

**MiKaDiv (Mitteilungsverfahren  
Kapitalertragsteuer auf Dividenden aus Aktien  
und Hinterlegungsscheinen)**

**Industry Whitepaper**

## **Acknowledgements**

We would like to extend our sincere appreciation to all those who contributed to the development of this whitepaper. This publication has been prepared by WTS Hansuke and RAQUEST in close collaboration with 27 industry leaders, whose extensive experience across Finance and Tax has been instrumental in shaping both the direction and substance of this work.

More than a traditional publication, this whitepaper represents a collective voice from across the industry, ranging from custodians, asset managers, investment managers, Central Securities Depositories ("CSDs"), and more.

The perspectives captured throughout are grounded in real-world experience, reflecting the shared challenges, priorities, and evolving expectations faced by practitioners today. Through open dialogue, the exchange of ideas, and the contribution of practical insights, this work has been shaped by those actively operating at the forefront of the field.

As such, this paper should be viewed not solely as the perspective of its authors, but as a broader reflection of current industry thinking. It brings together diverse viewpoints to highlight common themes, identify emerging trends, and illustrate the inherent complexity and nuances of the regime in practice. We are deeply grateful to all contributors for their time, candour, and commitment to advancing thought leadership, helping to create a piece that is, in many respects, written by the industry, for the industry.

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## Introduction

MiKaDiv (Mitteilungsverfahren Kapitalerträge Dividenden) is the digital reporting and certification framework introduced as part of Germany's broader withholding tax modernisation agenda. It is embedded within Sections 45b and 45c of the German Income Tax Act (EStG) and forms part of a wider regulatory effort to enhance transparency, strengthen controls, and modernise the administration of withholding tax on German-source dividend income.

The introduction of MiKaDiv is closely linked to structural improvements identified in the existing withholding tax system. Historically, the German framework has relied heavily on decentralised processes, paper-based documentation, and fragmented data flows across the custody chain. This has made it difficult for tax authorities to verify entitlement to withholding tax relief in a timely and consistent manner, particularly in cross-border scenarios involving multiple intermediaries.

These limitations have been brought into sharper focus by high-profile market practices such as Cum/Ex and Cum/Cum transactions, which exploited gaps in the system relating to ownership transparency, timing mismatches, and the reuse of tax certificates. The complexity and scale of such arrangements exposed challenges for both tax authorities and market participants, including difficulties in reconstructing transaction chains, identifying beneficial ownership, and validating claims for withholding tax relief or refund.

MiKaDiv seeks to address these issues by introducing a standardised, transaction-based reporting framework that captures detailed information on dividend-related securities positions and the underlying transactions across the custody chain. By requiring consistent and structured data to be reported electronically, the framework aims to:

- Improve transparency around the ownership and holding of dividend-paying securities
- Enable more effective verification of withholding tax relief and reclaim claims
- Reduce reliance on paper-based tax certificates and manual processes
- Strengthen the ability of tax authorities to detect and prevent abusive arrangements
- Establish a more consistent and auditable data environment across market participants

In doing so, MiKaDiv represents a shift from a largely document-driven system to a data-driven control framework, where the accuracy, completeness, and consistency of transaction-level information become central to the assessment of tax outcomes.

While the regulatory intent is clear, the transition to this new model introduces significant operational and technical challenges. Market participants must adapt existing processes, systems, and controls to meet enhanced data requirements and ensure alignment across the custody chain. As such, MiKaDiv is not only a regulatory change, but also a broader transformation of how withholding tax information is generated, shared, and relied upon.

MiKaDiv marks a significant shift in the German withholding tax landscape. Primarily governed by Sec 45 (b) and supported by Sec 45c of the German Income Tax Act (ITA), it introduces a new automated digital reporting and certification framework for German-source dividend income and certain equity-like instruments, fundamentally changing how withholding tax information is captured, validated, transmitted, and relied upon across the post-trade chain. With implementation now set for 1 January 2027, MiKaDiv is no longer a distant regulatory development. It is a live strategic priority for market participants that will require firms to move beyond narrow

tax analysis and confront broader questions of operating model readiness, control design, data integrity, and cross-party coordination.

At its core, MiKaDiv is intended to create greater transparency around the payment of German-source dividends and the basis on which withholding tax relief, certification, and reclaim outcomes are supported. In practice, however, its significance is much wider. The framework has implications not only for tax and reporting teams, but also for custodians, intermediaries, withholding agents, operations, technology, client servicing, and governance functions. As the market has increasingly recognised, MiKaDiv is not simply a new filing obligation; it is a structural change that will test whether existing processes, data flows, documentation standards, and responsibilities across the custody chain are sufficient and robust for a more controlled and more transparent reporting environment.

This whitepaper has been developed against the backdrop of extensive market engagement led by WTS Hansuke and RAQUEST, including a series of MiKaDiv workshops that brought together industry experts and key stakeholders from across the market to examine the practical implications of the regime. Those discussions created a forum for participants to share perspectives, test interpretations, and explore the operational realities of implementation across the value chain. As a result, this paper focuses specifically on transactional data, including financial arrangements and the corresponding withholding tax reclaims arising from them, and is informed both by the collective insight of industry participants and by our practical experience advising financial institutions on regulatory change, post-trade operating models, tax-related transformation, and implementation readiness.

Through the workshops, and through our broader work supporting firms as they navigate complex change across governance, data, controls, reporting, and cross-functional implementation, a clear message has emerged: the real challenge is not simply interpreting MiKaDiv at a legislative level, but translating it into an operating model that is practical, scalable, and defensible in a live market environment. Questions around interpretation, sequencing, ownership, investor data, tax certificate dependency, and operational accountability continue to sit at the centre of market attention, and they are precisely the types of issues that require practical, execution-focused analysis rather than purely technical commentary.

This paper therefore examines this further and rather than merely restating the legislation, it aims to frame MiKaDiv in practical and commercial terms. In that sense, it is both a reflection of the market dialogue shaped through contributions from industry experts and a practical contribution from WTS Hansuke and RAQUEST to the next phase of industry readiness, as firms move from awareness to execution.

## **1 Target Operating Model ("TOM") and Control Chain**

### **1.1 Liability for Custodians Across the Chain**

#### **1.1.1 Reporting Obligations for German and Foreign Intermediary Custodians and the Depository of the Beneficial Owner**

Germany has elected, with respect to the transmission of tax-relevant data within the framework of MiKaDiv reporting, to follow the indirect reporting route within the meaning of paragraph 13, sentence 4 of Council Directive (EU) 2025/50 of 10 December 2024 (FASTER Directive).

Accordingly, financial intermediaries, namely, the depository of the beneficial owner of the capital income and all intermediary custodians involved in the onward transmission of such capital income, must provide the tax-relevant information along the securities payment chain, in continuous sequence and in accordance with the position of each financial intermediary within that chain, to the German paying agent (the remitter of German withholding tax; the "withholding tax agent").

Germany has already implemented the indirect reporting route for the purposes of MiKaDiv reporting in its domestic tax legislation.

Sec 45b (7), sentence 1 "ITA") obliges German and foreign intermediary custodians, as well as the depository of the beneficial owner of the capital income and any trustee, if present, that directly hold the securities for the beneficial owner of the capital income, to fully and accurately communicate to the respective German paying agent, who has either deducted withholding tax or has entirely or partially refrained from deducting withholding tax (the "withholding tax agent"), the particulars specified in Sec 45b (2), sentence 1, numbers 2 through 6 ITA.

The obligation of the German paying agent to report to the German tax authorities arises for all three categories of tax services that the beneficial owner of the capital income may request:

- Relief at source ("RAS") (e.g., for German and foreign investment funds and Spezial-Investmentfonds within the meaning of the German Investment Tax Act, upon submission of a valid status certificate).
- Reporting for limited tax liability beneficial owners to generate a UUID ("Unique Universal ID") number as a prerequisite for submitting tax refund applications under double taxation agreements or under domestic tax provisions (e.g., Section 11 InvStG or Sect 44a (9) ITA).
- Issuance of a tax certificate for beneficial owners subject to unlimited tax liability.

If the beneficial owner of the capital income avails himself of any of the foregoing tax services, the depository of the beneficial owner, as well as all German and foreign intermediary custodians involved in the dividend payment, are statutorily obliged to transmit the reportable data to the respective German paying agent fully, accurately, and within the prescribed time limits.

Intentional or grossly negligent contravention of the obligations to transmit complete, accurate, and timely data may, pursuant to Sec 50e (2) – (5) ITA, be sanctioned by a fine of up to EUR 20,000 per individual case. Under Sec 50e (3) ITA, such a fine may be imposed at this magnitude even where the violation is committed by a foreign depository or a foreign intermediary custodian,

provided that taxes have thereby been understated or unjustified tax advantages have been obtained.

Pursuant to Sec 45b (7), sentence 3 ITA, a German paying agent may issue a tax certificate to a beneficial owner subject to unlimited tax liability only once the particulars pursuant to Sec 45b (2), sentence 1 ITA are available in full; likewise, the particulars for a beneficial owner subject to limited tax liability may be transmitted electronically to the Federal Central Tax Office only once those particulars are complete. This requirement applies equally in cases of full or partial advance exemption.

Margin note 108 of the Federal Ministry of Finance (Bundesministerium der Finanzen, "BMF") application letter on MiKaDiv dated 22 April 2025 ("MiKaDiv BMF-letter") equires, as a precondition for reporting, not only completeness of the data but also that the particulars do not conflict with other information obtained by the paying agent in the course of the business relationship. In this respect, the due diligence obligations specified in margin notes 2 through 8 of the MiKaDiv BMF-letter must be observed.

## 1.2 Financial Arrangements

### 1.2.1 Financial Arrangements pursuant to Sec 45b (3) ITA

The term "financial arrangement" is broadly defined and encompasses any arrangement under which the economic risk associated with a share position is transferred, in whole or in part, between contracting parties, or which results in a dividend adjustment. Importantly, the contracting party to the financial arrangement does not need to be identical to the party involved in the acquisition of the securities.

