

The Danish Financial Supervisory Authority  
Århusgade 110  
DK-2100 København

Danske Bank A/S  
Holmens Kanal 2-12  
DK-1092 København K

Phone: (+45) 33 44 00 00  
danskebank.dk

Attn.: Jesper Meyer

27 August 2021

Our Ref:

Frans Woelders, Group Chief Operating Officer,  
Rob De Ridder, Head of Technology & Services, LC&I

## **Tax Services Remediation Update**

### **1. Purpose**

This letter is in response to your email dated 23 July 2021 requesting information on the measures the bank has taken since it identified approximately 35 issues related to tax services offered to customers. The Danish FSA was notified of this by Event #150944 on 21<sup>st</sup> July 2021. Two issues have been combined into one such that we now refer to 34 issues.

The Danish FSA has requested the bank to explain which measures have been taken since each of the new issues were identified, to ensure that the bank will not provide faulty services to customers until these issues have been fully resolved by May 2022.

The bank continues to assess the impact of the new tax services issues, 7 of which have been identified as causing customer detriment.

The customer detriment that has been identified primarily relates to any customer who has been paid, or reclaimed, an incorrect amount of tax benefits on securities and/or dividends as a result of an incorrect tax service provided by the bank. The issues relate to pay outs to customers, differences in dividend payments, potentially incorrect tax benefits applied, and potentially incorrect tax reclaims.

We are fully committed to resolving the outstanding matter, identifying any further potential customer detriment that may exist, communicating directly to affected customers as quickly as practically possible, and providing compensation including where financial detriment is found. We regret any difficulties caused to our customers as a result of this matter. In this process we will of course align with relevant tax authorities and we will continue to progress further actions to ensure that sustainable solutions are implemented to embed improvements going forward.

By way of recap, as part of the bank's custody business, the bank offers a number of administrative tax services to customers including relief at source and a reclaim service to allow customers to avoid double-taxation on foreign securities. The issues identified in this letter impact customers who avail of these Danske Bank services.

The newly identified 32 tax services issues are in addition to the two tax services issues already notified to the Danish FSA, Event #140745 US Tax Reclassification - notified in May 2020 and Event #139427 Tax Reclaims Backlog - notified September 2020. The new issues were discovered as part of the holistic investigation that the bank initiated as a result of those initial two findings.

Of the 34 issues notified to the Danish FSA, only a subsection of these involve a risk of providing incomplete or insufficient services to customers, and the appendix to this submission focuses on those 7 issues identified since the escalation of the initial 2 issues in 2020 as noted below. At this stage, the bank has identified the other issues as being relevant to internal operations

and improvements required to establish effective controls. In the event that we identify gaps in compliance with applicable laws, rules or regulatory requirements, we will prioritise remediation of these accordingly within the overall Tax Services Remediation programme and update you in our subsequent communications. As described in Event # 150944, when the new Tax Services unit was established in May 2020, a deep dive review of the current operating model was initiated to identify and remediate any existing challenges. The Tax Reclaims Backlog (ORIS # 139427), and US Tax Reclassification (ORIS # 140745) were identified as part of this deep dive. The operating model review then continued throughout 2020/2021 and throughout this period identified an additional 32 issues.

Additionally, in September 2020, the Danske Bank CRO, CFO and COO jointly requested Group Internal Audit to perform an audit of the tax reclaim process; this report was delivered in November 2020.

An update on the interim findings of the review was presented to the bank's Executive Leadership Team (ELT) in April 2021 and The Tax Services Remediation Programme (the "TSR Programme"), was formed with the first Steering Committee meeting held in June 2021. The role of the TSR Programme is to review the customer tax services provided by the bank, to address the 34 issues identified (and any further potential issues) and to improve the control environment where required.

Further information on the TSR Programme is provided under section 2 below. To ensure a holistic approach, it has been decided that the completion of the two previously escalated tax services issues are also being governed by the TSR Programme. As the review of tax services is not yet completely finalised, additional issues may potentially be identified.

We appreciate and take all matters raised by the Danish FSA very seriously and we will continue to commit ourselves to an open and transparent approach while remediation of the matter is underway. Should the bank identify anything in the continued analysis, or any external observations that will change the statements provided, we will of course revert and rectify accordingly without delay.

