgian professional intermediary to the extent that they relate to public funds, irrespective of their (Belgian or foreign) origin. The transactions in scope are: - every sale, purchase and, in general, every transaction for valuable consideration (secondary market transactions) Note that on a given secondary market transaction, the tax is due twice: in the hands of the seller (sale) and in the hands of the buyer (purchase) provided that the transaction is carried out between Belgian parties; - every redemption of its own shares by an investment company provided that the redemption relates to "accumulating shares". 2. All types of financial instruments are in scope, for instance equity, shares of investment companies, bonds, and some derivative instruments. However, the transaction must relate to public funds. The notion "public funds" refers to all marketable securities, which, by their nature, are susceptible of being traded on an organized exchange. Please note that the tax is not due upon subscription of new securities (primary market transactions). Previously, primary market transactions were in some cases in scope but the concerned provision was cancelled as a consequence of the decision of European Court of Justice dated 15 July 2004 (case C-415/02). The tax is not due if no Belgian intermediary acting in the course of its business intervenes in the deal (being the acquisition or sale of the securities). The notion “Intermediary” covers any person whose professional activity consists of carrying out

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	stock exchange transactions. 3. Article 120 and further of the Belgian Code of Various Duties and Taxes "CVDT" (Wetboek diverse rechten en taksen / Code des droits et taxes divers). 4. The tax is due: - for acquisitions or purchases, on the sums to be paid by the purchaser after deduction of the brokerage commission. - for sales, on the sums to be received by the seller or assignor, without deducting the brokerage commission. - for redemptions of own accumulating shares by a SICAV, on the Net Asset Value (hereafter "NAV"), without any deduction of lump sum charges. - for redemptions of own accumulating shares being "in scope" for article 19*bis* of the Belgian Income Tax Code (i.e. SICAVS with EU passport investing for more than 40% in receivables / debts securities for which a WHT is due upon liquidation / redemption of own shares) on the NAV, without any deduction of lump sum charges, but reduced by the WHT withheld. 5. The rate of the tax on stock exchanges transactions varies in accordance with the type of transactions: The rate amounts to: - 0,07 % (subject to a maximum of EUR 500 per transaction) for distributing shares of investment companies, certificates of contractual investment funds (i.e. without legal personality), bonds of the Belgian public debt or the public debt of foreign states, nominative or bearer bonds, certificates of bonds, etc. - 0,5 % (subject to a maximum of EUR 750 per transaction) for accumulating shares of investment companies, such as SICAVs - 0,17 % (subject to a maximum of EUR 500 per transaction) for any other securities

	(such as shares). There are also some specific exemptions from the tax, amongst which the most important ones in practice: - transactions made for its own account by some financial institutions, such as banks, insurance companies, organizations for financing pensions (OFPs), undertakings for collective investment, etc.; - transactions made for its own account by non-resident taxpayers. 6. The taxable event is the execution of the transaction itself (cf. above). The tax normally has to be paid by the liable intermediary at the latest on the last working day of the month following the month during which the transaction was executed. 7. The connecting factor is the fact that the transaction in scope is concluded or executed in Belgium through a Belgian professional intermediary. 8. The Belgian professional intermediary is liable to pay the tax to the competent Belgian tax authorities. The tax is supported by the person/entity who concludes or executes the transaction (the buyer and/or the seller).
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time.	1. In Belgium general tax principles apply. There are no specific tax rules applicable on swap transactions. As a general rule, the tax treatment of an instrument follows its accounting treatment (Belgian GAAP), unless the applicable tax rules explicitly depart from the accounting rules. In general, it can be said that what is booked in the P&L as a cost will in principle be tax deductible, what is booked as a profit will generally be taxable. In absence of any specific rules with respect to the accounting treatment of equity swaps, this type of instruments should be booked based on general accounting principles. Recently, the Belgian Commission for Accounting Standards has published

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1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	an advice in which it determines the hierarchical order of principles to be applied. Note that banks, insurance companies, investment companies and OFP's each have their own accounting framework which differ from the accounting framework applicable to commercial companies. 2. From a Belgian tax perspective, there is no difference if counterparties are companies in the non-Financial Sector. The accounting framework being different (or more specific) for certain Financial Sector companies than for non Financial Sector companies, this could result in a different treatment. 3. The flows of payments received are taxed. They are part of the corporate income tax base of the company in the financial year in which they are booked in the P&L following the applicable accounting rules (Belgian GAAP). The corporate income tax rate in Belgium is 33,99%. 4. The flows of payments made are in principle tax deductible (provided that these expenses are made in order to acquire or conserve taxable income). As for the accounting result, they are therefore not included in the corporate income tax base of the company in the financial year they are booked as a cost in the P&L. 5. Belgian WHT can, as a rule, only be levied on income that is qualified as movable income in Belgian tax law (i.e. essentially interest and dividend income). As no income tax classification of equity swaps (or of the income arising from equity swaps) is available in Belgian income tax law, it can be argued that equity swaps are to be treated as having a *"sui generis"* character as a result of which the income derived from such contracts cannot be considered to fall under the provisions governing movable income. The argument for claiming such *"sui generis"* character is generally to be found in the definition of movable income, i.e. all proceeds of movable property that can be considered to be "engaged". It has been argued in doctrine that a qualification as movable income requires a (deliberate) deposit or engagement of capital, meaning (i) an underlying financing relationship or transfer of proceeds to be engaged by the recipient of the proceeds and (ii) the income which is derived from the movable goods to be

	considered a remuneration paid by the recipient of such means for the benefit of being able to use the given capital for his activities. Applied to derivative financial instruments, the given notion of "engagement" is in most cases considered not to be fulfilled. However, this should be analysed on a case-by-case basis. If it appears that the payments should be considered as interest from a Belgian income tax point of view, Belgian WHT will in principle be due. The standard Belgian WHT rate on interest is 15%. In such case, the question is whether Belgian domestic WHT exemptions/limitations could apply. Two types of exemptions could in principle apply in relation to non-residents, provided that certain conditions are fulfilled. The first exemption concerns interest payments from credit institutions established in Belgium to credit institutions established abroad (i.e. not in Belgium). The second type of exemptions concerns interest payments from credit institutions established in Belgium to non-resident beneficiaries. 6. Income from a sale of a swap is not considered as movable income, so no Belgian WHT can be due. 7. There exist no clear rules regarding the classification of payments (under the swap or upon the sale of the swap) under the double tax treaties. This depends on the swap agreement and the treaty in question and it may also depend on the nature of the underlying. In other words, this should be analysed on a case-by-case basis. In most cases the payments under the swap will be classified as other income and the payments upon a sale of the swap will be classified as capital gains.
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would	1. In Belgium general tax principles apply. There are no specific rules applicable on financial futures transactions (cf. our comments under B.1. above). 2. From a Belgian tax perspective, there is no difference if counterparties are companies in

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have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	the non-Financial Sector. The accounting framework being different (or more specific) for certain Financial Sector companies than for non Financial Sector companies, this could result in a different treatment. 3. The flows of payments received are taxed and the flows of payments made are in principle tax deductible. They are part of the corporate income tax base of the company in the financial year in which they are booked in the P&L following the applicable accounting rules (Belgian GAAP). The corporate income tax rate in Belgium is 33,99%. 4. Mark-to-market is generally not applied for normal (non-FS) companies, but it can be applicable for financial institutions. 5. In most cases no Belgian WHT would be due. However, this should be analysed on a case-by-case basis (cf. our comments under B.5. above). 6. No WHT. 7. There exist no clear rules regarding the classification of payments (under the futures or upon the sale of the future) under the double tax treaties. This depends on the futures agreement and the treaty in question and it may also depend on the nature of the underlying. In other words, this should be analysed on a case-by-case basis. In most cases the payments under the futures will be classified as “other income” and the payments upon a sale of the futures will be classified as “capital gains”.

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D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	1. In Belgium general tax principles apply (there is an administrative tax circular dated 27 September 1993 which deals a.o. with options on stocks). There are no specific tax rules applicable on call stock options. As a general rule, the tax treatment of an instrument follows its accounting treatment (Belgian GAAP; for options there exist two advices of the Belgian Commission for Accounting Standards n° 167/1 and n° 167/2), unless the applicable tax rules explicitly depart from the accounting rules. In general, it can be said that what is booked in the P&L as a cost will in principle be tax deductible, what is booked as a profit will generally be taxable. Recently, the Belgian Commission for Accounting Standards has published an advice n° 2010/12 in which it determines the hierarchical order of principles to be applied. In Belgian accounting law, sometimes different rules are applicable depending on the hedging or speculative nature of the option. In addition, banks, insurance companies, investment companies and OFP's each have their own accounting framework which differ from the account framework applicable to "normal" companies. While the standard accounting rules apply in principle the "historical cost" approach, credit institutions apply more often a mark-to-market approach. 2. From a Belgian tax perspective, there is no difference if counterparties are companies in the non-Financial Sector. The accounting framework being different (or more specific) for certain Financial Sector companies than for non Financial Sector companies, this could result in a different treatment.
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have	1. Whether or not the premium paid is tax deductible depends on whether from an accounting perspective the option is "activated" (i.e. recorded as an asset on the balance sheet of the holder). The preferred accounting treatment of the Belgian Commission for Accounting Standards is to record the premium as an asset on the assets side of the balance sheet at the acquisition value plus ancillary costs (the ancillary costs could also be booked as a

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equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (vii) exercise of the options, (viii) sale of the shares acquired through the option, (ix) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	cost in the P&L which is tax deductible). The option cannot be amortised. In this case the premium will not be included as a cost in the P&L at the moment the option is acquired and will therefore not be tax deductible 2. From a Belgian tax perspective, there is no difference if the holder is a bank/insurance company or a company active in the non Financial Sector. However, since banks and insurance companies are subject to special accounting rules in relation to options, different accounting rules could be applicable, which results in a different tax treatment. 3. Yes. 4. (i) disposal of the options: realised capital gains are taxable, and realised capital losses are in principle tax deductible; (ii) exercise of the options: the premium paid is part of the stock acquisition price; (iii) sale of the shares acquired through the option: realised capital gains on shares are in principle tax exempted, provided that the subject to tax conditions are complied with. Realised capital losses on shares are not tax deductible; (iv) expiration of the option: in case of expiration of the (activated) option, a loss is recorded. This cost is in principle tax deductible. 5. Usually not. However, if the market price is lower than the acquisition price an impairment (Lower of Cost or Market) will be accounted. This is different for options acquired by a credit institution for trading purposes, which are subject to a mark-to-market treatment. 6. In principle, no WHT is due on premiums to non-residents. Cf. our comments under B.5 and B.6 above 7. Cf. our comments under B.7 above.

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	8. This should be analysed on a case-by-case basis, taking into account the agreement. In general, the tax treatment of the packaged product will follow the accounting treatment, unless the tax treatment derogates from accounting treatment (which is the case for realised capital gains or losses on shares).
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	1. The premium received is taxable. a. If the premium received is directly recorded as a profit in the P&L, it will be taxable in the corporate income tax return that relates to the financial year in which the profit is booked at the standard rate of 33,99%. On the other hand, in order to cover the risk, the writer will need to record a provision on the liabilities side of the balance sheet, which should be periodically revalued. This provision may or may not be tax deductible depending on the circumstances (amongst others physical delivery or cash settlement). b. The premium can also be recorded as deferred income, until expiry or exercise of the option. As a result, there will be no immediate taxable income for the writer. Any risk in excess of the amount of the premium must be reflected on the balance sheet by recording a provision on the liabilities side. Such provision is recorded in the P&L. The provision should be revalued at financial year-end. This provision may or may not be tax deductible depending on the circumstances (amongst others physical delivery or cash settlement). 2. From a Belgian tax perspective, there is no difference if the writer is a bank/insurance company or a company active in the non Financial Sector. However, since banks and insurance companies are subject to special accounting rules in relation to options, different accounting rules could be applicable in certain situations, which would result in a different tax treatment. 3. In principle, from a tax perspective, the premium received is not part of the stock

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	delivery price. 4. In case the premium was recorded as deferred income, upon exercise the premium will be recorded as income in the P&L and will be taxable at the standard rate of 33,99%. The provision, if any, previously recorded to cover the risk in excess of the premium, is reversed and taxable. The settlement amount payable is deducted from the P&L and could possibly constitute a tax deductible expense in case of cash settlement provided that the settlement amount is (i) an expense made for the purpose of acquiring or preserving taxable income, (ii) deducted during the year when it is paid or incurred, and (iii) at arm's length. In case of physical delivery of the shares, the loss realised, if any, will not be tax deductible. 5. It depends. In the Financial Sector the mark-to-market is applied in some cases (e.g. a credit institution with options on stock not destined for coverage). For other companies, according to the Belgian Commission for Accounting Standards, there is a choice between two methods. In a nutshell, either the company books a profit in the P/L and, at year-end, a provision (this results to a mark-to-market approach), or the company books the premium received directly on its balance sheet as a liability and a P/L entry only if the value of the option increases.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	To our knowledge, our answers would not be different according to whether the (financial) institution is a domestic one, or a subsidiary or a branch of a non-domestic (financial) institution. In case of a branch, attention should be paid that the correct double tax treaty is applied and of course, provisions of double tax treaties can differ.
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	It should be mentioned that the tax treatment of derivative instruments is much dependent of the accounting treatment, for which some differing

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	practices may exist. Anti-abuse provisions may apply in case derivative instruments are used for tax reasons only. Some case-law exists in this respect concerning call options on stock.

BULGARIA	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	No transfer taxes on disposal of securities – just notary fee in case of transfer of shares in a limited liability company.
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain	[General principles of corporate income taxation to be kept in mind in the rest of the questionnaire: ▪ Gains / losses from disposal of securities are subject to standard tax treatment in case of local corporate sellers – taxable / deductible at 10% corporate income tax. ▪ Gains from sale of local securities are subject to 10% WHT in case of foreign resident sellers, unless the seller can invoke treaty

BULGARIA	
period of time. 1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	protection. Seller is liable for the tax. ▪ Income from local financial instruments is subject to 10% WHT taxation in case of foreign recipients. ▪ Gains / losses from disposal of shares on BG / EU stock-exchange are exempt from taxation.] 1. The general tax treatment applies; 2. Yes – there is a difference in the tax treatment between financial and non-financial institutions. Financial institutions recognise the gains/losses from financial instruments when incurred whereas non-financial institutions upon write-off (i.e. disposal / expiry of the instrument). Based on the example, the difference can be explained as follows: At the year-end the FS institution should recognise gain of 200 which will be taxable. A non-FS company will also recognise a gain of 200 but it will not be taxable at the year end (through an adjustment in the annual CIT). Upon payment of 300 an FS institution will recognise additional taxable income of 100, while a non-FS company will recognise an income of 300 which will be taxable. 3. Flows are taxed at the normal CIT rate of 10% when actually received. 4. Deductible when actually made. 5. The equalization payment (i.e. in the example, the net payment of 300) to a non-resident under a swap may qualify as income from a local financial instrument which is subject to 10% local WHT. The link is "income from local financial instrument" (applied when a party to a swap is a Bulgarian tax resident). Under local law WHT is imposed on any income from financial instruments. Therefore, under broad interpretation the equalization payment may be treatment as

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	income from local financial instrument subject to WHT. (Unofficially the revenue authorities have expressed such views on different occasions, though it cannot be said there are established practices in this respect). 6. The local rules levy tax on gains from disposal of local financial instruments. If the swap qualifies as a local financial instrument, any gains will be taxed with 10% corporate income taxation. 7. The equalization payment under item 5 may be exempt from taxation as business profit (at least these are the practices we have seen). Gains from sale are treated as capital gains for double tax treaty purposes.

BULGARIA	
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	1. No specific rules – general regime applies. 2. For financial institutions gains/losses are recognised when incurred. 3. For the rest (i.e. non financial institutions) when expired, i.e. when the transaction is actually settled (upon delivery) – please refer to our comments on B2 above. 4. Yes. 5. May be seen as income from local financial instruments. The link is a Bulgarian resident party to a contract. 6. Capital gains. The party to the contract. 7. Item 5 – business profits. Item 6 - capital

BULGARIA	
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	1. No specific rules – general regime applies. 2. For financial institutions gains/ losses recognised when incurred. For the rest when expired.

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E. Corporate income tax treatment of Call options on stocks in the hands of the holders

BULGARIA	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (x) exercise of the options, (xi) sale of the shares acquired through the option, (xii) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	1. Deductible when expired, i.e. upon expiration of the option and upon exercise. 2. Year end gains / losses from measurement of the recognised asset/liability (mark-to-market) are recognised when incurred for financial institutions. For non-financial institutions are recognised upon expiry / exercise. 3. Yes, if the option is exercised, then the premium is part of the acquisition price. 4. (i) – any difference recognised in the financial statements and taxable/deductible accordingly (ii) – part of the purchased shares (iii) – general rules (the call option payment is part of the acquisition cost) (iv) - deductible 5. Yes. 6. It may qualify as income from local financial instrument, which is subject to 10% local WHT (unless traded on a regulated stock exchange). There is a very broad definition on taxable income from financial institutions; this is the reason for a WHT to apply. 7. Business profits. 8. No explicit rules – the general regime should apply.

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F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	1. Taxable upon expiry 2. Yes – year end market valuations taxable / deductible for financial institutions when incurred. For the rest when expired 3. Yes. Based on the example provided, the tax treatment would follow the accounting treatment. To the best of our knowledge the accounting treatment will be a premium of 10 and a gain of 20. 4. Yes 5. Yes
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No
H. Practices	
For all the above conditions is there any information as whether actual practices	To the best of our knowledge no. Though we may say that it could hardly be claimed that there are consistent practices in Bulgaria with this type of

BULGARIA	
may differ from legal provisions?	transactions.

CYPRUS	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	1. Stamp Duty 2. Stamp duty may apply on issuance of securities or on agreements in relation to sale of securities. Agreements for the sale of securities are exempt if listed in any recognised stock exchange (which certifies the relevant transaction). 3. Stamp Duty Law L19/1963 4. Contract Value 5. Rate of 0,15% (on the first €170,860) plus 0,2% (on amounts over €170,860). On contracts without fixed sum the amount of stamp duty is €34,17. Stamp duty is capped at €17,086, may arise under circumstances on transfers of securities issued by Cyprus resident companies. Stamp Duty is applicable on agreements relating to assets or matters in Cyprus. Agreements on assets/matters outside Cyprus are not subject to Stamp Duty. Agreements on securities of non Cypriot companies should not be considered as assets in Cyprus. Where the agreement is subject to stamp duty, such duty is capped in all cases, for documents effected from 14 August 2007 onwards at €17,086. 6. The date of effecting the agreement (unless the agreement is effected outside the Republic of Cyprus, in which date the date that it is brought in the Republic of Cyprus). Stamp duty is applicable on the agreement and not on the transaction. As such the date of the agreement is the important one as opposed to the date that the transfer is effected. 7. Agreements relating to assets or matters in the Republic of Cyprus. 8. The buyer unless otherwise stated in the agreement.

CYPRUS	
	1. Levy on transactions effected in respect of securities listed in the Cyprus Stock Exchange 2. In scope: 'titles' meaning shares, stocks, debentures, founding and other titles of companies or other legal persons, that have been incorporated in Cyprus or abroad, as well as rights thereon, that are listed on the Stock Exchange Exemptions: (a) the issue and redemption of titles from the issuer (b) transactions involving corporate debentures (c) transactions involving corporate bonds (d) transactions involving debentures, government registered development debentures and treasury bills (e) donations involving titles, which are effected from parent to child, whether married or not, between husbands and wives or between relatives up to third degree kindredness, whether these persons are married or single (f) transfers of titles due to death (g) transactions effected outside the stock exchange (eg. Over the Counter - OTC) that relate to transfer of titles of the same beneficiary between different custodians (re-registration), lending of titles, return from lending, provision of guarantees and return of guarantees (h) transactions that are effected by Market Makers (under conditions) 3. Law 161 (I)/99 (as amended) - Law that provides for the levy of special duty on stock exchange transactions. This legislation is enforced from 1st January 2000 and it ceases to be in effect from 31 December 2011.

CYPRUS	
	4. (a) For the transactions effected within the Stock Exchange the tax base is the amount of the value of the transaction (b) For any other transaction that is subject to the duty and is announced in the Stock Exchange as per the relevant legislation, the tax base is the value of the titles on the day of the announcement in the Stock Exchange based on the closing price of the titles on the day of the announcement or if no such price exists, based on the last existing closing price or based on the announced price, whichever price of the above is the higher. 5. 0,15%; No maximum amount 6. Transactions that are effected in the Stock Exchange and transactions that are announced in the Stock Exchange. 7. On titles that are listed in the Cyprus Stock Exchange. 8. Liable to levying: The Stock Exchange is responsible for the imposition and collection of the duty and remittance of the duty to the government. The remittance is to accompanied by all relevant documentation analysis and information that the accountant general of the Republic may request that support the relevant duty. In cases of transactions effected, the Stock Exchange transfers the liability that is due and collects such liability from the member of the Stock Exchange that effects the transaction on behalf of the seller. The member transfers such amount to the seller and collects it from the sale proceeds. In relation to transactions announced in the Stock Exchange, the Stock Exchange collects the duty from the announcer. Liable to support: The seller or the person that announces the transaction, depending on the circumstances. Rem: a Capital Gains tax at the rate of 20% may arise on gains from the

CYPRUS	
	disposal of shares of companies that own immovable property in Cyprus to the extent that the gain reflects appreciations in the immovable property. This is not applicable in cases where the company's shares are listed in any recognised stock exchange. There are no specific provisions in the legislation addressing how any such capital gains may be triggered in the context of financial instruments.

CYPRUS	
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time. 1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	There are no specific provisions in relation to the tax treatment of equity swaps in the Cyprus income tax legislation. The comments provided below are **high level** (not seeking to analyse any risks or considerations) and reflect our assessment of the current interpretation of the authorities. 1. The general regime applies. 2. No 3. For equity swaps, according to the current interpretation of the income tax office (as supported by a relevant tax Circular), any profit from equity swaps is not taxable. For equity swaps, according to the current interpretation of the income tax office, any loss from equity swaps is non deductible. 3 + 4: The reason explaining the absence of taxation: Equity swaps fall under the definition of 'titles' as per a tax circular issued by the Cyprus tax authorities. As per the legislation, any profit from the disposal of 'titles' is tax exempt. There is no specific reference to the treatment of the loss. The tax authorities' position is that as the profit is not taxable, any loss is non-deductible. 4. No WHT 5. No WHT 6. There are no WHT, thus there is no specific practice in respect to where such gains/losses are classified.

CYPRUS

C. Corporate income tax treatment of Financial Futures

CYPRUS	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	There are no specific provisions in relation to the tax treatment of futures in the Cyprus income tax legislation. The comments provided below are high level (not seeking to analyse any risks or considerations) and reflect our assessment of the current interpretation of the authorities. 1. The general regime applies 2. No 3. As per the legislation, if the underlying asset is shares, bonds, debentures, founders shares, other titles issued by companies /legal persons, or rights there on (all the above jointly referred to as **"titles"**) then any gain is exempt from income tax (a tax circular has been issued by the authorities setting out examples of securities that fall into the definition of titles). Futures on titles are considered as titles. Otherwise if the future is not on a title, any gain is taxable at the normal CIT rate of 10% (e.g. futures on forex / commodities). The interest on financial futures is expected to be taxable (either at the rate of 10% under income tax after deduction of any expenses wholly and exclusively for the generation of the income **or alternatively** under circumstances under circumstances at the rate of 10% on the gross interest under special contribution for defence). 4. As per the interpretation of the authorities, where any gain is not taxable, any loss is not deductible (i.e. for futures on titles, the loss is non deductible). For futures on non qualifying titles, they are considered as deductible. 5. Mark to Market is not applied – taxation if applicable is on realisation. 6. No WHT are applicable 7. No WHT are applicable 8. There are no WHT, thus there is no specific practice in respect to where such gains/losses are classified.

CYPRUS	
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	1. The general regime applies 2. No

CYPRUS

E. Corporate income tax treatment of Call options on stocks in the hands of the holders

CYPRUS

This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer.

1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how?
2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector?
3. Is the premium paid part of the stock acquisition price?
4. Please describe the tax treatment of the gains or losses realised at the following events:
   - (i) disposal of the options,
   - (xiii) exercise of the options,
   - (xiv) sale of the shares acquired through the option,
   - (xv) expiration of option (without exercise or disposal)
5. Is mark-to-market applied?
6. Is there a WHT on premium to non-residents?
7. How are the premium payments classified under the double tax treaties?
8. How are options treated when they are part of a packaged product (e.g. equity linked note)?

There are no specific provisions in relation to the tax treatment of calls in the Cyprus income tax legislation. The comments provided below are high level (not seeking to analyse any risks or considerations) and reflect our assessment of the current interpretation of the authorities.

For the purposes of this analysis it is understood that the term stocks in the question, refers to shares.

1. As per a ruling issued by the tax authorities on a specific transaction, the position expressed is that the premium received is non taxable (and as per their general interpretation on "titles" any premium paid should be expected to be non deductible. This is on the basis that any gain on disposal of a call on securities qualifying as "titles" is non taxable.
2. No
3. Not stated in the legislation but effectively should be regarded to be.
4. (i) Exempt

   (ii) No reference in the legislation, as per a ruling issued on a specific transaction it is treated as a disposal and thus exempt.

   (iii) Exempt unless acquired through a share option scheme in which case a benefit in kind may be applicable on the holder/employee subject to the circumstances.

   (iv) No gain can arise for a holder from non exercise, the premium already paid for the acquisition is expected to be treated as non deductible.
5. No mark to market applies
6. No WHT
7. There are no WHT, thus there is no specific practice in respect to where such gains/losses are classified.
8. As long as the underlying asset is titles (e.g. shares) the options should be treated as regular calls on shares as analysed above.

CYPRUS	
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	For the purposes of this analysis it is understood that the term stocks in the question, refers to shares. 1. As per a ruling issued by the tax authorities on a specific transaction, the position expressed is that the premium received is non taxable 2. No 3. Not stated in the legislation but effectively should be regarded to be. 4. No 5. No Mark to Market
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No

CYPRUS	
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	The Cyprus tax legislation does not provide extensive specific provisions in relation to the treatment of financial instruments. The legislation is to a certain extent principle based. For example as per the legislation, any gains on titles are not taxable. The legislation is silent in relation to losses, however the practice followed by the tax authorities is that they are non deductible.