A financial arrangement exists, in particular, where a decrease in the value of shares gives rise to a compensation claim by the shareholder and/or where an increase in the value of shares results in a compensation obligation on the part of the shareholder. The same applies where distributions on the shares must be compensated, in whole or in part, by the shareholder. Such compensation may take the form of a cash payment or the provision of another economic benefit.

The scope of "financial arrangements" includes, in particular, forward contracts, derivatives, contracts for difference, repurchase agreements, securities lending and borrowing transactions, purchase/resale transactions, sale/repurchase transactions, and Lombard transactions. These examples are not exhaustive. Further guidance on the scope of financial arrangements is provided in the decree issued by the German Federal Ministry of Finance titled "Application Questions on the Restriction of the Crediting of Withholding Tax under Sec 36a ITA."

Offsetting claims are also considered financial arrangements. These are claims arising from legal transactions whose value typically increases when the value of the underlying shares or profit participation certificates declines or conversely decreases when the value of the underlying shares rises. Examples of such offsetting claims include, in particular:

- options
- warrants
- futures
- forwards
- equity swaps granting a claim to compensatory payment upon a decline in share value
- share index swaps granting a claim to compensatory payment upon a decline in a share index
- short positions (in particular in shares, profit participation certificates, fund units, and certificates)
- fund units, certificates, or other derivatives that inversely track the performance of one or more shares, allowing investors to benefit from falling prices
- fund units, certificates, or other derivatives on share indices that inversely track an index (e.g. ShortDAX)

Legal positions arising from option writing transactions also constitute offsetting claims. Through the structuring of option premiums and strike prices, the formal right of election of the option holder may effectively become meaningless, resulting in what is economically equivalent to a fixed

transaction. In such cases, a complete hedge of a share acquisition and the assurance of a subsequent retransfer can be achieved through the option writing transaction.

By contrast, offsetting claims do not exist in the case of hedging transactions that are not directly or indirectly related to the subject matter of the underlying transaction but are instead based solely on financial mathematical relationships, empirical values, or statistical correlations. For example, this would be the case where futures on kerosene are used to hedge shares in an airline, based on the assumption that airline share prices decline when kerosene prices rise.

### **1.2.2 Due diligence obligations in the reporting procedure for financial arrangements**

Financial arrangements are not necessarily concluded through the same channels or with the involvement of the custodians responsible for the settlement of capital income. Nevertheless, custodians have specific due diligence obligations in this context.

A custodian must disclose a financial arrangement where it has actual knowledge of it or where, based on its business relationship with the shareholder, it has indications or other information suggesting that the shareholder has rights or obligations under a financial arrangement relating to the securities.

In the absence of such knowledge or indications, custodians may generally rely on information provided by the beneficial owner.

According to margin note 5 of the MiKaDiv BMF-letter, it will not be objected to where the particulars are based on a declaration of the shareholder stating that:

- the underlying securities are economically connected with financial arrangements that, on the day following the general meeting, had not yet been settled, expired, or otherwise terminated; and
- which number of dividend-paying shares related to a financial arrangement, and which number of dividend-paying shares was not connected with a financial arrangement.

This reliance does not apply where the custodian itself is a counterparty to a financial arrangement with the investor or has arranged the conclusion of a financial arrangement with another counterparty. In such cases, the custodian has direct knowledge from its own business activities that a financial arrangement exists and must take this into account accordingly.

In the case of securities lending or repurchase agreements, knowledge of a financial arrangement can generally be assumed where the custodian has acted as counterparty or was involved in the initiation, brokerage, or conclusion of such an agreement with a third party in the course of its business activities.

As part of their due diligence obligations, custodians are expected to obtain confirmation from clients regarding the existence of financial arrangements. In practice, this may take the form of a positive affirmation process, whereby clients are required to disclose any financial arrangements relevant to their holdings. Custodians may rely on such confirmations when preparing MiKaDiv reporting.

Investors who have entered into financial arrangements should expect to be requested to provide details of those arrangements, particularly in the context of reclaim filings. Custodians submitting

claims on behalf of clients may therefore consider obtaining comprehensive information on relevant financial arrangements at the time of MiKaDiv reporting to ensure completeness and mitigate subsequent reporting or audit risks.

### **1.2.3 Procedural consequences for the reclaim**

Where financial arrangements are reported as part of the mandatory electronic transmission of defined data records, it is expected that the German Federal Central Tax Office ("BZSt") will verify compliance with both the minimum holding period and the minimum risk of change in value requirements set out in Sec 36a ITA.

Under Sec 36a ITA, the granting of withholding tax credit requires that the taxpayer be the beneficial owner of the shares or profit participation certificates for at least 45 consecutive days within a broader period spanning 45 days before and 45 days after the due date of the investment income (minimum holding period).

In addition, the taxpayer must bear a minimum risk of change in value without interruption during the minimum holding duration. Specifically, the taxpayer must bear at least 70% of the risk of a decline in the fair market value of the shares or profit participation certificates, taking into account any offsetting claims and claims of related persons.

In the case of securities lending, the borrower typically bears no risk of change in value, as they are only required to return securities of the same type, quality, and quantity at maturity, without compensating for interim price movements. Similarly, in securities repurchase agreements, the party acquiring the securities generally bears no or insufficient risk of change in value due to the repurchase price agreed in advance. This applies to both genuine and non-genuine repurchase agreements.

Further detailed requirements applicable to refund eligibility are set out in the BMF decree "Application Questions on the Restriction of the Crediting of Withholding Tax under Sec 36a ITA."

### 1.3 Linkage Between Reporting, Reclaims, and RAS

MiKaDiv introduces a digitalised reporting framework for German-source dividend income that interacts with existing withholding tax processes, including RAS and reclaims. While these processes are closely related in practice, they remain distinct in purpose and timing and operate within the broader German income tax framework rather than as part of a standalone MiKaDiv regime.

In operational terms, RAS continues to be applied at the point of dividend payment based on entitlement documentation available at that time, such as status certificates or exemption confirmations. The withholding outcome achieved at payment is generally treated by the market as final from a cash-flow perspective, providing certainty to investors and intermediaries at the moment income is distributed.

MiKaDiv reporting takes place after the payment event and serves a different function. Its role is to provide tax authorities with structured, standardised visibility over dividend payments, holdings and related information across the custody chain. This transparency objective exists independently of whether withholding tax was applied, reduced or waived at source.

As a result, post-event reporting under MiKaDiv does not operate as a validation step for RAS. Where relief has been applied correctly based on the information available at payment date, subsequent reporting gaps do not automatically alter that initial outcome. At the same time, the existence of a valid RAS position does not remove the obligation to complete reporting once the required information becomes available.

The interaction is different in the context of reclaims. For non-resident investors, MiKaDiv reporting supports the reclaim process by replacing paper-based certification with electronically generated references and identifiers. In that setting, reporting is a practical prerequisite to reclaim activity, rather than an overlay on RAS.

Where reporting is late, incomplete or requires correction, the consequences are primarily procedural rather than transactional. Tax authorities may follow up through information requests, reviews or audits focused on understanding the reported positions and supporting documentation. These interventions reflect the application of existing tax administration and compliance mechanisms to a more data-driven reporting environment.

Overall, MiKaDiv strengthens the linkage between reporting discipline and downstream review, without fundamentally changing how RAS operates at the point of payment. The practical challenge for market participants lies less in the withholding decision itself, and more in coordinating data collection, managing reporting timelines and ensuring traceable responses where information is delayed or incomplete.

#### **Financial Arrangements and the "Contamination" Question**

From the perspective of custodians and fund administrators, a key unresolved issue under MiKaDiv concerns the extent to which financial arrangements within the custody chain may affect, or "contaminate," the entitlement to withholding tax relief or refund on the underlying financial instrument.

In practice, custodians manage income processing, relief claims, and financial arrangements, such as securities lending, repurchase agreements, collateral substitution, margin financing, or intragroup cash movements, through separate operational and contractual frameworks. These arrangements are often economically or operationally linked to the underlying securities but remain legally distinct. MiKaDiv introduces uncertainty as to whether, and to what extent, tax authorities may expect these distinct layers to be reconnected ex post when assessing entitlement to relief.

This raises several practical and conceptual challenges:

- To what extent should financial arrangements be considered relevant in determining eligibility for relief or refund?
- How far must custodians trace and disclose surrounding transactions to demonstrate that dividend income is not affected by unrelated financing or risk management activities?
- What level of visibility and control can reasonably be expected of custodians, particularly where arrangements are executed outside their direct involvement?

Custodians face uncertainty in defining the appropriate scope of due diligence and reporting. There is a risk that expectations may evolve toward a broader interpretation of economic linkage, potentially requiring institutions to evidence a "clean" separation between the underlying income and any associated financial arrangements.

At the same time, such expectations must be balanced against the principle of operational proportionality. Custodians should not be implicitly required to assume responsibility for arrangements over which they have limited visibility or control. The central challenge, therefore, lies in establishing a framework that allows custodians to demonstrate that income subject to relief or refund is not materially impacted by financial arrangements, while avoiding an undue expansion of tax liability or operational burden.

As MiKaDiv continues to develop, further clarification from the German Federal Ministry of Finance and the BZSt will be critical in resolving these questions and providing greater certainty for market participants.

## 1.4 FIFO and its Usage for Holding/Position Determination

### 1.4.1 Legal Basis and Requirement

German tax law requires detailed reporting of securities holdings and related trading activity around dividend events, particularly under Sec 45 ITA). While the legislation itself does not explicitly prescribe a calculation methodology, the administrative guidance MiKaDiv BMF letter establishes the First In, First Out ("FIFO") method as the relevant allocation method for the reportable acquisition and transfer information.

