



# TECHNICAL POSITION PAPER ON THE DEDUCTIBILITY OF PAYMENTS BY SECURITIZATION COMPANIES FINANCED BY DEBT

By LuxCMA Task Force – Securitization & ATAD

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## INTRODUCTION

This paper summarizes the technical position in relation to the deductibility of payments that are typically due by debt-financed securitization companies (also referred to as “SVs”), as analyzed by the ATAD and Securitization working group of LuxCMA on the basis of the law in effect on the date of the paper’s publication (current law). It focuses specifically on the treatment of such payments under article 168bis LIR (the interest limitation rule) and article 168ter LIR (the anti-hybrid mismatch rules).

While the working group acknowledges that there is no unanimity among tax law professionals in Luxembourg, the positions taken in the paper are considered, within the group, as reasonable and defensible based on the current law. Lines of argumentation and conclusions summarized are not meant to be used in a different context than the ones analyzed in this paper.

Any changes in law or administrative statements or judgements by Luxembourg courts may require an update of the analysis.

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Created on 1 March 2019, the LuxCMA is a not-for-profit association (a.s.b.l.), registered at the RCSL (F12205), whose registered office is 6 rue Jean Monnet, L-2180 Luxembourg. The LuxCMA today represents memberships detailed on LuxCMA's website ([www.luxcma.com](http://www.luxcma.com)), which is composed by banks, law firms and services providers, amongst others.

### **Task Force – Securitization & ATAD**

The main purpose of the Securitisation and ATAD Task Force is to provide guidance on the implementation of the EU Securitisation Regulation and ATAD for Luxembourg securitisation vehicles. The aim is to identify unclear topics in typical securitisation structures, discuss the issues and propose technical positions from the perspective of the market participants. The outcome will be position papers and interpretations issued by the LuxCMA. The Securitisation and ATAD Task Force intends to work closely with policy makers and other associations on common topics.

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