CZECH REPUBLIC	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	At present there is not any special kind of securities transaction tax levied in the Czech Republic on any type of financial instruments.
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time.	1. There are not any specific tax rules laid down for swap transactions or other derivates. Corporate income tax treatment of swap transactions for taxpayers keeping Czech double-entry accounting records (hereinafter"tax residents") follows the accounting rules that are practically the same as IAS 39. As regards taxpayers not obliged to keep accounting records under the Czech accounting rules (hereinafter "tax non residents") tax provisions regarding the income from investment instruments should be applied – in this situation the payment abroad in case of the tax resident counterparty may be subject to taxation based on the cash-

CZECH REPUBLIC	
1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	flow (instead of accrual basis as in case of tax residents). 2. No. 3. Tax treatment of flows of payments under the swap is different for tax residents and for tax non-residents. Tax residents are taxed on the accrual basis in corporate tax base at standard 19% tax rate. It means that the market value of swap at year-end impacts the tax base. Under the accounting rules they generally recognise financial derivatives on the balance sheet at fair value, with the corresponding changes in their fair value recognised in the profit & loss account (except for cash-flow hedges booked to equity). Changes in the fair market value of a derivate instrument are relevant also for tax purposes. Tax non-residents may be taxed on the cash basis, however in case of equity swaps the Czech Republic does not exercises the right to tax income from such swaps (contrary to interest-like income from Interest Rate Swaps) –income from equity swaps (exchange of cash flows) is not considered as Czech source income. 4. For tax residents flows of payments are generally tax deductible on an accrual basis (the market value of swap at year-end impacts the tax base). For tax purposes changes in the fair market value of a swap instrument booked to profit & loss account are relevant. It means that tax law follows accounting law, which is closed to IAS/IFRS and that profits booked in P/L are taxable and losses are deductible. 5. Under the Czech income tax Act, as far as it is not interest like income, the income resulting from payments to non residents under the equity swap is not considered as Czech source income (regardless of the source of payment or shares) and therefore is not subject to taxation in the Czech Republic. 6. Under the Czech income tax Act income coming from sale (but not settlement during the holding period) of a swap is a Czech source income from sale of investment instruments if sold to the Czech tax resident or to the PE of tax non resident (thus not applicable for transactions between two non-residents in case the underlying shares have been issued by a Czech taxpayer). This kind of income is

CZECH REPUBLIC	
	not subject to WHT, but so called tax securement in the amount of 1% of gross proceeds that is paid by the Czech tax resident to the Czech tax office and 99% is paid to the tax EEA non-resident. Tax EEA non-resident has the option to file corporate income tax return and tax the gain at 19% standard corporate income tax rate if it is more beneficial for him. EEA resident is obliged to file corporate income tax return and tax the gains at 19% standard corporate income tax rate. The Czech tax rules may be overridden by the applicable double tax treaty. Tax residency and beneficial ownership are crucial factors to determine tax jurisdiction of the recipient in case of the treaty country. 7. It is not possible to give one universally applicable answer. Classification of the payments may vary depending on concrete formulation of the double tax treaty. Generally income under question 5 is usually considered to be other income under the double tax treaties. Income under question 6 should be considered as capital gain.
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate.	From the market practice we understand that "forward rate agreement" ("FRA") that is traded on the stock exchange is called "future on interest rate" (standardised contract, deposit margin is required etc.). FRA is rather a tailor made contract traded OTC. Based on the above and your description of the Financial Future we understand that Financial Future may equal to our understanding of FRA. 1. The rules are the same as for equity swaps. There are not any specific tax rules

CZECH REPUBLIC	
1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	laid down for Financial Futures. Corporate income tax treatment of tax residents follows the accounting rules. Tax residents are taxed on the accrual basis in corporate tax base at standard tax rate. It means that the market value of Financial Futures at year-end impacts the tax base. As regards tax non residents special tax provisions regarding the interest-like income from Financial Futures or sale of Financial Futures should be applied (see below). 2. No. 3. The moment of taxation of gains and losses is different for tax residents and for tax non-residents. - Tax residents follow accounting rules. Changes in the fair value of Financial Futures and settlement at sale are recognised in the profit and loss account, and are also relevant for tax purposes. - Tax non-residents are taxed on the cash basis. Gains or losses resulting from holding of Financial Futures may be classified as interest-like income subject to 15% local WHT that may be overridden by the relevant double taxation treaty. In such a case the income is usually considered as Other income. 4. Yes, for tax residents. Non-residents book the Financial Futures in their books according to their accounting rules. 5. Tax non residents are taxed on cash basis. In case there will be any taxable income upon the expiration other than income from sale of the futures, it should be classified as interest-like income subject to 15% WHT (unless the Czech tax rules are not further overridden by the applicable double tax treaty). 6. Under the Czech Income Tax Act income coming from sale of Financial Future is a Czech source income from sale of investment instruments if sold to the Czech tax resident. This kind of income is subject to tax securement in the amount of 1% of gross proceeds that is paid by the Czech tax resident to the Czech tax office and

CZECH REPUBLIC	
	99% is paid to the tax EEA non-resident. Tax EEA non-resident has the option to file corporate income tax return and tax the gain at 19% standard corporate income tax rate if it is more beneficial for him. EEA resident is obliged to file corporate income tax return and tax the gains at 19% standard corporate income tax rate. The Czech tax rules may be overridden by the applicable double tax treaty. Tax residency and beneficial ownership are crucial factors to determine tax jurisdiction of the recipient in case of the treaty country. 7. It is not possible to give one universally applicable answer. Classification of the payments may vary depending on concrete formulation of the double tax treaty. Generally income under question 5 is usually considered to be other income under the double tax treaties. Income under question 6 should be considered as capital gain.

CZECH REPUBLIC	
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	1. There are not any tax rules laid down specifically for call options. Our comments on Financial Futures apply to the Call options. 2. No.
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call	1. For tax residents premium payments are generally tax deductible on an accrual basis, i.e. when released to the profit & loss account as a part of the fair market valuation of a Call option. Premium payments are generally not part of the acquisition price of the shares upon exercise. 2. No 3. Under the Czech accounting rules it is possible in certain cases (when the hedge

option on stocks is the option buyer.

1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how?

2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector?

3. Is the premium paid part of the stock acquisition price?

4. Please describe the tax treatment of the gains or losses realised at the following events:

   (i) disposal of the options,

   (xvi) exercise of the options,

   (xvii) sale of the shares acquired through the option,

   (xviii) expiration of option (without exercise or disposal)

5. Is mark-to-market applied?

6. Is there a WHT on premium to non-residents?

7. How are the premium payments classified under the double tax treaties?

8. How are options treated when they are part of a packaged product (e.g. equity linked note)?

accounting is applied).

4. (i) According to the Czech accounting and tax rules, tax residents gain/losses realised at disposal of the options enter the tax base on accrual bases. Income of tax non residents from disposal of the option should be taxed in the Czech Republic under the condition that the option is sold to the Czech tax resident. This kind of income is subject to the tax securement in the amount of 1% of gross proceeds that is paid by the Czech tax non-resident to the Czech tax office and 99% is paid to the EEA tax non-resident. Tax EEA non-resident has the option to file corporate income tax return and tax the gain at 19% standard corporate income tax rate if it is more beneficial for him. EEA resident is obliged to file corporate income tax return and tax the gains at 19% standard corporate income tax rate. The Czech tax rules may be overridden by the applicable double tax treaty.

   (ii) Gains/losses realised by tax residents at the exercise of the option enter the tax base as part of the fair market valuation of a Call option. Exercise of the option should not give rise to any taxation of the tax non residents on the option.

   (iii) According to Czech tax rules sale of shares is considered to be taxable income of tax residents. It would be possible to declare the purchase price of shares as tax deductible expense. If shares are sold by tax non resident to the Czech tax resident, the income is subject to the tax securement in the amount of 1% of gross proceeds that is paid by the Czech tax non-resident to the Czech tax office and 99% is paid to the tax non-resident. Tax EEA non-resident has the option to file corporate income tax return and tax the gain at 19% standard corporate income tax rate if it is more beneficial for him. EEA resident is obliged to file corporate income tax return and tax the gains at 19% standard corporate income tax rate.The Czech tax rules may be overridden by the applicable double tax treaty.

   If the shares are sold between two non-residents and the gains realized on the transfer of shares in Czech companies, the non-resident seller should tax the gain at 19% via a tax return. Czech tax rules can be overridden by the applicable double

CZECH REPUBLIC	
	tax treaty. (iv) Gains/losses realised by tax residents at the expiration of the option enters the tax base as part of the fair market valuation of a Call option. As far as tax non resident is taxed on cash basis, expiration of options should not rise any Czech taxable income for non resident. 5. Yes, for tax residents. 6. The premium paid by a tax resident to EEA non-residents should be taxed as income from sale of investment instruments being subject to 1% securement with an option to file a tax return in the Czech Republic (questionable may be cost associated with this income). EEA resident is obliged to file corporate income tax return and tax the gains at 19% standard corporate income tax rate. 7. In general premium payments should be classified as other income under the double tax treaties. 8. The option may be accounted separately, if it is classified in the accounting as embedded derivative – the tax treatment follows the accounting treatment. If the option is not classified as embedded derivative, taxation follows the tax treatment of the main product.

CZECH REPUBLIC	
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	1. Tax residents follow the Czech accounting rules- premium received are taxable on an accrual basis, i.e. when released to the profit & loss account. For tax purposes changes in the fair market value of Call option are relevant. Thus premium is not taxable/tax deductible upon reception/payment, but when it enters the tax base as part of the fair market valuation or expiration of the option. Premium received by tax non residents – see point 6. in the section E. 2. No 3. Only in some cases when the hedge accounting is applied. 4. In case of tax residents gain is taxed via booking of fair valuation to the profit & loss account. Exercise of the option should not give rise to any taxation of the tax non residents as they are taxed on cash basis. 5. Yes, for tax residents.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No, as far as the institution is accounting entity under the Czech accounting rules.

CZECH REPUBLIC	
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	We are not aware of any.

DENMARK	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	1. No transactions taxes are levied on transfers of financial instruments.
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the	[General comments to be kept in mind in the rest of the questionnaire: We have based our answers on the following: ▪ Unless specified the companies trading the financial contracts are tax liable to Denmark.

applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time.

1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)?

2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?

3. Are the flows of payments received taxed, if yes, when and how?

4. Are the flows of payments made tax deductible, if yes, when and how?

5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax?

6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax?

7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?

- the shares – being the underlying assets of the financial instruments – are traded on an exchange

- companies entering into the financial contracts will at no time exceed a share interest of 10% in the companies, which shares are the underlying assets of the financial contracts

- Unless specified the shares are not delivered under the contract i.e. the contracts are closed before expiry

From a Danish tax point of view it is important to determine if the shares (underlying asset) are delivered under the contract or not. If the shares are delivered the contract will be taxed under the same rules as shares (in coherence with the underlying asset). If the shares are not delivered or the contract expires without exercise, the contract will be taxed separately according to a mark-to-market principle.

Under the general Danish tax rules for Danish companies entering into financial contracts (when the financial contract is taxed separately and not together with the underlying asset) gains or losses will be taxed according to a mark-to-market principle. This means that both unrealised as well as realised gains or losses would be included in the tax base. The tax base would correspond to any fluctuations between the point of entering into the contract and the point of expiry/exercise of the contract. Should a contract period cover more than one income year, taxation in the first income year would cover fluctuations between the point of entering into the contract and year-end. Taxation in the subsequent income year would cover fluctuations between the first day of the income year and the time of expiry/exercise or year-end (if the contract still continues).]

1. The general tax regime applies (cf. above), and any profits will be taxable while losses

DENMARK	
	will be tax deductible according to a mark-to-market principle, i.e. on an unrealised basis. The CIT rate is 25%. 2. Same as item 1), We confirm there is no difference between FS and non-FS sector. 3. The swap will be taxed on a mark-to-market principle, i.e. on an unrealised basis, with reference to any fluctuations in the value of the equity swap 4. Same as item 3) – 5. No. 6. No. 7. N/A

DENMARK	
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	1. The general tax regime applies (cf. above under section D), and any profits will be taxable while losses will be tax deductible according to a mark-to-market principle, i.e. on an unrealised basis. 2. Same as item 1) 3. Gains and losses are taxed according to mark-to-market principle, i.e. on an unrealised basis. 4. Yes 5. No. 6. No. 7. N/A

DENMARK	
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	1. The general tax regime applies (cf. preliminary comments under section B), and any profits will be taxable while losses will be tax deductible according to a mark-to-market principle, i.e. on an unrealised basis. 2. Same as item 1)

DENMARK

E. Corporate income tax treatment of Call options on stocks in the hands of the holders

DENMARK	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (xix) exercise of the options, (xx) sale of the shares acquired through the option, (xxi) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	1. Due to the mark-to-market principle the premium paid would be tax deductible in the income year where the option is acquired. Any other fluctuations would also be taxable/deductible for each income year. 2. The mark-to-market principle would still apply 3. We understand that, in this case, the underlying asset has been delivered under the contract. Provided the contract has not been transferred to other counterparties, the option contract would be taxed together with the underlying asset, i.e. the stock. The premium paid would in general be part of the acquisition price of the stock. Given that the shareholding does not exceed 10%, the shares will be taxed on a mark-to-market principle. 4. (i) Taxed according to a mark-to-market principle (ii) Taxed according to a mark-to-market principle (iii) Any profit or loss as a result of selling the shares would be taxed as a capital gain/loss on shares. Capital gains on shares that qualify as "portfolio shares" are taxable while capital losses are deductible. The CIT rate is 25%. (iv) Taxed according to mark-to-market principle 5. Mark-to-market principle is applied in relation to taxation of the call option. The premium which was paid for the option is tax deductible in the income year where the option is acquired (if mark-to-market principle applies) 6. No. 7. N/A 8. N/A

DENMARK	
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	1. The premium for the writer would be taxable under the ordinary corporate income tax rules. The premium received, including any value adjustments, for the option is taxable in the income year where the option is issued (if mark-to-market principle applies) at 25%. 2. No. 3. The call option would be taxed separately and the premium would be taxed under the ordinary corporate income tax rules. The CIT rate is 25%. Referring to the example: We will base our answer on the assumption that the issuer wants to hedge any exposure on the share which is already acquired at a spot price of 80, that the option has been entered into in order to deliver the underlying asset (the share acquired) to a third party at fixed strike price and that the issuer do not exceed a share interest of 10%. As mentioned above, a financial contract is subject to a case by case assessment on whether it is a financial contract (and taxed separately from the underlying asset) or covered by the exemptions to the rules (and taxed together with the underlying asset). Based on the above, we assume that the contract would be taxed separately from the underlying asset, i.e. that the contract does not fulfil the requirements for being exempted from the tax rules for financial contracts. The issuer would be taxed on a gain on the financial contract of 10 (the premium) and separately on a gain on the share of 20. (If the shareholding would exceed 10%, any gains on shares would be tax free.). If the financial contract would fall under the exemptions from the rules for financial contracts, the contract would be taxed under the same rules as the underlying asset, i.e. as part of the shares. 4. The counterparties in a call option contract would be taxed upon exercise under the

DENMARK	
	general tax rules for financial contracts. The writer would be taxed on capital gains or losses on stocks when making the asset available at strike price. 5. Yes.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	N/A

ESTONIA	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	There is no securities transaction tax in Estonia.

ESTONIA	
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time. 1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	1. In Estonia, the general tax regime applies and there are no specific tax rules applicable to swap transactions. 2. None. 3. Under the existing Estonian corporate tax regime, any undistributed profits are exempt from corporate taxation, until company makes actual or hidden profit distributions. Thus, the 21% corporate tax is deferred until the distribution of profits. Thus, the payment received under the swap will be subject to tax at the normal CIT rate of 21%, but only upon distribution. 4. There are no specific tax rules for the deduction of flows of payment. Distributable profits are determined by financial statements drawn up in accordance with Estonian GAAP or IAS/IFRS and there is no adjustment of accounting profits for tax purposes. Thus, swap payment is a deductible expense in the absence of specific deviating tax rules. 5. None. 6. None. 7. There is no prevailing practice, but most likely these payments are classified as capital gains or other income under double tax treaties. In the absence of realisation/transfer, these payments may be classified as other income, but under most Estonian tax treaties there is no source country taxation of other income. There is no taxation of such income derived by non-residents under the domestic law.

ESTONIA	
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	1. In Estonia, the general tax regime applies and there are no specific tax rules applicable to financial future transactions (regardless whether the parties are companies in the Financial Sector). 2. None. 3. Under the existing Estonian corporate tax regime, any undistributed profits are exempt from corporate taxation, until company makes actual or hidden profit distributions. Thus, the 21% corporate tax is deferred until the distribution of profits. There is no calculation of tax losses (this means that in the absence of annual taxation of undistributed profits, as only distributions are subject to corporate tax, there is no adjustment of accounting profits/losses for tax purposes). Thus, the payment received under the futures will be subject to tax at the normal CIT rate of 21%, but only upon distribution. 4. Yes, accounting treatment is followed. No taxation until profit distributions. 5. None. 6. None. 7. There is no prevailing practice, but most likely these payments are classified as capital gains under double tax treaties.

ESTONIA	
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the rright but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	1. In Estonia, the general tax regime applies and there are no specific tax rules applicable to call options on stocks transactions. 2. None.

ESTONIA

E. Corporate income tax treatment of Call options on stocks in the hands of the holders

ESTONIA	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (xxii) exercise of the options, (xxiii) sale of the shares acquired through the option, (xxiv) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	1. The premium paid should be deductible upon expiration. 2. None. 3. Yes. 4. Under the existing Estonian corporate tax regime, any undistributed profits are exempt from corporate taxation, until company makes actual or hidden profit distributions. Thus, the 21% corporate tax is deferred until the distribution of profits. There is no calculation of tax losses (this means that in the absence of annual taxation of undistributed profits, as only distributions are subject to corporate tax, there is no adjustment of accounting profits/losses for tax purposes). If we assume that the value of the shares at maturity is 80, then the holder has suffered a loss of 10 (being the premium paid, in the absence of exercise of the option in such case). This loss is "deductible" in the sense that there will be no adjustment of accounting losses for tax purposes. 5. Yes, accounting treatment is followed. No taxation until profit distributions. 6. None. 7. There is no prevailing practice, but most likely these payments are classified as other income under double tax treaties. In the absence of realisation/transfer, these payments may be classified as other income. In both cases, under most tax treaties there is no source country taxation in Estonia. There is no taxation of such income derived by non-residents under the domestic law 8. In the absence of specific tax rules, the general rules should apply.

ESTONIA	
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	1. In Estonia, the general tax regime applies and there are no specific tax rules applicable to premium received. Such income is taxable upon the distribution of profits by the company. 2. None. 3. No rules, but likely it is not part of stock delivery price. 4. Under the existing Estonian corporate tax regime, any undistributed profits are exempt from corporate taxation, until company makes actual or hidden profit distributions. Thus, the 21% corporate tax is deferred until the distribution of profits. There is no calculation of tax losses (this means that in the absence of annual taxation of undistributed profits, as only distributions are subject to corporate tax, there is no adjustment of accounting profits/losses for tax purposes). 5. Yes, accounting treatment is followed. No taxation until profit distributions.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No

ESTONIA	
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	As there are no specific legal provisions, general rules apply.

FINLAND	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	1. Transfer of certain Finnish securities, mainly equities (e.g. on the basis of delivery of the underlying of an equity derivative), may be subject to transfer tax in case the transferee and/or transferor is a Finnish resident or a Finnish branch of certain financial institutions. However, there are several exceptions, e.g. no transfer tax is payable if the equities in question are subject to trading on a qualifying market (even if the transfer is carried out as an OTC transaction). 2. Broadly: equities, profit participating loans, options to subscribe for shares. No transfer tax is applicable to bonds, other debt securities and derivatives. For derivatives, note the comment on delivery of the underlying. 3. Transfer Tax Act (29.11.1996/931) as amended 4. Sales price or other consideration. 5. 1.6% 6. Transfer of legal title 7. See above 8. Generally the transferee (or the broker in some cases)

FINLAND	
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time. 1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	1. General tax regime applies. The standard CIT rate is 26%. 2. No, general tax regime applies (note that banks more typically apply the mark-to-market accounting and tax treatment mentioned below). 3. Yes, generally under realisation principle. However, broadly, if the mark-to-market treatment is applied in accounting, then also the tax treatment will follow the mark-to-market treatment (consequence: taxation/deduction at year-end even if not any payments/realisation yet) under certain conditions (broadly, these conditions depend, e.g. for banks, the instrument must be regarded as held for trading purposes). 4. Yes, upon realisation principle. However, see the mark-to-market tax treatment above. Furthermore, broadly, losses from OTC derivatives may not be deductible in case allocated to the non-business basket (in practice, FS sector companies very rarely have a non-business basket). 5. Generally no. 6. Generally no. 5+6: Note that anti-abuse rules could be applicable to transactions aimed at avoiding Finnish WHT. Also, in certain cases, a dividend equivalent amount under an equity swap could be potentially characterised as “manufactured dividend” for Finnish tax purposes in which case WHT could be payable. 7. There is no published legal practice and therefore the matter is open to interpretation (alternative interpretations: business income, capital gains, other income).

FINLAND	
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	1. General tax regime applies. The standard CIT rate is 26%. 2. No, general tax regime applies (note that banks more typically apply the mark-to-market accounting and tax treatment mentioned below). 3. Yes, generally under realisation principle. Broadly, if mark-to-market treatment is applied in accounting, then also the tax treatment will follow the mark-to-market treatment (consequence: taxation / deduction at year-end even if not any payments / realisation yet) under certain conditions (broadly, these conditions depend, e.g. for banks, the instrument must be regarded as held for trading purposes). However, broadly, losses from OTC derivatives may not be deductible in case allocated to the non-business basket. 4. See previous answer. 5. Generally no. 6. Generally no. 7. There is no published legal practice and therefore open to interpretation.

FINLAND	
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a rformal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	1. General regime applies. 2. No (note that banks more typically apply the mark-to-market accounting and tax treatment mentioned below).

FINLAND

E. Corporate income tax treatment of Call options on stocks in the hands of the holders

FINLAND	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (xxv) exercise of the options, (xxvi) sale of the shares acquired through the option, (xxvii) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	1. The premium is tax deductible in the tax year when the option contract is exercised, expired or closed out. If the contract is marked-to-market in accounting, the taxation follows the accounting treatment under certain conditions. 2. Generally no (note that banks might typically apply the above mark-to-market accounting and tax treatment). 3. Yes. 4. (i) Sales price taxable income, acquisition cost (premium) tax deductible. (ii) If cash settled, received cash settlement is taxable income and the acquisition cost (premium paid) tax deductible. In a physical delivery of shares, the acquisition cost of the equities purchased on the basis of the options equals the strike price plus the premium paid for the option. (iii) Sales price taxable income, acquisition cost (premium + strike) tax deductible. (iv) Premium should be tax deductible. However, broadly, losses from OTC derivatives may not be deductible in case allocated to the non-business basket. 5. Generally taxation follows realisation principle. However, if marked-to-market treatment is applied in accounting, then also the tax treatment will follow accounting treatment under certain conditions. 6. Generally no. 7. There is no published legal practise and therefore open to interpretation 8. The packed product is typically not divided (“bifurcated”) into elements; e.g. a structured note is seen as one product and taxed accordingly (i.e. the option element in the structured note is not taxed as a separate option contract)

FINLAND	
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	1. In case the option contract is publicly traded and the maturity thereof is 18 months or less, the premium is taxable in the tax year when the option is exercised, expired or closed out (this refers to "closing out" by entering into an opposite derivative with same terms (e.g. a long call can be closed out by entering into a short call)). In other words, there is a deferral of taxation of the premium received. In other cases (e.g. OTC options), the premium is taxable when received. No deferral thus and no spread of the premium over the life time of the option. If the contract is marked-to-market in accounting, the taxation follows the accounting treatment under certain conditions. 2. Generally no (note that banks more typically apply the above mark-to-market accounting and tax treatment). 3. No. In the example, 10 will be taxed as a premium received and 20 as a gain on shares 4. Yes. 5. See above.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No

FINLAND	
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	No

FRANCE	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	For the purpose of the developments below, please note that a financial instrument is treated as "listed" when it is traded on a regulated market or traded by reference to a regulated market (i.e. the underlying asset is traded on regulated market). 1. Yes 2+5+6: As a matter of principle, there are no transaction taxes or registration duties upon disposal: ▪ of derivatives, or ▪ of stocks provided the transactions are performed on a stock exchange market. However, listed stocks (i.e. "actions") transferred in a written deed (which remains remote in practice) and non listed stocks (transferred under any form) are subject to a 3% registration duty capped at EUR 5,000. Shares (i.e. "parts sociales") are subject to the same tax. Transfer of shareholding in real estate companies (i.e. companies mainly owning real estate assets) is subject to a 5% registration tax. For transfer of bonds the registration tax will be a lump sum amounting to EUR 125. 3. Article 726 of the French Tax Code ("FTC") for shares/stocks. Article 680 of the FTC for bonds. 4+6. Above registration tax applies on transactions qualifying as a disposal of shares; taxation basis is the selling price. For shares, the tax is

FRANCE	
	computed after applying a EUR 23,000 reduction on the selling price (on a pro rata basis on the number of shares effectively transferred). The EUR 23,000 reduction is computed on the entire share capital of the SARL. Should 100% of the share capital be sold at EUR 25,000, the basis of the transfer tax will be EUR 2,000. On the other hand, if only 40% of the share capital is sold for an amount of EUR 25,000, the reduction will reflect the pro rata shares sold: 40% x 23,000 = 9,200. In such case, the effective basis of the registration duties will be: 25,000 – 9,200 = 15,800. 7. The above registration tax applies on transactions performed either: ▪ in France; or ▪ abroad provided the transfer relates to shares/stocks of a French non listed company or of a company mainly holding real estate located in France. The sale of listed shares of French companies realised abroad are outside of the scope of registration tax. 8. The purchaser of the securities is liable for both levying and supporting the tax. However, both the seller and the purchaser are responsible toward the French Tax Authorities ("FTA") for the payment of the tax.
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax	1+2 Preliminary comment: there is no provision of French tax law that specifically encompasses the tax treatment of equity swap. General tax regime applies although financial institutions usually apply a tax treatment which differs from the one of non financial companies

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treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time. 1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	3+4 General rule; taxation of gain / loss components occurs at the completion date of the contract. While flows of payment (whether received or paid) are taken into account on an accrual basis (interest components) or cash basis (dividend component) subject to the application of straddle rules; straddle rules may result in deferring deduction of unrealized losses. If applicable, the "straddle rules" compel companies to defer losses recognised on a position to the extend that there is an unrecognised gain with respect to an offsetting position. The deductibility of a loss realised on a position will be limited to the portion exceeding the latent gain on a linked position. For example, let's assume in year N a position A (derivative) and a position B (asset) are booked at 10 each. Let's also assume that position A is under the mark-to-market valuation rules while position B is not. At the end of the year N+1, position A could be evaluated at 7 (hence generating an unrealised loss of 3) while the value of position B is 12. The unrealised gain of 2 is not taxable. At the closing of year N+1, the company will only be able to deduct the portion of the unrealised loss that will exceed the portion of the unrealised gain, i.e. 3-2 = 1 in our example. The remaining portion of the loss will only be deductible once the profit is taxable. Based on existing tax law, mark-to-market taxation should apply if the equity swap can be treated as "listed" (see above). However, equity swap markets are still considered as not "regulated" so that mark-to-market evaluation is usually not applicable for non financial companies.

