

Portugal T2S: Tax impact on account structure and service offering

Further to Announcement [D20019](#), informing clients of the activation of Clearstream Banking AG¹ (CBF) direct access to the Portuguese market (Interbolsa) and the eligibility of Interbolsa issued securities for settlement in T2S, effective

14 December 2020

Clearstream Banking S.A.² (CBL) will deposit and settle Portuguese T2S eligible assets with CBF in order to enable future OneClearstream service upgrades (the “Migration Date”). This forms part of our ongoing effort to harmonise our services allowing clients to benefit from advantages across multiple areas of our business.

CBL will access Interbolsa for settlement in T2S via CBF, as follows:

Country	CSD	Type of link	Securities eligible
Portugal	Interbolsa	Relayed link via CBF (All T2S eligible assets) to Interbolsa	Government bonds, corporate bonds, listed equities, warrants eligible in Interbolsa

CBF will act as Portuguese tax agent for Portuguese T2S eligible debt securities and equities (the “Portuguese Securities”) processed via the link with Interbolsa.

¹ Clearstream Banking AG (CBF), registered office at Mergenthalerallee 61, 65760 Eschborn, Germany, registered with the Commercial Register of the District Court in Frankfurt am Main, Germany, under number HRB 7500.

² Clearstream Banking S.A. (CBL) registered office at 42, avenue John F. Kennedy, L-1855 Luxembourg, and registered with the Luxembourg Trade and Companies Register under number B-9248.

Portuguese Tax Identification Number (NIF)

Any non-resident or resident investor holding Portuguese securities (debt securities and/or equities) is required to obtain and provide CBF with a Portuguese Tax Identification Number (NIF)³, being the primary way to identify their activity (at income and transactions level) in the communications with the Portuguese Tax Authorities (PTA).

In the relevant reports that need to be submitted to the PTA, CBF, acting as tax agent, is under an obligation to detail all positions and movements in the name of the beneficial owner (when disclosed) and of CBF direct clients (for undisclosed positions and transactions).

Important note: Every CBF client wishing to settle and hold Portuguese securities with CBF is obliged to request or submit a NIF. CBF client's accounts and/or sub-accounts for which no NIF has been submitted will be blocked for settlement of Portuguese securities and the settlement instructions will be rejected.

Requesting a NIF

The process of obtaining a NIF requires the following set of information depending on the status of the applicant.

Individuals:

- Complete name;
- Foreign address;
- State of residence;
- Tax Identification Number issued by the State of residence;
- Date of birth;
- Place of birth;
- Nationality;
- Gender;

³ Based on the Decree-Law No 14/2013, a given investor can only have one valid NIF at a given moment.

Legal entities:

- Corporate name;
- Foreign address of the head office;
- State of residence;
- Tax Identification Number in the state of residence.

Requesting a NIF

Clients must send the request for NIF to CBF via the Excel file (mandatory template attached) duly completed and password protected to email address portugaltax@clearstream.com, in addition to instruction with password by Xact Web Portal or Swift free-format message, including the following wording:

*Attention: PTS Tax Services
Market: Portugal*

Please find hereafter the password to open our NIF request sent to your attention by email on (date and time) from the email address (email address of the sender).

Password:

The NIF request will be processed on the PTA's dedicated website and CBF will revert to clients (via MT568 Swift message) with the results of the request once they are disclosed by the PTA.

Confirming existing NIF

For entities that already have a NIF allocated, clients must provide it to CBF by sending the same template as explained above, on which the NIF must be completed in the respective column (G in current template). It can take up to seven business days upon receipt of the existing NIF to check its validity.

How to amend the details related to an existing NIF

For entities that already have a NIF but for which some details like, but not limited to, the name or the address have changed since the NIF's first registration, clients must provide the new details to Clearstream Banking by sending an email to portugaltax@clearstream.com. The email shall include

the template completed with the NIF in the respective column (G in current template) and the beneficial owner's new details. Any supporting document evidencing the change of details must also be provided electronically together with the NIF confirmation request.

