

24 December 2020

Attn:
Shri K.C. Varshney,
Joint Secretary,
Tax Policy and Legislation (TPL-I),
Central Board of Direct Taxes,
North Block,
New Delhi - 110001

Dear Mr Varshney,

Re: Expectations for Union Budget, 2021

The Asia Securities Industry & Financial Markets Association (ASIFMA)¹ and the Capital Markets Tax Committee of Asia (CMTC)² have been regularly engaged with the Government of India on various tax and policy related matters and we have made detailed representation/ submissions on tax matters relevant to the financial services industry.

We understand that the Union Budget, 2021 is likely to be presented in the Parliament during February 2021. In this regard, we have enclosed herewith, our submission/ representation on with this letter which are bifurcated into issues relating to banking sector , capital markets and other issues relevant to the financial services industry. The same have been tabulated below:

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¹ ASIFMA is an independent, regional trade association with over 135 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, law firms and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative, competitive and efficient Asian capital markets that are necessary to support the region's economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the GFMA alliance with SIFMA in the United States and AFME in Europe, ASIFMA also provides insights on global best practices and standards to benefit the region.

² CMTC is a financial services industry body consisting of a number of banks, investment banks, securities firms and other diversified financial services institutions operating in Asia who are represented through their regional tax directors. The main objects of the CMTC, according to its Constitution, are "to provide a forum for discussion by corporate tax managers responsible for the tax affairs of investment banks, securities firms, banks and other diversified financial services institutions of topical taxation issues in Asia affecting their capital and securities markets and similar activities; ... to keep members informed of up to date information on taxation matters affecting capital and securities markets, and to exchange views on the technical analysis thereof; [and] to represent the interests of its members through acting as the respected voice of investment banks, securities firms, banks and other diversified financial services institutions, and to participate in liaison or advocacy activities on tax matters either directly or indirectly through representation with other groups or societies concerned with or by fiscal matters."

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IV	Removal of cap on deduction for provisions for bad and doubtful debts under Section 36(1)(viiia) of the Act	15 - 16
V	Removal of cap on deduction for head office expenses under Section 44C of the Act	17 - 19
VI	Clarification with respect to taxability of interest income under section 115A of the Act for banking units located in an IFSC	20 - 21
Capital Markets		
VII	<p>No withholding of taxes on dividend income and taxes to be discharged by way of advance taxes/ on repatriation (similar to capital gains). This should also apply for interest income</p> <ul style="list-style-type: none"> Alternative I - Introduce 'rates in force' in section 196D of the Act to allow for WHT at treaty rate Alternative II - Alternatively, FPIs be permitted to obtain certificate under section 197 of the Act Alternative III - Alternatively, notification be issued under section 197A (1F) of the Act whereby for dividend/ interest income for FPIs, WHT to be done at treaty rates 	23 - 27
VIII	Clarification to be provided as to 'securities' would not fall within the definition of the term 'goods' with respect to the TCS provisions and accordingly, banks and financial institutions are not required to comply with collecting taxes at source.	28 - 29
IX	Clarifications on the applicability of the PPT Rule provided in AP 6 issued by OECD under BEPS and corresponding articles in the MLI	30 - 32
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XVIII	No PE on account of employees working from India and no adverse personal tax implications in the hands of the employees currently working from India due to COVID-19	67 - 68
XIX	Taxability of interest on G-Secs to be traded on ICSD under the FAR route	69

ASIFMA and CMTC has been regularly engaged with the Government of India on various tax and policy related matters. Our members look forward to the ongoing consultation on these important issues. For further information, please contact Patrick Pang, ASIFMA Head of Compliance and Tax (ppang@asifma.org) and Patrick Donovan, CMTC Chairperson (patrick-j.donovan@ubs.com).

Yours sincerely,



Patrick Pang
Head of Compliance and Tax
ASIFMA



Patrick Donovan
Chairperson
CMTC