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	From an accounting perspective, the charges and profit corresponding to the equity and interest legs of the equity swap may be booked either by netting or making a breakdown of the accounting items. The tax treatment would mainly follow the accounting one. Based on our knowledge, no provision of French tax law require a breakdown of the charges/profit over the equity swap. Financial institutions: Mark-to-market evaluation i.e. taxation (or deduction) of the unrealized gains (or losses) on the equity swap at the closing date of each exercise. As a matter of facts, financial institutions use mark-to-model approach. This practice is in line with the accounting standards as applied by institutions of the Financial Sector. Such procedure is currently not challenged by the FTA. In both cases, the profits are subject to French 33.33% corporate income tax ("CIT"). 5+6. There is currently no provision of French tax law that specifically envisages a WHT on payments made to a foreign entity over a swap agreement. Based on administrative guidelines (issued for interest swap payments), no WHT should be levied. The same reasoning should be duplicated for equity swap. Theoretically, a 33.33% WHT could be levied if the foreign counterparty to the swap is seen as providing a service in France to a French company (a 50% rate is applied for payments made to a service provider located in a Non Cooperative State or Territory - "NCST"[9]). This risk remains remote in practice as most double tax treaties ("DTT") provide for exemption of French tax in such

[9] The 2010 list of NCST has been published on 17 February 2010 and includes: Anguilla, Belize, Brunei, Costa Rica, Dominica, Grenada, Guatemala, Cook Islands, Marshall Island, Liberia, Montserrat, Nauru, Niue, Panama, Philippines, St. Kitts and Nevis, St. Lucia, St Vincent and the Grenadines. Belize may be excluded as it signed an exchange of information agreement on 10 January 2011.

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	a situation. 7. The DTT provisions related to "other income" should apply to payment made on the instrument.
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax?	We understand that the D.3. section does not relate to Forex instruments (specific rules applicable to Forex instruments). 1. - Specific rules are applicable - either if the Financial Futures can be treated as "listed" (see above); futures on interest rate are not usually treated as "listed"; - or if Financial Futures used as hedging position so that Straddle rules apply. Financial institutions usually apply a mark-to-market approach (regardless whether the counterparty is another financial or a non financial institution) 1+2+3+4: ▪ For <u>financial institutions</u>: the same rules as described for equity swap would apply, i.e. mark-to-market evaluation resulting in taxation (or deduction) of the unrealized gains (or losses) at each FY closing date. Alternatively, financial institutions may use mark-to-model approach. The tax treatment is mainly driven by the application of the accounting rules specific to institutions of the Financial Sector. ▪ For <u>non financial companies</u>: FRA, CAP, FLOOR, COLLARs

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7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	instruments are usually considered as "non listed" instruments within the meaning above. French companies thus do not apply the mark-to-market rules in practice. Payment flows are taxed/deductible on an accrual basis. The tax rate is the standard CIT rate i.e. 33.33%. The same goes for futures provided those financial futures are not listed. 5+6. Though no written position has been issued, it is admitted that there should be no WHT levied on payments made upon financial futures. As mentioned above for equity swap, a 33.33% WHT might be levied should the contract be assimilated to a service contract provided by a foreign entity to a French tax payer (a 50% rate is applicable for payment made to a service provider located in an NCST). This risk remains remote in practice as most DTTs provide for exemption of French tax in such a situation. 7. The "other income" provision should be used for gains deriving from the financial future agreement.

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D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	1. Premium paid by the option buyer: According to French tax law, such expense will not be tax deductible **until the date of the effective exercise of the option**. Should the option be listed, the mark-to-market evaluation principle will apply, i.e. evaluation of the option at each financial year closing date and taxation/deduction of latent gains/losses linked to the option (subject to the application of straddle rules). The loss deriving from the aforementioned annual evaluation cannot exceed the amount of the premium initially paid by the holder of the option. 2. For financial institutions (regardless of the type of counterparty): mark-to-market valuation resulting in taxation (or deduction) of the unrealized gains (or losses) at each FY closing date. Alternatively, financial institutions may use mark-to-model approach. The tax treatment is mainly driven by the application of the accounting rules specific to institutions of the Financial Sector.
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call	1. See reply 1 to point D above. 2. As mentioned above, banks will usually apply mark-to-market or mark-to-model valuation so that timing of the tax deduction / recognition may be different. 3. Options on non listed stock/shares: premium will be part of the acquisition price. For listed options/options on a listed asset: the premium will not be part of the stock acquisition price and will only, under current French tax principles, reduce the

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option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (xxviii) disposal of the options, (xxix) exercise of the options, (xxx) sale of the shares acquired through the option, (xxxi) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	potential capital gain over the stocks. In other words, assuming the stocks do not qualify for participation exemption regime for capital gains[10]. - In the alternative of non listed options, the premium will increase the acquisition price used to compute the capital gain on the share (if any). - On the other hand, in the alternative of listed options, the acquisition price will not be impacted by the amount of the premium. The company will only be entitled to book, as a charge, the premium initially paid. From a French tax perspective, the capital gain realised at the time of the exercise of the option is taxable at 33.33%, i.e. does not benefit from any specific regime/exemption. The charge resulting from the payment of the premium will be included in the tax P&L of the company hence, at the end of the day, reducing the taxable capital gain. Such treatment is mainly due to the absence of specific treatment of the capital gain realised at the time of exercise of the option. Should this capital gain be specifically treated in the future (i.e. at a specific tax rate), the premium would not "reduce the capital gain" as such but would remain deductible as an expense. In closing, we can say that the result of either booking the premium as a charge or increasing the value of the shares would be the same as in both cases it would end

[10] Qualifying shareholdings (i.e. stocks held for at least 2 years and generally representing 5% of a subsidiary's share capital) are tax exempt save for a 5% lump sum subject to CIT.

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	up reducing the capital gain. However, should French tax principles be changed in the future, it will be critical ensuring the premium is properly booked (i.e. either as a charge or as an increase of the acquisition price of the shares). 4. (i) gain are taxable at 33.33% on the difference between the value of the premium at the time of the agreement and the market value of the premium at the time of the disposal / losses deductible. (ii) For non listed options: see point 3 above. For listed options/options on listed stocks: the option will reduce the amount of the latent capital gain on the stocks (if any) taxed at CIT. When there is no capital gain on the shares to offset the amount of the premium, it will be considered as a general expense, deductible for tax purposes. (iii) taxation of the capital gain on the shares (i.e. difference of the stocks' value at the time of the exercise of the option and the value at the time of the disposal) or deduction of the short term capital loss. Participation exemption regime may apply. (iv) the premium will become deductible. 5. See above - for listed call options/options on listed stocks, the mark-to-market evaluation will be done at each FY closing date. 6. No WHT is levied on premium payment as such. However, a 33.33% WHT could apply if payment of the option is assimilated to the remuneration of a service rendered in France (a 50% rate is applicable for payment made to a service provider located in an NCST). This risk remains remote in practice as most DTTs provide for exemption of French tax in such a situation. 7. Other income (save for specific qualification under a DTT).

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	8. In practice, only the note linked to the underlying investment will bear the taxation unless both the note and the option are separately identified.
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	1. &4. As a general rule, the premium is taxable at French CIT at the time of the exercise of the option. However, in practice, the tax treatment will follow the accounting one, i.e. possible spread of the premium over the duration of the option. 2. As mentioned above, banks will usually apply mark-to-market or mark-to-model valuation so that timing of the tax deduction/recognition may be different 3. Not for listed options/underlying assets. 4. See 1. 5. Yes for listed options/options on listed underlying assets only.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No

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H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	▪ The mark-to-model practice is applied by financial institutions as a substitute to the mark-to-market valuation (where market of the instruments is not fully regulated and specific factors of risk need to be taken into account). ▪ Due to the lack of guidance and tax rules with respect to derivatives, banks have a trend to consider that the tax treatment of the derivative instruments should follow the accounting standards specific to the Financial Sector. For the time being, the FTA do not challenge those practices.

GERMANY	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	Preliminary note: we describe below an "income tax based on capital gains"; rather than a "transaction tax" like a stamp duty in the sense that it would be due on the sale price each time there is a transaction involved, etc. 1. Yes. Security transactions are taxed under the provisions of the German income and corporate income tax law. Special securities transactions taxes do not exist. 2. *Securities in scope:* Shares, jouissance rights, expectancies on such rights (including conversion rights from bonds), participation rights in investment funds and in REITs, dividend and interest coupons, futures (including swaps, forwards, options, currency futures), silent partnerships, participation loans, life insurance claims, and other capital receivables (including fixed interest bonds, financial innovations and certificats) *Securities not in scope:* All securities not falling under one of the subject groupings mentioned above. 3. *Private Investors:* Generally sect. 20 para. 2 German Income Tax Act ("ITA") or if the investor holds within the last five years more than 1% of the capital of a corporation, sect. 17 para. 1 ITA applies expectancies on such rights (including conversion rights from bonds) of that corporation. *Corporations:* Sect. 7 et seq. Corporate Income Tax Act ("CITA"), sect. 20 paras. 2 and 8 ITA, *Other trading investors:* Sect. 20 paras. 2 and 8 ITA, sect. 15 ITA *Self-employed investors:* Sect. 20 paras. 2 and 8 ITA, sect. 19 ITA 4. Taxes are levied on the profit from the transfer of the respective instrument (i.e.

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	income less acquisition costs, initial acquisition costs and transfer related costs). 5. *Private investors:* Generally 25% plus solidarity surcharge of 5.5% thereon and (if applicable) church tax. Under certain circumstances (e.g. capital participation of more than 1% for more than 5 years or lower individual income tax rate) the individual tax rate applies. *Corporations:* Generally 15% CIT plus solidarity surcharge of 5.5% thereon and trade tax dependant on the respective municipality rate. However, income from the sale of shares and jouissance rights is generally 95% tax exempted, unless the seller is a credit or financial institution holding the participations to obtain short term profits. *Other trading entities*: Individual tax rate of the investor whereas 40% of the dividend income is tax free plus trade tax dependant on the respective municipality rate. *Self-employed investors:* Individual tax rate of the respective investor whereas 40% of the capital gains from the sale and purchase of shares dividend income is tax free. 6. Completion of the execution agreement on the transfer of the legal or beneficial ownership of the instrument two a third party against consideration. 7. Generally taxation is linked to the unlimited tax liability of the tax payer due to the residency, habitual abode, seat or place of business in Germany. If there is no domestic link only the sale of shares of a German resident corporation would be subject to taxation, provided the participation in the company's capital exceeds more than 1% within the last five years. 8. Generally the tax is levied by the domestic credit or financial service institution by deducting the tax from the payment made to the recipient. These institutions are also liable for the taxes. Although being the debtor of the taxes the recipient of the income is only liable under specific circumstances.

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	Under certain circumstances (e.g. participation in the company's capital exceeds more than 1% within the last five years) taxes are levied on the base of individual tax declarations.
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time. 1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax?	1. Swap transactions fall under the general tax regime irrespective of the sector of the parties. 2. Taxes are not deducted from the respective income if the recipient is a credit or financial institution. Rather such institutions declare the taxable income in its tax declaration. 3. Settlement payments received from the counter party qualify as profit. Taxes are deducted by the counter party (generally a credit institution) paying the settlement to the recipient. Corporations can credit the deducted tax against the CIT. As outlined under No. 2 this does not apply for credit and financial institutions The standard CIT rate is 15% plus solidarity surcharge of 5,5% thereon. Usually, the taxation occurs on an accruals basis. 4. Payments to the counter party qualify as negative income for tax purposes and are deductible as expenses from settlement payments received by the counter parties. Negative income reduces the tax basis irrespective of the applicable tax profile. 5. No. 6. No. 7. Permanent payments should qualify as "other income". Regarding the income from the sale of swap generally it has to be differentiated: If the underlying value is physically delivered the payment qualifies as "capital gain". On the other hand

[11] Wassermeyer in Wassermeyer/Debatin, Art. 13 MA Rz. 33.

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7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	cash settlements qualify as "other income"[11].However, as under a swap agreement regularly only payments are made the income should qualify as "other income".
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	1. Financial futures are taxed under the general tax regime irrespective of the sector of the parties. 2. Taxes are not deducted from the respective income if the recipient is a credit or financial institution. Rather such institutions declare the taxable income in their corporate tax declarations. 3. The balance of all payments made or received under the future contract qualifies as taxable profit or loss at the maturity date. Taxes are deducted by the counter party (generally a credit institution) paying a profit (if any) to the recipient. Corporations can credit the deducted tax against the CIT. As outlined under No. 2 this does not apply for credit and financial institutions. 4. Yes. 5. No. 6. No. 7. Permanent payments (if any) should qualify as "other income". Regarding the sale of futures it has to be differentiated: If the underlying value is physically delivered the payment qualifies as "capital gain". On the other hand cash settlements qualify as "other income".

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D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	1. Call options on stock transactions fall under the general tax regime irrespective of the sector of the parties. 2. No.
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call	1. The premium paid qualifies as acquisition costs and is deductible from any cash settlement received when the option right is exercised or it is offset. 2. No. 3. Yes, cf. above. 4. (i) For tax purposes the difference between the received cash settlement less the acquisition costs and incidental acquisition costs qualifies as taxable gain or loss.

option on stocks is the option buyer.

1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how?

2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector?

3. Is the premium paid part of the stock acquisition price?

4. Please describe the tax treatment of the gains or losses realised at the following events:

   (i) disposal of the options,

   (xxxii) exercise of the options,

   (xxxiii) sale of the shares acquired through the option,

   (xxxiv) expiration of option (without exercise or disposal)

5. Is mark-to-market applied?

6. Is there a WHT on premium to non-residents?

7. How are the premium payments classified under the double tax treaties?

8. How are options treated when they are part of a packaged product (e.g. equity linked note)?

(ii) If the shares are delivered physically, the exercise of the option and the delivery of the shares should not be subject to taxation. Regarding a later sale of the shares the acquisition costs and incidental acquisition costs of the options are part of the acquisition costs which for tax purposes are deductible from the payment received for a sale of the shares.

If a cash settlement is received instead of the shares the acquisition costs and incidental acquisition costs are deductible from the cash settlement for tax purposes.

(iii) Regarding a later sale of the shares any gain or profit due to the balance between the payment received and the acquisition-, incidental acquisition costs (including the acquisition costs of the options) is recognized for tax purposes.

(iv)The expiration of an option does not have any tax consequences. If the option is not executed the acquisition costs and the incidental acquisition costs are not deductible for income tax purposes. Thus they would be borne by the holder.

5. Yes.

6. No.

7. Premiums payments qualify as capital gains.

8. "Packages" such a structured financial instruments options are treated differently: If the embedded derivate displayed a higher, different or additional and different risks it is taxed separately. If the risk of the derivative and the underlying instrument are comparable only the income under the entire instrument is subject to taxation.

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F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	1. The premium is generally subject to CIT when it is received. 2. Taxes are not deducted from the respective income if the recipient is a credit or financial institution. Rather such institutions declare the taxable income in their corporate tax declarations. 3. No, the premium is taxed separately. 4. Yes, with regard to the writer the any gain or profit from the delivery of the shares is recognized for CIT purposes when the shares are delivered physically. However, generally 95% of any profit from the shares is tax exempted unless the seller is a credit or financial institution holding the participations to obtain short term profits. On the other hand, if the shares are not delivered physically but rather a cash settlement is made this cash settlement is irrelevant for income tax purposes. 5. Yes.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	Domestic financial institutions and domestic subsidiaries of foreign financial institutions are subject to unlimited tax liability in Germany. Branches of a non-domestic (financial) institution should qualify as a permanent establishment ("PE") in Germany. Therefore the branch/PE is subject to limited tax liability regarding the income allocated to the PE. The determination of the income follows German principles.

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H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	Not to our knowledge.

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A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	[On 21/2/2011 a draft tax bill has been submitted before the Greek Parliament introducing several amendments on the Greek tax legislation. Reference to the proposed amendments is briefly made below. To be noted that the tax rules analysed below apply to traded financial instruments treated as compound products (equity swaps, call options, futures). In case of a bilateral contract (OTC) similar to the above (e.g. a bilateral agreement between two companies, giving to the one counterparty the right but not the robligation to buy the asset specified in the contract by a certain date for a certain price) the tax implications may depend on a careful examination of the terms of such particular contract.] ▪ There is a transaction duty on the sale of Greek listed shares at a rate of 0.15% on the gross sales proceeds. The transaction duty, which burdens the seller of the listed shares, is directly withheld upon each settlement of the transaction and paid by the Stock Exchange Depository SA to the competent tax authorities through the filing of a return within the first fifteen days of month following the one within which the transactions were effected (article 9, par. 2 of L. 2579/1998). The OTC transfers of Greek listed shares are also subject to the transfer duty of 0,15% on the sale price. The Athens Stock Exchange SA shall collect and attribute the transaction duty through the filing of a return to the competent tax office within the first fifteen days of the month following the one within which the OTC transactions are effected (article 21, par.1 of L.3697/2008). In such case, the connecting factor is the fact that the shares at stake are “Greek listed shares”. There is no available exemption from this duty (i.e. neither based on

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	local tax legislation nor based on a DTT). ▪ The same applies on the sale of foreign listed shares by Greek tax payers (i.e. Greek resident individuals, Greek enterprises and Greek branches of foreign entities). In such case, the connecting factor is the fact that seller is "a Greek taxpayer". In such case the seller should pay the duty due by the filing of a return within the first fifteen days of month following the one within which the transactions were effected (article 27, par.2 of L.2703/1999). ▪ Based on the draft tax bill, said duty shall be increased to 0,2% for sale of listed shares effected as of 1.4.2011 onwards. Moreover, according to the draft bill (not finalized yet) the transaction duty will be abolished for sale of listed shares initially acquired after 1.1.2012. Abolishment probably valid for shares listed either in Greece or abroad. Therefore, in case of sale of listed shares acquired prior to 1.1.2012 and sold after the 1.1.2012 the 0,2% duty will continue to apply. Example: Shares acquired in 2011 by A, sold by B in 2012 to C, and sold again to D in 2013. Based on draft provisions, no tax is due on the transaction between C and D in 2013.
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the	Equity swaps fall under the definition of derivatives for taxation purposes.

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accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time. 1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	▪ Capital gains deriving from transactions on **listed derivatives** either in the Athens Stock Exchange or in a Foreign Stock Exchange or other organized market are exempt from taxation, on condition that they are posted in a special reserve account, which can be used to offset future losses from listed derivatives. Said reserve account is subject to tax, based on the CIT applicable at that date, upon distribution or liquidation. There is thus a specific tax regime applicable to listed derivatives (e.g. swaps, options, futures, etc.). The only difference for Banks is the submission of the tax return in the 9th month from year end. Indeed, banks in particular are obliged to submit a respective tax return on the last day of the ninth month (i.e. September 30th) from the end of the fiscal year, in which the above special reserve was formed, so as to pay tax at the standard corporate income tax on the special reserve's balance. This means that, as regards the tax to be paid on the "special reserve", banks are worse off compared to other financial institutions (e.g. insurance companies) and non-financial institutions due to the fact that the tax is levied in September each year and not upon distribution or liquidation. Following the payment of the aforementioned tax, the remaining profits should be booked in a special account and can be distributed or capitalized free of tax. ▪ Greek tax law provides that gains arising from **non-listed derivatives** are subject to tax based on general provisions. These rules

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	are applicable similarly both to the FS and non-FS sector. Losses from non-listed derivatives are tax deductible on condition that the transaction has been effected for hedging purposes. This implies that payments cannot be considered separately. ▪ Further comments based on the example: the tax legislation does not specify the calculation of the profits/gains arising from non listed derivatives, as in the example. In any case it could be mentioned that unrealized profits are not usually recorded for tax purposes; in case an unrealized profit is recorded in the tax books, it is included in the company's taxable basis and is subject to tax a the standard CIT. If the proposed swap agreement can be viewed as a compound traded financial instrument, it could be supported that the netted amount of 300 could be regarded as a profit for B and a respective loss for A deriving from a non-listed derivative. In such case the profit would be taxable at the level of B (included in the taxable profits of the financial year). On the other hand, whether such loss would be recognized as tax deductible depends on whether it can be supported that the transaction has been effected for hedging purposes. The above comments apply to both FS and non FS companies.

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	Based on a draft bill the standard CIT is expected to be reduced to 20% for accounting periods starting as of 1/1/2011 onwards. The same CIT applies to FS and non FS companies. There is no differentiation between CIT and capital gains tax for the financial instruments under examination. The tax treatment of non-listed derivatives is not crystal clear in the law and each specific agreement should be analysed on its own merits to assess its tax treatment. ▪ Tax rules do not specify the calculation of the capital profits/gains arising from derivatives. Although based on a legislative provision introduced in 1997 (article 16a, par.12 of L.2459/1997), the Minister of Finance was authorized to regulate the calculation of the profits arising from derivatives, such Ministerial Decision has not been issued yet. ▪ The tax treatment of payments made to non-residents under an equity swap and on the sale of swap is not specified in the Greek tax legislation and related administrative jurisdiction. In the absence of specification of the tax treatment of the derivatives the characterization of the payments should be made on the basis of interpretation of the case at hand in conjunction with the provisions of the domestic tax legislation and the applicable DTT, if any. The exemption is based on the assumption that such payments shall/can be

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	characterized as "business profits" and not interest. One could indeed reasonably assume that such payments could fall under the “business profits” category and be exempt from WHT under a DTT; however, a more detailed analysis may be required before reaching a final conclusion. To be noted that the accounting treatment should not affect the above tax analysis.

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C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	Futures fall under the definition of derivatives for taxation purposes. Therefore, the analysis under equity swaps also applies to this case depending on whether the derivative is listed or not. The same comments as above apply. Moreover, mark-to-market, i.e. daily cash settlements, applies to futures listed in the Athens Derivatives Stock Exchange,

GREECE	
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an roption seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	Options fall under the definition of derivatives for taxation purposes. Therefore, the above analysis applies also to this case depending on whether the derivative is listed or not.
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a	For call options traded on the Athens Derivatives Stock Exchange, the premium is paid the day following the purchase of the call option and not as part of the stock acquisition price. Mark-to-market, i.e. daily cash settlements, does not apply to listed options. From a tax perspective, the option contract is treated as a compound instrument. Therefore, profits or losses arising from call options contacts shall be subject to tax as analysed above under equity swaps, depending on whether they are listed or not, without taking into account each

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call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (xxxv) exercise of the options, (xxxvi) sale of the shares acquired through the option, (xxxvii) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	underlying event (e.g. premium, disposal, exercise, expiration of the option). The sale of listed shares (irrespective of whether they have been acquired through the option or not) shall be subject to tax as follows: ▪ Gains arising from the subsequent sale of listed shares either in the Athens Stock Exchange or in a Foreign Stock Exchange or other organized market are exempt from taxation, on condition that they are posted in a special reserve account, which can be used to offset future losses from the sale of listed and non-listed shares. Said reserve account is subject to tax, based on the CIT applicable at that date, upon distribution or liquidation. ▪ In case where the shares have been acquired though an option derivative the share's listed price at the day of exercise of the option (and not the exercise price) is considered as acquisition price for the calculation of the capital gains. ▪ However, banks are obliged to submit a respective tax return on the last day of the ninth month (i.e. September 30th) from the end of the fiscal year, in which the above special reserve was formed, so as to pay tax at the standard corporate income tax on the special reserve's balance. Following the payment of the aforementioned tax, the remaining profits should be booked in a special account and can be distributed or capitalized free of tax. Based on the draft bill, gains from the sale of listed shares initially acquired as of 1/1/2012 shall be subject to tax based on the general provisions (CIT rate currently 24%, expected to fall to 20% as of 2011).

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F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	The same as under the above question, which means that in principle the writer should look at the transaction as a whole.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No

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H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	No

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A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	1. No securities transaction tax is levied in Hungary. 2. -8. N/A
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time.	[General comments to be kept in mind in the rest of the questionnaire: Please note that in our experience, swaps, futures and options are mostly treated by companies for accounting purposes as non-hedge transactions. As a consequence, for the purposes of our below comments from Section D.2. to Section D.8., we assumed that the transactions are treated as non-hedge transactions. Also, we assumed that mark-to-market (which is optional) is not applied,

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1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	as it is usually the case in practice. Further, under Financial Sector, we meant banks and financial enterprises, as these types of companies are mostly involved in the transactions concerned.] 1. No special tax regime applies, the taxation follows the accounting treatment. 2. The general taxation rules apply. The CIT rate (10% up to HUF 500 million tax base, 19% above) is the same as for companies in the non-Financial Sector. It is noted, however, that accounting for provision (for expected losses from swap transactions i.e. if according to future trends the market price will significantly change) in the case of the Financial Sector may be necessary, but such provision is tax deductible. (Nevertheless, the Financial Sector may even be able to reduce its obligation to account for provision by pairing its non-hedge transactions with 'quasi' hedge transactions). In the case of the non-Financial Sector an accrued expense should be accounted for the expected loss. The expense accounted for is tax deductible. In summary, the tax regime for the financial and non-Financial Sector is the same in a sense that the expenses accounted for in both cases is tax deductible. 3.-4. Yes, taxed in the course of general corporate income taxation i.e. only the final gain (the difference between the payments received and made until the expiration) is taxable or the loss is tax-deductible. The final gain/loss will be realized at expiration, i.e. not on a cash-basis. After a contract has been concluded, both parties should account an off-balance-sheet receivable/liability in the relation to the futures part of the transaction. Any flows of payments before expiration will be accounted as

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	receivable / liability as a balance-sheet item. Finally, the flows of payments will be accounted as revenue / expense (and taxed) when the contract expires. If the swap is a non-hedge transaction and expired after the balance-sheet date but before the balance sheet preparation date, then the proportionate part (on the futures part) of the gain or loss should be accounted for as accrued income or expense. 5.-6- No WHT is levied on payments to non-residents upon the expiration or the sales of the equity swaps contract. 7. N/A
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how?	1. No special tax regime applies, the taxation follows the accounting treatment. When the futures contract expires, it is accounted for as a simple sales transaction. 2. The general taxation rules apply. It is noted, however, that accounting for provision (for expected losses) in the case of the Financial Sector may be necessary, but such provision is tax deductible. (Nevertheless, the Financial Sector may even be able to reduce its obligation to account for provision by pairing its non-hedge transactions with 'quasi' hedge transactions)). In the case of the non-Financial Sector an accrued expense should be accounted for the expected loss. The expense accounted for is tax deductible. 3. Yes, taxed in the course of general corporate income taxation, normally, when the futures expires, i.e. when the sales transaction is accounted for. If the transaction is a non-hedge transaction and expired after the balance-

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4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	sheet date but before the balance sheet preparation date, then the proportionate part of the gain or loss should be accounted for as accrued income or expense, and taxed respectively. 4. Optional. 5.-6. No WHT is levied on payments to non-residents upon the expiration or the sales of the futures contract. 7. N/A
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	1. No special tax regime applies; the taxation follows the accounting treatment. If the option buyer buys the asset at expiration, then a simple sales transaction will be accounted for. If the option buyer will not buy the asset at expiration, then it is treated as if no transaction took place at all. For details on paid and received premium please see Section E and F. 2. The general taxation rules apply. It is noted, however, that accounting for provision (for expected losses) in the case of the Financial Sector may be necessary, but such provision is tax deductible. (Nevertheless, the Financial Sector may even be able to reduce its obligation to account for provision by pairing its non-hedge transactions with 'quasi' hedge transactions). In the case of the non-Financial Sector an accrued expense should be accounted for the expected loss. The expense accounted for is tax deductible.