Note: Requesting a NIF, confirming a NIF or amending the details related to an existing NIF may be delayed due to backlog at the level of the PTA. For this reason, clients should ensure to provide their request to Clearstream Banking with sufficient time in advance.

Debt securities

Legal obligations impacting CBF and CBL tax services

In relation to debt securities within the scope of Decree-Law No 193/2005 of 7 November 2005, as amended (hereinafter "Special Debt Securities' Regime", or "SDSR"), CBF will undertake the role and responsibilities of a Direct Registrar Entity⁴, affiliated with Interbolsa, and will supply custody and settlement services to CBL.

CBL will continue to be an Indirect Registered Entity⁵ and, due to its ICSD status, to avail itself and its clients the benefits of Article 17 of the SDSR.

CBF, as a T2S In-CSD, cannot benefit from the Article 17 regime granted only for the ICSDs, hence full tax calculation and reporting requirements apply to CBF clients, as described below.

CBF account structure

By default, CBF clients' main and sub-accounts will be flagged as B (blocked). Settlement will not be allowed on Portuguese securities, as long as a valid NIF has not been allocated to the respective settlement accounts.

When the NIF is obtained and/or validated by CBF (which can take up to seven business days) all its main and sub-accounts will be set up to N (non-exempt = taxable) and settlement will be allowed.

⁴ For purposes of Decree-Law No 193/2005 of 7 November 2005, a "Direct Registrar Entity" is defined as an entity with whom the investor's accounts of qualifying debt securities integrated in a CSD or ICSD are opened.

⁵ An "Indirect Registrar Entity" is defined as an entity which is not a Direct Registrar Entity but a client of a Direct Registrar Entity that supplies securities registration, deposit, portfolio management and other similar services.

To be exempt from Portuguese withholding tax on interest from debt securities, clients must segregate debt securities held for exempt and non-exempt investors into at least two separate securities accounts, one taxable and one exempt. Such segregation is mandatory as per the Portuguese law requirements. To facilitate it, a new CBF client sub-account “xxxx204” will proactively be opened by CBF for each client. However, the segregation may be done based on any other CBF account or sub-account. The usage of the sub-account xxxx204 stays at the full discretion of the account holder.

Clients can hold debt securities for:

- Exempt investors (for whom the certification procedure has been fulfilled):
 - In a single “exempt” account (“S” account); or
 - In an omnibus “exempt” account (“X” account).

OR

- Non-exempt investors in another “non-exempt” account (“N” account) including undisclosed positions taxed at maximum tax rate (35%) or disclosed beneficiaries providing information to allow the application of the reduced tax rates (25% or 28% tax applicable, respectively, to corporates and individuals).

Tax relief

To ensure exemption from Portuguese withholding tax, the following steps must be followed:

1. Send to Clearstream Banking a Master Instruction for each tax relief account

CBF clients must first complete a Master Instruction for each account in which the Portuguese debt securities are held and for which tax relief is required. By doing so, the client certifies, among other things, that the debt securities held in the account specified and subject to the withholding tax regime are held exclusively for one single or several beneficial owners, that are eligible for tax exemption or applying for a reduced tax rate.

The Master Instruction is a one-time declaration per account or sub-account that remains binding for the client and can be relied upon by CBF until it is revoked by the respective client. If any change occurs that

renders any of the details in the Master Instruction untrue, a new Master Instruction must be forwarded to CBF and the existing one must be revoked.

2. Send to CBF the appropriate documentation per beneficial owner whose securities are held in the account specified in the Master Instruction

The documentation requirements depend on the status and residency of each final beneficial owner:

DTT/EOI⁶ residents eligible for tax exemption (or that are not, otherwise, residents in a blacklisted jurisdiction nor within the scope of any of the specific rules below)

- A Certificate of Residence (COR) or an equivalent document issued by the beneficiary's local tax authorities; or
- A document issued by the local Portuguese Consulate attesting to the beneficiary's residency abroad (applicable to individuals only); or
- A document issued by any other public authority attesting to the beneficiary's residence in the country of which they claim to be resident.