In cross-border and multi-tier custody chains, the depositary or custodian closest to the beneficial owner will typically be the primary source of the account-level transaction history required for the FIFO-based allocation. Depending on the requirements of the German withholding tax agent, the custodian closest to the beneficial owner may therefore have to provide either:

- FIFO-calculated acquisition information based on the relevant custody account data; or
- the underlying transaction data required by the German withholding tax agent to perform or validate the FIFO-based allocation.

The use of FIFO-calculated acquisition information by the depositary closest to the beneficial owner is a practical approach recognised in the administrative guidance.

FIFO must be applied using the trading date as the primary reference point, although it is not objected to if the actual settlement date (i.e. booking date in the custody account) is used instead.

### 1.4.2 Scope and Time Window

FIFO analysis is performed within a defined reporting window linked to the Annual General Meeting ("AGM"):

- Start: One year prior to the AGM (e.g. AGM on 23 May 2027 → start date 24 May 2026)
- Reference date: Second business day after the AGM (record date)
- End: Up to 45 days after the record date (47 days post-AGM in German settlement practice)

Within this window, institutions must:

- Reconstruct all relevant acquisitions and disposals
- Determine holdings at the dividend record date
- Capture post-AGM transactions that may affect entitlement

### 1.4.3 Application of FIFO for Holding Determination

#### Beneficial Owner Attribution

The application of the FIFO method under the MiKaDiv framework is fundamentally anchored at the level of the beneficial owner, meaning the economic owner entitled to the dividend income.

This requires institutions to determine holdings based on the underlying investor wherever transparency exists, rather than relying on aggregated or omnibus account positions.

The treatment varies depending on the legal structure of the investor:

- For transparent structures, reporting at the partnership or vehicle level is generally sufficient for MiKaDiv purposes, unless specific look-through requirements apply.
- For opaque entities (e.g. certain funds), the entity itself is treated as the beneficial owner
- A full look-through approach applies only in specific cases, such as where a fund qualifies as a Spezial-Investmentfonds in the meaning of section 26 of the German Investment Tax Act which has elected to be fiscally transparent in Germany under section 30 of the German Investment Tax Act. In such cases, FIFO must be applied at the underlying investor level based on the fund's trading activity, with positions effectively prorated to each investor. This creates a dependency on access to transfer agency data to accurately align fund-level transactions with investor-level holdings.

This ensures that reported positions reflect true economic ownership, which is central to the integrity of the MiKaDiv framework.

### **Custody Chain Application**

Within the custody chain, the depository or custodian closest to the beneficial owner is typically the institution with the most direct access to the relevant account-level transaction history. It is therefore the primary source for the data required to determine the FIFO-based acquisition information for the reportable income event.

Two operational approaches may be applied, depending on the agreed-upon process and the required level of transparency:

- The custodian closest to the beneficial owner provides FIFO-calculated acquisition data, and if requested by the withholding tax agent with sufficient documentation of the applied methodology and underlying data sources, or.
- The custodian closest to the beneficial owner supplies the raw transaction data, enabling either the German withholding tax agent or a designated service provider to perform or verify the FIFO-based allocation.

In both models, the custodian nearest to the beneficial owner and the custody chain must ensure that the information transmitted upstream is complete, accurate and sufficiently transparent.

Where a beneficial owner holds the same security across multiple accounts or intermediaries, FIFO is applied at the level of each custody account based on the transactions recorded therein. This applies not only across different custodians but also to separate accounts maintained for the same beneficial owner within a single custodian. Positions held across such accounts must be recorded and reported separately and should not be aggregated at the beneficial owner level.

Under accepted non-objection practices, this may result in the same acquisition being referenced across multiple reports, provided the methodology is applied consistently. This approach is consistent with current tax voucher practices, where reporting is performed per account and per

income event, and is expected to remain unchanged under MiKaDiv, including in the context of Serial Number-based (Ordnungsnummer) reporting.

### **Core FIFO Methodology**

From a methodological perspective, FIFO operates by matching disposals against the earliest acquired securities. As a result, the remaining holdings reflect the most recent acquisitions, enabling institutions to reconstruct the economic ownership position at the relevant record date with a high degree of accuracy.

A key requirement under the framework is the differentiation between acquisition timing relative to the ex-dividend date. In particular, institutions must distinguish between:

- Securities acquired more than five days before the ex-dividend date, and
- Securities acquired within five days prior to the ex-dividend date

This distinction is critical for identifying patterns that may indicate dividend arbitrage or other tax-driven strategies.

#### **1.4.4 Special Transaction Types**

##### **Securities Lending**

While FIFO provides a structured methodology for holding determination, its application becomes more complex when securities lending is involved. Such transactions must be incorporated into the FIFO calculation to ensure that reported positions reflect the true economic exposure.

Administrative guidance, however, provides operational flexibility through a non-objection approach. Under this approach, institutions may:

- Avoid detailed transaction-by-transaction reporting of securities lending, and instead
- Report open lending positions, i.e. the number of securities subject to lending arrangements that remain outstanding at the relevant cut-off date

This position-based approach reduces operational complexity while still ensuring that economically relevant exposures are captured.

##### **Financial Arrangements and Economic Attribution**

Another important consideration relates to securities that are linked to financial arrangements. Financial arrangements include, in particular, securities lending transactions, which in most cases fall within the scope of such arrangements, as well as other transactions that may affect the economic risk and return profile of the underlying securities.

Where financial arrangements have not expired, been settled, or otherwise terminated by the day after the AGM, they may affect the economic attribution of securities and, consequently, the determination of dividend entitlement.

The primary obligation to disclose financial arrangements lies with the beneficial owner. Custodians are required to take such arrangements into account only where they have knowledge of them or were directly involved, for example as a counterparty or through the initiation, brokerage, or execution of the transaction.

In this context, institutions should ensure that:

- Relevant financial arrangements are reflected in the reporting, if known
- Additional information is obtained from clients where there are indications of such arrangements
- Holdings are attributed appropriately for reporting purposes based on available information

With respect to reporting simplifications, the non-objection approach explicitly allows for position-based reporting in the case of securities lending transactions, rather than full transaction-level disclosure. However, it remains unclear to what extent this simplification can be applied to other types of financial arrangements, and institutions should exercise caution in extending this treatment beyond securities lending in the absence of explicit guidance.

### **Transfers and Corporate Actions**

Additional complexities arise in the context of custody transfers and corporate actions, both of which require careful handling to preserve the integrity of the FIFO calculation.

- Custodian transfers do not reset the FIFO sequence, provided that the full acquisition history is maintained and passed along the custody chain. This ensures continuity in holding period determination and prevents artificial resetting of positions.
- Corporate actions, such as stock splits or mergers, are reflected based on the resulting position rather than the detailed mechanics of each individual event. Institutions must ensure that adjusted holdings correctly reflect these events while maintaining consistency with the underlying FIFO logic. In certain cases, corporate actions may affect the continuity of holding periods, which could have implications for entitlement, particularly where minimum holding period requirements (e.g. under Sec 50j ITA) are relevant

#### **1.4.5 Practical Examples of FIFO Application**

Please see Annex 2.

#### **1.4.6 Interaction with Anti-Abuse Frameworks**

The application of FIFO within the MiKaDiv framework does not operate in isolation but rather alongside existing German anti-abuse provisions, most notably Sec 50j ITA. Both frameworks are designed to address risks associated with dividend arbitrage and improper withholding tax relief; however, they have developed incrementally and without full alignment. As a result, there is a degree of overlap in scope and intent, particularly in the assessment of holding periods and economic ownership around dividend events.

In practice, this parallel application can lead to duplicative controls and, at times, inconsistent outcomes. Institutions may be required to perform similar analyses under different frameworks, each with its own interpretation and evidentiary requirements. This can increase operational complexity, particularly for cross-border intermediaries that must navigate German-specific rules alongside broader international obligations. As MiKaDiv evolves and FIFO-based reporting becomes more central to the determination of dividend entitlement, it is widely expected that regulators, particularly the German Federal Ministry of Finance, will seek greater coherence between these regimes. Such alignment would help streamline compliance, reduce redundancy, and provide clearer guidance to market participants.

#### **1.4.7 Operational Challenges**

Although the FIFO methodology itself is conceptually straightforward and widely understood, its implementation within the MiKaDiv framework presents a range of practical challenges for market participants. A key difficulty lies in the availability and consistency of historical transaction data. Institutions must be able to reconstruct holdings over an extended period, often requiring access to complete and accurate records across multiple systems and, in some cases, multiple custodians. Further complexity arises from the need to consistently classify and interpret different transaction types, including purchases, sales, securities lending, and transfers. Variations in how these transactions are recorded and transmitted through the custody chain can create discrepancies in FIFO calculations, with potential downstream implications for dividend entitlement and reporting accuracy. These challenges are particularly pronounced for foreign custodians and intermediaries that may be less familiar with German-specific requirements or that operate within different regulatory and operational frameworks.

In addition, the identification and monitoring of financial arrangements linked to securities holdings introduces another layer of complexity. Institutions must not only track these arrangements but also assess their impact on economic ownership and ensure that the relevant information is incorporated into the FIFO-based determination. Taken together, these factors mean that successful implementation of FIFO under MiKaDiv requires not only technical capability but also strong data governance, system integration, and cross-entity coordination.

#### **1.4.8 Key Takeaways**

The introduction of FIFO as the operative standard for holding and position determination under MiKaDiv represents a significant shift in the level of precision and transparency required in dividend-related reporting. By mandating a transaction-based reconstruction of holdings at the beneficial owner level, the framework places increased emphasis on data quality, methodological consistency, and the ability to clearly demonstrate how reported positions have been derived.