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E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (xxxviii) exercise of the options, (xxxix) sale of the shares acquired through the option, (xl) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties?	1. General rule: premium should be accounted for when paid, however, should be included in the P&L (via accrued/deferred revenues or expenses) when the option is exercised. Scenarios (from a P&L perspective): a) If the option expires within the period (financial year) of writing: - deductible in that period. b) If the option expires after the balance sheet date, but before the balance sheet preparation date: - if the option is called, then time proportionate accounting applies; - if the option is not called, then the premium should be accounted for the previous financial year (whereas the option writer accounts for it in the prevailing financial year); c) If the option does not expire until the balance sheet preparation date: - deferred expenses. d) If the option expires without exercise of the option - premium is accounted as a deductible expense at expiration. It is noted that the premium may become part of the historical value of the asset purchased, which has an influence on the taxation of the premium paid. In general, the premium is deductible for corporate income tax purposes. 2. If the holder is an insurance company or a company in the non-Financial Sector the premium is accounted as a tax-deductible expense at the time of payment.

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8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	3. As we understand you are asking whether it is possible to account for the premium in the balance sheet as part of the book value of the received asset. If the asset is purchased for fixed assets, then it is obligatory to account for the premium as part of the book value. If the asset is purchased for inventory, then the holder can choose to account for the premium as part of the book value or not. The above applies to delivery transactions only. 4. After the option contract has been concluded, the holder will account an off-balance-sheet receivable. No taxation at this point. i) Disposal of the option As the transaction has been only accounted for off-balance-sheet items until expiration, to cancel it from the books will not have any effect on the profit. The profit or loss realised with respect to the premium paid and the premium received will be taxed in the course of the general corporate income taxation i.e. the disposal of the option is a taxable event, where the tax base is the difference between the premium received and paid. ii) When the option contract is exercised The holder will account for the asset purchased through the option and a decrease in its cash account. The transaction itself has no P&L effect i.e. it has no corporate income tax implications. iii) Sale of shares acquired through the option Taxed in the course of general corporate income taxation, unless it was a registered participation (minimum 30% held for at least 1 year and registered within 30 days upon acquisition) that is tax-exempt. iv) Expiration It is treated as if no transaction took place at all as it has been accounted for off-balance-sheet items.

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	5. May be optional (not allowed in all cases). 6. No WHT is levied on premiums. 7. N/A 8. It has to be determined on a case by case basis.
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	1. When the contract expires, it will be accounted for as revenues taxable for corporate income tax purposes. General rule: premium should be accounted for (in the balance sheet, just as in the case of the option holder) when received, however, should be included in the P&L (via accrued/deferred revenues or expenses) when the option is exercised. Scenarios (from a P&L perspective): a) If the option expires within the period (financial year) of writing: - taxable in that period. b) If the option expires after the balance sheet date, but before the balance sheet preparation date: - if the option is called, then time proportionate accounting applies; - if the option is not called, then the premium should be taxable in the prevailing financial year; c) If the option does not expire until the balance sheet preparation date: - accrued income. d) If the option expires without exercise of the option - premium is accounted as a taxable revenue at expiration.

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	2. If the writer is an insurance company or a company in the non-Financial Sector, the premium is accounted as a taxable income at the time of payment. 3. As we understand you are asking whether it is possible to account for the premium as part of the strike price as revenues. Although both premium and the gain is accounted for as revenues, they are accounted separately (even maybe in separate revenue categories). In this sense there is no parallel regime in the hands of the holder and the writer. 4. When the option contract is exercised, the writer will account the book-value of the asset as expense and the transaction value of the asset as revenues. The difference is taxable for corporate income tax purposes. 5. May be optional (not allowed in all cases).
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No difference in taxation based on company form.
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	No.

IRELAND	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	1. Yes in certain instances Irish stamp duty can arise on the transfer of financial services instruments. 2. The transfer of a financial instrument which relates to the stocks or marketable securities of an Irish company (other than Irish regulated fund) or to Irish immovable property is liable to Irish stamp duty. The transfer of other financial instruments should be exempt from Irish stamp duty. 3. Section 2 and Schedule 1 of the Stamp Duties Consolidation Act 1999 (taxing provisions). Sections 88 and 90 of the Stamp Duties Consolidation Act 1999 (exemptions). 4. The higher of the consideration paid for the transfer or the market value of the financial instrument. 5. Mainly 1% for stocks or marketable securities but possibly up to 6%. No maximum amount due. The transfer of stocks or marketable securities of an Irish incorporated company is liable to Irish stamp duty at a rate of 1%. The transfer of an instrument which relates to the stocks or marketable securities of an Irish company (other than Irish regulated fund) or to Irish immovable property is liable to Irish stamp duty and the applicable rate will depend on the nature of the financial services instrument transferring. For example, where the financial services instrument is an option over Irish shares Irish stamp duty at a rate of 1% may apply, while if the instrument is a derivative contract a rate of 6% could potentially apply. The rate will very much be driven by the nature of the instrument transferring. The transfer of other financial instruments (not falling within 1. or 2. above) should

IRELAND	
	in general be exempt from Irish stamp duty. 6. Execution of assignment of an in scope financial services instrument 7. In scope if Irish property, if executed in Ireland or if relating to anything done or to be done in Ireland, subject to exemptions. 8. Self-assessment. The transferee is liable to pay the tax to the Irish Revenue Commissioners.

IRELAND	
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time. 1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	1. Yes – general corporate tax regime applies. Taxable profit computed based on accounting profit. Corporate tax rate of 12.5% applies. 2. Non-Financial Sector liable to capital gains tax (CGT) at the rate of 25% on gains. The apparent disadvantage (of non FS in comparison to FS players, due to a difference in tax rates applicable) is due to the "taxhead" under which the transaction falls. If the taxhead is CGT, then the rate is 25%. If the swap relates to a trading transaction (as opposed to an investment), trading treatment should apply and subject to corporation tax at 12.5%. 3. Yes, as trading receipt – based on accounting treatment. 4. Yes, as trade expense – based on accounting treatment. 5. No 6. No 7. The nature of underlying asset determines the position. In any event, there is no WHT under Irish domestic law.
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is	1. The general tax regime applies – treated as trading receipt/payment in the case of financial companies. Taxable profit computed based on accounting profit. Corporate

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relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	tax rate of 12.5% applies. 2. Non-Financial Sector liable to CGT at the rate of 25% on gains. However, where trading income treatment is not appropriate, if for example the future hedges a capital asset or liability, the derivative and the appropriate treatment will generally be CGT. In this case profits will be taxed on realisation. 3. Yes, as trading receipt/expense – based on accounting treatment. For non- trading transactions (if the transaction is carried out in the course of a trade, the trading rules must apply (i.e. 12.5% tax in the case of a body corporate). If the transaction is seen as a capital transaction then the CGT rate applies), gains/losses are subject to CGT at the rate of 25%. Capital losses are deductible against gains for this purpose. The date of disposal is by reference to date of contract. Note: 'Trade' is defined by the Irish tax legislation as including 'every trade, manufacture, adventure or concern in the nature of trade'. As normally understood, trading means the carrying on of business or the engaging in activities on a regular or habitual basis and normally with the view to realising a profit. Activities may however be carried on, even resulting in profits or losses, which fall short of being regarded as a trade and which will therefore not be charged to tax as trading income at a rate of 12.5%. The gains or losses may be capital in nature and therefore subject to capital gains tax treatment (and subject to capital gains tax at a rate of 25%). 4. Yes, generally applied for financial companies where used for accounting purposes. For non-financial companies, taxation generally only arises when there is a disposal.

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	Where not arm's length, mark to market is imposed for tax. Where the transaction is considered a capital transaction, the actual basis is applied i.e. gains crystallise on disposal. Where the transaction is not considered a capital transaction, the tax treatment tends to follow the accounting treatment. The tax treatment follows the nature of the asset being held (i.e. trading, passive or capital). It is difficult to say that there is discrimination against the non-Financial Sector given that the determination of trading/ passive/ capital nature of income applies to all companies operating in Ireland. 5. No. 6. No. 7. As per underlying asset. In any event there is no WHT under Irish domestic law.

IRELAND	
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	1. General tax regime applies for Financial Sector i.e. taxable profit is based on accounting treatment 2. Capital gains tax regime (25%) applies to gains in case of non- Financial Sector

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E. Corporate income tax treatment of Call options on stocks in the hands of the holders

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This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (xli) exercise of the options, (xlii) sale of the shares acquired through the option, (xliii) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	1. Financial Sector – the premium is expensed as per accounts Non-financial – The premium is part of asset cost for CGT purposes if the option is exercised. Allowable loss arises on abandonment only if the option is a traded option, a quoted option or an option to acquire assets for the person's trade. 2. See reply at 1. above 3. Yes for non- financial companies (CGT). For financial companies, the premium is expensed as per the accounts. 4. (i) Financial companies– proceeds treated as a trade receipt. Gain taxed based on the accounts at 12.5% tax rate. Non-financial companies – gains liable to CGT at 25%. (ii) Financial companies – premium will have already been expensed in accounts); Non financial companies – premium treated as part of asset cost (iii) Financial companies – Treated as trade receipt (taxable at 12.5%) (most cases); For non-financial companies - gain on sale subject to CGT. (iv) See reply to 1. above 5. Yes for financial companies where applied in accounts. 6. No 7. &8 As per underlying asset. In any event there is no WHT under Irish domestic law.

IRELAND	
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	1. Yes – For financial companies it is treated as a trading receipt taxable at 12.5%; For non-financial companies it is liable to CGT at 25%. Under the CGT rules, the vendor is treated as selling the asset for the total of the amount received for the grant of the option itself, plus the consideration receivable under the option for the actual sale of the asset - the option being regarded as part of the overall transaction. In circumstances where the option is not exercised, the option stands alone as a separate asset for CGT purposes. Options fit within the definition of a derivative under IAS 39 (FRS 26), which requires the option to be accounted for on the company's respective balance sheet with any fair value adjustments put through the P&L. The Irish legislation charges unrealised gains or losses on derivatives included in the P&L to tax under at a rate of 12.5% when considered trading in nature. On this basis, the taxation of any premium received should follow the accounting treatment of same. An option that is treated as capital in nature will be subject to CGT treatment. 2. As per 1. above. 3. For financial company, the accounting treatment (which depends on the accounting standards applicable - most likely "mark to market") will be followed. Option consideration (including the premium) is treated as part of the sale consideration in the hands of the grantor (=writer) (for non-financial company).

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	As mentioned above, the Irish legislation charges unrealised gains or losses on derivatives included in the P&L to tax at a rate of 12.5% when considered trading in nature. In the example, the premium of €10 forms part of the gain on shares of €30. 4. See 3. above. For non-financial company, grantor charged to CGT by reference to the asset price plus premium (i.e. total sale consideration). For financial companies, gain is taxable as per accounting treatment. 5. For financial companies mark to market will apply if applied in the accounts.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No.
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	No.

ITALY	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	The Italian Securities Transfer Tax ("Tassa sui contratti di borsa") has been repealed with reference to the contracts signed from December 31st 2007 onwards. The stamp duty ("imposta di bollo") could apply to specific financial transaction provided that the relating contract is concluded in Italy. In particular, a flat stamp duty of 14,62 Euro could apply on each financial agreement.
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain	The corporate income tax (IRES) is applied at the rate of 27,5% for all companies (both Financial Sector and other sectors). Article 112 of the Italian Consolidated Income Tax Act provides with the tax regime applicable for Corporate Income Tax (IRES) purposes to financial derivatives. In general, the tax regime applicable to financial derivatives depends on:

period of time.

1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)?

2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?

3. Are the flows of payments received taxed, if yes, when and how?

4. Are the flows of payments made tax deductible, if yes, when and how?

5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax?

6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax?

7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?

- the specific accounting principles applied by the investor for the purposes of drawing up its financial statement (Italian GAAP or IAS/IFRS); and

- the qualification of the financial derivatives as "hedging" or "not hedging/trading".

For entities applying the IAS/IFRS are valid for IRES purposes the qualification, classification and time allocation criteria provided for by the IAS/IFRS.

In Italy the following Entities must apply IAS/IFRS:

- companies issuing securities admitted to trading in regulated markets;

- companies issuing financial instruments widely distributed among the public;

- banks;

- holdings of banking groups;

- assets management companies;

- other regulated financial companies;

- electronic money institutions.

Insurance companies are not requested to apply IAS/IFRS (apart specific exceptions). Other companies – individuated by the law in specific situations – may apply IAS/IFRS on a voluntary basis (quite unusually in the market practice).

Generally speaking thus, financial entities (except insurance companies) apply IAS/IFRS, whilst commercial companies apply IAS/IFRS only if they

	issue financial instruments to the public. For entities applying the Italian GAAP, as a general rule, with reference to the "trading derivatives" are relevant for tax purposes the positive or negative items of income arising from the year-end accounting evaluation. However, in case of negative items of income, the year-end evaluation for tax purposes must quantified following specific guidelines provided for by the tax rule (for example for derivatives listed in regulated markets the year-end evaluation must be equal to the official value fixed in the last listing day of the fiscal period). On the other hand, the tax regime applicable to the "hedging derivatives" follows the tax regime applicable to positive/negative items of income arising from the evaluation/realization of the underlying instruments. In addition to IRES there is also a Regional Tax on Productive Activities purpose (IRAP). For Regional Tax on Productive Activities purpose (IRAP) the items of income arising from financial derivatives in principle should be relevant for financial entities, whilst they should not be relevant for not financial entities. For financial entities, generally, the IRAP rate is 4,82% (or 4,97% in some regions), while for the companies of the other sectors this rate varies from 3,9% to 4,97%. depending on the regions. As far as WHT treatment: the payments to a non-resident holder of a financial derivative should not be subject to domestic WHT.
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is	Please, make reference to the general comments specified in relation to the

relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	equity swaps. 2. Regardless timing and method of recognition which depend on the accounting principles applied by each type of company, gains and losses relating to financial futures are relevant for CIT purposes (IRES tax rate is 27,5%) for both financial companies and companies pertaining to other sectors. On the other side, for the Regional on Productive Activities Tax purposes (Regional tax rate: from 3,9% to 4,97%), gains and losses are, in principle, relevant only for the financial entities.
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although	1. Please, make reference to the general comments specified in relation to the equity swaps. 2. Please, make reference to our previous comments specified in relation to the financial

reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	futures about the differences between financial companies and other companies.
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how?	1. Please, make reference to the general comments specified in relation to the equity swaps. 2. There are differences relating to timing and method of recognition due to different accounting principles. Apart this, the ordinary IRES rules apply to both financial entities and non financial entities. In principle IRAP on these items applies only for financial entities. The accounting and tax treatment may change depending on the settlement method (i.e. physical settlement or cash settlement). In fact, in case of cash settlement, cost and revenues relating to the call options are fully relevant for IRES purposes. On the other side, in case of physical settlement, the premium

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2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (xliv) exercise of the options, (xlv) sale of the shares acquired through the option, (xlvi) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	cost could be added to the cost of the underlying shares depending on the accounting rules applicable to each type of company. 3. When, as a result of the call option, the holder buys the stock, in principle the premium can be view as an ancillary cost of the acquisition (this is always verified for call options held by individuals, while if the holder is a company a preliminary check of the accounting principle applicable to the holder must be performed). 4. (i) Gains and losses deriving from the disposal of options are relevant for IRES purposes. For financial entities they are relevant also for IRAP purposes. (ii) In principle the cost paid for the option is added to the price paid for the stock. (iii) Capital gains / Losses shall be calculated starting from the tax value of the shares (which may include the cost of the premium). For shares other than those included in the held for trading portfolio (for IAS adopters) and for shares posted among fixed assets (for companies which apply local GAAP), provided that certain conditions are satisfied, the participation exemption regime (PEX) implies: - taxation on 5% of capital gains amounts; - losses are not tax deductible. (iv) The premium cost is relevant for tax purposes.
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would	Please, make reference to the general comments specified in relation to the equity swaps. 1. In principle, the premium received by the writer falls entirely in the taxable base. Timing may depend on the accounting principles applied by the writer. 2. Difference may exist on timing. Nevertheless, the premium is always taxed for IRES

ITALY	
have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	purposes, while it is relevant for IRAP purposes only for financial entities.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No, the provisions applicable to the Italian banks are the same as those applicable to subsidiaries and branches of non-domestic banks
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	In principle, actual practices are compliant with the legal provisions.

LATVIA	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	1. No. 2. .-8. N/A
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time.	1. General tax rules apply. The applicable standard CIT rate is 15%, for all sectors. 2. No difference 3. Taxed as part of a Latvian tax payer's annual general taxable profits and CIT treatment follows accounting treatment, i.e. any unrealised gains/ losses are non-taxable/ tax non-deductible and realised gains/ losses are taxable/ tax deductible. There are no specific rules in respect of equity swaps in Latvian corporate income tax law and Latvian taxpayers (banks or other sectors) do not break

LATVIA	
1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	down, for tax purposes, the flows of payments received into components based on their economic substance. 4. See answer to (3). There are no specific rules in respect of equity swaps in Latvian corporate income tax law and Latvian tax payers (banks or other sectors) do not break down, for tax purposes, the flows of payments made into components based on their economic substance. 5. No WHT on payments to non-residents under the swap. 6. No WHT on payments to non-residents on sale of swap. 7. There is no guidance in respect of equity swaps in Latvian tax law. Latvian tax payers (banks or other sectors) do not break down, for tax purposes, the flows of payments connected with equity swaps into components based on their economic substance.
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	1. General tax regime applies 2. No difference 3. Taxed as part of a tax payer's annual general taxable profits and CIT treatment follows accounting treatment, i.e. any unrealised gains/ losses are non-taxable/ tax non-deductible and realised gains/ losses are taxable/ tax deductible 4. See point 3 above 5. No WHT on payments to non-residents upon the expiration of the futures 6. No WHT on payments to non-residents on the sale of futures 7. N/A

LATVIA	
3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	1. General tax regime applies 2. No difference

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E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (xlvii) disposal of the options, (xlviii) exercise of the options, (xlix) sale of the shares acquired through the option, (l) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties?	1. No specific guidance in the law, therefore, tax treatment follows accounting treatment. 2. No difference. 3. No specific guidance in the law, therefore, tax treatment follows accounting treatment, i.e. if expensed to income statement when paid – deductible when paid; if recorded as part of the stock acquisition price – deductibility depends on the tax treatment of the stock (see point 4 below). Usually, premiums paid are recorded in the balance sheet and amortised to income statement over a period of time. 4. Realised gains or losses are taxable/ tax deductible as part of annual general taxable profits on all the following events: (i) disposal of the options, (ii) exercise of the options, (iv) expiration of option (without exercise or disposal), (iii) Sale of the shares acquired through the option – rules differ for different types of shares: a) Shares publicly quoted in EU and EEA - realised gains/ losses on shares publicly quoted in EU/ EEA are non-taxable/ tax non-deductible. b) All other shares – total annual net gains realised on sale of the shares acquired through the options are taxed in the respective tax year. Total annual net losses realised on sale of the shares acquired through the options are non-deductible in the respective tax year, but may be carried forward for 8 years and set against future total net gains from sale of shares.

LATVIA	
8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	5. Any gain/ loss arising from application of mark-to-market for accounting purposes is regarded as unrealised gain/ loss for tax purposes. Unrealised gains/ losses are non-taxable/ tax non-deductible. 6. No WHT on premium to non-residents. 7. N/A 8. No guidance in tax law.
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	1. No specific guidance in the law, therefore, tax treatment follows accounting treatment. Usually, premiums received are recorded in the balance sheet and amortised to income statement over a period of time. 2. No difference. 3. No specific guidance in the law, therefore, tax treatment follows accounting treatment. 4. Gains or losses realised upon exercise of the options are taxable/ tax deductible as part of annual general taxable profits. 5. Any gain/ loss arising from application of mark-to-market for accounting purposes is regarded as unrealised gain/ loss for tax purposes. Unrealised gains/ losses are non-taxable/ tax non-deductible.

LATVIA	
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No.
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	There are no specific rules in respect of financial instruments in Latvian tax law, nor have Latvian tax authorities issued any guidance. Usually, in practice, all payments under equity swaps, financial futures and call options on stocks contracts are treated as capital gains for CIT and WHT purposes.

LITHUANIA	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	1. No 2. N/A 3. N/A 4. N/A 5. N/A 6. N/A 7. N/A 8. N/A
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain	1. According to Part 13 Article 2 of the Law on Corporate Income Tax (CIT) a derivative is a financial instrument (a future transaction, an agreed in advance transaction) which: (I) value alters depending on a price of the goods, securities, currency rate or similar variable, (II) does not require any or only marginal initial investment compared to other types of transactions, (III) settlement (payment) should be performed in the future.

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period of time. 1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	*Unrealised gains (income)/losses (expenses).* Specific tax rules apply for revaluation of derivatives. The gains or losses recognised from revaluation of derivatives held for trading (speculative) purposes are exempt and non-deductible respectively, whereas gains recognised from revaluation of derivatives held for hedging (risk insurance) purposes are taxable and losses are deductible. Example. If the derivative is held for trading purposes, for B unrealised gain of 200 is non-taxable income, for A unrealised loss of 200 is non-deductible expenses. *Realised gains (income)/losses (expenses).* Taxation of gains/losses from realised transactions (i.e. recognised upon the maturity of a contract) is not explicitly described in the Law on CIT and related commentary. Generally, they should be recognised based on an accrual principle and be subject to general tax regime: gains – taxable; losses – deductible, provided that they are related to earning taxable income and deriving economic benefits of a company. Example. If the derivative is held for trading purposes, for B realised gain of 300 is taxable income, for A realised loss of 300 is deductible expenses. Taxation moment – earlier of 1) maturity of a contract or 2) actual payment. 2. No. 3. Yes, upon the payment provided that there was no income recognised upon the maturity of a contract. 4. Yes, upon the payment provided that there was no costs (loss) recognised upon the maturity of a contract.. 5. No. According to Part 4 Article 4 on the Law on CIT, payments under a derivative

	contract are not included in the list of payments which are subject to WHT. 6. No According to Part 4 Article 4 on the Law on CIT, payments under a derivative contract are not included in the list of payments which are subject to WHT. 7. Not applicable. According to Part 4 Article 4 on the Law on CIT, payments under a derivative contract are not included in the list of payments which are subject to WHT.
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the	1. See the answer to the first question under B. above. 2. No 3. See the answer to the first question under B. above. 4. No 5. No 6. No 7. See the answer to the seventh question under B. above.

connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	1. See the answer to the first question under B. above. 2. No
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover	1. Generally, deductibility of the premium paid for call options are not explicitly commented in the Lithuanian Law on CIT. However, following general provisions of

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the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (li) exercise of the options, (lii) sale of the shares acquired through the option, (liii)expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	the Law on CIT, the premium paid should be deductible upon its acquisition provided that it is related to earning of taxable income and receiving economic benefits by a company. 2. No 3. Premium paid may be included in the stock acquisition price, although, it is not explicitly described in the Lithuanian Law on CIT. 4. Recognised gains are taxable at standard CIT rate of 15%. Recognised losses can be carried forward for 5 years and covered against the profits received from the same type of activities (sale of securities and/or derivatives). Upon exercise of the options, gains or losses related to the difference between an exercise price and a market price are not recognised for tax purposes. Purchase of the stocks is not the subject to taxation and any subsequent adjustments to the stock price are not considered for tax purposes unless stocks are sold. *Local participation exemption rule.* According to Paragraph 15 Article 12 of the Law on CIT, when acquired shares are of a company registered or otherwise organised in a Member State of the European Economic Area or in the State with which Lithuania has a DDT, and they constitute for more than 25% of all shares and are kept for at least 2 years, gains are exempted and losses cannot be carried forward, but can be offset in the same year against the profits of the same nature (sale of securities and/or sales of derivatives). If requirement for participation are not met, gains recognised on sale of shares are taxable and related losses can be carry forward for five years and can be covered

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	against the profits of the same nature (sale of securities and/or sales of derivatives). We understand that the losses (expenses) will include only the premium paid. For tax treatment please see the answer to the first question under E. above. 5. No 6. No 7. See the answer to the seventh question under B. above. 8. Not explicitly described in the Law on CIT, but following substance over form principle established Article 10 of the Law on Tax Administration gains (income) and/or losses (expenses) related to options should be separated and taxed accordingly. For tax treatment please see the answer to the first question under B. above.
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non	1. Generally, taxation of the premium received for call options are not explicitly commented in the Lithuanian Law on CIT. However, following general provisions of the Law on CIT the premium should be recognised based on an accrual principle, i.e. through the life time of the option, and taxed with 15% CIT. 2. No 3. No 4. See the answer to the question under E. above (Part 4, Paragraph iii). 5. No

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Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	No

LUXEMBOURG	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	1. There are no securities transaction taxes in Luxembourg. However, an *ad valorem* or fixed duty may be applied in case of voluntary registration (depending on the type of instruments/transaction). 2. – 8. N/A.
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain	[General comments to be kept in mind in the rest of the questionnaire: Our analysis is based on the Luxembourg Generally Accepted Accounting Principles and may differ should the IFRS be followed. The notion of beneficial/economic ownership should be taken into account and analyzed on a case-by-case basis (i.e. depending on the features of the financial instrument) as it has an impact on the determination of the person

period of time.

1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)?

2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?

3. Are the flows of payments received taxed, if yes, when and how?

4. Are the flows of payments made tax deductible, if yes, when and how?

5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax?

6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax?

7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?

who is entitled to the income (or loss) and who bears the risk.]

1. There are no specific tax rules regarding the taxation of swaps. The general tax principles are applicable. As a result, their tax treatment follows in principle their accounting treatment unless otherwise provided for by the Luxembourg tax legislation (article 40 of the Luxembourg Income Tax Law, "LITL").

2. There is no main difference in the tax treatment. However, some differences may arise from the fact that the overriding accounting principle for regulated entities is the "fair picture" principle. The application of such principle may lead to differences in the timing of recognition of income and loss (i.e. deduction over the length of the transaction v. one-shot deduction).