The validity of any of above documents is three years⁷.

Central banks, public law entities, public law agencies, or supra-nationals/international organisations recognised by the Republic of Portugal (or a body of such recognised international/supranational organisation to whom the same immunities and privileges should be availed to).

- A one-time Self-Declaration for Tax Exemption/Reduced rate Beneficial Owner Not Resident in Portugal, in the form prescribed by Clearstream Banking.

⁶ Beneficial owners that are (i) resident, for tax purposes, in a country or jurisdiction which has entered into a Double Tax Treaty (DTT) or an Exchange of Information Agreement (EOI) with the Republic of Portugal or, otherwise, (ii) resident in a country or jurisdiction other than the Portuguese Republic and such country is not considered a country, territory or region offering a clearly more beneficial tax regime, according to the official list approved by the Decree of the Portuguese Minister of Finance 150/2004 of 13 February 2004, as amended and (iii) have no Portuguese-situs permanent establishment.

⁷ These documents must be issued on or before three months have elapsed of the withholding date.

Credit institutions, financial companies, pension funds, and insurance companies domiciled in an OECD Member State or in a DTT country

- One-time official document of tax identification; or
- A one-time declaration issued by the tax authority or by the competent public body in beneficiary's State of residence responsible for the regulatory supervision of its business attesting that it was validly created under the laws of its State of residence as well as its domicile; or
- A COR or an equivalent document issued by the beneficiary's local tax authorities or by any official government entity authorised to issue such certification, to be renewed every three years⁸.

Collective Investment Vehicles (CIVs) domiciled in an OECD Member State or in a DTT country

- Declaration issued by the tax authority or by the competent public body in the beneficiary's State of residence responsible for the regulatory supervision of its business attesting that it was validly created under the laws of its State of residence, the law governing its formation, as well as its domicile; or
- A COR or an equivalent document issued by the beneficiary's local tax authorities or by any official Government entity authorised to issue such certification, to be renewed every three years⁹.

Portuguese entities not subject to withholding tax, in accordance with the Portuguese legislation

- A one-time Self-Declaration for Tax Exemption/Reduced rate Beneficial Owner Resident in Portugal.

Portuguese residents applying for reduced withholding tax rate

- A one-time Self-Declaration for Tax Exemption/Reduced rate Beneficial Owner Resident in Portugal.

⁸ This COR or equivalent document will be valid for three years and must be issued on or before three months have elapsed of the withholding date.

⁹ This COR or equivalent document will be valid for three years and must be issued on or before three months have elapsed of the withholding date.

3. Notify CBF of the beneficial owner's NIF for each transfer of securities related to an exempt omnibus account (X) or to obtain a reduced tax rate in the taxable account (N)

In addition to providing the appropriate documentation, clients must enter the NIF of the beneficial owner for an exempt omnibus account (X) and a taxable account (N) to secure application of reduced tax rate (25% or 28%).

Exempt omnibus account (X)

All transactions to or from this account must be flagged with a valid NIF recognised as tax exempted by CBF based on the certification provided for each beneficial owner before the first trade. Any incorrect/unrecognised NIF will result in the rejection of the instruction as the usage of an X account is only possible if all underlying beneficiaries are tax-exempted and certified accordingly.

Taxable account (N) to secure application of reduced tax rate (25% or 28%)

If the NIF is not completed in the transaction or is not recognised as valid by CBF based on the certification provided for each beneficial owner before the first trade, the maximum tax rate (35%) will apply. The settlement instruction will not be rejected.

Note: For single exempt accounts (S) no NIF must be included in the settlement instructions.

4. Report, to CBF, internal transfers per beneficial owner for an exempt omnibus account (X)

In order to secure exemption at source from Portuguese withholding tax on debt securities, CBF clients are required to provide a daily report of all transfers of debt securities held within one exempt omnibus account from one beneficial owner to another that occurred without settlement instructions being forwarded to CBF. This report must be provided for each account on the effective settlement date of the transfers.