The depository or custodian closest to the beneficial owner will be the primary source of the relevant account-level transaction data. In practice, based on the requirements of the withholding tax agent, this institution may be required to either provide FIFO-calculated acquisition information or transmit the underlying transaction data required for the FIFO-based allocation. All intermediaries remain responsible for the accuracy of the data they report, meaning that reliance on upstream or downstream calculations must be supported by appropriate validation and control mechanisms. In this context, any gaps or inconsistencies in underlying data can quickly translate

into reporting risks and potential liability. To address these challenges, institutions should focus on strengthening end-to-end data integrity, clearly defining ownership of responsibilities, and implementing robust validation, audit, and escalation processes. Ensuring that FIFO outcomes are not only accurate but also explainable and defensible will be critical as regulatory expectations continue to evolve.

Ultimately, the effective application of FIFO under MiKaDiv will depend on a combination of technical implementation, operational discipline, and coordinated oversight across the custody chain.

## **2 Data, Integration, and Reporting Architecture**

### **2.1 Standards for Schema, Templates, and Schema Mapping**

#### **2.1.1 Limits of the BZSt's Technical Format for Inter-Institutional Communication**

The official MiKaDiv technical manual published by the BZSt defines the precise data format that German withholding agents must use when communicating directly with the BZSt via its reporting interface. This specification is authoritative and binding for the final submission step, namely the point at which the German withholding agent transmits consolidated reporting data to the tax authority.

However, the MiKaDiv reporting process does not originate with the German withholding agent. Instead, it begins upstream. The data required for compliant reporting must first be collected at the level of the depository of the beneficial owner and then transmitted along the custody chain, potentially through one or more intermediaries, before ultimately reaching the German withholding agent responsible for submission to the BZSt.

This multi-step, cross-institutional data flow highlights a fundamental limitation of the BZSt technical format: it was designed specifically for use by the German withholding agent and not for the foreign institutions involved earlier in the custody chain. The report types defined in the BZSt specification are tailored to the role and obligations of the German withholding agent and are therefore neither appropriate nor directly usable as a communication standard between foreign depositories, intermediaries, and the withholding agent.

#### **2.1.2 Report Types in Inter-Institutional Communication**

Not all report types defined in the BZSt technical manual are relevant for inter-institutional reporting. In practice, upstream communication focuses exclusively on transactional reporting, with two primary use cases driving the exchange of data between participants in the custody chain:

- Requesting reporting data for a specific capital income event, typically to support a tax reclaim or the issuance of a tax voucher
- Providing supplementary information, such as financial arrangement screening data, following the payment of capital income where RAS has already been applied

Against this background, several BZSt-defined report types are not applicable in upstream data exchange. These include:

- Report types 21, 22, and 23, which are aggregated reporting formats designed specifically for direct submission by the German withholding agent to the BZSt and therefore have no relevance for communication between upstream participants
- Report type 13 for non-certified income, which represents an aggregated, non-transactional reporting format and falls outside the scope of the data typically exchanged between foreign institutions when transmitting dividend and investor information along the custody chain

The exclusion of these report types further demonstrates that the BZSt format cannot function as a universal inter-institutional communication standard without significant adaptation.

### **2.1.3 Industry-Developed Approaches for Inter-Institutional Data Handover**

In the absence of a regulatory mandate establishing a uniform format for inter-institutional data exchange, the industry has developed a range of approaches for transmitting MiKaDiv-relevant reporting data between depositaries, intermediaries, and German withholding agents. These approaches vary in terms of technical sophistication, operational efficiency, and scalability.

Three principal methods have emerged:

#### **Structured data formats (e.g. XML)**

The most technically advanced approach involves the use of structured, machine-readable formats, most commonly XML. This method enables a high degree of automation, reduces manual intervention, and supports straight-through processing ("STP") across the custody chain. It is particularly well suited for high-volume dividend events and for institutions with mature data infrastructure. In addition, structured formats offer the strongest foundation for future alignment with standardised industry or regulatory schemas.

#### **Spreadsheet-based transmission (e.g. Excel)**

A widely adopted alternative is the use of spreadsheet files, typically in Microsoft Excel format. While less sophisticated than structured formats, spreadsheets offer accessibility and flexibility, making them suitable for smaller institutions or those at an earlier stage of MiKaDiv implementation. However, this approach introduces a higher risk of manual error, inconsistent field formatting, and limited scalability. Given the volume and complexity of data required, a single spreadsheet is generally used per dividend income event, which further restricts its suitability for high-volume reporting.

#### **Manual data entry via a graphical user interface ("GUI")**

A third approach involves direct data entry into a user interface, usually a web-based portal provided by the receiving institution or a third-party service provider. This method is most appropriate for low-volume scenarios or for institutions that lack the technical capability to produce structured or spreadsheet-based data files. While straightforward to implement, GUI-based entry is inherently manual, resource-intensive, and difficult to scale, making it more suitable as a transitional solution rather than a long-term strategy.

The table below provides a structured comparison of the three inter-institutional data exchange approaches, outlining their respective characteristics and offering practical guidance on the conditions and use cases under which each approach is most suitably applied during implementation:

Media	Implementation effort (Client side)	Volumes handled	Advantages	Challenges	Recommendation
<b>XML</b>	High	High	Provides a high degree of automation on both the custodian and client sides. The use of schema definitions ensures that the structure and technical validity of the data can be validated consistently across all parties.	Ongoing maintenance is required in response to updates from the tax authorities. Automation for generating XML messages is necessary, requiring IT involvement at all stages of implementation and change management.	Recommended for global custodians and institutions with a large volume of German assets under custody. Also preferred where clients require a high level of automation.
<b>Excel</b>	Medium	Medium	Excel templates are generally easy to use and familiar to clients. They are less technical than XML and can include embedded guidance and descriptions to support data entry.	Requires maintenance in response to updates from the tax authorities. Automation may still be necessary. The structure can become complex when covering all reporting scenarios (e.g. usufruct arrangements), and not all MiKaDiv cases may be fully supported. Manual population is time-consuming, and automation may be more difficult for client IT compared to XML.	Suitable for custodians with a medium to low volume of German assets under custody, either as a primary solution or as an additional option.

<b>GUI</b>	Low	Low	Implementation of a MiKaDiv reporting interface within an existing custodian portal typically requires relatively low effort. For clients, this is the most intuitive option, with built-in controls helping to ensure correct data entry.	Requires maintenance following updates from the tax authorities. Offers very limited automation capabilities for clients, making it inefficient for higher volumes. Automation may still be needed if data requirements evolve.	Recommended for custodians with a low to very low volume of German assets under custody. May also be offered as an additional option for clients who prefer a simple alternative to more technically complex solutions.
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#### **2.1.4 Templates and Standards for Inter-Institutional Data Handover**

The Verband internationaler Banken ("VIB") (the Association of International Banks in Germany) is actively developing standardised templates to address the need for a uniform inter-institutional data handover format within the MiKaDiv framework. These templates are designed to support two primary use cases: the request of serial numbers and tax certificates for tax reclaim procedures, and the declaration of detailed information required for tax RAS.

To accommodate the varying technical capabilities of institutions across the custody chain, the VIB has introduced two complementary formats, an Excel template and an XML schema, both of which can serve as a foundation for custodians to build and adapt their reporting procedures.

The Excel template is intended primarily for lower-volume scenarios and offers a high degree of flexibility. It can be populated either manually or through semi-automated processes drawing on internal systems. However, this format has an inherent structural limitation: a separate Excel sheet must be completed for each capital income event on each securities account. As a result, institutions processing a high volume of capital income events must manage and submit a large number of individual files, which reduces scalability and increases operational complexity.

By contrast, the XML format is built on a strict XML Schema Definition ("XSD"), which provides significant advantages for both data providers and recipients. The clearly defined schema supports a high level of automation in generating reporting data and enables efficient, consistent processing on the receiving side. Importantly, the XML format allows multiple capital income events to be reported within a single document, making it inherently more scalable and better suited for institutions handling large volumes of dividend reporting data.

#### **2.1.5 Best Practice: Towards a Homogeneous MiKaDiv Reporting Landscape**

Within the MiKaDiv reporting chain, the German withholding agent typically bears ultimate responsibility for reporting to the BZSt and therefore plays a central role in defining the data formats and procedures used upstream. Intermediaries operating within the chain are, in principle, free to adapt these definitions when servicing their own clients or to establish entirely separate formats and processes.

However, this flexibility introduces a significant practical risk. If intermediaries adopt divergent formats and procedures, the result is a fragmented and inhomogeneous reporting landscape. This places a considerable burden on clients, particularly those interacting with multiple custodians or intermediaries, as they may be required to comply with a variety of technical standards and workflows. Such fragmentation is operationally inefficient and increases the likelihood of errors, delays, and reconciliation issues across the reporting chain.

For this reason, a decentralised approach to format definition is not considered best practice. Instead, market participants are encouraged to align on established industry standards, such as the templates developed by the VIB. A consistent approach across withholding agents, intermediaries, and custodians promotes:

- Reduced operational complexity

- Improved scalability across reporting chains
- Greater consistency and data quality
- A more seamless experience for end clients

In addition to aligning on data formats, institutions may benefit from adopting coordinated operational practices for the timing of data submissions. In particular, concentrating reporting activity within defined periods, such as the opening days of each month or another agreed submission window, can help reduce operational fragmentation, improve processing efficiency, and facilitate more effective reconciliation across the custody chain. While not a formal requirement, such coordinated timing approaches may support a more predictable and controlled reporting environment, thus benefiting all participants regardless of their position within the custody chain.

### 2.1.6 Classification Mapping: A Key Implementation Challenge

The MiKaDiv reporting schema incorporates a structured and standardised classification system for a range of reporting attributes. A central implementation challenge lies in mapping an institution's internal data classifications to the specific enumeration values required by the MiKaDiv schema. This process requires a detailed understanding of both the institution's internal data model and the technical specifications defined by the BZSt, and must be handled carefully to ensure accuracy and compliance.