As, according to the provisions of article 23 LITL, a taxpayer cannot book its assets for a value higher than its historical cost (however debts can be valued at the operating value), in certain circumstances, the annual increase in value of an asset which is booked accounting wise may be neutralized tax wise (no taxation during the length of the transaction) in order to recognize the gain only at the end of the transaction

3 + 4. As mentioned before, the tax treatment of swaps should follow the accounting treatment (unless otherwise provided for by the Luxembourg tax legislation). As a result, any income/gain is in principle taxable at 28.80% (applicable rate for Luxembourg city) and any expense/loss is in principle tax deductible.

However, in case such income/gain is assimilated, for tax purposes, to an income from a qualifying participation (due to substance over form) it could be tax exempt. Besides, any expense in connection with tax exempt income is in principle non tax deductible.

Regarding the timing issue, two principles are particularly important, i.e. the

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	caution and the matching principle. The caution principle prevents from the recognition of unrealized gain whereas it encourages the recognition of unrealized losses. The matching principle provides for the recognition of income and expenses in the year to which they relate (whenever the payment actually takes place). 5. As a preliminary remark, the qualification of the payments made under swap agreement (and derivative as well) should be analyzed on a case-by-case basis. Normally, such payments should be seen as *sui generis* payment except if they fall under specific provision of a relevant double tax treaty. For instance, due to substance over form (and depending on the analysis of the legal agreements), payments under swap agreement may potentially be reclassified as dividend in very specific circumstances. 6. Luxembourg does not levy any WHT on interest/premium payments except if: (i) They derived from profit participating securities (e.g. profit sharing bonds), (ii) They are within the scope of the EU Savings Directive, (iii) They are requalified as dividend payments (15% WHT on gross payments subject to potential exemptions), for example according to thin-capitalization rules. 7. There is no clear rule regarding the qualification of swap payments under double tax treaties. It will mainly depend on the swap agreement (to be analyzed on a case-by-case basis) and it may also depend on the nature of the underlying in certain circumstances.
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although	For all these questions, please refer to our comments on equity swaps. Our

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reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	comments on article 23 LITL are particularly relevant regarding the mark-to-market question.
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not	Please refer to our previous comments on swaps. For call options, specific attention should be paid to the determination of the beneficial/economic

cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	owner. Generally, the economic owner is deemed to be the legal owner. However, in certain specific circumstances, the economic owner could be different and he should normally prevail for tax purposes (§11 StampG). This may lead to disregard the option and directly consider that the option buyer already holds the underlying assets. Some guidance has been provided in a recent case law regarding options on shares (Cour Administrative n°25443C, 16 June 2009).
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or	For the purposes of this section, we have assumed that the option does not lead to the qualification of the call option holder as economic owner of the underlying stocks. The main principles described above in our comments (i.e. tax follows accounting as a principle …) are also applicable to call options on stocks in the hands of the holders. 1. Based on the accounting treatment, the premium paid should generally not be tax deductible as the premium should be booked as an asset. At maturity, it will only be tax deductible upon expiration as otherwise it will be taken into account for the stock

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upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (liv) exercise of the options, (lv) sale of the shares acquired through the option, (lvi) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	acquisition price. 2. See our above comments. 3. Yes (see above). 4. (i)The gain/loss in case of disposal of option will be taxable/tax deductible. (ii)In case of exercise of the option, the premium paid will be added to the acquisition price of the stocks. This will not be a taxable event. (iii)The gain/loss realized in case of sale of the shares will be taxable/tax deductible. Such gain may be tax exempt based on the participation exemption regime in very specific circumstances. (iv)As mentioned above, the loss in case of expiration of option will be tax deductible. 5. See our above comments on article 23 LITL for swap transactions. 6. See our above comments on swap transactions. 7. See our above comments on swap transactions. 6+7: Regarding any potential WHT on call options payments and their qualification under double tax treaties, we referred to our comments on swap agreements in question B. 5,6,7. In principle, there is no WHT on interest/premiums in Luxembourg. However, any transaction should be carefully analyzed, together with the legal agreement, as, due to substance over form, options could sometimes be disregarded, the option buyer being considered as holding already the underlying shares (and WHT could apply on dividend payments). 8. Generally, options granted into a packaged product, such as equity linked note, are not taken into account on a standalone basis for accounting and tax purposes. The tax treatment applied will generally be the one of the main product (here the note). However, it will depend on the specific legal agreement and should be analyzed on a case-by-case

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	basis.
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	For the purposes of this section, we have assumed that the option does not lead to the qualification of the call option holder as economic owner of the underlying stocks. The main principles described before in our comments (i.e. tax follows accounting as a principle …) are also applicable to call options on stocks in the hands of the writers. 1. Based on the accounting treatment, the premium received should generally not be included in the P&L until its maturity. At maturity, it will be taxable upon expiration. Otherwise, it will be taken into account for the stock delivery price and could be taxable as a capital gain /or exempt if all the conditions for the participation exemption regime are met). 2. See our above comments. 3. Yes (see our above comments). 4. Gains/losses upon exercise are taxable/tax deductible. However, depending on several conditions, gains could be tax exempt if the requirements of the participation exemption regime are met. 5. See our above comments.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No.

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H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	No. Practices are based on provisions of the domestic tax legislation and relevant case law.

MALTA

A. Securities transaction taxes

Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question.

1. Are there securities transactions taxes on transfers of financial instruments?
2. What securities are in scope and which are exempt?
3. What are the tax provisions (reference to applicable tax section)?
4. Tax base?
5. Tax rate? Is there a maximum amount of tax due?
6. Tax event?
7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)?
8. Who is liable for levying the tax? Who is liable to support the tax?

1. No.

2. Although there is no specific tax on transfers of securities, such transfers may still be subject to Maltese income tax in terms of the general tax provisions. One has to distinguish between securities held as capital assets and securities held for trading purposes. In the case of capital assets, tax on capital gains may be due if the particular security falls within the purport of the tax on capital gains provisions - not all securities would fall within such capital gains provisions. Furthermore, certain exemptions from tax on capital gains may apply. Where the securities are held for trading purposes, then the trading gain on the transfer of securities should in general be subject to Maltese income tax.

3. Charging provisions:

   - Transfers of securities held as capital assets : Article 5 of the Income Tax Act;

   - Transfers of securities held for trading purposes : Article 4 of the Income Tax Act.

4. Subject to the applicable detailed statutory provisions, the tax base should in general be the cost of acquisition paid for the security.

5. In the case of companies, the normal corporate tax rate of 35% should apply on a taxable gain arising on the transfer of a security. Where the transferor is an individual, the gain on the transfer of a security should be subject to tax in accordance with the marginal tax rate of the individual (going up from 0 to 35%). There is no capping in the tax payable.

6. The tax event on a chargeable transfer occurs upon the transfer of the security. Provisional tax should in general be payable upon the transfer of the security with any balance in the actual tax liability being payable by the transferor upon the submission of the relevant tax return.

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	7. In terms of Maltese tax law (but this is subject to any double taxation treaty provisions which would supersede the domestic provisions), a Maltese company is subject to tax on its worldwide income/ gains. A foreign company which is resident in Malta, would be subject to tax on any chargeable income/ capital gains arising in Malta and on any foreign income (but excluding foreign capital gains) which is received in/ remitted to Malta. In the case of an individual, if the individual is both ordinarily resident and domiciled in Malta then he/ she is taxable on his/her worldwide chargeable income/ capital gains. An individual who is not ordinarily resident or not domiciled in Malta is taxable only on income arising in Malta and on any foreign income received in/ remitted to Malta, so however that if the particular individual is not ordinarily resident in Malta, he/ she would be taxable in Malta only on income arising in Malta. There are no detailed specific rules in Maltese tax law as to the determination of the locality where the income/ gain arises and this may depend on a number of factors and are subject to the particular circumstances of each case. 8. The Maltese income tax on the transfer of a chargeable security should be due and payable by the transferor.
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time. 1. Does the general tax regime apply or are there specific tax rules applicable to swap	1. (& 3 & 4) There are no specific tax rules under Maltese law regulating swap transactions. The accounting treatment (Malta follows IFRS) may have an impact on the Maltese income tax treatment but it may not always necessarily be the case that the tax treatment would follow the accounting treatment – see below re advisability of confirmation of the tax position with the Maltese Revenue. 2. Given that there are no specific tax rules in Malta dealing with swap transactions, this question is not relevant. 3. In view of the fact that there are no specific tax rules in Maltese income tax law regulating such transactions nor Revenue guidelines on the matter, it would be strongly advisable that the tax position would be clarified in writing with the Maltese

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transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	Revenue. Indeed this is the normal practice here in Malta especially in such cases where there are no specific tax rules on the subject. The Maltese income tax treatment will primarily depend on the characterisation of the income flows for Maltese tax purposes. If the flows were to be classified as dividends, there should be no WHT on dividends paid to non-residents as long as such non-residents are not owned and controlled by, directly or indirectly, nor act on behalf of an individual who is ordinarily resident and domiciled in Malta. 4. Under Maltese tax law, in general an expense is tax-deductible if it is wholly and exclusively incurred in the production of the income. Hence the expense must be incurred in producing the income for the expense to be tax deductible. As in point 3, given the absence of tax rules and Revenue Guidelines on such transactions, it is strongly advisable that the tax deductibility point would also be confirmed in writing with the Maltese Revenue. 5. Refer to our comments in point 3 of this part. 6. One would need to determine whether the sale of a swap is a taxable transaction for Maltese tax purposes. If it is determined that such a sale is taxable in Malta, then one would also need to consider whether any specific tax exemption under Maltese tax law would apply in the particular circumstances, e.g. there are exemptions from Maltese WHT on gains arising to non-Maltese-residents from the transfers of certain shares / securities. Again it is strongly advisable that such considerations are clarified in writing with the Maltese Revenue. 7. We are not aware that the Maltese Revenue have taken a particular stand or approach in classifying such payments for double taxation treaty purposes. In general, we are also not aware that Malta's treaties provide for any particular treatment for such payments (although naturally we have not reviewed all of Malta's treaties currently in force to establish this point).

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C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	1. There are no specific tax rules under Maltese law regulating financial futures. The accounting treatment (Malta follows IFRS) may have an impact on the Maltese income tax treatment but it may not always necessarily be the case that the tax treatment would follow the accounting treatment – see below re advisability of confirmation of the tax position with the Maltese Revenue. 2. Given that there are no tax rules in Malta on financial futures, this question is not relevant. 3. In principle, if any gains or losses arise from the futures then arguably they should be taxable/ tax deductible in that we are not aware of any specific tax exemption under Maltese tax law in this respect. If it is confirmed that such gains are subject to Maltese income tax, then the normal corporate tax rate of 35% should apply. However given that there are no tax rules in Malta regulating such transactions nor Revenue Guidelines on the matter, it would be strongly advisable that the tax position would be confirmed in writing with the Maltese Revenue. As outlined above, this is the normal practice here in Malta especially in such cases where there are no specific tax rules governing these transactions. 4. Given that a financial future is a derivative instrument, in terms of IFRS it must be marked to market. 5. One would need to determine whether the payment to non-residents upon the expiration of the future is a taxable transaction for Maltese tax purposes. If it is determined that such a payment is taxable in Malta, then one would also need to consider whether there could be any tax exemption under Maltese tax law which could apply in the particular circumstances. Again given the absence of any specific rules or Revenue guidelines on the matter, it is strongly advisable that such considerations are clarified in writing with the Maltese Revenue.

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	6. Refer to our comments in point 5 of this part. 7. We are not aware that the Maltese Revenue have taken a particular stand or approach in classifying such payments for double taxation treaty purposes. In general, we are also not aware that Malta's treaties provide for any particular treatment for such payments (although naturally we have not reviewed all of Malta's treaties currently in force to establish this point).
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	1. There are no specific tax rules under Maltese law regulating call options on stocks (there are special tax rules in Malta applicable to share options granted by a company to its employees or to the employees of an associated company; however we understand that these rules are not relevant in the context of this question). The accounting treatment (Malta follows IFRS) may have an impact on the Maltese income tax treatment but it may not always necessarily be the case that the tax treatment would follow the accounting treatment. Hence, given that there are no tax rules in Malta regulating such transactions nor Revenue Guidelines on the matter, it would be strongly advisable that the tax position would be confirmed in writing with the Maltese Revenue. As outlined above, this is the normal practice here in Malta especially in such cases where there are no specific tax rules governing these transactions. 2. Given that there are no tax rules in Malta on call options on stocks, this question is not relevant.
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on	1. As outlined in the previous section, there are no specific tax rules under Maltese law

any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer.

1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how?

2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector?

3. Is the premium paid part of the stock acquisition price?

4. Please describe the tax treatment of the gains or losses realised at the following events:

   (i) disposal of the options,

   (lvii) exercise of the options,

   (lviii) sale of the shares acquired through the option,

   (lix) expiration of option (without exercise or disposal)

5. Is mark-to-market applied?

6. Is there a WHT on premium to non-residents?

7. How are the premium payments classified under the double tax treaties?

8. How are options treated when they are part of a packaged product (e.g. equity linked note)?

regulating call options on stocks. An expense is deductible for Maltese tax purposes if it is wholly and exclusively incurred in the production of the income. Hence the expense must be incurred in producing the income for the expense to be tax deductible.

Given the absence of tax rules and Revenue Guidelines on such transactions, it is strongly advisable that the tax deductibility point would be confirmed in writing with the Maltese Revenue.

2. Given that there are no tax rules in Malta on call options on stocks, this question is not relevant.

3. Given the absence of tax rules and Revenue Guidelines on this matter, this would need to be clarified in writing with the Maltese Revenue.

4. We assume that this question does not cover share options provided by a company to its employees. Refer to our comments in point 3 of this part.

5. Given that a call option on stocks is a derivative instrument, in terms of IFRS it must be marked to market.

6. One would need to determine whether the premium is chargeable to tax in Malta. If it is determined that such a premium is taxable in Malta, then one would also need to consider whether any specific tax exemption under Maltese tax law would apply in the particular circumstances, e.g. there is an exemption (subject to the satisfaction of certain conditions) from Maltese WHT on "any interest, discount, premium or royalties accruing to or derived by any person not resident in Malta". Again it is strongly advisable that such considerations are clarified in writing with the Maltese Revenue.

7. We are not aware that the Maltese Revenue have taken a particular stand or approach in classifying such payments for double taxation treaty purposes. In general, we are also not aware that Malta's treaties provide for any particular treatment for such

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	payments (although naturally we have not reviewed all of Malta's treaties currently in force to establish this point). 8. Refer to our comments in point 3 of this part.
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	1. Given the absence of tax rules on this matter and also no Revenue Guidelines, one needs to determine whether such premium is taxable in Malta and, if in the affirmative, whether any specific tax exemption on the payment of premiums to non-residents may be applicable in the particular circumstances (refer to our comments in point 6 of the previous part). Again it is strongly advisable that such considerations are clarified in writing with the Maltese Revenue. 2. Given that there are no tax rules in Malta on call options on stocks, this question is not relevant. 3. Given the absence of tax rules and Revenue Guidelines on this matter, this would need to be clarified in writing with the Maltese Revenue. 4. We assume that this question does not cover share options provided by a company to its employees. Refer to our comments in point 3 of this part. 5. Given that a call option on stocks is a derivative instrument, in terms of IFRS it must be marked to market.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-	No.

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domestic (financial) institution?	
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	There are no Revenue Guidelines/ official practices on these matters and even Maltese tax law does not shed light in respect of most of the matters raised above.

THE NETHERLANDS	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	1. The Netherlands does not have securities transaction tax on specific type of financial transactions. Real estate transfer tax may be due in cases where the financial transaction would be considered a transfer of a Dutch real estate.
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain	1. The general tax regime should apply. 2. There should be no difference in the tax treatment of swaps between financial and non-financial companies. 3. The flows of payments should in principle be subject to the regular corporate income tax of 25% (rate 2011). Under Dutch tax accounting principles, the accounting period to which income/costs should be allocated, should be determined in accordance with the matching

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period of time. 1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	principle/accrual basis; i.e. expenses are recognized when incurred and income should be recognised when earned. Cash accounting is generally not acceptable under Dutch tax accounting principles. 4. The flows of payments should in principle be tax deductible. Under Dutch tax accounting principles, the accounting period to which income/costs should be allocated, should be determined in accordance with the matching principle/accrual basis; i.e. expenses are recognized when incurred and income should be recognised when earned. Cash accounting is generally not acceptable under Dutch tax accounting principles. In specific situations, Dutch anti-abuse rules such as with respect to interest payments may limit the tax deductibility of the payments. 5. No. 6. No. 7. Payments as mentioned in questions 5 and 6 will in principle be classified as general /other payments and should not be subject to Dutch WHT.
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules	1. The general tax regime should apply on futures. 2. There should be no difference in the tax treatment between financial and non-financial companies. 3. Gains and losses on futures are in principle taxed /deductible. On the basis of the Dutch tax accounting principles, unrealised profits may be recognised upon realisation (i.e. unrealised profits may generally be deferred till realisation), whilst unrealised losses may be recognised immediately. 4. Under Dutch tax accounting principles, generally, assets are valued at cost price or

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applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	the lower market value. Valuation at mark-to-market is, however, also allowed under Dutch tax accounting principles. This rule applies to all Dutch taxpayers (and not only FS players). Under Dutch tax accounting principles, taxpayers may choose to value assets at cost price or mark-to-market. Note that he taxpayer should use a valuation system in a consistent manner, i.e. there must be a certain degree of continuity in the method used and may only be changed if this is in line with sound business practice. The market practice in this regard is generally the use of cost price or lower market value. 5. No. 6. No. 7. Payments as mentioned in questions 5 and 6 will in principle be classified as general/other payments and should not be subject to Dutch WHT.
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price).	1. The general tax regime should apply on option contracts. 2. There should be no difference in the tax treatment between financial and non-financial companies.

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1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (lx) exercise of the options, (lxi) sale of the shares acquired through the option,	1. The premium paid is generally tax deductible. This may be different if the Dutch participation exemption would apply. In such a case the premium would be non-deductible. The participation exemption may apply on options that give right to acquire shares on which the participation exemption would apply (generally 5% or more shareholding) if the option is exercised. 2. There should be no difference in the tax treatment between financial and non-financial companies. 3. Based on Dutch case law with respect to the application of the Dutch participation exemption, a premium paid is considered part of the stock acquisition price in situations where the participation exemption would apply. It is not clear whether the case law also applies in situations where the participation would not apply. 4. Gains/losses realised should in principle: (i) be taxed/deductible (ii) be taxed/deductible

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(lxii) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	(iii) be taxed/deductible (iv) be taxed/deductible (deductibility of the premium paid because of the non-exercise of the option). If the participation exemption would apply, the gains/losses may be exempt from Dutch taxation. Under Dutch tax accounting principles, generally, assets are valued at cost price or the lower market value. Valuation at mark-to-market is, however, also allowed under Dutch tax accounting principles. This rule applies to all Dutch taxpayers (and not only FS players). Under Dutch tax accounting principles, taxpayers may choose to value assets at cost price or mark-to-market. Note that he taxpayer should use a valuation system in a consistent manner, i.e. there must be a certain degree of continuity in the method used and may only be changed if this is in line with sound business practice. The market practice in this regard is generally the use of cost price or lower market value. 5. No. 6. Premium payments will in principle be classified as general/other payments not subject to Dutch WHT. 7. Similar as above. Note, however, that in specific situations the Netherlands may apply the substance over form principle.

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F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	1. Based on Dutch tax accounting principles, profits should be recognised when earned. With respect to option premiums received, this would generally be upon expiration date of the option or upon exercising of the option. 2. There should be no difference in the tax treatment between financial and non-financial companies. 3. Not as such. The premium received will be recognised as income upon exercising the option, unless the participation exemption applies. 4. On the basis of Dutch tax accounting principles, profits should be recognized when earned. With respect to option premiums received, this would generally be upon expiration date of the option or upon exercising of the option. 5. Under Dutch tax accounting principles, generally, assets are valued at cost price or the higher market value. Valuation at mark-to-market is, however, also allowed under Dutch tax accounting principles.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No.
H. Practices	
For all the above conditions is there any information as whether actual practices	No.

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may differ from legal provisions?	

POLAND

A. Securities transaction taxes

Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	1. Note that there is no specific tax on securities transactions or specific types of financial transactions. However, Civil Law Activities Tax (CLAT) provides for taxation of sale or exchange of property rights, which include securities and derivatives. 2. Generally, all securities / derivatives are subject to taxation. Exemptions apply to sale of Polish treasury bonds and Polish treasury bills, bills issued by the National Bank of Poland and some other specified securities. Note that the CLAT Law provides for other exemptions, of which most popular is for transactions performed within organized trade (via stock exchange). In other words, as a rule, transactions on listed securities are out of scope. However in case of some OTC transactions, even if they include listed securities, the transaction might be subject to 1% CLAT. 3. CLAT Law dated 9 September 2000. 4. Market value of securities / derivatives 5. 1%, no maximum of tax due specified 6. Upon sale / exchange transaction 7. Subject to CLAT are transactions where: - the property right is exercised in Poland (this would cover among other Polish securities) or - the property right is exercised outside Poland and the buyer is seated in Poland and the transaction was performed in Poland. 8. As a rule, the buyer is liable for declaring and paying the tax.

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B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time. 1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	[In WHT section, we assume no permanent establishment exists in Poland] 1. General rules apply. 2. No. 3. Yes, received flows are taxable, however regulations are unclear with regard to timing of their recognition. A tax ruling is advisable. 4. Yes, paid flows are tax-deductible, similar uncertainty exists as in case of revenues – a ruling is advisable. 5. As a rule, no. Currently, Polish tax authorities take a position that payments under IRS (interest rate swaps) are not subject to WHT in Poland. 6. As a rule, no. 7. Business profits / capital gains / other income within the meaning of OECD Model Tax Convention.
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is	[In WHT section, we assume no permanent establishment exists in Poland]

relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	1. General rules apply. 2. No. 3. Yes, doubts regarding the timing of recognition of gains / losses in tax calculation – similar to those presented in section D.2 above. 4. As a rule, gains/losses from revaluation of derivatives are not taxable. In some cases, however, where such valuation is treated in accounting as FX differences, it may be taxable. Analysis of specific cases is recommended. 5. As a rule, no. 6. As a rule, no. 7. Business profits / capital gains / other income within the meaning of OECD Model Tax Convention.
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting	[In WHT section, we assume no permanent establishment exists in Poland] 1. General regime applies. Note that in case of options, a specific regulation (Art. 16 sec. 1 pt. 8b of the CIT

rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	Law) should be considered. According to this regulation, expenses connected with acquisition of financial derivatives (e.g. option premium) are treated as tax-deductible upon execution of rights resulting from these derivatives (upon exercise) or resignation of realization of these rights (upon non-exercise at expiration), or sale of these rights – provided that these expenses do not increase initial value of a fixed or intangible asset, according to specific other provisions. 2. No.
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector?	1. Yes, premium paid is tax-deductible upon execution of rights resulting from the option (upon exercise) or resignation of realization of the option (upon non-exercise at expiration), or sale of the option – provided that it does not increase initial value of a fixed or intangible asset, according to specific other provisions. 2. No. 3. In our view, and based on the market practice known to us, premium paid is not a part of acquisition price of underlying stock. However, tax regulations are not fully clear in this respect. 4. (i) taxable revenue from the sale of option, tax deductible cost equal to the expenses incurred on purchase of the option; (ii) tax deductible cost equal to the expenses incurred on purchase of the option;

POLAND	
3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (lxiii) exercise of the options, (lxiv) sale of the shares acquired through the option, (lxv) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	(iii) capital gains / loss on the sale; (iv) tax deductible cost equal to the expense incurred on purchase of option. The standard 19% CIT rate applies. 5. See comments in section C.4. above. 6. No. 7. Business profits / capital gains / other income within the meaning of OECD Model Tax Convention. 8. CIT treatment is separate for particular property rights. In case of e.g. COLLAR structures where 2 opposite options are issued, they should be recognized for CIT separately.
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non	1. Yes, taxable as one-off revenue, when due (i.e. on the accrual basis). 2. No. 3. No. 4. If a contract is non-delivery (cash settlement), the gains / losses are taxable / tax-deductible. In case of a delivery contract (physical settlement with transfer of underlying shares), exercise of an option will result in recognition of a tax result on the underlying security (capital gains / losses). This would be regarded as sale of the underlying shares, therefore general rules of taxation of gains/losses would apply. Note that there is no possibility to claim the participation exemption in this case.

POLAND	
Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	5. See comments in section C, pt.4
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No.
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	As a rule, no. The significant issue worth mentioning is that recently, there were court rulings which stated that in case a taxpayer was engaged in derivatives for speculative reasons, losses on these transactions cannot be tax-deductible. These rulings were issued for non-financial entities and we are not aware of such approach being presented in case of financial institutions.

PORTUGAL	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	1. No 2. Not applicable (N/A) 3. N/A 4. N/A 5. N/A 6. N/A 7. N/A 8. N/A
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time.	1. The main corporate tax regime applies. The standard CIT rate is 25% + 1.5% maximum municipal surcharge + 2.5% additional surcharge for taxable income higher than 2M€ However there are also specific rules for financial derivatives in the corporation tax code. Fair value adjustments booked in P/L accounts are, in principle, taxable / deductible. 2. No.