5. Transfer of securities from exempt omnibus account (X) to taxable account (N) in the case of non-renewal of tax certification

Clients are obliged to transfer out of their X account the holding for which tax certification is not renewed (and therefore no more valid) or upon a change of status that results in the beneficial owner no longer being eligible for tax exemption.

How Portuguese withholding tax is applied to non-exempt accounts (credit-debit mechanism)

For all non-exempt accounts the withholding tax is applied on:

- Transfer of securities;
- Coupon payment;
- Redemption proceeds that include issue discount.

Transfer of securities

Withholding tax is applied on each transfer of securities. When securities are received in a non-exempt account, that account will be credited with the tax corresponding to the income accrued *pro rata temporis* (that is, as from the last coupon date or closing date or from the issue, first placement or transfer, if no maturity event has occurred) up to a future coupon date (if no transfer occurs before a coupon date) or the date on which, under Portuguese law, the transfer becomes effective (if a transfer occurs before a coupon date), depending on which one occurs first¹⁰.

When securities are delivered from a non-exempt account, that account will be debited with the tax on the income accrued *pro rata temporis* (that is, as from the last coupon date or closing date or from the issue, first placement or transfer, if no maturity event has occurred) up to or from the issue, first placement or transfer, if no maturity event has occurred) up to a future coupon date (if no transfer occurs before a coupon date) or the date on which,

¹⁰ Under Portuguese law, book-entry securities are only transferred through registration in the relevant securities account. There are two ways in which registry entries are made with respect to securities. Either (i) by the financial intermediary's own initiative or (ii) at the request of interested parties. If registration is made by the financial intermediary's own initiative, then the date of record coincides with the one on which the relevant fact occurred. If there are requests from the interested parties, the earliest date of record should be the date of the request. The parties are free to agree on different conditions, although these should have no impact on the determination of each party's tax liability.

under Portuguese law, the transfer becomes effective (if a transfer occurs before a coupon date), depending on which one occurs first.

As a result, the beneficial owner will only have paid Portuguese withholding tax on the number of days he has actually held the securities on his taxable account (that is, the “pro rata” principle).

Coupon payment

Withholding tax is applied on each coupon payment. When a coupon payment is credited to a non-exempt account, the account is credited net of tax on the total coupon amount.

Redemption proceeds that include issue discount

Withholding tax is applied on redemption proceeds that include issue discount. Investment income includes interest accrued during the period counted from the last maturity date or, from the issue, first placement or assignment date (if no maturity event has occurred), until the date on which the securities are disposed of. This includes, for the part that corresponds to such periods, the difference between the redemption and the issue price for securities whose remuneration is partially or fully composed of such difference.

For State debt issued at a discount, namely treasury bills, the assessment is based on the interest rate provided by the Portuguese Treasury Agency (Instituto de Gestão da Dívida Pública or IGCP). For OID treasury bills, the Portuguese Treasury Agency has issued guidance according to which the amount subject to withholding should be determined based on the average interest rate obtained on the date of placement by applying the following formula:

$$RT = VMS * RATE * nd / 360$$

In this formula:

- RT means unit income subject to withholding, if applicable and not exempt;
- VMS means the average value of the subscription of each unit in the first placement of the series;
- RATE means the average interest rate of the first placement of the series (in percentage); and
- nd means the number of calendar days elapsed since the date of the first placement of the series.

Quick refund

Quick refund is not available through CBF.

Standard refund

The standard refund process is still being analysed. Further information will be provided at a later stage.

Equities

The following final beneficial owners are eligible to apply for an exemption or reduced tax rate on dividends paid on Portuguese equities:

- Resident of a Double Taxation Treaty (DTT) country;
- EU/EEA pension fund;
- Non-resident of Portugal availing themselves the privileges and immunities enshrined in an international agreement or chart (central banks, government agencies and international/supra-national organisations recognised by Portuguese law);
- Non-resident of Portugal, a DTT country, nor otherwise eligible for tax exemption but requesting the application of a reduced tax rate (25% or 28% rate);
- Resident in Portugal and eligible for tax exemption according to Portuguese legislation;
- Resident in Portugal, not eligible for tax exemption but requesting the application of a reduced tax rate (25% or 28% rate).

