

Luxembourg, 26 May 2020

**ATAD / SECURITIZATION: LuxCMA's view in relation to the European Commission formal notice sent to Luxembourg to amend its legislation transposing the Anti-Tax Avoidance Directive**

On 14 May 2020, the European Commission [announced](#) that it decided to send a letter of formal notice to Luxembourg asking it to correctly transpose the interest limitation rule of the Anti-Tax Avoidance Directive (Article 4 of the [Council Directive \(EU\) 2016/1164](#)). Under current Luxembourg law, securitization companies covered by [Regulation \(EU\) 2017/2042 of 12 December 2017](#) (EU Securitization Regulation) are excluded from the scope of the interest limitation rules. If Luxembourg does not act within the next four months, the European Commission may send a reasoned opinion to the Luxembourg authorities. A similar formal notice will be send to Portugal.

While LuxCMA believes that there are valid reasons for the exclusion of securitization companies covered by the EU Securitization Regulation from the scope of the Luxembourg interest limitation rules, we would not expect a possible change in Luxembourg tax law to have a significant impact on the Luxembourg securitization market as the vast majority of the EU securitization transactions receive only interest income and similar types of income (e.g. financing income on derivatives or synthetic transactions that should, in our view, generally also qualify as interest income) and, therefore, are generally not impacted by the interest limitation rules. LuxCMA is of the view that the successful business of structured product securitizations or fund securitizations will also not be impacted by possible law change as these structures usually do not meet the conditions of the EU Securitization Regulation. We expect that any change in the Luxembourg law to not be retroactive but to only be applicable going forward, possibly starting 2021. LuxCMA is closely monitoring this issue and will inform its members accordingly.

All those willing to become LuxCMA member should visit [www.luxcma.com](http://www.luxcma.com) or contact [info@luxcma.lu](mailto:info@luxcma.lu).