PORTUGAL	
1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	3. No, Fair value adjustments are relevant for tax purposes when booked in P/L accounts. The taxation only take into account the P/L adjustment booked on the value of the swap as such, independently of any payment 4. The tax treatment in this case is the same as the one described at 3. 5. No. There is no a WHT (WHT). Although the gains are considered capital gains, taxable in Portugal at a 25% rate if the income is paid by a counterparty located in Portugal. However, if (a) the financial derivative is negotiated in a exchange market, (b) the beneficial owner of the gains is a resident in a country which is not considered an off-shore (as foreseen on a specific administrative rule) and has a Double Tax Treaty (DTT) or a Tax Information Exchange Agreement (TIEA) signed with Portugal, (c) 25% or more of the beneficial owner's equity is not owned by a resident entity, there is an exemption that excludes the capital gain taxation. 6. Please see 5 above. 7. There is no guidance in this regard. In principle, the DTT may treat this kind of gains/losses as business income or other income. The classification does not depend of the nature of the underlying.
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial	1. The main corporate tax regime applies. However there are also specific rules for financial derivatives in the corporation tax code. Fair value adjustments booked in P/L accounts are, in principle, taxable / deductible. 2. No. 3. Yes. Fair Value adjustments are relevant and thus payments made are not

future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	relevant. 4. In principle, yes. For both FS players and non-FS players. 5. No. There is no a WHT (WHT). Although the gains are considered capital gains, taxable in Portugal at a 25% rate if the income is paid by a counterparty located in Portugal (without a permanent establishment). However, if (a) the derivative is negotiated in a exchange market, (b) the beneficial owner of the gains is a resident in a country which is not considered an off-shore (as foreseen on an specific administrative rule) and has a Double Tax Treaty (DTT) or a Tax Information Exchange Agreement (TIEA) signed with Portugal, (c) 25% or more of the beneficial owner's equity is not owned by a resident entity, there is an exemption that excludes the capital gain taxation. 6. No WHT is levied. See 5 above. 7. There is no guidance in this regard. In principle, the DTT may treat this kind of gains / losses as business income or other income. The classification does not depend of the nature of the underlying asset.
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the	1. The main corporate tax regime applies. However there are also specific rules for financial derivatives in the corporation tax code. Fair value adjustments booked in P/L accounts are, in principle, taxable / deductible 2. No.

obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options,	1. Yes. Follow accounting treatment and fair value adjustments are relevant for tax purposes. 2. No. 3. No. 4. The tax treatments for the given situations are the following: (i) Gains/losses are included in the taxable income. The standard CIT rate is applicable: 25% + 1.5% maximum municipal surcharge + 2.5% additional surcharge for taxable income higher than 2M€ (ii) The tax treatment described in (i) applies in this case. However, gains or losses should have already been reflected in the P/L accounts. (iii) If the shares are not negotiated in a regulated market or their owners have directly or indirectly, 5% or more of the company's equity, there will be a capital gain/loss as follows: (The "monetary correction factor" normally decreases the gain for tax purposes. It may increase in a deflationary scenario)

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Gains/loss = (Sale's price – operation's expenses) – (acquisition's value **x** monetary correction factor*) , (lxviii) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	*Established annually by Minister of Finance' decree. Otherwise, the tax treatment is the one described in (i). The tax rate is the one described in (i) for both situations. (iv)The tax treatment follows the accounting treatment. It means that the premium has to be considered as a deductible expense in the absence of exercise of the option. 5. In principle, yes. 6. No. 7. There is no guidance in this regard. In principle, the DTT may treat this kind of gains /losses as business income or other income. The classification does not depend of the nature of the underlying. 8. Tax treatment follows accounting treatment, being the respective financial derivative taxed under the applicable relevant rule.
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the	1. Yes. Follow accounting treatment and fair value adjustments are relevant for tax purposes.

PORTUGAL	
applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	2. No. 3. No. 4. Yes. 5. In principle, yes.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No.
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	No.

ROMANIA	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	1. Yes. 2. Securities within the scope include all types of financial instruments such as equities, bonds, t-bill, derivative financial instruments. 3. The securities transaction taxes are covered by the following pieces of legislation: - Regulation No. 7/2006 regarding revenues of the National Securities Commission ("NSC"); - Emergency Ordinance No. 25/2002 for approval of the NSC Statute; - Decision No. 1/2010 for approval of the NSC budget for 2010 (Annex 1) – the NSC budget for 2011 is not yet published. 4. -5 -6 -7 -8 Below is a summary of transaction taxes applicable to transactions with securities on the local market (e.g. Bucharest stock exchange) that falls under the scope of NSC regulations: (i) For financial instruments (e.g. equities, bonds, t-bills), other than derivative financial instruments: - a commission of maximum 0.08% is applied on the value of the transactions performed on regulated markets / alternative trading systems (e.g. stock exchange); such commission is withheld on a daily basis from the buyer and it is paid by the stock exchange to the NSC;

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	- a monitoring fee of 0.15% is applied on the value of the transaction reported, which are derived outside the regulated markets (e.g. over the counter/"OTC"); such fee is withheld on a daily basis from the buyer and paid by the intermediary (e.g. broker, investment management companies, etc.) to the NSC; (ii) For derivative financial instruments: - a commission of 0.10 RON/contract is applied for transactions derived on regulated markets/alternative trading systems (e.g. stock exchange); such commission is withheld on a monthly basis from both the buyer and the seller and paid by the stock exchange to the NSC.
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time. 1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how?	[General comments to be kept in mind in the rest of the questionnaire: ▪ The financial instruments analysed below (i.e. equity swaps, financial futures, call options on stocks) qualify as derivative financial instruments under the current Romanian legislation. ▪ The legal ownership upon the underlying security (i.e. equity) under a swap contract is not transferred from one counterpart to the transaction to the other. ▪ The below comments cover the fiscal implications for both resident legal entities, as well non-resident legal entities, as counterparts to transactions. ▪ The standard Romanian corporate income tax ("CIT") rate is of 16%. ▪ The standard Romanian WHT ("WHT") rate is of 16%. It should be noted that the Romanian tax legislation is not well developed in

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4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	terms of treatment applied to derivative financial instruments. However, there is a general substance over form provision according to which the Romanian tax authorities can reclassify transactions based on economic substance. To the best of our knowledge, to date we are not aware of any such reclassifications applied to derivative financial instruments. Nonetheless, our answers set out below may change if the tax authorities would claim tax law abuse and seek to reclassify such transactions / instruments. We have not undertaken an analysis of the accounting treatment applied to the derivative financial instruments in question. We have only indicated potential accounting implications where these were relevant for understanding the underlying tax treatment and as such our answers should not be viewed as an accounting advice.] There is currently a deficiency in the Capital Markets domestic legislation in terms of qualification of the swap contracts as derivative financial instruments. However, based on general practice, as well as considering other legislative grounds, we are of the view that the swap transactions should be regarded as derivative financial instruments both from an accounting and tax perspective. Our answers under this equity swaps section are based on the assumption that legal ownership over the equity is not transferred (otherwise a case by case analysis would be needed). 1. and 2. There are no specific rules providing for different tax implications for swap transactions performed between parties in the non-Financial Sector, as compared to the case where at least one party is a company acting in the Financial Sector. The general tax rule for evaluation and execution of derivative financial instruments is presented at questions 3 and 4 below.

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	However, we are aware of a letter issued by the Ministry of Finance according to which losses from evaluation and execution of currency hedging contracts should be considered as non-deductible by regular companies, whenever such operations are not performed with authorised intermediaries (e.g. credit institutions). More precisely, there is a risk that the Romanian tax authorities would challenge the deductibility of expenses incurred by a regular company with revaluation/execution of derivative financial instruments (e.g. swap contracts) which are not performed with authorised intermediaries. Swap transactions between Romanian legal entities 3. and 4. As a general tax rule, the income and expenses generated by the evaluation and execution of derivative financial instruments should be taken into account as taxable income / deductible expenses as long as they are recorded in the books according to the accounting regulations and in the periods in which they relate to. Note that as per the Romanian accounting statutory rules applicable to regular companies, derivative financial instruments should be held at amortised cost (except for consolidated financial statements where mark-to-market is allowed). For Romanian financial institutions, derivative financial instruments are generally marked-to-market. In case of Romanian private pension funds, the law governing their activity provides for an exemption from taxation of the investments of their assets, as well as the investments results. Such investments cover also transactions with derivative financial instruments. Swap transactions involving a non-resident party 3. and 5.

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	While the legal ownership upon the underlying security /equity is not transferred between parties, the flow of payments to a non-resident party under a swap transaction should in principle not be subject to WHT in Romania as such income is not listed as a type of taxable income for non-residents. If the legal ownership upon the equity would be transferred to the non-resident, then the nature of the income obtained by the latter should be analysed on a case by case basis (e.g. capital gain in relation to equity, dividends) for assessing the WHT implications in Romania. We are however not in the position to confirm if legal ownership is transferred or not, as we do not know how the product is structured. 6. There are no specific provisions in the current tax law covering the taxation of income derived by non-residents from the transfer/sale of derivative financial instruments. Such income is not specifically listed as a taxable income in Romania. We must note that until 1st July 2010, the Romanian Fiscal Code specifically provided that the income derived by non-residents from the transfer of derivative financial instruments is not taxable in Romania. Starting with 1st July 2010, this provision has been repealed and no further norms for clarifying the amendment have been published in this respect. Therefore, it must be noted that the intention of the legislator is not very clear in what concerns taxation of derivative financial instruments. However, in the absence of any specific provision in the Romanian tax legislation in respect of the taxation of non-residents when transferring the derivative financial instruments, it appears that any income derived as such by non-residents may be considered non-taxable in Romania. 7. As mentioned in our answer to question 5 above, absent any specific provisions and assuming that there is no transfer of legal ownership of the

	underlying asset under the swap, it appears that such payments would be outside the scope of WHT in Romania. In such cases, double tax treaty protection should also be available (assuming there is a double tax treaty concluded with that country) as such income may fall under the following articles: Other Income or Business Profits (depending on the activity performed by the non-resident entity).
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the	1. and 2. Please refer to answers provided under section B above (questions 1 and 2). 3. Same tax treatment as detailed under section B above (questions 3 and 4). 4. Under the Romanian statutory accounting legislation for regular companies, the general evaluation principle applying to financial instruments (e.g. futures) for purposes of presentation in the annual financial statements is evaluation at cost (i.e. no impact in the profit and loss account), except for consolidated financial statements, where there is a possibility to apply the method of valuation at fair value. For financial institutions however, such instruments are generally marked-to-market. 5. The income derived by a non-resident, counterparty to a financial future appears not to be subject to WHT in Romania, subject to the same reasoning as mentioned under section B (question 6) above, i.e. such income is not listed as a taxable income in Romania. 6. Same tax treatment as detailed under section B (question 6) above. 7. As mentioned under question 5 above, such payments appear not to be subject to WHT Romania. Double tax treaty protection may also be available for the non-resident (assuming there is a double tax treaty concluded with that

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connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	country). Such income may fall under the following articles: Other Income or Business Profits (depending on the activity performed by the non-resident entity).
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	1. and 2. Please refer to answers provided under section B above (questions 1 and 2).
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not	1. The tax treatment of the premium expense (at the level of the holder of the option) is not expressively regulated under the tax legislation. However, in

cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer.

1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how?
2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector?
3. Is the premium paid part of the stock acquisition price?
4. Please describe the tax treatment of the gains or losses realised at the following events:
   - (i) disposal of the options,
   - (lxix) exercise of the options,
   - (lxx) sale of the shares acquired through the option,
   - (lxxi) expiration of option (without exercise or disposal)
5. Is mark-to-market applied?
6. Is there a WHT on premium to non-residents?
7. How are the premium payments classified under the double tax treaties?
8. How are options treated when they are part of a packaged product (e.g. equity linked note)?

our opinion, according to the general deductibility rule provided by the Romanian Fiscal Code, such expense would be tax deductible as it is incurred for the purpose of generating taxable income. Moreover, the premium expense could also be regarded as deductible, based on the general deductibility rule provided under section B above (questions 3 and 4) i.e. deductible expense derived further to the execution of financial derivative instruments.

From an accounting perspective, the premium expense may be booked at the acquisition date of the option. In such case, considering that the tax treatment follows the accounting one, the premium expense would be taken as a deductible item when being registered in accounting (i.e. acquisition date).

2. There are no differences in terms of deductibility of premium expense in the cases mentioned.

3. Please refer to answers from question 1 above.

4.

<u>Holder – resident legal entity:</u>

Any income derived in relation to the scenarios described (i ii, iii and iv) would be taxable, while the expenses incurred would be tax deductible, from a profit tax perspective.

<u>Holder – non-resident entity:</u>

(i) Same tax treatment as provided under section B above (question 6).

(ii) Expenses recorded at the level of the non-resident holder– no tax implications in Romania.

(iii) The capital gain derived by a non-resident when selling the shares in Romanian

	companies which were acquired through the option is taxable in Romania, but generally tax treaty protection may be available. When such income is derived on foreign capital markets, the income obtained by the non-resident is non-taxable in Romania. There is also an exemption under the law according to which capital gains obtained by non-resident collective investment vehicles without legal personality from the transfer of shares held into Romanian entities are not subject to taxation in Romania. (iv) No tax implications in Romania. 5. Please refer to answers provided under section C above (question 4). 6. There are no specific provisions in the Romanian legislation covering the taxation (WHT) of the premium paid to the writer, a non-resident legal entity. Such income is not listed as a taxable income in Romania. In such case, we are of the view that the premium paid to the writer should not be subject to WHT in Romania. 7. Most of Romania's double tax treaties follow the OECD Model Tax Convention. Thus the premium income may fall under any of the following articles: Other Income or Business Profits (depending on the activity performed by the non-resident entity). 8. There are no specific tax provisions in the Romanian legislation for the fiscal treatment applicable in the cases described. In such case, we are of the view that each element / transaction of the packaged product should be analysed separately from a tax perspective.
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not	1.

ROMANIA	
cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	<u>Writer –resident entity:</u> The income derived from the premium is a regular taxable item for profit tax purposes, when being registered into accounting. <u>Writer –non-resident entity:</u> Please refer to answer provided under section E above (question 6). 2. There are no differences in terms of taxation of premium income in the cases mentioned. 3. Please refer to answers from question 1 above. 4. The income derived from the premium is taxed as described at 1. The losses realised on the exercise should be deductible based on the general rule that they are incurred with a view of obtaining taxable revenues (in this case, the premium). 5. Please refer to answers provided under section C above (question 4).
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No.
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	It should be noted that the practice of the Romanian tax authorities in terms of taxation of derivative financial instruments is not so advanced at this stage. As seen above, there are items of taxation not yet specifically addressed in the Romanian tax legislation in terms of derivative financial instruments. However, when assessing the tax treatment of derivative financial instruments it is likely for the Romanian tax authorities to regard with priority the

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	accounting treatment of such items, as well as the legal ownership of the underlying asset. Given the lack of specific guidance in the area of tax law, the differences in tax treatment may depend on the legal form of the contracts. We therefore recommend having such contracts reviewed on a case-by-case basis from a Romanian perspective.

SLOVAKIA	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	[With effect from 1 January 2011 Slovakia introduced emission-tax in its tax system. Subject to emission-tax are emission quotas (EUAs) that are registered in the years 2011-2012 and that remain unused or are transferred to other party. The tax base is the sum of transferred and unused emission quotas multiplied by price per quota published by the Ministry of Finance. The tax rate is 80% of the tax base. The taxpayer of the emission-tax is the EUA-entrepreneur i.e. the one for whom EUAs quotas were registered based on the respective provisions of the Act on Trading with Emission Quotas.]
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time.	1. The Slovak tax law does not address the taxation of SWAPs in particular. Slovak tax rules relate to the derivatives as a group of financial instruments, including SWAPs. In general, the overall loss from transactions with derivatives incurred in the taxation period is tax non-deductible. Two exemption exist where the cost incurred are fully tax deductible regardless of the income from derivatives:

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1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	- If the tax payer is a company in Financial Sector (the tax law states the list of entities in scope); - In case where hedging instruments are subject to the transaction. Cumulative gain from transactions with derivates incurred in the taxation period is taxable. The tax treatment of the cost incurred in transactions with derivatives follows their accounting treatment. The Slovak accounting standards follow the IFRS in the section relating to financial instruments. 2. The cumulative loss from transactions with derivatives over the whole tax period incurred by a company in non Financial Sector is tax non deductible in Slovakia. The cumulative profit would be fully taxable. 3. & 4. From tax perspective, the cumulative result of the transactions with derivatives for the whole tax period is taken into account. If such result is the cumulative loss this would be non-tax deductible unless the tax payer is a financial institution. The unrealised gain/loss from the revaluation of derivates traded on non-public market as at the last day of the accounting period should be included in the balance sheet and hence, are not taxable/deductible. In case of derivates classified

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	as trading derivate traded on domestic or foreign stock market or on other public market, the revaluation gain/loss should be included in the profit and loss account and subsequently taxed. The cash payments will be settled against the balance sheet accounts. The cumulative gain from the derivates for the whole tax period is subject to the standard CIT rate of 19 % (if not exempt from CIT). The CIT is the same for companies in Financial Sector and for other companies. For the tax deductibility of loss from transaction with derivates please see our comments in point 1. The Slovak tax legislation does not recognise a capital gain tax. Capital gains are taxed with the general CIT rate of 19 %. 5. Revenues received by Slovak tax non-resident (who has no permanent establishment in Slovakia) from an operation with derivatives paid by a Slovak tax resident or by a PE of a foreign tax resident would be subject to 19% Slovak WHT. This tax rate could be reduced by the respective double tax treaty. 6. A sale of a Slovak swap by Slovak tax non-resident (who has no PE in Slovakia) would be treated as Slovak-source income only if acquirer of the swap is a Slovak tax resident or a foreign tax resident with a PE in Slovakia to which the acquisition could be attributed. Such Slovak-source income would be subject to 19% tax securement on the amount paid, reduced by the respective double tax treaty.

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	7. Income from swap would be classified as Other income, and income from the sale of the swap as Capital gain, following the classification of articles in OECD double tax treaties, and thus taxable in the residence country of the seller. This classification does not depend on the nature of the underlying asset.
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax?	The same treatment as described under section B applies for Financial Futures respectively, as there are regarded as derivatives. 4. The mark-to-market revaluation or "qualified valuation" should be applied as at the balance sheet date. The mark-to-market revaluation of Financial Futures should be done using market price from the public market. If this is not possible then the "qualified valuation" should be used. The qualified valuation in case of derivates uses the valuation model with verifiable data, e.g. exchange rates published by the National Bank of Slovakia or by the European Central Bank, publicly available ratings published by the rating agencies. In case, it is not possible to make the qualified valuation or the cost for it are inadequate high compared to its significance, then the revaluation would not be included in the accounting books, unless it is obvious that the derivate has been devaluated.

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7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	The same treatment as described under section B applies for Call options respectively, as there are regarded as derivatives.
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax	1. The premium paid for call option is not tax deductible for the holder. This is because it should be included in the acquisition price of the respective stock. 2. Yes, the premium would be tax deductible if the holder is a financial institution defined in the Slovak income tax act.

treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer.

1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how?

2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector?

3. Is the premium paid part of the stock acquisition price?

4. Please describe the tax treatment of the gains or losses realised at the following events:

   (i) disposal of the options,

   (lxxii) exercise of the options,

   (lxxiii) sale of the shares acquired through the option,

   (lxxiv) expiration of option (without exercise or disposal)

5. Is mark-to-market applied?

6. Is there a WHT on premium to non-residents?

7. How are the premium payments classified under the double tax treaties?

8. How are options treated when they are part of a packaged product (e.g. equity linked note)?

Our description relates to the difference between FS and non-FS companies in the tax treatment of costs related to derivates in general. Regarding the premium paid for call option on stock, the treatment is the same for FS and non-FS companies, i.e. should be included in the acquisition price of the stock.

3. The premium on call option on stock should be included in the stock acquisition price when exercised.

4. (i) In general, a loss from disposal of the option is tax non-deductible. The loss would be treated as tax deductible only if the tax payer is a company in Financial Sector (the tax law states the list of entities in scope). The profit from disposal of the option is taxable for FS and non-FS companies.

   (ii) Not applicable, as the premium would be included in the stock acquisition price. The same treatment applies for FS and non-FS companies.

   (iii) In general, loss from sale of shares is tax non-deductible. However, under certain conditions loss generated on sale of shares could be treated as tax deductible. The profit from sale of shares is taxable for FS and non-FS companies.

   (iv) The premium would be tax deductible if the holder is a financial institution defined in the Slovak income tax act. The deduction occurs at expiration.

5. The mark-to-market revaluation or qualified valuation should be applied as at the balance sheet date.

6. Premiums received by Slovak tax non-resident (who has no PE in Slovakia) paid by a Slovak tax resident or by a PE of a foreign tax resident would be subject to 19% Slovak WHT. This tax rate could be reduced by the respective double tax treaty.

7. Income from premium would be classified as Other income following the classification of articles in OECD double tax treaties.

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	8. Options being part of packaged product are not common in Slovakia. In general, the tax treatment of options under equity linked note should not differ from the tax treatment valid for call option.
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	1. The premium revenue should be included in the general tax base of the writer in the tax period when exercised. Before exercise, the premium has no P&L impact. 2. No. 3. No. Upon delivery, the writer accounts for a capital gain/loss and the premium is released into P&L as an income. 4. In general, loss from sale of securities is tax non-deductible. However, under certain conditions loss generated on sale of securities could be treated as tax deductible. 5. The mark-to-market revaluation or qualified valuation should be applied as at the balance sheet date.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	The same treatment for a subsidiary or a branch of a non-domestic institution as for domestic institution would apply under the assumption that (i) the subsidiary of a non-domestic institution is Slovak tax resident and (ii) the branch of a non-domestic institution is has a PE in Slovakia

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	to which the transaction with derivates under review could be attributed.
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	We are not aware of situation where the actual treatment of derivates would differ from the legal provisions relating to them. However, based on our practical experience, for each transaction with derivates the contractual documentation should be examined in detail to apply to correct tax treatment.

SLOVENIA	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	There are no securities transactions taxes in Slovenia.
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time.	1. The general tax regime applies as Slovenian tax law does not specifically address the tax treatment of equity swaps. 2. There should not be a difference in the tax treatment, except to the extent that there is a different accounting treatment. 3. The tax law does not address the tax treatment of the payments received. This should be based on the accounting treatment. Most financial services companies and many large companies in Slovenia prepare their accounts under IFRS. Thus

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1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	the income is likely to be taxed at the standard CIT rate of 20% when it is accrued for accounting purposes, unless it is classed as dividends, in which case it will be taxed in the period of receipt (the payment may be classed as a dividend if it is accounted for as a profit share derived from securities or profit participating loans). Dividend income is effectively 95% exempt from Slovenian corporate tax if certain conditions are met (in particular, for the exemption to apply, dividends should not be received from a company resident in a tax haven (a non-EU country with a general or average nominal corporate tax rate of 12.5% or less, which is included on a list published by the Ministry of Finance and the tax authority)). 4. Payments that are posted to the P&L account as expenses should be tax deductible unless they are items specifically treated differently in the tax law (e.g. dividends), or they are not incurred by the company with a view to making a taxable profit. 5. This would depend on the exact nature of the payment. Under Slovenian law, WHT of 15% applies to dividends, income similar to dividends, royalties, interest and lease payments for Slovenian real estate. 6. WHT should not apply on sale of a swap. 7. Payments under the swap would probably be classified under other income or possibly dividends, and payments related to the sale of the swap would probably fall within capital gains.
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy	1. See our answers to question 1 under section B above. 2. See our answers to question 2 under section B above. 3. A gain on a future should be taxed within the corporate tax base, in the period of sale (i.e. when the sale becomes legally effective and is recognised for accounting

or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	purposes) at the standard CIT rate of 20%. A loss should be tax deductible. 4. The tax law does not address this, but movements posted through the P&L would generally be taxable / tax deductible, whereas movements posted through equity would not. 5. There should be no WHT on payments on the expiration of futures. 6. There should be no WHT on payments to non-residents on the sale of futures. 7. Payments on expiration of the futures would probably be classified under other income. and payments on the sale of the swap under capital gains.
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the	1. The general tax regime should apply as there are no specific tax rules applicable to call options. 2. There should not be a difference in the tax treatment, unless there is a different accounting treatment.

obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options,	1. We would expect the premium paid to be viewed as part of the cost of the option and, after exercise, the stock, and thus as tax deductible in calculating the gain on eventual sale of the stock. 2. There should not be a difference in the tax treatment, unless there is a different accounting treatment. 3. The premium should be treated as part of the acquisition price. 4. (i) A gain or loss on disposal of the options or sale of the shares should be taxable at the standard CIT rate of 20% / tax deductible within the corporate tax base. (ii) Exercise of the options is unlikely to give rise to a taxable event. (iv) On expiration of the options, the premium paid should be tax deductible, although for a non-financial services company, the tax authorities may take the view that the cost was not incurred to generate taxable income of the company, in which case they could disallow the deduction. (iii) There is an effective 47,5% exemption for capital gains on sale of shares where the seller has at least 1 employee, and the shareholding was at least 8%

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(lxxv) exercise of the options, (lxxvi) sale of the shares acquired through the option, (lxxvii) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	directly held for more than 6 months, 5. The tax law does not address this, but movements posted through the P&L would generally be taxable / tax deductible, whereas movements posted through equity would not. 6. There should not be a WHT on the premium. 7. Premium payments may be classified under capital gains or under other income. 8. The tax law does not address this.
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed?	1. For writers, the premium should be taxable as income in line with the accounting treatment at the standard CIT rate of 20%. It should be taxable when recognised as income in the P&L. 2. There should not be a difference in the tax treatment, unless there is a different accounting treatment. 3. The tax treatment should follow the accounting treatment. Based on the example provided, the premium of 10 is likely to be taxable as income, and the gain of 20 as a gain, although this would depend on the accounting treatment. Gains on sale of shares would not be exempt unless the seller had held at least 8% of the shares for at least six months, so in this case it is likely that the 30 should be taxable at the standard CIT rate of 20%. 4. Gains and losses on exercise should be taxable / tax deductible in the hands of the writers. 5. The tax law does not address this, but movements posted through the P&L would generally be taxable / tax deductible, whereas movements posted through equity

SLOVENIA	
5. Is mark-to-market applied?	would not.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	The tax treatment should not differ if the institution is domestic, or is a subsidiary or a branch of a non-domestic institution. However, please note that investment funds and fund management companies pay corporate tax of 0% if they distribute at least 90% of the operating profit generated in the previous tax year by 30 November of the tax year in question. Pension funds and insurance undertakings authorised to operate under the Act regulating pension and disability insurance also pay tax at 0% on activities related to the pension scheme. Also, impairments of loans are tax deductible for banks when booked, but for all other companies, loan impairments are only deductible within certain limits and if certain conditions are met.
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	The tax treatment of the types of financial instruments described above is not specifically addressed in the Slovene tax law. We have therefore based our answers on our understanding of the financial instruments and how the general provisions of the tax law are likely to apply. However, we do not have any information on how such items are taxed in practice since so far they are not commonly used in Slovenia.