## **2. Executive Summary**

As referred to above, the bank has recently initiated a TSR Programme. The programme reports to the ELT and forms part of the bank's governance structure. Relevant members of the ELT now sit on the TSR Steering Committee.

The portfolio of issues are the result of an ongoing holistic review (started in September 2020) of all customer tax services provided by the bank. There are 24 countries where dividends have been paid to customers who have holdings (for example shares held in a foreign country). The review prioritises first those countries having the largest amount of customer activity and is due to complete for all countries in H1 2022. 11 countries have been reviewed so far, which covers 65% of the total customer holdings across all countries. Review will continue sequentially on the remaining 13 countries. Whilst we do recognise that each country has different requirements, we do not expect the review of the remaining countries to identify material new types of issues that have not been identified in the cohort of larger countries. However if they do, they will be prioritised and remediated accordingly.

The 34 issues are split into two categories:

- 1) Issues causing customer detriment. As described in the paragraph below, all but two of these issues have been remediated to the extent that no further customer detriment can occur.
- 2) Issues requiring a strengthening of the process and control environment (including addressing potential control inadequacies or operational issues).

As referred to above, 7 of the new issues fall into the first category and are listed in the Appendix below. The TSR Programme has prioritised stopping any ongoing customer detriment. This has been achieved in all but two instances, through the implementation of

short-term actions to safeguard customers until longer-term improvements can be made. The main root causes are increasingly complex tax legislation and insufficient process design.

It is difficult to estimate with accuracy how many customers might be impacted by the cumulative effect of these 7 issues but our best estimate at this point in time is provided for context as between 3,000 to 6,000 customers. This is in addition to the approximately 4,000 customers impacted by the first two issues (Tax Reclaims Backlog, and US Tax Reclassification). It is possible however that customers impacted by the first two issues overlap with the 7 new issues. The current assessment is that the potential financial impact of the 7 new issues could be between 25 mDKK to 50 mDKK.

To ensure that improvements can be made as soon as possible and that business as usual operations are not adversely affected whilst the TSR Programme is underway, the bank will, where needed, add headcount to the Tax Services department which will remain in place until long term improvements are delivered.

25 issues relate to the second category. These will be prioritised in such a way that the identified risks will be mitigated in a timely fashion.

### **3. Progress Update**

As noted in the above summary, prioritisation has been given to stopping any ongoing customer detriment for those issues which may potentially directly affect customers or impact our immediate ability to meet regulatory obligations.

Short term actions taken have involved: identifying the scope of each issue, the number of customers potentially affected by each issue, taking action to stop further customers potentially being affected and for customers we know are affected, informing affected customers on a number of the issues, and ensuring that any impacted customers are treated fairly, for example ensuring no customer suffers financial detriment as a result of the bank's actions.

For known issues, ongoing customer detriment has been stopped for all but 2 of the issues identified:

- i. **Issue R5) Receipt of information for customers moving between tax jurisdictions;**
- ii. **Issue R6) Control of cross-border holdings.**

Both these issues may potentially occur when the bank has not required customers to provide accurate and timely information regarding changes in their circumstances which could potentially result in customers receiving incorrect tax reclaims or reliefs. Resolution will depend on wider process and control improvements to be made as part of the FATCA/CRS developments to be implemented in 2022.

The Appendix provides a summary of the 7 issues where the bank has identified that customer detriment has occurred, and explains how the principles above have been applied to enable remediation, including short term improvements where necessary, and to ensure the bank will not provide incomplete or insufficient tax services to customers going forward. Estimates for Scope/Impact are open to change as analysis of some issues continues.

We trust this correspondence addresses the Danish FSA's questions and we are, of course, available should the Danish FSA have any additional questions or requests for information.