Relief at source

In order to obtain partial or total relief at source from withholding tax on dividend payments for equities, the beneficial owners must fulfil the following documentation requirements:

- All clients applying for tax relief must submit:
 - A One-Time Certificate for Portuguese Equities, that covers all the eligibilities for tax relief, that is, treaty benefits or domestic law benefits and gives the possibility of applying for a standing instruction:
 - If the client holds the securities for themselves or for a single beneficial owner (first box); or
 - If CBF clients segregate their holdings per tax rate in their sub-accounts or in a dedicated account (second box).
- Clients holding the equities on behalf of several beneficial owners must submit before each relevant withholding event:
 - Beneficial Owners Disclosure via [an MT565 Corporate Action instruction message in Xact via Swift or a Corporate Action instruction in Xact Web Portal](#), duly completed in the relevant format, provided and valid for one dividend payment date and only related to securities that we may hold in our account; and
 - A breakdown of holdings, via [an MT565 Corporate Action instruction message in Xact via Swift or a Corporate Action instruction in Xact Web Portal](#) (please refer to the Client Handbook for full formatting requirements), indicating:
 - The total position for each reduced tax rate;
 - Applicable tax rate.

In addition to the Beneficial Owners Disclosure and the breakdown of holdings, clients must provide the following documentation according to their status:

Residents of double taxation treaty (DTT) countries, (including Luxembourg SICAVs):

- Form Mod. 21-RFI must be provided annually. As of 1 October 2019 the form can no longer be certified in Box III but must be accompanied by a separate COR valid for one year, unless otherwise specified on the document.; and
- Power of Attorney, if Mod-21 RFI is not completed by the final beneficial owner.

The Mod-21 RFI expires on the last day of the period identified in the tax residence certificate.

Exception: Valid until revoked for central banks, and government agencies domiciled in a country that has a DTT in force with Portugal.

In addition, the following documentation is requested for DTT residents according to their status:

Funds/Trusts

Subject to the special rules provided below or otherwise in effect in Portuguese legislation “trusts”, as such, are not entitled to DTT benefits, except when such entitlement is specifically foreseen in a given DTT (as such is the case, for instance, of the DTT with Canada and the U.S.). Treaty entitlement for trusts to which a DTT can apply will be subject to proof being provided of the fulfilment of the requisites and conditions established in such DTT, including proof that the trust is the beneficial owner of the income, and that other treaty entitlement tests are fulfilled. For U.S. trusts, evidence must further be provided that the income is subject to tax in the U.S. either at the level of the trust or at the level of its beneficiaries.

Statement for funds: Declaration issued by local authorities where the trust or fund is situated certifying that the respective trust or fund is liable to tax in its country of residence and is not transparent for tax purposes. The declaration must be provided annually, the beneficiary undertakes full responsibility to update information and amend the declaration if need be should there be any relevant fact changes.

OR

For U.S. pension funds and Regulated Investment Companies (RIC):

- A non-certified form MOD 21-RFI accompanied by IRS form 6166 confirming that the pension fund or the RIC is liable to tax in U.S.A.; and
- A Statement for U.S. pension funds and RIC issued by the IRS or self-declaration confirming that the beneficial owner complies with conditions foreseen in Article 17, number 1 c) and e) of the DTT between Portugal and the U.S.A.

Certification requirements are to be fulfilled annually and the beneficiary undertakes full responsibility to update the information and amend the declaration, if need be, should there be any relevant fact changes.

OR

For Swiss pension funds:

- Statement for Swiss pension funds: A Declaration issued by the pension fund's local authorities certifying that the respective entity is:
 1. A pension fund in which individuals participate to secure retirement, disability and survivors' insurance; and
 2. The pension fund, established, recognised for tax purposes and controlled under the laws of Switzerland, is taxable in its country of residence and is not transparent for tax purposes.
- Self-declaration of a holding period duly completed and signed by the pension fund being the final beneficial owner, must be sent in original form for each quick refund application. It must confirm uninterruptedly from when the pension fund has held the Portuguese equities.