SPAIN	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	Initially there are no securities transactions taxes in Spain, although some regions established taxes on deposits.
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time.	1. General Tax regime is applicable 2. Initially there should not be differences if one or both of the counterparties are companies in the non Financial Sector. Nevertheless, as taxable base is based on the accounting result (with some exceptions) please note that there are different accounting rules for Banks and other entities subject to the supervision of the Central Bank; Insurance companies; mutual funds; entities subject to the general accounting rule; etc. and consequently differences could exist depending on the

SPAIN	
1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	industry we deal with. 3. & 4. Taxation on flows will depend on several factors, as for instance tax residence of the parties involved, qualification of the payments, etc. In general terms, for Spanish CIT purposes, it does not exist a specific tax treatment for derivatives and, therefore, the general rules for determining the taxable base derived from them should be applied. These general rules imply that the taxable base should be calculated by applying the accounting principles for determining profits and adjusted only where a Corporate Tax Law mandates, and this taxable base will be subject to a 30% tax rate. The Spanish accounting standard on the recognition and measurement of financial instruments (which it is based in the Number 39th International Accounting Standard) establishes a specific accounting treatment for derivatives transactions that are considered as hedges, what has tax implications especially for the rhythms of accounting recognition of revenues and expenses, depending on the accounting treatment applicable to the hedged assets or operations. According to such accounting standard, there are two categories of hedges: i. A fair value hedge: The gain or loss from the change in fair value of the hedging instrument is recognised immediately in the profit and loss account. There is uncertain on the specific tax treatment to be applied to the deductibility of the tax losses and it would be certain risk that the tax authorities only accept the deduction of a loss at the time this loss is realised. ii. A cash flow hedge: The portion of the gain or loss on the hedging instrument

	that is determined to be an effective hedge is recognised in a first stage in equity and it should be recognised in the profit and loss account in the period/s in which the financial asset or liability is actually accrued. This treatment would in principle have tax effects. 5. & 6. & 7. WHT will depend on the qualification of the gain/income and the country of residence of the parties involved on the financial transaction. As there are no specific rules for derivatives products in terms of qualification of income, this issue should be analysed on a case by case basis. In general terms, it could be assumed that the gain or income to be obtained by a non-resident on swaps would be qualified as (i) capital gain, (ii) business profits or, alternatively, (iii) "other income" (the qualification will not depend on the underlying). In any case the gain/income obtained in Spain would be subject to taxation (at the 24% general rate or at capital gain rate -19%-), except Treaty or domestic exemptions could be invoked. WHT would depend on the final qualification and the tax residence of the counterparty.
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial	1. General Tax regime is applicable 2. See B.2 above.

SPAIN	
future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	3. & 4. See B.3 above. 5. & 6. & 7. See B.5 above
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date	1. General Tax regime is applicable 2. See B.2 above.

(the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (lxxviii) exercise of the options,	1. According to accounting rules 2. See B.2 above. 3. According to accounting rules 4. (i) Tax effects according to accounting rules (ii) Tax effects according to accounting rules. (iii) Capital gain obtained on the disposal of the shares will be included on the taxable base and subject to taxation at general tax rate, according to the tax value of the assets (tax acquisition price +/- tax deductible impairments). (iv) According to accounting rules 5. According to accounting rules. See B.3 above. 6. & 7. See B.6 above. 8. It will depend on the specific product. We would need additional information on

SPAIN	
(lxxix) sale of the shares acquired through the option, (lxxx) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	the linked note to establish potential tax implications.
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	1. Yes, according to accounting rules. 2. See B.2 above. 3. According to accounting rules 4. Depending on the taxation applied on the accounting treatment already applied (see B.3 and E.4.iii above) 5. According to accounting rules.

SPAIN	
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	See B.2 above.
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	It will depend on the real economic/tax purpose of the transaction.

SWEDEN	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	1. No, Sweden does not impose transaction taxes on financial instruments or financial contracts. 2. N/A 3. N/A 4. N/A 5. N/A 6. N/A 7. N/A 8. N/A
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time. 1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions	1. Where both parties are companies in the Financial Sector the general tax regime, based on accounting treatment, will apply 2. For a party which is not a financial company the capital gains rules apply, which typically deviate from the accounting treatment in terms of timing (recognition of gains or losses). For a financial company answer #1 will apply irrespective of the status of the counterparty. 3. Financial company - taxable when accrued, non-financial company - taxable when received. They are taxable at the standard CIT rate which is 26,3% and

SWEDEN	
(where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	which is the same between FS and non-FS companies. No differentiation is made between CIT and capital gain tax (CGT), as CGT is integrated in the CIT system. 4. Financial company - deductible when accrued, non-financial company - deductible when paid, but only from capital gains on shares and equity-based securities. 5. No 6. No 7. N/A
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how?	1. Where both parties are companies in the Financial Sector the general tax regime, based on accounting treatment, will apply 2. For a party which is not a financial company the capital gains rules apply, which typically deviate from the accounting treatment in terms of timing (recognition of gains or losses). For a financial company answer #1 will apply irrespective of the status of the counterparty 3. Gains: Financial company - taxable when accrued, non-financial company - taxable when received Losses: Financial company - deductible when accrued, non-financial company - deductible when paid, but in the case of futures over shares or equity based

SWEDEN	
4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	securities only from capital gains on shares and equity-based securities. 4. For financial companies, yes, but with an option to use cost instead of fair value, provided that cost is used for all securities in the company. 5. No 6. No 7. N/A
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	1. Where both parties are companies in the Financial Sector the general tax regime, based on accounting treatment, will apply 2. For a party which is not a financial company the capital gains rules apply, which typically deviate from the accounting treatment in terms of timing (recognition of gains or losses). For a financial company answer #1 will apply irrespective of the status of the counterparty.
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any	1. If the option is used to acquire stock the premium is carried over as cost for the

SWEDEN	
other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (lxxxi) exercise of the options, (lxxxii) sale of the shares acquired through the option, (lxxxiii) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	acquired stock. If the option expires the premium is deductible as a loss. 2. The differences apply to losses at expiration and are as follows: The financial company may deduct an anticipated (unrealised) loss and may deduct it from any kind of income. The non-financial company may only deduct realised losses, and only from capital gains on stocks and other equity based securities. 3. Yes 4. (i) taxable or deductible under the principles described in 2 above (ii)not a taxable event, premium is carried over to the acquired stock as part of the cost (iii)taxable, premium is part of the cost for the shares (iv)a loss deductible under the principles described in 2 above 5. Only for financial companies, see answer C.4 above. 6. No 7. This is not totally clear, but it should probably be “other income” 8. The product is normally treated as a package for tax purposes, and will be seen as an equity-based security.

SWEDEN	
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	1. Financial companies: The premium is taxable when it is recognised in the P/L account. It should be recognised when the writer is relieved from the liabilities under the contract (when the option is settled in cash, at delivery of the underlying securities or at expiration) or, if applicable, at the recognition of an unrealised liability under the contract on an accruals basis. 2. Non-financial companies: The premium is taxable either when the option expires (for 'marketable' options with a term not exceeding twelve months) or immediately (other options). 3. Yes, see previous response. 4. Yes, if delivery is made under an option with a term not exceeding twelve months. 5. Financial companies: yes, always. Non-financial companies: capital gains are taxable but capital losses may only be deducted from capital gains on stocks and other equity based securities 6. Yes, but only for financial companies.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	Actual practices should conform to the legal provisions. Any deviations would be incidental and unintended.

THE UNITED KINGDOM

A. Securities transaction taxes

Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? Who is liable for levying the tax? Who is liable to support the tax?	1. There are securities taxes which apply to the transfers of financial instruments and these transaction taxes - Stamp Duty and Stamp Duty Reserve Tax - broadly apply to the transfer of equities and certain equity derivatives and also some loans which have equity like features (e.g. convertibles). 2. The securities in scope are broadly equity and equity derivatives with loan capital generally being exempt except where it has equity features such as convertibles as mentioned above. All cash settled derivatives are outside the scope of the tax. 3. There are very many charging provisions under these rules, but the most important is FA 1986, Section 87 which imposes a 0.5% charge on transfers of chargeable securities within scope of SDRT. There are also higher charges where securities are put into a depository receipt or clearance service facility. 4. The tax base in relation to the usual 0.5% charge on transfer is the existence of an "agreement to transfer" of a security within the scope of the rules. 5. The tax rate is 0.5% on chargeable transfers with a higher rate of 1.5% where securities are put into a clearance service or depository receipt scheme. There is no maximum amount of tax due. 6. The tax event is crystallised by entering into an agreement to transfer or entering into an arrangement to put securities into a depository receipt or clearance service facility. 7. In broad terms, the taxes have no territorial scope and are global. The UK Stamp Duty Reserve Tax applies to shares issued by UK incorporated companies. Certain recognised intermediaries (Financial Sector traders) are given an exemption for transactions in securities to promote liquidity where a transaction takes place on a recognised market or takes place in relation to a share which is normally dealt with on a recognised market.

THE UNITED KINGDOM	
	8. It is the transferee who is normally liable for the duty, although a professional intermediary may have an obligation to act as an "accountable person", on behalf of such a transferee meaning that such a professional intermediary will have to account for the tax due and notify the tax authorities of the charge on behalf of the non-professional intermediary who is ultimately liable for tax.
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time. 1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties	1. We have a specialist derivatives contracts code which provides a number of extremely detailed rules that apply to transactions involving derivatives. These rules are capable of applying irrespective of whether the parties are in the Financial Sector or not, but in some cases the underlying subject matter may take the swap transaction outside of these rules and back into our ordinary capital gains rules. 2. As noted above there is not necessarily a difference with the application of a derivative contracts rules if one of the parties is a non-Financial Sector party but the way the rules will actually work in technical terms may be slightly different. If a non financial trader is involved and the underlying subject matter relates to equities, then it is possible that the derivative contract rules will be made inapplicable, in which case our general capital gains rules would apply and in this case it would be likely that the equity swap would be hedging a capital asset of the taxpayer concerned. 3. Generally the flows of payments under such swaps are taxed. This is normally on an accounts basis but if a capital gains basis applies then the rules will operate effectively on a cash/disposal basis. 4. Flows of payments made are generally tax deductible either on an accounts basis where the derivatives contract rules apply or alternatively under our capital gains rules in which case the deduction is given by way of taking account of any costs as part of the base cost in calculating any gain arising on disposal.

(other, capital gain,…)? Does the classification depend on the nature of the underlying?	5. There is no WHT on payments to non residents under the swap. 6. There is no WHT on payments to non residents on the sale of the swap. 7. We would generally classify swap payments as being "other income" for double tax treaty purposes and the classification would not normally depend on the nature of the underlying reference asset.
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting	(the following answers mirror those given for section B above as the tax treatment will generally be the same) 1. We have a specialist derivatives contracts code which provides a number of extremely detailed rules that apply to transactions involving derivatives. These rules are capable of applying irrespective of whether the parties are in the Financial Sector or not, but in some cases the underlying subject matter may take the swap transaction outside of these rules and back into our ordinary capital gains rules. 2. As noted above there is not necessarily a difference with the application of a derivative contracts rules if one of the parties is a non-Financial Sector party but the way the rules will actually work in technical terms may be slightly different. If a non financial trader is involved and the underlying subject matter relates to equities, then it is possible that the derivative contract rules will be made inapplicable, in which case our general capital gains rules would apply and in this case it would be likely that the financial futures would be hedging a capital asset of the taxpayer concerned. 3. Generally the flows of payments under such financial futures are taxed. This is normally on an accounts basis but if a capital gains basis applies then the rules will operate effectively on a cash/disposal basis. 4. Flows of payments made are generally tax deductible either on an accounts basis

factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	where the derivatives contract rules apply or alternatively under our capital gains rules in which case the deduction is given by way of taking account of any costs as part of the base cost in calculating any gain arising on disposal. 5. There is no WHT on payments to non residents under the financial futures. 6. There is no WHT on payments to non residents on the sale of the financial futures. 7. We would generally classify financial futures payments as being "other income" for double tax treaty purposes and the classification would not normally depend on the nature of the underlying reference asset.
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial	1. As a general matter we would expect the derivative contracts rules to apply in most cases. But, as noted above, there may be circumstances where the nature of the underlying reference asset prevents the derivative contracts rules applying in the case of a non financial trader, in which case the capital gains rules would apply. In addition to the direct tax rules, Stamp Duty and SDRT would typically also apply to dealings in call options. Any stamp or SDRT charge would be at the 0.5% rate. 2. It is possible that there may be a difference in the treatment of the transaction if one or both of the counterparties are companies outside the Financial Sector entering into the trade other than as a trading transaction (e.g. to hedge a capital gains asset). In this case, it would normally be expected that the capital gains rules would apply.

Sector?	
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (lxxxiv) exercise of the options, (lxxxv) sale of the shares acquired through the option, (lxxxvi) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents?	1. Generally the premium is deductible and this would often be under the derivative contracts rules. In the case of a non financial trader who was entering into the acquisition of capital assets, then a deduction might alternatively be obtained on disposal of the subsequent asset obtained on the basis that the cost of the premium paid is rolled into the cost of the asset ultimately acquired. 2. As indicated above, there may be situations in which there is a difference between a Financial Sector holder, and a non-Financial Sector holder. For a non-Financial Sector holder, a capital gain treatment is more likely. 3. The premium paid by a Financial Sector trader, (or by a non-Financial Sector taxpayer who is entering into a trading transaction), will normally be taxed following the accounting treatment. For non Financial Sector taxpayers who are not entering into the transaction in the course of carrying on a trade or business, however, the premium paid will typically be treated as part of the stock acquisition price, and therefore recognised on a subsequent disposal of the asset acquired. 4. (i) Where there is a disposal of the options, this will be taxed following the accounts under the derivative contracts rules, or it might also be a capital gains event, in the event that the acquisition and disposal of the options falls outside the derivative contract rules. (ii) In the event of the exercise of the options, a financial trader would be taxed following the accounting treatment, whereas a non-financial trader not entering into the transaction as part of its trade or a trade or business, would typically see an exercise of the options giving rise to the asset acquired, in which case the cost of the exercise of the options would be treated as part of the cost of the asset

THE UNITED KINGDOM	
7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	acquired. (iii) Where the shares acquired through the options are subsequently sold, a financial trader will be taxed following the accounts under the derivatives contract rules, and a non-financial trader acting other than in the course of carrying on a trade or a business will be treated as making a disposal, but with base cost including the cost of the option and the cost of the shares (e.g. the cost of the shares acquired on payment of the strike price under the option). (iv) In the event that the option expires without exercise or disposal, then this would be taxed following the accounts in the case of a financial trader, but in the case of a non-financial trader acting other than in the course of its trade or business, it is possible that the capital gains rules would apply, in which case a disposal basis of taxation would apply. In very rare cases, the cost of the option may be treated as reduced by a "wasting" formula, so that the full amount of the payment for the option is not recognised for tax purposes. 5. Mark to market may be applied in some situations. 6. There is no WHT on premium payments paid to non-residents. 7. Premium payments, if in the nature of income, would be regarded as "other income" for double tax treaty purposes, but in other cases they would not be expressly characterised by double tax treaties. 8. Where options are part of a packaged product such as an equity linked note, then they would be taxed following the accounts under the derivative contract / loan relationship rules. In the case of a financial trader, and for a non-financial trader they would be typically be taxed as a loan relationship (i.e. loan), until the point of conversion, in which case there would be a roll over of the cost of the loan into the asset acquired.

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F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	1. Writers are extremely likely to be financial traders, and therefore any premium received will be taxable following the accounts under the derivative contract rules. In the rare instances that the writer is not a financial trader, and a capital gains basis applies, then the premium received could be regarded as capital proceeds for the disposal of an asset (the writing of the option) and taxed as such. 2. There may be a difference if the writer is a bank or insurance company, or a company active in the non-Financial Sector, as discussed above. 3. The premium received will be taxed following the accounting treatment for financial traders, and for non-financial traders, it is possible that the premium received could be seen as part of a stock delivery price. 4. Gains and losses upon exercise are always taxed for financial traders following the accounts basis of computation. For non-financial traders, there may be some situations in which the gain and loss upon exercise is simply rolled into the shares acquired, as discussed above. 5. Mark to market may be applied in certain circumstances.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	There is generally no difference to all of the above answers above, depending upon whether the institution concerned is a domestic one, or a subsidiary or a branch of a non-domestic financial institution.
H. Practices	
For all the above conditions is there any information as whether actual practices may	There is not significant variation in the above answers by reference to the practice of the UK tax authorities. We do understand, however, that

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differ from legal provisions?	in reasonably obscure areas under the capital gains rules, a "disposal" treatment otherwise arising might be viewed in a pragmatic situation. For example, if a gain otherwise arose on the grant of an option, then there may be some degree of pragmatism in waiting to see if the underlying asset was acquired, in which case the cost of the option might be then rolled into the base cost of the asset acquired.

CHINA	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	1. There is no tax item designed for securities transaction of financial instruments for a special purpose in China. However, generally speaking, interest income as well as capital gain derived from trading of financial instruments should be subject to 5% Business Tax ("BT") in China. BT is a kind of gross receipt tax similar to Goods and Services Tax ("GST") that is imposed on financial service income. 2. The prevailing BT regime in China has covered 4 categories of financial instruments, i.e. stocks, bonds, forex and others. For the trading of the mentioned 4 categories of financial instruments, financial institutions are allowed to net off gains and losses arising from trading of one specific category financial instrument within a calendar year for BT calculation purpose. 3. Article 3(8) and Article 3(9) of the PRC tax Circular Caishui (2003) No.16. 4. For capital gain, the losses and gains from trading of the said 4 different categories of financial instruments cannot offset against one another. However, gain and loss derived from transactions of financial instrument in the same category can be offset against on another within the same calendar yea. For interest income, it is generally taxed on gross basis. 5. The applicable BT rate is 5% for the financial service income. 6. The obligation for the payment of BT arises on the day when the taxpayer provides taxable services and receives the business income or obtains the evidence for demanding the business income, unless otherwise specified by the in-charge finance and tax departments under the State Council. 7. According to Article 4(1) of the Detailed Implementation Rules ("DIR") of BT regulation, BT should be assessed where the service recipient is located in China, or

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	where the service provider is located in China. 8. Generally speaking, it is the local tax authority governing taxpayers in different locations should collect BT. An entity or individual engaged in provision of services within the territory of China should be a taxpayer of BT.
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A rswap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time. 1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax?	China tax authority has not yet issued any tax guideline on taxation of swaps relating to Chinese equities regardless of whether they are traded in China or outside China. Thus the PRC corporate income tax treatment of equity swaps relating to China equities are unclear at current stage. In practice, international brokers can offer total return swaps or price return swaps relating to Chinese equities in offshore market. Relevant return swap includes, but not limited to, manufactured dividend and notional capital gain. Since all these transactions will be executed outside of China, the gain derived from total return swaps and price return swaps should technically be regarded as offshore income and not subject to China tax. We are not aware of precedent cases that Chinese tax authorities have attached any manufactured dividend or notional capital gain derived from swaps relating to Chinese equities performed wholly offshore by non-resident enterprises. Please kindly note that China is in the process of developing taxation on offshore transactions via the beneficiary ownership test. We cannot rule out the possibility that Chinese tax authority will attack these kinds of swap transactions performed wholly offshore relating to Chinese equities in the future. Some of the tax treaties with China have granted the taxation right on capital gain to foreign investor in overseas jurisdiction upon meeting certain conditions. If this is the case, if the foreign investor is a resident in a jurisdiction which has double tax treaty with China, it is theoretically

CHINA	
7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	possible for withholding income tax exemption. Nevertheless, it is important to note that, in practice, there has been no precedent successful case for any non-resident enterprise to secure treaty benefit and finally exempt 10% withholding income tax on these gains. Based on the example: ▪ Treatment of the unrealised gain of 200 for B at year end: If B is a China Tax Resident Enterprise ("TRE"), generally Corporate Income Tax ("CIT") is reported following accounting standard (i.e. on accrual basis), but the mark-to-market gain/loss could be excluded for CIT purposes whilst only realized gain/loss should be taxable/deductible for CIT purposes for certain financial products. In this regard, the unrealized gain of 200 for B at year end might be excluded from the taxable income for CIT purpose at year end. If B is a non-China TRE, since there is no actual payment at this stage, there should be no China WHT obligation for A on unrealized gain. ▪ Treatment of the payments made end of January (300 from A to B): If B is a China TRE, B is obliged to report 25% CIT on the payments received, and there should be no China tax withholding obligation for A. If B is a non-TRE in China, A should act as the China tax withholding agent when A makes the payment end of January. Generally there should be 10% withholding income tax on such payment. There might be an argument that 300 is the business profit derived by B and could be exempted for PRC tax purposes according to the relevant double-tax agreements. However, this argument is untested due to no precedent cases identified at current stage. In this situation, taxation (at the standard CIT rate of 25%) generally occurs when A makes the payment to B. The CIT rates are the same between FS and non-FS companies and there is no differentiation between CIT and capital gain tax.

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C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	It is not permissible for overseas institutions to trade directly in index future in China. In addition, the index future is not open to Qualified Foreign Institutional Investor license holder either at current stage. Therefore, the existing Chinese tax law and regulation do not have any specific guidelines on this subject, although it is envisaged that in the near future QFII may be permitted to invest in index future in China. We are not aware of precedent cases that Chinese tax authorities have attacked any non-resident enterprise on the gains derived from trading of index future performed wholly offshore. China is in the process of developing taxation on offshore transactions via beneficiary ownership test. Accordingly, we cannot rule out the possibility that Chinese tax authority will attack these kinds of future transactions performed wholly offshore in the future. Some of the tax treaties with China have granted the taxation right on capital gain to foreign investor l in overseas jurisdiction upon meeting certain conditions. If this is the case, if the foreign investor is a resident in a jurisdiction which has double tax treaty with China, it is theoretically possible for withholding income tax exemption. Nevertheless, it is important to note that, in practice, there has been no precedent successful case for any non-resident enterprise to secure treaty benefit and finally exempt 10% withholding income tax on these gains.
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on	At this stage, call options on stocks traded in Chinese Stock Market is not

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any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	permissible for non-resident enterprise. For the call option relating to China equities traded outside mainland China, the gain derived from call option should technically be regarded as offshore income and not subject to China. We are not aware of precedent cases that Chinese tax authorities have attacked any non-resident enterprise on the gains derived from call options on China equities performed wholly offshore. China is in the process of developing taxation on offshore transactions via beneficiary ownership test. Accordingly, we cannot rule out the possibility that Chinese tax authority will attack these kinds of future transactions performed wholly offshore in the future.
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon	Our comments are the same as those for D.

expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (lxxxvii) exercise of the options, (lxxxviii) sale of the shares acquired through the option, (lxxxix) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the	Our comments are the same as those for D.

CHINA	
asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	For tax resident enterprises in China (e.g. domestic institution, subsidiary or branch of non-domestic institution), any gains arising from trading of financial instruments should be subject to 25% corporate income tax in China. Therefore there is no differentiation.
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	The PRC taxation system governing financial institution is in a state of flux and there might be inconsistencies in the application and enforcement of the PRC tax rules by different cities and provinces.

SINGAPORE	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	Very broadly, stamp duty is payable on instruments that give effect to transactions in stocks and shares. Generally, there is no stamp duty payable for derivatives instruments. Stocks are defined in the legislation to include funded debt, which is in turn defined in case law to mean debt with certain features. If a debt instrument is caught by the definition of stock, stamp duty can apply. For share transfers, the duty rate is 0.2% on the amount or value of consideration (and is payable by the buyer). That being said, share transactions carried out on the Singapore Exchange via the scrip-less settlement system do not attract duty, as there is no instrument of transfer.
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain	There is no specific taxation regime for transactions in financial instruments (including swaps). ▪ Very broadly, gains and losses of a revenue nature would be assessable and deductible respectively, whereas those of a capital nature will be ignored for tax purposes, i.e. not taxable/not tax deductible.

period of time.

1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)?

2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?

3. Are the flows of payments received taxed, if yes, when and how?

4. Are the flows of payments made tax deductible, if yes, when and how?

5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax?

6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax?

7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?

The concepts of capital and revenue are drawn from UK tax law. Distinction between income and capital is often determined based on the badges of trade test (also from the UK), i.e. whether a receipt is derived in the course of a trade or business (revenue) or outside the ordinary course of business (e.g. capital appreciation from long term investment).

Gains and losses from financial instruments are *generally* of a revenue nature in the hands of financial institutions that deal in these instruments in their ordinary course of business.

- Strictly, gains will be taxed when they are realised, whereas losses will be allowed a deduction when they are incurred.

However, companies which adopt FRS 39 (the local equivalent of IFRS 39) in the preparation of their financial accounts may (subject to some exceptions) elect to report such gains and losses to tax based on the amounts reflected in the income statement.

- Swap payments by a Singapore resident or permanent establishment to non-residents may attract WHT, for example, if they are made in connection with an underlying loan or indebtedness of the payer.

Note that it is not necessarily the case that no WHT apply on equity

SINGAPORE	
	swap considering that the underlying is not a loan or indebtedness of the payer, it will depends on whether the swap is structured as a funding arrangement. If yes, then WHT will apply to payments to non-residents. Such payments may be classified as either business profits or interest, depending on the exact wording of the applicable double tax agreement. ▪ The standard corporate tax rate is 17%. There are concessions for certain Financial Sector companies which could be taxed at 5%, 10% or12%.
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial	See above. 5. In practice, there is usually no WHT deducted on payments to non-residents upon expiry of (exchange-traded) futures contracts.

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Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)?	See above.

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2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (xc) exercise of the options, (xci) sale of the shares acquired through the option, (xcii) expiration of option (without exercise or disposal) 5. Is mark-to-market applied?	See above. Very broadly, the timing of recognition of gains and losses follows the accounting treatment if FRS39 tax treatment is adopted.

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6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	See above. Very broadly, the timing of recognition of gains and losses follows the accounting treatment if FRS39 tax treatment is adopted.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-	In general, no. However a Singapore branch of a non-resident company is a non-resident for tax purposes. Hence, WHT may be deducted at source

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domestic (financial) institution?	by other Singapore-based payers for certain payments made to the branch, unless it has obtained an appropriate administrative waiver from the tax authorities.
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	In general, no.

SWITZERLAND	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	General: Based on our understanding no individuals are involved in the below mentioned transactions. 1. Yes; the sale or purchase of taxable securities where a Swiss security dealer is involved as a party or as an intermediary is subject to Swiss securities transfer tax. 2. For securities transfer tax purposes the following securities qualify as taxable securities: bonds, shares in a company's capital and shares in investment funds. Other securities such as options futures, etc. do not qualify as taxable securities in this regard. 3. Swiss Federal law on stamp duty 4. Besides exempt securities, there are exempt parties and exempt transactions: Exempt parties (StG 17a), e.g.: - foreign states and central banks; - domestic collective investment schemes; - foreign collective investment schemes; - foreign institutions of social security; - foreign banks and securities dealers; etc. Exempt transactions (StG 14), e.g.:

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	- the issuance of domestic shares; - the redemption of securities for cancellation; - transactions with domestic and foreign money market papers; etc. The provisions on securities transfer tax are included in the Swiss Federal law on stamp duty (StG), art. 13 et seqq. 5. The transfer stamp tax is calculated on the purchase price/remuneration of the taxable security. 6. The stamp tax is levied at a rate of 0.15% for domestic securities and 0.3% for foreign securities. The tax rate is reduced if an exempt party is either buyer or seller. There is no maximum amount of tax. 7. Transfer of a taxable security against remuneration with the involvement of a Swiss securities dealer. The connecting factor is the involvement of a Swiss security dealer in the transaction as a party or as an intermediary. Swiss securities dealers includes amongst others Swiss banks, Swiss asset managers, etc. 8. The Swiss security dealer is liable for the transfer stamp tax and needs to declare and pay his tax liability generally on a quarterly basis.
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the	1. Yes; in principal the general tax regime applies to equity Swap transactions. 2. No.

accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time. 1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	3. Yes; income from equity Swap transactions is part of the annual profit of the company (to be declared with the annual tax return). 4. Yes; expenses from equity Swap transactions are part of the annual profit of the company (to be declared with the annual tax return). 5. No Swiss WHT is levied on swap payments to non-residents (provided that the transaction is not considered as tax evasion). 6. No. 7. The payments in question 5 and 6 should generally fall under the provision of capital gain based on Swiss double tax treaties. In principle, the classification does not depend on the nature of the underlying.
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial	1. Yes; in principal the general tax regime applies to financial futures. 2. No. 3. Yes; gains and losses from transactions with financial futures are part of the annual profit of the company (to be declared with the annual tax return). 4. There is no need to apply mark-to-market valuation, Swiss GAAP in principle does

future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how? 4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	not follow the true and fair view approach (in case the instrument is booked in the trading book, mark-to-market valuation may be applied. Based on Swiss GAAP the acquisition price (initial book value) is principally equal to the fair market value at acquisition date. Depreciation on the initial book value is possible if the fair market value decreases, resulting in a new (lower) book value. If the market value increases again, the book value can be increased up to the initial acquisition costs. If the market value is above the initial costs then it depends whether the instruments are treated as trading book or investment book; in case of investment book, the book value cannot be higher then initial costs; in case of trading book, the book value can be increased up to the fair market value. This treatment does apply for all Swiss companies (i.e. in the financial and non-Financial Sector). Expenses and income is reported and taxed whenever it is recognised in the P&L. 5. No. 6. No. 7. The payments in question 5 and 6 should generally fall under the provision of capital gain based on Swiss double tax treaties. In principle, the classification does not depend on the nature of the underlying.
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover	1. Yes; the general tax regime applies to call options on stocks.