Several attributes are particularly challenging in this regard, as they require precise alignment between internal classifications and standardised schema definitions:

- **DepotkontoEnumType (MiKaDiv\_FM\_Standardtypen)** - Classifies how a custody account is maintained, in line with the ISO 20022 SafekeepingAccountType standard. Institutions must map internal account types to the corresponding ISO-defined values.
- **DepotverhaeltnisEnumType (MiKaDiv\_FM\_Standardtypen)** - Captures special legal relationships associated with a custody account, such as proprietary or fiduciary arrangements that define the legal standing of a party in relation to the assets.
- **PersonArtType (MiKaDiv\_FM\_Personentypen)** - Defines the role of a person within the reporting context. Accurate mapping is required to distinguish roles such as beneficial owner, account holder, or authorised representative.
- **KontovertretungType (MiKaDiv\_FM\_Personentypen)** - Specifies the nature of a person's representative authority in relation to a custody account, including special forms of representation beyond standard account ownership.
- **WertpapierArtType (MiKaDiv\_FM\_Fachtypen)** - Identifies the type of security associated with a given payment.
- **GutschriftArtType (MiKaDiv\_FM\_Fachtypen)** - Classifies the method by which capital income is credited to the recipient.
- **WertpapierhandelArtType (MiKaDiv\_FM\_Fachtypen)** - Describes the nature of a securities transaction and how it affects holdings (e.g. purchase, sale, transfer).
- **ZuordnungWertpapierhandel (MiKaDiv\_FM\_Fachtypen)** - Identifies whether a transaction is linked to securities lending or repurchase agreements. This attribute is particularly

significant from a regulatory perspective, as it determines whether a reporting obligation for a financial arrangement exists. Misclassification in this area may lead to reporting omissions or incorrect filings.

Collectively, these mapping requirements represent one of the more demanding aspects of MiKaDiv implementation. Institutions are therefore advised to conduct a comprehensive data mapping analysis at an early stage of their implementation projects. Ensuring that internal classification frameworks are systematically aligned with MiKaDiv schema requirements is critical to achieving accurate, consistent, and compliant reporting.

## 2.2 Roles and Responsibilities in the Process Flow

### 2.2.1 Client Eligibility and Initial Conditions (Front of the Chain)

#### Role – Client / Beneficial Owner / Fund / Fund Administrator

At the front of the chain, responsibility for establishing eligibility for RAS generally sits with the client, whether that is the beneficial owner, the fund, or its delegated asset manager. In practical terms, this means the client must be able to substantiate its entitlement to relief through the provision of valid status documentation, such as a German tax residence certificate or equivalent documentation required under the applicable RAS regime. The client must also ensure that the information provided is accurate, complete and valid. This may extend beyond static documentation and include MiKaDiv-relevant transactional and holding data, such as acquisition dates, positions, and indicators relating to financial arrangements, securities lending and repo activity, where relevant.

#### General Due Diligence Obligations of German and Foreign Intermediary Custodians and of the Depository of the Beneficial Owner of the Capital Income

Section 1.1 of the BMF application letter describes the general due diligence obligations of German and foreign intermediary custodians, as well as of the depository of the beneficial owner of the capital income, within the reporting procedure.

According to margin note 2 of the BMF application letter, the German tax administration assumes that the information to be reported largely consists of data that directly concern the custodians themselves, the shareholder, and the capital income paid, and that such data are typically directly available to the custodians or can be determined by them, exercising appropriate diligence, from the ongoing business relationship and the settlement of the crediting of capital income.

Margin note 3 of the MiKaDiv BMF-letter that, in the transmission of data, custodians must take into account circumstances of which they become aware in the course of the business relationship. The custodians are, in the BMF's view, required to observe the diligence of a prudent merchant. In particular, it must be considered whether the transmitted particulars contradict other information obtained in the course of business activities. Compliance with the diligence required for data transmission is determined, inter alia, by the internal control system applied to prevent erroneous information and by the audit measures conducted. Fact-finding without specific grounds for doubt as to the accuracy of the information is not required.

#### Due Diligence Obligations of the German or Foreign Depository of the Beneficial Owner

The German or foreign depository of the beneficial owner of the capital income typically possesses the most detailed knowledge about the beneficial owner and his business conduct in comparison to all intermediary custodians involved in the onward transmission of capital income. As part of the onboarding process of the beneficial owner, the depository conducts the legally required KYC and AML checks and refreshes these data periodically during the business relationship, depending on the risk profile of the beneficial owner. Furthermore, the depository has direct insight into the beneficial owner's individual securities account and is thereby able to identify each receipt and deliver trades. However, if the depository merely undertakes settlement of the

relevant securities in the beneficial owner's account and does not provide any additional voluntary or statutorily required services, it may not in all cases be able to unequivocally determine the nature of the transaction (e.g. purchase, sale, initiation or termination of a securities lending transaction, initiation or termination of a repurchase transaction (repo), internal or external account transfer with or without a change of beneficial owner, booking in or out of collateral, etc.). In such cases, and in the absence of contrary indications, the depository must be able to rely on the beneficial owner's self-declaration.

This reliance does not apply where the custodian itself is a counterparty to a financial arrangement with the investor or has arranged the conclusion of a financial arrangement with another counterparty. In such cases, the custodian has direct knowledge from its own business activities that a financial arrangement exists and must take this into account accordingly.

### **Due Diligence Obligations of German or Foreign Intermediary Custodians**

German or foreign intermediary custodians that were part of the securities payment chain, i.e., were involved in the onward transmission of German capital income through the custody chain, but that have no direct contractual relationship with the beneficial owner of the capital income and merely maintain an omnibus account for the benefit of another intermediary custodian or for the benefit of the depository of the beneficial owner, possess only limited means to verify the completeness and accuracy of the data transmitted to them. At best, certain plausibility checks may be carried out within narrow limits.

### **Due Diligence Obligations of the German Paying Agent (Reporting Entity)**

German paying agents that do not act as the depository of the beneficial owner but merely maintain omnibus accounts for the benefit of German or foreign intermediary custodians or for the benefit of the depository of the beneficial owner likewise possess only limited means to verify the completeness and accuracy of the data transmitted to them.

Nevertheless, such entities must pay heightened attention to the completeness and accuracy of the data transmitted to them through the custody chain and, in cases of doubt, must pose further critical inquiries to the intermediary custodians positioned upstream of them. An incomplete or inaccurate transmission of data to the German tax administration may, pursuant to Section 50e(2), numbers 1 and 2 EStG, in the case of intentional or grossly negligent conduct, be subject to a fine even where taxes have not (yet) been understated or unjustified tax advantages have not (yet) been obtained.

Margin note 3 of the BMF application letter states that fact-finding by the German paying agent without concrete grounds for doubt as to the accuracy of the particulars transmitted to it is not required.

A German subsidiary or a German branch of a foreign company that independently maintains accounts and securities accounts in the name of its customers is treated, for tax purposes, as an independent custodian.

### **Due Diligence Obligations in the Reporting Procedure for Financial Arrangements**

See supra 1.2.2. **Incomplete data in cases involving the granting of RAS**

German paying agents that, on the basis of a legal obligation, have already reduced German withholding tax on investment income at the time such income accrues (upfront exemption), must transmit the extensive data to the German tax authorities completely and correctly pursuant to Sec 45b (6) sentence 2 ITA no later than 30 June of the calendar year following the year in which the investment income accrued.

This applies regardless of whether the upfront exemption was granted to a creditor who is tax resident in Germany or to a creditor who is tax resident abroad, and regardless of whether the creditor is a direct or indirect customer (a customer acting through an intermediary custodian) of the German paying agent.

Typical use cases for the mandatory granting of an upfront exemption include the submission of a valid status certificate by a domestic or foreign investment fund or special investment fund (Sec 7, 10, 29 and 30 of the German Investment Tax Act (InvStG)), or the submission of a non-assessment certificate by charitable foundations and associations or ecclesiastical institutions (Sec 44a (7) ITA, or by cities, municipalities, special-purpose associations, funeral funds and pension funds (Sec 44a (8) ITA).

German paying agents do not have any discretion as to whether to grant the upfront exemption; rather, they must grant the upfront exemption provided that a valid status certificate or valid non-assessment certificate is submitted to them.

Upon inquiry, the German tax authorities confirmed to the banking industry that the absence, insufficiency, or late cooperation of a creditor in the collection of complete and correct data pursuant to Sec 45b (2) ITA for the purpose of fulfilling the reporting obligation under Sec 45b (6) sentence 2 ITA does not entitle the German paying agent to retroactively deny the upfront exemption already granted and subsequently subject the investment income to the standard tax rate.

However, foreign intermediary custodians or custodian banks that forward status certificates or non-assessment certificates to German paying agents on behalf of their customers so that those customers may benefit from the upfront exemption do have the option, in cases where customers fail to cooperate in compiling complete and correct data, to revoke the status certificates and non-assessment certificates at least with effect for the future in order to avert potential liability risks and penalties. This is a business policy decision that must be made on a case-by-case basis.

In a written response dated 17 March 2026 from the Federal Central Tax Office to a submission by the Association of International Banks (VIB) dated 20 January 2026, the tax authorities took the view that, where uncertainties remain as to whether a German securities holding was economically connected with a financing arrangement, the German paying agent should, in case of doubt, report the entire securities holding as being economically connected with a financing arrangement.

This, too, is a business policy decision that must be made on a case-by-case basis.

To date, the German tax authorities have not commented on the approach to be taken with respect to other reportable data where uncertainty may likewise arise due to a lack of cooperation by the creditor.

This applies in particular to the approach to identifying the correct transaction type for securities credited to or debited from custody accounts where it cannot be determined whether the transaction was a purchase, sale, securities lending transaction, or repo transaction.

### **2.2.2 Application of RAS – BAU Tax Processing**

From a practical perspective, these obligations give rise to further commercial and operational considerations along the chain.