Yours sincerely,  
Danske Bank A/S

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**Rob De Ridder**  
Head of Technology & Services, LC&I

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**Frans Woelders**  
Group Chief Operating Officer

Appendix A: List of issues where customer detriment has been identified and steps taken to protect customers

Issue Name	Description	Scope / Impact	Solution-short term	Future detriment stopped	Solution-long term	Planned Delivery Date
<b>R1. Incorrect tax codes applied to customer accounts</b>	Spot checks have identified a number of incorrect codes leading to incorrect tax benefits applied to some customer accounts. The root cause is inadequate control of input of codes into various systems.	Some customers may potentially have received tax benefits for which they were ineligible.	Check the codes which potentially grant favourable tax reclaims to customers. This is due to complete in August 2021.	Yes. Manual controls have been introduced from July 2021 to identify new/changed codes each month for manual review to ensure that customer are eligible for changed tax benefits.	Improve controls in a number of systems to ensure correct tax codes are applied for each customer throughout the customer lifecycle.	Long term solution May 2022. Manual checks will mitigate risks until then.
<b>R2. Incorrect set-up for Relief at Source (RAS)</b>	Documentation incomplete for customer set-up for RAS.	Potentially incorrect reclaims for customers with RAS resulting in them paying too little tax. From the 11 countries reviewed, 2 have been identified where there is an impact namely France and Spain.	Check documentation for current customers with RAS and complete any further documentation required.	Yes, for the 11 countries reviewed. New customers applying for RAS are asked to provide the required documentation.	Check RAS set-ups for remaining 13 countries. Ensure new product approval process is completed fully for any future RAS set-ups.	Current customers to be checked by Nov 2021. The remaining 13 countries to complete by May 2022.

Issue Name	Description	Scope / Impact	Solution-short term	Future detriment stopped	Solution-long term	Planned Delivery Date
<b>R3. Incorrect FX rates applied to US Dividend Corrections</b>	When corrections are needed to dividends paid on US shares, timing differences result in different FX rates applied.	Where dividends paid on US shares need to be corrected, customers could have received an incorrect dividend amount in their home currency.	Manual intervention to override system calculations and re-calculate using original FX rates.	Yes.	System developments to use FX rates from date of original dividend payment rather than rates current at time of correction.	Short term solution delivered. May 2022 for system development.
<b>R4. Reporting of re-invested dividends</b>	System limitations resulted in marginally incorrect P/L reporting.	55 customers received incorrect P/L reporting with a total combined impact of <DKK 6,000.	The reporting issue has been corrected.	Yes.	Solution has been delivered.	Solution has been delivered.
<b>R5. Incorrect treatment of customers moving between tax jurisdictions</b>	Inadequate controls to identify customers who move between tax jurisdictions.	Potential incorrect double taxation benefits applied on dividends paid to customers after move. Impact limited to customers who have moved tax residency without notifying the bank.	Check tax treatment for customers who have moved without notification. How to identify such customers through ongoing due diligence is under review by FATCA/CRS <sup>i</sup> programme.	No, as tax residency has not yet been established for all customers who have moved between tax jurisdictions.	Ongoing due diligence (ODD) to flag when customer information (e.g. telephone number) changes.	Improved links into ODD by end-2021.

Issue Name	Description	Scope / Impact	Solution–short term	Future detriment stopped	Solution–long term	Planned Delivery Date
<b>R6. Inadequate control of cross-border holdings</b>	Securities held through non-Danske Bank sub-custodians <sup>ii</sup> are potentially not eligible for withholding tax relief.	Customers may not be eligible for withholding tax relief on these holdings. For the 11 countries analysed so far this affects < 100 customers for <DKK 50k.	Communicate requirements to relevant customers. This requires further analysis.	No. Not all customers holding securities through non-Danske Bank sub custodians have yet been identified.	Ensure TSAs are clear; potential to restrict trading to relevant sub-custodians to be considered.	Short term communication TBD. Long term solution TBD.
<b>R7. Missed sub-custody reclaims</b>	IT problems led to sub-custody claims not sent to SKAT for 8 customers.	Approx. DKK 8m of customer reclaims could potentially be rejected by SKAT due to missed deadlines (issue only impacts major institutional customers).	System changes made to negate problem in future; affected customers contacted and negotiations for resolution underway.	Yes. Discussions are taking place with customers impacted.	Solution already delivered for this issue but develop controls and management information to flag similar future problems occurring through any cause.	Short term solution already delivered.  Longer term solution to be delivered by May 2022.

<sup>i</sup> Foreign Account Tax Compliance Act (US) and Common Reporting Standard – covering the collection, reporting and exchange of financial account information on foreign tax residents.

<sup>ii</sup> A sub-custodian is an institution that provides custody services on Danske Bank's behalf for its clients.