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the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	2. No. Please note that the exercise of the call option, i.e. the subsequent purchase of the underlying share is subject to Swiss transfer stamp tax if a Swiss security dealer is involved.
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how?	1. Principally, the premium paid is tax deductible as part of the annual profit (to be declared with the annual tax return), i.e. in case of a value adjustment (incl. expiration). 2. No. 3. In principle yes. Note that Answers to 1 and 3 are not contradictory as the deductibility arises in case of a value adjustment of the capitalised options. If no value adjustment is required during the term, the premium is part of the acquisition price. 4. (i) Any capital gain or loss is taxable/tax deductible.

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2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (xciii) exercise of the options, (xciv)sale of the shares acquired through the option, (xcv) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	(ii) In principle no taxable event (profit may be taxed only if company realises a gain through the exercise and the shares are recorded in the trading books). (iii) Any capital gain or loss is taxable/tax deductible. Capital gain would be subject to the participation relief if the participation sold exceeds 10% and a minimal holding period of one year is met; (iv) No taxable event. Usually, the premium is tax deductible any time when the value of the options needs to be adjusted. If that did not happen during the term of the option, the premium is deductible at expiration. 5. There is no need to apply mark-to-market; Swiss GAAP does not follow the true and fair view approach. 6. No. 7. The payments in question 6 should generally fall under the provision of capital gain based on Swiss double tax treaties. In principle, the classification does not depend on the nature of the underlying. 8. If the option is part of a structured product (packaged product) but can clearly be separated from the "non-option" part of the product the same tax treatment should apply. Please note that the exercise of an option, i.e. the subsequent purchase of the underlying share is subject to Swiss transfer stamp tax if a Swiss security dealer is involved.
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the	1. The tax treatment of the premium in principle depends on the accounting treatment; whenever the premium is recognised in the P&L as income, it is taxable. Usually, the premium is not booked through P&L at the grant of the options but is

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applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	deferred; income may arise if the deferral can be value adjusted or if the option expires). 2. No. 3. In principle yes. 4. Yes; gains and losses are taxable/tax deductible. 5. There is no need to apply mark-to-market; Swiss GAAP does not follow the true and fair view approach. Please note that the exercise of an option, i.e. the subsequent purchase of the underlying share is subject to Swiss transfer stamp tax if a Swiss security dealer is involved.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	No, principally not. However, as branches of a foreign head office are not subject to Swiss WHT, no Swiss WHT consequences would apply (although the products as outlined above should not trigger Swiss WHT consequences at all).

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H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	We are not aware of any differences between the actual practices of the Swiss tax authorities and the legal provisions. Note in this respect that the Swiss tax treatment follows the Swiss accounting treatment according to Swiss GAAP. Compared to other accounting standards as IFRS or US GAAP, Swiss GAAP provides a lot of flexibility and has a few strict rules only. Hence, there is usually more than one way to appropriately reflect a transaction in the financial statements, although slightly stricter rules apply for financial services industry.

THE UNITED STATES OF AMERICA	
A. Securities transaction taxes	
Securities transaction tax is a tax placed on a specific type (or types) of financial transaction for a specific purpose. Capital duty tax or capital registration tax (tax imposed on increases in business capital in the form of capital contribution, loans and/or issuance of stocks or bonds) are not in scope of this question. 1. Are there securities transactions taxes on transfers of financial instruments? 2. What securities are in scope and which are exempt? 3. What are the tax provisions (reference to applicable tax section)? 4. Tax base? 5. Tax rate? Is there a maximum amount of tax due? 6. Tax event? 7. What is the territorial scope (e.g. place of taxable transaction, connecting factor for the transaction)? 8. Who is liable for levying the tax? Who is liable to support the tax?	1. No Federal securities transaction tax. 2. All others: n/a
B. Corporate income tax treatment of equity Swaps	
This question does not cover the accounting treatment of swaps, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment. (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.) This question does not cover the applicable tax treatment of the underlying securities. Only equity swaps are covered. A swap is an agreement between two parties – arranged with or without a financial intermediary – to exchange cash flows over a certain period of time. 1. Does the general tax regime apply or are there specific tax rules applicable to swap transactions (where both	1. Specific rules apply 2. Sometimes, yes. 3. Yes. Sometimes on an accrual basis. Sometimes on an amortization basis (e.g., for upfront payments). Sometimes mark to market accounting trumps accrual of periodic cash flows. These rules are very complicated. 4. Generally yes. See above re: timing. There are exceptions to

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parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are the flows of payments received taxed, if yes, when and how? 4. Are the flows of payments made tax deductible, if yes, when and how? 5. Is there a WHT on payments to non-residents under the swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of a swap? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments for both questions 5 and 6 above classified under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	deductibility. 5. Generally no. Exceptions exist (e.g., where a "significant non-periodic payment" is made or received, or in some cases, where the referenced asset is equity of a US corporation). 6. Generally swaps cannot be "sold." When a swap is terminated, there typically is no non-resident withholding. We assume your question refers to early termination. 7. Unclear under US law. Likely as other income.
C. Corporate income tax treatment of Financial Futures	
This question does not cover the accounting treatment of futures, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. A futures contract is an agreement to buy or sell an asset at a certain time in the future for a certain price. A financial future is a futures contract on a short term interest rate. 1. For financial futures, does the general tax regime apply or are there specific tax rules applicable to financial future transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector? 3. Are gains and losses taxed, and if yes, when and how?	1. Futures contracts traded or regulated US exchanges and certain foreign exchanges are subject to special rules. Nb: these rules do not apply to off-exchange forward contracts. 2. Generally no. However, there may be a difference if a futures contract is used as a hedging transaction as opposed to a speculative transaction. 3. Yes. Frequently on a mark to market basis though exceptions may apply. Generally, character is a 60/40 split between long-term and short-term capital gain. Exceptions exist. 4. See above. Frequently yes. 5. Generally no.

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4. Is mark-to-market applied? 5. Is there a WHT on payments to non-residents upon the expiration of the futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 6. Is there a WHT on payments to non-residents on the sale of futures? If so, what is the connecting factor to the tax jurisdiction for the tax? 7. How are the payments classified for both questions 5 and 6 above under the double tax treaties (other, capital gain,…)? Does the classification depend on the nature of the underlying?	6. Futures contracts typically are not "sold" but rather are extinguished by an exchange clearinghouse. Generally no WHT. 7. Gain from the sale of personal property.
D. Corporate income tax treatment of Call options on stocks in general	
This question only concerns call stock options not put options, nor options on any other financial or non financial instruments. This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. A call option on stock is a formal contract between an option seller (i.e. the option writer) and an option buyer (i.e. the option holder) which gives the option buyer the right but not the obligation to buy the asset specified in the contract (i.e. shares) by a certain date (the expiration date) for a certain price (the strike price). 1. Does the general tax regime apply to call options on stocks or are there specific tax rules applicable to call options on stocks transactions (where both parties are companies in the Financial Sector)? 2. Is there a difference if one or both of the counterparties are companies in the non Financial Sector?	1. Special rules apply. 2. Sometimes yes (e.g., where the taxpayer is a dealer v. a non-dealer for US tax purposes).
E. Corporate income tax treatment of Call options on stocks in the hands of the holders	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments).This question does not cover the accounting treatment	1. Generally offset against cash settlement gains (if any). Physical

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of call options on stocks, although reference to the applicable accounting treatment should be made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The holder of a call option on stocks is the option buyer. 1. For holders, is the premium paid deductible, and if yes, when (acquisition, exercise or upon expiration) and how? 2. Is there a difference if the holder is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium paid part of the stock acquisition price? 4. Please describe the tax treatment of the gains or losses realised at the following events: (i) disposal of the options, (xcvi)exercise of the options, (xcvii) sale of the shares acquired through the option, (xcviii) expiration of option (without exercise or disposal) 5. Is mark-to-market applied? 6. Is there a WHT on premium to non-residents? 7. How are the premium payments classified under the double tax treaties? 8. How are options treated when they are part of a packaged product (e.g. equity linked note)?	settlement triggers an addition of call premium to stock basis. 2. Possibly -- dealers in securities typically have to apply mark to market accounting to options, potentially accelerating basis recovery. 3. See above - yes, where physically settled. 4. (i) Taxable. Capital gain/loss to most holders. Generally ordinary income/expense to hedgers and to dealers. (ii) Cash settlement triggers tax. Physical settlement triggers addition of call premium to stock basis. See above. (iii) Taxable. See above re: basis considerations. (iv) Taxable. Generally triggers deduction of call premium as capital loss. Different rules may apply depending on taxpayer classification (e.g., dealer v. hedger v. speculator). 5. Sometimes. 6. Generally no. 7. Generally irrelevant. 8. Depends on terms of the packaged product.
F. Corporate income tax treatment of Call options on stocks in the hands of the writers	
This question only concerns call stock options (not put options, nor options on any other financial or non financial instruments). This question does not cover the accounting treatment of call options on stocks, although reference to the applicable accounting treatment should be	1. Yes, upon lapse or cash settlement. If physically settled, premium is added to amount realized.

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made if this is relevant to understand the tax treatment (Very often the CIT would follow the accounting rules, so any specifics in the accounting treatment would have equal impact on the tax treatment.). This question does not cover the applicable tax treatment of the underlying securities. Physical settlements are covered. The writer of a call option on stocks is the option seller, who has the obligation to make the asset available at strike price. 1. For writers, is the premium received taxable, and if yes, when and how? 2. Is there a difference if the writer is a bank/insurance company or a company active in the non Financial Sector? 3. Is the premium received part of stock delivery price? 4. Are gains and losses upon exercise taxed? 5. Is mark-to-market applied?	2. Sometimes yes. See above re: dealer v. hedger v. speculator distinction. 3. When physically settled, generally yes. 4. Generally yes. 5. Sometimes.
G. Differentiation	
For all the questions above would your answers be different according to whether the (financial) institution is a domestic one or a subsidiary or a branch of a non-domestic (financial) institution?	Possibly. Depends on activities domestic corporation or foreign corporation. Branches of foreign financial institutions are subject to complicated rules regarding income inclusion and availability of certain deductions.
H. Practices	
For all the above conditions is there any information as whether actual practices may differ from legal provisions?	Transaction form is sometimes less relevant than the economic substance of a transaction under review. Case-specific application of the general principles above is important.

ENCLOSURE 23: ADDITIONAL QUESTIONNAIRE ON TAXATION OF FINANCIAL INSTRUMENTS

The following additional questions were asked on 18 May 2011 by the European Commission in the framework of the review of the interim report:

We would just like to double check whether specific accounting rules for financial institutions and/or banks (maybe only if these are listed) apply in certain Member States that have reported that no specific tax rules exist for income arising from financial instruments earned by financial institutions (more particularly, Germany, the Netherlands, Poland, Latvia and Lithuania).

We just need to know whether specific accounting rules for the Financial Sector may potentially lead to a different tax treatment of the instruments, even if it is only a matter of timing in recognition of gains and losses. A one-line response (almost yes or no) would suffice, we understand that there is no time to go into the details of every instrument.

On that basis, the following questionnaire has been sent to our colleagues in the various jurisdictions:

We understand from the answers received in the questionnaires that in the majority of the countries in scope of the study no specific tax rules exist for income arising from financial instruments earned by financial institutions so that the general tax regime should, as a rule, apply (see questions B.1; C.1 and D.1 of the initial questionnaire). The questions below relate to the potential impact which a difference in accounting rules, if any, could have on the tax treatment of a financial instrument.

1. Specific accounting rules :

1.1. Could you please inform us whether specific accounting rules for (some) financial institutions and/or banks apply in your country? YES / NO

1.2. If YES, do these rules apply only if these financial institutions are listed? YES / NO

2. If there are specific accounting rules for financial institutions and/or banks (i.e. if YES at 1.1 above);

2.1. Could you please indicate whether these specific accounting rules for the Financial Sector may potentially lead to a different tax treatment of the instruments? YES / NO

2.2. If YES, would these specific accounting rules lead to a difference of the timing in recognition of profits and losses, or would there be other differences in tax treatment due to the specific accounting rules?

Country	1.1 Specific accounting rules for (some) financial institutions and/or banks? YES / NO	1.2 Only if these financial institutions are listed? YES / NO	2.1 Specific accounting rules which may potentially lead to a different tax treatment of the instruments? YES / NO	2.2 Difference of the timing in recognition of profits and losses, or other differences in tax treatment?
AUSTRIA	YES (basically all regulated financial institutions have their own accounting framework under Austrian GAAP, based on which the corporate income tax is computed)	NO	YES (the corporate income tax being based on the Austrian GAAP framework applicable, differences between the accounting rules applicable might potentially lead to differences in the tax treatment of the instruments)	Basically differences of timing
BELGIUM	YES (basically all regulated financial institutions have their own accounting framework under Belgian GAAP, based on which the corporate income tax is computed)	NO	YES (the corporate income tax being based on the Belgian GAAP framework applicable, differences between the accounting rules applicable might potentially lead to differences in the tax treatment of the instruments)	Differences of timing
BULGARIA	NO, Banks in Bulgaria apply the general IFRS rules.	NO, the IFRS rules apply for all banks.	NO	NO, the IFRS rules do not lead to difference of timing in recognition of profits and losses. However, such may arise under the tax legislation (e.g. banks are allowed to recognise profits/losses arising from revaluation of financial assets in the year of accrual instead of forming a temporary tax difference under the general rules).

Country	1.1 Specific accounting rules for (some) financial institutions and/or banks? YES / NO	1.2 Only if these financial institutions are listed? YES / NO	2.1 Specific accounting rules which may potentially lead to a different tax treatment of the instruments? YES / NO	2.2 Difference of the timing in recognition of profits and losses, or other differences in tax treatment?
CYPRUS	NO, the Banks (as all companies that are tax resident in Cyprus) are required to prepare financial statements in accordance with IFRS as adopted by the European Union and the requirements of the Cyprus Companies Law.	N/A	N/A. The taxable income is computed on the basis of IFRS results as adjusted in accordance with provisions of Cyprus income tax law.	N/A
CZECH REPUBLIC	YES, all banks have special chart of accounts	N/A	NO, as principles are the same as for enterpreneurs	N/A
DENMARK	Danish banks have their own Act. The material rules hereof follow IFRS to a very large extent. Therefore, no specific material accounting rules exist for Danish banks.	N/A	In our view, our answer to 1.1 is NO and therefore no comment is needed to this question. However, it should be mentioned that the tax and accounting treatment of financial instruments under Danish accounting rules (as described above) and Danish tax rules may differ.	
ESTONIA	NO, as there are no specific accounting rules for financial institutions and banks. However, all financial institutions (except leasing companies) and banks are required to prepare their financial statements in accordance with IFRS. Other companies (if unlisted) may prepare their financial statements either in accordance with local GAAP or IFRS.	NO	NO	N/A

Country	1.1 Specific accounting rules for (some) financial institutions and/or banks? YES / NO	1.2 Only if these financial institutions are listed? YES / NO	2.1 Specific accounting rules which may potentially lead to a different tax treatment of the instruments? YES / NO	2.2 Difference of the timing in recognition of profits and losses, or other differences in tax treatment?
FINLAND	YES (basically all regulated financial institutions have their own accounting framework under specific Finnish GAAP, authorities regulations or IFRS standards).	NO	NO (based on high level discussions there should be no such specific rules which would lead to a different tax treatment of the instruments)	YES (the differences of timing)
FRANCE	YES	NO	YES	YES they would lead mainly to a difference of timing
GERMANY	YES (There are some specific accounting rules in place for banks and financial institutions e.g. with regard to the valuation of financial instruments and with regard to accounting reserves for general risks of the banking business)	NO	YES (The tax treatment might differ from the specific accounting rules e.g. the accounting reserves for general risks of the banking business are disregarded for taxation purposes)	Differences of timing
GREECE	No. Listed companies, Banks and financial institutions prepare their financial statements under IFRS. Other companies (including insurance companies) may elect to apply IFRS or Greek GAAP (note: specific accounting rules apply to insurance companies under Greek GAAP).		Companies preparing their financial statements under IFRS adjust their accounting result for tax purposes through the preparation of an "Accounting and Tax Base Reconciliation Table". Difference of the timing in recognition of profits and losses between tax provisions and IFRS are eliminated for tax purposes in the "Accounting and Tax Base Reconciliation Table".	

Country	1.1 Specific accounting rules for (some) financial institutions and/or banks? YES / NO	1.2 Only if these financial institutions are listed? YES / NO	2.1 Specific accounting rules which may potentially lead to a different tax treatment of the instruments? YES / NO	2.2 Difference of the timing in recognition of profits and losses, or other differences in tax treatment?
HUNGARY	YES	NO	In certain specific cases difference in the accounting treatment is possible which might lead to different tax treatment.	An example for such a potential difference may be the accounting treatment of non-hedge derivative transactions, where - in the case of expected losses of non-closed transactions - banks might be able to offset such expected losses with expected gains on other similar transactions (we referred to this earlier as "quasi hedge transactions"), and hence be exempted from the obligation to create provisions (i.e. account expenses) for such losses [Section 23.7 of Decree 250/2000 of the Government]. On the other hand, non-FS companies would have to account for accrued expenses [Section 44.5 of Act C of 2000 on Accounting], resulting in a decreased corporate income tax base.
IRELAND	NO			

Country	1.1 Specific accounting rules for (some) financial institutions and/or banks? YES / NO	1.2 Only if these financial institutions are listed? YES / NO	2.1 Specific accounting rules which may potentially lead to a different tax treatment of the instruments? YES / NO	2.2 Difference of the timing in recognition of profits and losses, or other differences in tax treatment?
ITALY	YES. Broadly speaking financial institutions prepare their annual accounts according to IAS/IFRS principles. Nevertheless there are some exceptions to this rule; in fact, some financial entities (i.e. insurance companies) apply the Italian GAAP. Moreover, all kinds of regulated financial institutions (i.e. banks, management companies, insurance companies, etc.) have their own accounting framework provided by the relevant authority (i.e. Bank of Italy). Corporate income taxes are computed on the annual accounts.	NO	YES (differences between accounting rules - in particular differences between Italian GAAP and IAS principles - might potentially lead to differences in the tax treatment of the instruments).	Both
LATVIA	NO (all regulated financial institutions apply IFRS as adopted for EU based on which the corporate income tax is computed)	NO	NO	NO (same as for other sectors, only realised gains/ losses are taxable/ deductible - please see our previous answers for details of taxation of gains/ losses on shares/ other assets in Latvia)
LITHUANIA	NO (Financial institutions should use IFRS)	N/A	N/A (please note, however, that there could be some differncences in tax treatement for financial institutions but these are related to specific tax (ant not accounting) rules)	N/A

Country	1.1 Specific accounting rules for (some) financial institutions and/or banks? YES / NO	1.2 Only if these financial institutions are listed? YES / NO	2.1 Specific accounting rules which may potentially lead to a different tax treatment of the instruments? YES / NO	2.2 Difference of the timing in recognition of profits and losses, or other differences in tax treatment?
LUXEMBOURG	Yes, regulated financial institutions could apply Luxembourg GAAP with some specific provisions foreseen by the banking law or IFRS. Accounting serve as the basis for the computation of corporation taxes in "Luxembourg according to article 40 of the Luxembourg Income Tax Law.	NO	Potentially yes (to be analyzed on a case-by-case basis) as taxes are computed based on accounting. However, in case of difference between accounting and tax rules, tax rules should prevail. In this respect, the luxembourg tax legislation provides for some specific valuation rules (art. 23 LITL) so that a different accounting treatment may not necessarily result in a different tax treatment between a financial institution and any taxpayer.	Potentially timing but may be adjusted due to tax valuation rules.
MALTA	The default accounting framework in Malta for financial reporting is IFRSs as adopted by the EU. Although companies that meet certain qualitative and quantitative criteria may voluntarily choose to adopt Maltese GAAP ("GAPSE") as their accounting framework, GAPSE cannot be adopted by entities that hold an operating licence which was granted by the Malta Financial Services Authority (such as banks and financial institutions). Hence banks and financial institutions are required to follow IFRSs as adopted by the EU.	N/A	N/A	N/A

Country	1.1 Specific accounting rules for (some) financial institutions and/or banks? YES / NO	1.2 Only if these financial institutions are listed? YES / NO	2.1 Specific accounting rules which may potentially lead to a different tax treatment of the instruments? YES / NO	2.2 Difference of the timing in recognition of profits and losses, or other differences in tax treatment?
NETHERLANDS	In the Netherlands banks and other financial institutions mostly use "IFRS as endorsed by the EU", and in some instances Dutch GAAP. There are no specific accounting rules for banks and financial institutions included in IFRS or GAAP, however there are certain accounting rules that have more impact on banks than other companies and thus banks primarily focus on these rules.	NO	NO	NO
POLAND	YES (e.g. specific accounting rules for provisions for bad debts in banks)	NO	NO	N/A
PORTUGAL	YES	NO	NO, since the accounting rules (in what concerns to financial instruments) for the Financial Sector and other sectors are the same (both follow IAS/IFRS).	N/A

Country	1.1 Specific accounting rules for (some) financial institutions and/or banks? YES / NO	1.2 Only if these financial institutions are listed? YES / NO	2.1 Specific accounting rules which may potentially lead to a different tax treatment of the instruments? YES / NO	2.2 Difference of the timing in recognition of profits and losses, or other differences in tax treatment?
ROMANIA	YES, there are specific accounting rules provided by the National Bank of Romania, which are in accordance with the European Directives, that are applicable for financial institutions such as: banks (i.e. credit institutions) and non-banking financial institutions (e.g. leasing companies, consumer finance companies,etc.). Also, please note that starting from 2012, banks will be required to implement and apply IFRS.	NO, these regulations apply irrespective of the listed or non-listed status of an entity.	YES, For banks and some other financial institutions, gains or losses on revaluation of certain types of derivative financial instruments would be recognised periodically in the accounting records. Since the tax would generally follow the accounting, and some of these income/loss items would not be recorded by regular companies until realised, there would in effect be a difference in the tax treatment.	It would typically be a timing difference
SLOVAKIA	YES (Financial instutions and companies meeting specific conditions prepare their financial statements under IFRS)	NO	NO	N/A

Country	1.1 Specific accounting rules for (some) financial institutions and/or banks? YES / NO	1.2 Only if these financial institutions are listed? YES / NO	2.1 Specific accounting rules which may potentially lead to a different tax treatment of the instruments? YES / NO	2.2 Difference of the timing in recognition of profits and losses, or other differences in tax treatment?
SLOVENIA	Banks and insurance companies have to prepare their financial statements under IFRS, so Slovene GAAP does not affect how they account for income from financial instruments. They have to prepare their financial statements under a format specified in the Banking and Insurance laws, but this is mainly a matter of disclosure. Other financial institutions can generally choose whether to account under IFRS or under Slovene GAAP. The main difference between IFRS and Slovenian GAAP concerns impairment of assets held for sale. However, this applies generally and is not specific to financial institutions.		The accounting principles used for banks and insurance companies are those under IFRS, so it is unlikely that this would lead to any differences in taxation.	
SPAIN	YES (basically all regulated financial institutions have their own accounting framework under Spanish GAAP, based on which the corporate income tax is computed)	NO	YES (the corporate income tax being based on the Spanish GAAP framework applicable, differences between the accounting rules applicable might potentially lead to differences in the tax treatment of the instruments)	Differences of timing

Country	1.1 Specific accounting rules for (some) financial institutions and/or banks? YES / NO	1.2 Only if these financial institutions are listed? YES / NO	2.1 Specific accounting rules which may potentially lead to a different tax treatment of the instruments? YES / NO	2.2 Difference of the timing in recognition of profits and losses, or other differences in tax treatment?
SWEDEN	YES (basically all regulated financial institutions have their own accounting framework under Swedish GAAP, based on which the corporate income tax is computed)	NO	YES (the corporate income tax being based on the Swedish GAAP framework applicable, differences between the accounting rules applicable might potentially lead to differences in the tax treatment of the instruments in comparison to non-financial companies)	Differences of timing
UK	No - all listed groups are required to apply EU endorsed IFRS - as such there are differences in application for financial traders vs. corporates who hold bonds, shares etc. on capital account, but it is the same set of rules which apply. Unlisted UK groups may apply either IFRS or UK GAAP (which is substantially similar).	N/A (see 1.1.)	N/A	N/A
CHINA				

Country	1.1 Specific accounting rules for (some) financial institutions and/or banks? YES / NO	1.2 Only if these financial institutions are listed? YES / NO	2.1 Specific accounting rules which may potentially lead to a different tax treatment of the instruments? YES / NO	2.2 Difference of the timing in recognition of profits and losses, or other differences in tax treatment?
SINGAPORE	Singapore's accounting standards are modelled after IFRS. As IFRS are issued based on subjects/ transactions and not industries, they should apply to all companies including banks.	NO	In very general terms, accounting treatment should not dictate the tax treatment. However, in some instances they may affect the timing of recognition of gains and losses for tax purposes, eg when a taxpayer elects to follow FRS 39 for tax reporting. There may be other exceptions too, eg operating v finance lease, and it is not possible to state all of them in a short note.	See 2.1.
SWITZERLAND	YES	NO	Yes (due to different accounting treatment)	Yes, difference of the timing
USA				

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