#### **Role – Local Custodian / German Withholding Tax (WHT) Paying Agent**

Where a valid *Statusbescheinigung*, or equivalent entitlement documentation, is available and all applicable checks have been satisfied, the local custodian or German withholding tax paying agent applies the reduced withholding tax rate at source in accordance with existing processes and the relevant legal framework. Although operationally this may form part of business-as-usual tax processing, it remains a critical point in the overall MiKaDiv lifecycle, as the correctness of the relief applied at source may later need to be supported by data and documentation gathered across the chain.

#### **Liability considerations**

As the withholding agent, the custodian may bear primary statutory liability where RAS has been applied incorrectly. That exposure may, however, be mitigated where the custodian is able to demonstrate that it acted on the basis of valid documentation and without reason to know of any inaccuracies in the information provided. The application of RAS therefore depends not only on entitlement as a matter of law, but also on the quality and reliability of the information available at the point of payment.

### **2.2.3 Collection of MiKaDiv Relevant Data (Post Payment Phase)**

#### **Role – Custodian / Intermediary Custodians / Global Custodian (as applicable)**

Following the dividend payment, MiKaDiv introduces additional reporting obligations that require data which is not always available at the payment date. As a result, the process continues beyond the payment event and requires the custody chain to initiate the collection of MiKaDiv-relevant data after the dividend has been paid. At this stage, while no specific statutory timeline appears to have been prescribed beyond the applicable reporting deadlines, operational practice suggests that data collection may take place within the year of the relevant dividend payment.

In practical terms, this means that custodians must contact the client to obtain detailed MiKaDiv transaction and holding information. Depending on the factual scenario, this may include trade and settlement dates, indicators relating to financial arrangements, information on securities lending or repo activity, and details concerning depository receipts. It also requires internal coordination across relevant business functions, including Operations, Tax, Securities Lending and Client Services, to extract data already held within the organisation.

#### **Liability considerations**

Each party in the custody chain is responsible for transmitting accurate and complete data upstream. Failures in that process may result in the need for corrective filings or further follow-up actions. In addition, where several business units operate within the same legal entity, internal roles and responsibilities should be clearly defined in order to avoid accountability gaps, particularly where information relevant to MiKaDiv is distributed across different operational and control functions.

#### **2.2.4 Handling of Non-Responses or Incomplete Client Data**

##### **Role – Custodian (Primary Coordinator)**

Where required MiKaDiv data is not received from the client, the custodian will typically act as the primary coordinator of the follow-up process. This will usually involve issuing structured reminders, or “chasers”, within defined internal timelines and maintaining a clear record of requests, reminders and attempted escalation steps. As a guiding operational principle, up to three chasers may be issued. Where no response is received from the client, further review may be required to determine whether corrective action should be taken or whether specific engagement with the German Tax Authority is appropriate.

##### **Decision framework (nonprescriptive)**

If the client remains non-responsive despite repeated follow-up, the matter may need to be escalated internally, for example to Tax, Compliance or Legal. In more complex or higher-risk situations, consultation with the German Tax Authority (BZSt) may also be considered. It is important, however, to make clear that any corrective action, such as reversal of RAS, acceptance of residual risk or post-event adjustments, is ultimately a business decision based on contractual terms and the firm’s risk appetite. It is not, in itself, dictated by the MiKaDiv technical framework.

In certain cases, custodians may also need to assess whether corrections or subsequent filings are required in order to manage exposure appropriately.

##### **Liability considerations**

Contractual liability should arise and be enforced in accordance with the legal agreement between the global custodian and its client. At the same time, client non-response may materially limit the custodian’s ability to substantiate the RAS previously applied. This underlines the importance of clear contractual allocation of obligations relating to data provision, responsiveness and information quality.

#### **2.2.5 Completion of MiKaDiv Reporting Obligations (Report11/Report13/Report21/Report22)**

##### **Role – Custodian / German WHT Agent / CSD (as applicable)**

Once the relevant data has been collected and assessed, the appropriate reporting entities must complete the required MiKaDiv reporting obligations. Depending on the factual scenario and data availability, this may involve the custodian, the German withholding tax agent or, where relevant, the central securities depository. The applicable report type will depend on the reporting context

and may include Report13, being a report submitted without a tax certificate, Report21, being aggregated reporting by the paying agent, or Report22, covering CSD-level positions, compensation payments and control data.

At this stage, reporting requires consistency across multiple information sets. Client data, custody chain information and transaction history must align sufficiently to support the completeness and correctness of the submission.

### **Liability considerations**

The reporting entity bears statutory responsibility for the completeness and correctness of the data transmitted. Where incorrect information is supplied by intermediaries or clients, liability may propagate along the chain, subject to the relevant contractual allocations and statutory duties. For that reason, internal governance should clearly identify responsibility for validation, sign-off and correction processes, ensuring that reporting obligations are supported by an effective control framework.

## **2.2.6 Corrections, Reconciliations and Post-Event Adjustments**

### **Role – Custodian and Chain Participants**

The MiKaDiv process does not end with the initial submission. Where errors are identified, whether internally, through client updates or as a result of tax authority queries, the relevant information must be corrected with the German Tax Authority in accordance with the applicable reporting process for amending previously communicated data. In addition, a full audit trail of communications, data sources and decisions should be maintained throughout the process.

MiKaDiv filings should also be reconciled against the withholding outcomes applied at source. This is an important control step, helping to identify inconsistencies between the tax treatment initially applied and the data ultimately reported.

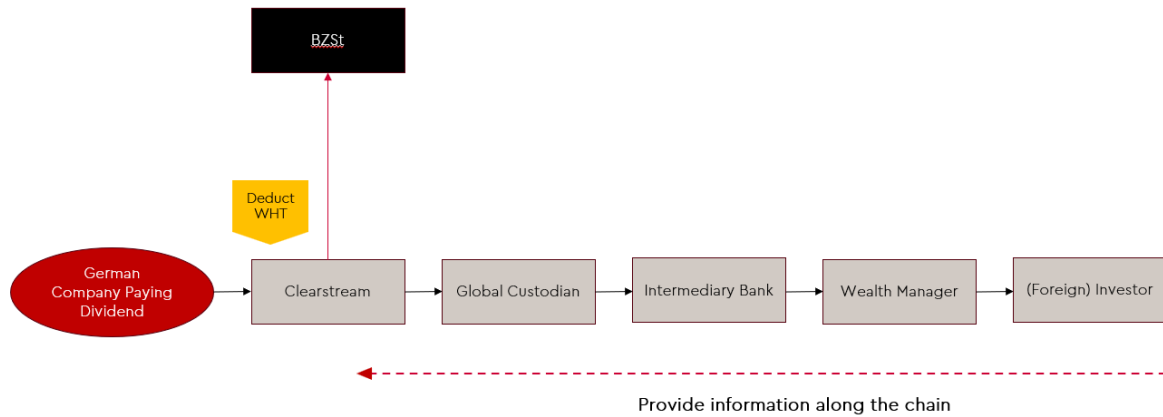
### **Liability considerations**

Failure to correct known inaccuracies may increase exposure under the data quality obligations set out in sect45b / sec 45c data and may result in fines or penalties. Internal control responsibilities should therefore be clearly assigned, particularly where multiple business units within the same legal entity contribute to the reporting lifecycle. In light of these risks, custodians may also wish to revisit their contractual frameworks to address MiKaDiv-specific obligations more explicitly, including through the use of client self-declarations confirming compliance with MiKaDiv requirements and responsibility for data accuracy and timely responses.

### **Flow 1: Global Custodian reports to Clearstream**

Dividend reporting

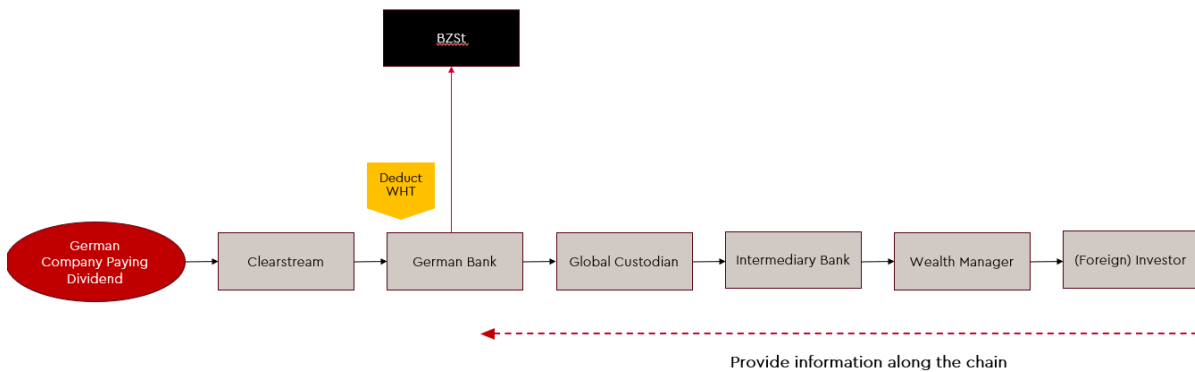
MiKaDiv reporting



## Flow 2: Global Custodian reports to a German Bank

Dividend reporting

MiKaDiv reporting



## Liability and Accuracy Responsibilities

The ultimate responsibility for requesting relief or reclaim in respect of German-source income continues to sit with the income recipient, namely the beneficial owner seeking that relief or reclaim. In practice, however, the ability to give effect to that entitlement depends on the quality of information transmitted through the custody chain and on the contractual framework that governs those relationships.

For that reason, contractual arrangements are a central mechanism for allocating liability and managing data accuracy across the chain. Participants should be aware that, while self-declarations may be operationally useful and consistent with broader market approaches, they are unlikely on their own to be sufficient under the MiKaDiv framework. Where information is partial, inconsistent or inaccurate, custody chain participants may be required to treat income as

potentially linked to a financial arrangement, which may negatively affect the future recoverability of withholding tax if reporting is made on that basis.

Custodians and intermediaries also have contractual obligations to support data accuracy and completeness. At the same time, the German Tax Authorities are expected to regard the German withholding tax agent as responsible for the accuracy and completeness of the information ultimately reported, irrespective of delegated functions or private contractual allocations within the chain. This makes robust controls, clear documentation standards and defined escalation procedures especially important.