The declaration must be provided annually. The beneficiary undertakes full responsibility to update the information and amend the declaration, if need be, should any relevant fact be changed. It must be sent in original form, in addition to the documentation requested for DTT residents (that is, Mod 21-RFI, Power of Attorney etc.).

EU/EEA pension funds (other than Liechtenstein) – Income not attributable to a Portuguese-situs Permanent Establishment

- A non-certified form Mod 21- RFI accompanied by a valid certificate of residence; and
- Accompanied by a Declaration for EU/EEA pension funds duly completed and signed by the respective supervisory authority is valid for a period of one year counting from the respective date of issue and must be received by Clearstream Banking in original, attesting that:
 - The pension fund secures exclusively retirement, disability and survivors' insurance, pre-retirement or anticipated retirement, post-employment healthcare benefits, and, when ancillary to such benefits compensation for death.

- The pension fund is managed by institutions for occupational retirement provision within the terms established into which Directive 2003/41/EC of 3 June 2003 apply.
- The pension fund is the beneficial owner of the income.

Self-declaration of holding period duly completed and signed by the pension fund being the final beneficial owner, must be sent in original before each dividend payment. It must confirm the start date from when the pension fund holds the Portuguese equities uninterruptedly.

Supranational/international organisations recognised by the Republic of Portugal (or a body of such recognised International/Supranational Organisation to whom the same immunities and privileges should be availed to)

- Self-Declaration: Beneficial Owner Not Resident in Portugal, certifying that the entity is eligible for tax exemption and indicating the article of the relevant treaty or chart establishing such immunities/privileges.
- If there is a sub-body or affiliate of a supranational/international organisation to which the same immunities and privileges should apply, all documentation relevant to ascertain an exempt status should be provided in addition to the self-declaration.

Portuguese residents eligible for tax exemption

Portuguese entity not subject to withholding tax, in accordance with Portuguese legislation

- A Self-Declaration for Tax exemption/Reduced rate Beneficial Owner Resident in Portugal.
- Other than automatic exemptions, documentation attesting the specific exempt status.

Non-residents of Portugal applying for a reduced tax rate

- Self-Declaration for Tax exemption/Reduced rate Beneficial Owner Not Resident in Portugal, certifying that the entity is resident in a country or jurisdiction other than the Portuguese Republic, with no permanent establishment located in Portugal to which any Portuguese-source income could be attributable and its country of residency is not considered a tax haven. For instance, it is not a country, territory or region with a clearly more beneficial tax regime, according to the

official list approved by the Decree of the Portuguese Minister of Finance 150/2004 of 13 February 2004.

Residents of Portugal applying for a reduced tax rate

- Self-Declaration for Tax Exemption/Reduced rate Beneficial Owner Resident in Portugal, certifying that the entity is eligible for the application of a reduced tax rate (25% or 28%, applicable respectively to corporate entities or individuals).

Deadline for receipt of documents

The relevant documentation for relief at source of withholding tax on dividends from Portuguese equities must be received by CBF at least three business days before the payment date of the respective payment by 10:00 CET.

Quick refund

Quick refund of withholding tax on dividends from Portuguese equities is available through CBF for eligible beneficial owners listed under the relief at source section and who have not obtained a reduced tax rate at source.

Documentation requirements

To apply for a quick refund, clients must provide the same documentation as described above for the Relief at Source procedure for each category of final beneficial owner.

Deadline for receipt of documents

Documentation for quick refund of withholding tax on dividends from Portuguese equities must be received by Clearstream Banking at 10:00 CET the latest on the 13th of the month (or the last business day prior to the 13th, if the latter is not a business day) following the month in which the dividend payment was made.

Standard refund

The standard refund process is still being analysed. Information on its availability will be provided at a later stage.

Further information

For further information, please contact the Clearstream Banking Tax Help Desk, Clearstream Banking Client Services or your Relationship Officer.