A further operational point arises in relation to transaction reporting. FIFO calculations are required for relevant MiKaDiv transaction reporting, and while withholding tax agents may review the information provided by direct clients, they are not generally expected to fully recalculate FIFO histories themselves. In cases involving RAS for Status Certificate holders, the German withholding tax agent is also likely to require securities to be held in a segregated account to support the reporting position.

Reporting must also be complete in a practical sense. Missing data, or an inability to obtain information from the client, may prevent reporting from being made and therefore may also prevent the reclaim process from proceeding. Even where reporting is completed, an intermediary may still conclude that positions should be treated as potentially linked to a financial arrangement where there are inconsistencies in the available data or where it has reason to believe that such treatment may be appropriate.

#### **Income event payment chain**

From an operational perspective, the payment chain begins with the issuer paying the income, before deduction of withholding tax, to Clearstream in its capacity as the German CSD and first withholding tax agent. Clearstream then withholds tax only in relation to distributions made to its non-German resident participants, whereas distributions to German-resident participants are paid gross.

Where a German-resident bank sits as the final bank in the custody chain, that bank acts as the withholding tax agent for its own clients and withholds tax on the relevant income distributions on the basis of client-provided information, which will typically have been received from a non-German global custodian. This structural point is important because it directly affects the allocation of reporting responsibilities within the chain.

The global custodian then distributes income onwards to other entities within the chain, with the income ultimately being passed through to the beneficial owner. Separately, on payment date plus [X] days, the German Tax Authorities (BZSt) receive aggregate withholding tax reports from German withholding tax agents, showing the total amounts withheld without investor-level detail. On an annual basis, the withholding tax agent must then submit the relevant MiKaDiv reporting for the prior tax year, depending on the applicable report type and the nature of the reporting obligation. German investors, meanwhile, receive paper-based tax vouchers with UUIDs to support their annual tax declaration and reclaim process.

#### **MiKaDiv reporting for reclaim purposes (non-German investors only- Report 11 + ZAM):**

For non-German investors, MiKaDiv reporting for reclaim purposes is initiated by the income recipient, being the beneficial owner, through a request for reporting intended to enable the reclaim process. This request is submitted to the investor's first-level correspondent bank, which may be either an intermediary financial institution or the Global Custodian. Because such reporting is not automatic, the request must then be passed down the custody chain to the relevant Withholding Tax Agent, together with the information required at each level to support the end reporting. In practice, the handling of these requests creates an operational burden for intermediaries, who must ensure that the request and supporting information are transmitted accurately and completely through the chain.

To support complete and accurate reporting, the income recipient must provide the relevant data attributes relating to financial arrangements to its first-level correspondent bank or Global Custodian. The quality and completeness of this information is critical, as it underpins the ability of the custody chain and, ultimately, the Withholding Tax Agent to complete the required MiKaDiv reporting in a manner that supports the reclaim process. Upon submission of the reporting to the German Tax Authorities and receipt of positive feedback, the German Withholding Tax Agent transmits the UUID to its client, which must then pass it on to the final income recipient. The UUID replaces paper-based vouchers and is required for reclaim purposes.

In addition, on an annual basis, the Withholding Tax Agent is required to report all proceeds paid in the previous tax year using MiKaDiv Report 13, indicating the details of the account holder. Any subsequent request for certification made through MiKaDiv Report 11ZAM will trigger an amendment to the previously submitted MiKaDiv Report 13, which must be made via MiKaDiv Report 13K. More generally, any amendments and corrections are handled through correction reports, namely Report 11K, rather than by way of cancellation.

Reporting may also be submitted multiple times during the year, including through MiKaDiv Report 11ZAM. Although there is no mandated submission frequency, operational best practice is likely to favour earlier reporting, for example from payment date + [X] days, in order to reduce the volume of year-end corrections and amendments.

#### **Timing and operational considerations:**

Timing is a significant practical constraint within the MiKaDiv framework. Reporting cannot be submitted earlier than 47 days after the dividend payment. In practice, however, beneficial owners and intermediaries may choose to wait until the end of the dividend payment season so that income data can be consolidated before reclaim requests are submitted.

Even so, from an operational perspective, best practice is likely to be to submit reclaim requests, or at least reporting requests, within the same calendar year as the dividend payment. Doing so should reduce administrative burden and lessen the need for amended reporting at a later stage. This is particularly relevant given that technical constraints may apply to both message size and transaction volumes, with FIFO transaction history, for example, being capped at 1,000 lines per message.

Participants should therefore seek to design processes that avoid a year-end surge in reporting activity. A concentrated end-of-year reporting cycle is likely to increase operational pressure, elevate the risk of errors and create further challenges in relation to follow-up, reconciliation and corrections.

## Liability and accuracy responsibilities

The income recipient, being the beneficial owner requesting relief or reclaim, is expected to remain responsible, through the relevant contractual arrangements, for the accuracy of the information provided in respect of German-source income. In this context, contractual arrangements and self-declarations remain important mechanisms for allocating liability and managing data quality across the custody chain.

Custodians and intermediaries likewise have contractual obligations to ensure data accuracy and completeness. These obligations are particularly significant in the context of MiKaDiv transaction reporting, where FIFO calculations are required for MiKaDiv Report 11ZAM and Report 13ZAM. Although Withholding Tax Agents may perform reasonableness checks, they are generally not expected to fully recalculate the FIFO results provided by their direct clients. It is therefore essential that the information submitted is complete, supportable and capable of withstanding review.

For these purposes, the following information must be reported:

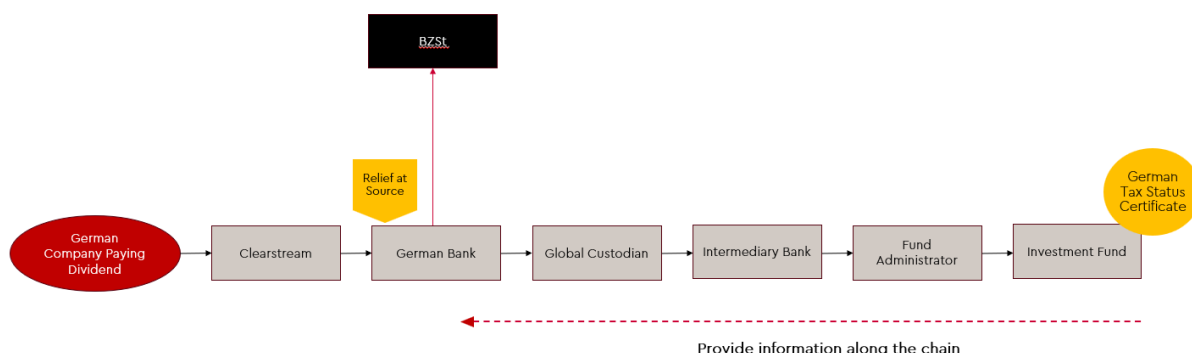
- Number of shares from 1 year prior to proceed record date
- Number of shares acquired prior to 5 days before the AGM (ex-date)
- Number of shares acquired within 5 days of the AGM (ex-date)
- Number of shares held 47 days after pay date
- Number of shares that are or could be associated with a Financial Arrangement
- Number of shares that are not associated with a Financial Arrangement

Reporting must be complete. Missing data, or an inability to obtain client information, will prevent reporting from being made and, as a consequence, prevent the ability to reclaim tax.

### Flow 3: RAS for an Investment Fund in case of a German Tax Status Certificate

Dividend reporting

MiKaDiv reporting



### **3 Exceptions, Corrections, and Reconciliation**

#### **3.1 Incomplete Information for Reporting and Implications for RAS**

A recurring operational challenge under MiKaDiv is the availability of complete and timely data across the custody chain. This is particularly relevant where RAS has been applied on the basis of a valid status certificate, but reporting depends on information held by immediate client custodians and cannot be fully assembled by the reporting deadline.

MiKaDiv reporting obligations apply independently of the withholding outcome at payment and are intended to support structured, electronic transparency. Late or incomplete reporting should therefore be viewed primarily as a reporting compliance issue, rather than as an automatic challenge to an RAS outcome that was correctly applied based on documentation available at the time of payment, although incomplete or late reporting may trigger follow up actions by the tax authorities. These may include requests for clarification, RFIs or broader reviews of reporting processes and controls, typically aimed at understanding data gaps and verifying beneficial ownership and reporting consistency.

Where reporting data from the immediate client custodian remains unavailable, the German withholding agent may be unable to meet its reporting deadlines. Based on feedback from the authorities, it is expected in such circumstances that certain default assumptions may need to be considered for reporting purposes. In practice, this may include treating positions under broader concepts of financial arrangements or assuming less favourable classifications where, due to the lack of information, beneficial ownership cannot be sufficiently evidenced at the reporting date. These approaches are generally understood as pragmatic safeguards to enable reporting to proceed, rather than as definitive conclusions on the underlying tax position.

From a risk perspective, late or incomplete reporting can carry consequences for the German withholding agent, as the party legally responsible for meeting MiKaDiv reporting obligations. This may include follow up by the tax authorities, RFIs and potential enforcement action where reporting deficiencies are combined with an incorrect determination that results in underpaid withholding tax. While any formal penalty exposure would initially arise at the level of the withholding agent, such outcomes can have downstream implications for intermediaries and foreign custodians that are unable to provide the required data and may ultimately affect the recipient of the RAS through increased scrutiny, reporting reassessment, or changes in market practice.

Incomplete or late reporting on a standalone basis is not generally expected to result in penalties. However, where missing or incorrect reporting contributes to an incorrect tax outcome, the resulting combination materially increases risk, including the potential for penalties assessed per payment, subject to proportionality considerations under applicable penalty law.

Beyond potential financial exposure, ongoing data gaps may give rise to heightened scrutiny of processes and controls and internal governance considerations around the continued offering of RAS. Expectations may also vary by client type, with stricter standards typically applying to regulated or transparency driven investors, such as pension funds, compared to standard disclosure regimes.

For the foreign custodians, decisions on continuing to offer RAS in the presence of recurring reporting challenges remain commercial and risk based. They reflect the interaction between legal responsibility at the level of the German withholding agent and the practical dependency on data provided across the custody chain in an increasingly data intensive reporting environment.

## 3.2 Reporting Due Diligence and Post-Submission Compliance Audit Controls and System Requirements

### 3.2.1 Due Diligence Obligations in the Reporting Procedure

Custodians must take into account all circumstances of which they become aware in the course of their business relationship when transmitting data. At every level of the custody chain, custodians are required to exercise the diligence of a prudent businessperson. In particular, they must assess whether the information being transmitted is consistent with other information obtained in the course of their business activities.

Compliance with this standard of care is determined primarily by the effectiveness of the internal control systems in place to prevent incorrect data transmission, as well as by the audit procedures performed. However, custodians are not required to investigate further in the absence of specific indications that the information may be inaccurate.

### 3.2.2 Stricter Correction Obligations and Extended Statute of Limitations

The regulatory framework introduces strict obligations regarding the correction of electronically transmitted data, while simultaneously extending the statute of limitations for tax assessments. These requirements must be considered in light of complex market structures such as Cum/Ex, Cum/Cum, and Cum/Fake transactions, which are inherently difficult to analyse due to their complexity and the large volumes of underlying data.

At the same time, the obligation to correct and, where necessary, cancel data serves a fundamental purpose in ensuring data accuracy. The effectiveness of the capital gains tax database maintained by the BZSt depends on the continuous and automatic updating of mass data. Without such mechanisms, the reliability, and potentially the legal validity, of the data collection system would be compromised.

#### Scope and Timing of Corrections

The rules governing the submission of corrections and cancellations apply independently of the deadline set out in Sec 93c (3) of the German Fiscal Code (AO). As a result, corrections must generally be made even after the expiration of the tenth calendar year following the relevant tax assessment date. While there is no statutory time limit on the obligation to correct data, the relevant guidance clarifies that statutory document retention obligations remain unaffected by the provisions of Sec 45b (8) ITA.

A correction report must:

- Reference the UUID of the original (erroneous) report
- Include the complete corrected data record
- Contain both the corrected elements and the original data that did not require modification

By contrast, a cancellation report is only required where a data record should not have been submitted at all.

The need for corrections may also arise after the initial data transmission, for example where tax certificates are subsequently issued or where additional data transmissions are made pursuant to Sec 45a (2a) in conjunction with Sec 45b (5) ITA, resulting in changes to the volume of uncertified investment income attributable to a creditor.

Notably, there is currently no statutory threshold for materiality. Even minor discrepancies, including differences of only a few cents, must be corrected through formal reporting.

While no fixed deadline is imposed for submitting correction reports, administrative guidance allows for a practical approach whereby corrections may be collected and submitted on a monthly basis.

The implications of the correction and cancellation rules make it necessary to implement robust monitoring and archiving mechanisms for key data elements (e.g. UUIDs) associated with individual data submissions. This requirement extends beyond corrections and cancellations to all reports and voucher requests. Accordingly, such controls are recommended for all participants across the custody chain.

### **Operational Implications**

The strict correction and cancellation requirements necessitate the implementation of robust monitoring and archiving mechanisms. In particular, institutions must ensure that key identifiers, such as UUIDs, are properly tracked and retained across all data submissions. This requirement extends beyond corrections and cancellations and applies equally to all reports and voucher requests throughout the custody chain.

For this reason, comprehensive data governance and auditability should be considered essential components of MiKaDiv implementation for all participants in the custody chain.

### **3.2.3 Tax Control Framework**

The implementation of a Tax Control Framework that has been independently assessed for effectiveness and appropriateness plays a critical role in ensuring compliance with tax obligations. A well-designed framework can also help mitigate the risk of intent or gross negligence on the part of the taxpayer or its governing bodies.

A functioning Tax Control Framework should incorporate the following seven core elements, each of which must be embedded within the institution's business processes:

- Tax compliance culture
- Objectives
- Organizational structure
- Risk management
- Control and compliance program

- Communication processes
- Monitoring and continuous improvement

Together, these elements provide a structured approach to managing tax compliance risks and support the reliable and accurate fulfilment of reporting obligations under the MiKaDiv framework.

#### **4 General Remarks**

The MiKaDiv-reporting framework constitutes an integral component of the German WHT reclaim and crediting procedures both for German resident and non-German resident shareholders. Any eligibility for reclaim and crediting of German withholding tax on dividends relates to the fulfilment of the MiKaDiv-reporting requirements.

The MiKaDiv-reporting compliance intends to prevent recurrent risks of tax fraud, tax evasion and tax avoidance, as shown by numerous cases of multiple tax reclaim schemes and fraud involving the use of dividend arbitrage or dividend stripping (Cum/Ex and Cum/Cum).

As stated, the MiKaDiv-reporting requirements, apply unanimously both for German and non-German resident shareholders. However, the broad scope of the MiKaDiv-reporting should be evaluated, too.

In case of German resident shareholders, the full crediting of the deducted withholding tax on dividends according to Sec 36a ITA is subject to detailed conditions specified in detail in the provision. The detailed MiKaDiv-reporting framework mirrors foremost the regulatory content of this German centric regulatory content of Sec 36a ITA, intended to obtain adequate information for the tax authorities before granting relief or crediting. If these conditions are not met, then, according to Sec 36a (1) sentence 2 ITA, three-fifths of the withholding on dividends tax is not to be credited.

In case of non-German resident shareholders, Sec 50j ITA stipulates that the taxpayer is not entitled to a refund, too, if he does not meet the above-mentioned conditions set out in Sec 36a ITA. However, this prerequisite only applies to demand reimbursement of the portion of withholding tax exceeding the withholding tax provided for in a tax treaty. In essence, this only is applicable, if the withholding tax specified of the standard portfolio-dividends in the tax treaty is less than 15% of the gross amount of the dividends. This is intended by law to concentrate this restrictive rule on the "risky and fiscally relevant cases" (BT/Drs. 18/10506, p. 88).

A comparative law analysis, when done properly, is not merely a paraphrasing exercise. Rather, it identifies purpose, scope, legal effect and limitations, recognizes partial equivalence and non-equivalence.

This said, Sec 36a ITA intends to limit the tax capacity in respect of any crediting for German resident shareholders, whereas Sec 50j ITA governing non-German resident shareholders is in most standard DTT reclaim or RAS scenarios even de facto not applicable.

These significant regulatory differences between German and non-German shareholders may be taken into consideration, as any uniform application of the MiKaDiv reporting framework may raise issues of proportionality and fair taxation.

## Appendix

### 1. Extract from the FASTER Directive

*(22) It is acknowledged that financial arrangements may be used to shift ownership of a security, in whole or in part, or to transfer relevant investment risks. Moreover, such arrangements have been employed in dividend arbitrage and dividend-stripping schemes, such as the "Cum-Ex" and "Cum-Cum" schemes, solely for the purpose of obtaining refunds in cases where no entitlement existed or to secure a higher refund amount than that to which an investor was entitled. Arrangements such as forward transactions, repurchase transactions, securities lending and borrowing transactions, purchase/sell-back transactions or sale/buy-back transactions, derivatives, Lombard loans, and difference contracts should be capable of being considered financial arrangements in cases where they result in a temporary or permanent separation between the natural person or legal entity bearing the economic risks of the investment and the legal owner of the share or the underlying rights. These examples are not exhaustive.*

*(23) Furthermore, in the case of financial arrangements, it is presumed that ownership of the securities is not transferred to the purchaser or borrower where, through legal transactions such as securities lending, options, or forward transactions, the economic risk remains with the seller or lender of the securities. Any agreement under which dividends are compensated between the parties concerned should be capable of being considered a financial arrangement. Such compensation between the parties concerned is not always made by means of a cash payment; it may also occur in more indirect ways, such as via price differences in securities or derivatives. For the prevention of tax fraud and tax abuse, tax authorities require information about financial arrangements. Where reporting is conducted directly, such information should be required only from certified financial intermediaries who, by virtue of their position within the chain, may have been directly involved in the relevant financial arrangement, which is the case for certified financial intermediaries that request relief. Where reporting is conducted indirectly, information on financial arrangements should be reported by the certified financial intermediary of the registered owner. In such cases, the information should be reported along the securities payment chain in continuous sequence, ultimately reaching the authority responsible for withholding tax or a designated certified financial intermediary. This means that other reporting certified financial intermediaries must transmit information on such financial arrangements to the authority responsible for withholding tax or a designated certified financial intermediary, even if those reporting certified financial intermediaries were not directly involved in the relevant financial arrangement. In the case of bonds and interest payments, reporting on financial arrangements is not required.*

## 2. Practical Examples of FIFO Application

The guidance from the German Federal Ministry of Finance (MiKaDiv BMF-Letter) illustrates how FIFO should be applied in practice:

### Example 1 – Basic FIFO with Securities Lending

- Borrowing: 100 shares
- Purchase: 200 shares
- Sale: 200 shares
- Dividend: based on 100 shares

#### Outcome:

- FIFO allocates the remaining holding to the earliest relevant acquisition
- Securities lending position must be reported or disclosed via simplified method

### Example 2 – Mixed Transactions

- Borrowing + multiple purchases + partial sale
- Dividend based on 185 shares

#### Outcome:

- FIFO splits holdings into distinct positions based on acquisition timing
- Portions attributed to:
  - o Lending positions
  - o Different purchase dates

### Example 2 – Mixed Transactions

- Holdings split across intermediaries
- FIFO identifies relevant acquisition (150 shares)

#### Outcome:

- Same acquisition may be reported across multiple intermediaries
- Remaining shares fall outside the reporting window

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