



cutting through complexity

Survey of tax and legal implications of cross border cash management

A survey of 26 countries

September 2011

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	AUSTRIA	BELGIUM	BULGARIA	CROATIA	CYPRUS	CZECH REPUBLIC	DENMARK
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Tax issues

Withholding tax

• Inter-company interest	No	Yes(15%)/No ⁶	Yes(10%/5%)/No ⁹	Yes ¹³	No ¹⁸	Yes(15%)/No ²⁰	No ²³
• Bank interest	Yes (25%)/No ²	Yes(15%)/No ⁷	Yes(10%/5%)/No ⁹	No	No ¹⁸	Yes(15%)/No ²⁰	No
Thin capitalisation	No ³	No ⁶	Yes ¹⁰	Yes ¹⁴	No	Yes ²¹	Yes ²⁴
Transfer pricing	Yes	Yes	Yes	Yes	Yes ¹⁹	Yes	Yes
Controlled foreign company	No	No	No	No	No	No	Yes
Resident/non-resident bank account issues	No	No	No/Yes ¹¹	No ¹⁵	No	No	Yes
Stamp duties	Yes ⁴	No	No	No	No	No	No ²⁵

Legal/regulatory issues

Notional pooling allowed ¹	Yes	Yes	Yes	Yes ⁶	Yes	Yes	Yes
Sweeping allowed	Yes	Yes	Yes	Yes ⁶	Yes	Yes	Yes
Friendly pooling location for pan-European cash concentration	Yes	Yes	Yes	No ⁶	Yes	Yes	Yes
Central bank reporting	Yes ⁵	Yes	Yes ¹²	Yes ¹⁷	Yes	Yes/No ²²	Yes
Exchange controls	No	No	No	No	No	No	No
Cross guarantee issues	No	No	No	Yes	No	No	No

- Whilst notional pooling is permissible in these countries, the form of the pooling may differ in order to comply with domestic law. The requirements may be such that, whilst possible, notional pooling is not considered a practical alternative.
- Bank interest is subject to WHT at 25%. There is an exemption available for corporations, subject to them providing a declaration to the bank.
- There are no specific rules, but the Administrative Court has provided certain broad guidelines, under which it is possible for interest to be classified as a distribution. As a rule of thumb, a minimum equity-proportion of 25% should be maintained (debt/equity ratios may be introduced within the next few years).
- Austrian Stamp Duty on loan and credit agreements was abolished on 1st January 2011. Hence, stamp duty is no longer triggered when; a written loan/credit document is signed in or brought into Austria, a legal transaction occurs in Austria, or an obligation is performed in Austria. Stamp duty no longer applies to loans granted by direct shareholders. Stamp Duty may only be triggered on the grant of specific guarantees (1% of the liability guaranteed), if the written document is signed in/brought into Austria, has legal effect in Austria, or relates to an obligation performed in Austria. Specific planning techniques are available to mitigate Stamp Duty on guarantee agreements.
- The Austrian statistical office (Statistik Austria) must be informed of all cross-border interest income and expenses. Additionally, any month where cross-border receivables and/or payables exceed €3,000,000, a separate computation listing assets and liabilities by countries and currencies must be reported. Reports are filed on a monthly basis (by the 15th of the following month). If the threshold is not breached for six continuous months, there is no reporting obligation for the following month.
- There is an exemption for interest paid between two Belgian enterprises and for interest paid between two EU 'associated' enterprises.
- There is an exemption for interest, on deposits with Belgian banks, paid to non-residents.
- There are no general thin capitalisation rules, but thin capitalisation rules may apply in two cases: (1) loans granted by an individual shareholder, or an individual or non-resident corporate director to the company (1:1 ratio) (2) if the interest income is subject to tax legislation which is considerably more favourable than Belgium (7:1 ratio). Please note that from 2010, taxpayers subject to (resident or non-resident) corporate tax must annually report all direct or indirect payments to persons established in tax havens. These reports must be made if total payments during the taxable period exceed €100,000. If no reports are filed, the interest payment will not be tax deductible.
- Cross-border interest is generally subject to 10% WHT on the gross interest accrued. If applicable, double tax treaties may reduce/eliminate the WHT rate. Effective from 1st January 2011, the European Interest and Royalties Directive was (partly) incorporated into the local legislation. Thus, a reduced WHT rate of 5% is applied on the gross interest accrued by Bulgarian companies to EU-resident associated companies (provided that certain conditions are met). This reduced rate of 5% applies in the period 1st January 2011 - 31st December 2014. Full relief from Bulgarian WHT on interest accrued to EU associated companies is expected to be available from 1st January 2015 onwards. Foreign recipients of Bulgarian source income taxed on a gross basis may also (subject to certain conditions) claim a refund of part of the WHT paid on a gross basis, thus effectively suffering 10% tax on a net income basis. Interest paid between Bulgarian companies is not subject to WHT.
- The deductibility of interest expenses may be limited if the debt/equity ratio of a company, in a given year, exceeds 3:1. Certain interest expenses are out of the scope of the thin capitalisation rules, such as interest on finance leases and bank loans not being agreed with, guaranteed by or extended by the order of related parties, as well as interest expenses capitalised in the value of an asset in accordance with the applicable accounting standards.
- Upon opening a bank account abroad, local entities are subject to a one-off reporting procedure. Thereafter, the account holder is obliged to report quarterly to the Bulgarian National Bank (BNB).
- Domestic transactions are not reported to the BNB. The following should be reported to the BNB: (i) opening of bank accounts abroad, (ii) granting/receiving loans to/from non-residents, (iii) subsequent payables/receivables under the loans with non-residents, (iv) trade payables/receivables with non-residents.
- WHT only applies to cross border loan arrangements. The WHT rate may be decreased/eliminated per the effective double taxation treaty.
- A proportion of the interest on a loan is not deductible for Corporate Profit Tax purposes if the loan is provided or guaranteed by non-resident direct shareholders with at least 25% of the shares or voting rights in a company. The disallowable proportion is the proportion of the loan which exceeds four times the amount of share capital held by that shareholder.
- Certain Croatian National Bank reporting requirements may apply.
- In absence of specific regulations, cash pooling transactions are considered lending activities. Furthermore, as restrictions applying to cross border cash pooling transactions have recently been abolished, Croatian banks are in the process of adjusting their internal systems to facilitate cross border cash pooling arrangements.
- Central Bank reporting is sometimes required when depositing funds in bank accounts outside Croatia and loans received from abroad.
- Interest must be to non Cypriot residents.
- Cyprus applies the arm's length principle.
- WHT is applied to cross-border interest payments, not domestic payments between companies. An exemption from WHT is available for interest payments to related EU resident companies. The WHT rate can be reduced or eliminated by double tax treaties. From 2009, EU resident companies can file a Czech corporate income tax return in which they deduct related expenses from the interest income. Any overpayment is refundable.
- A 4:1 debt to equity ratio is acceptable for inter-company interest. In the case of banks and insurance companies the debt to equity ratio is 6:1.
- There is a reporting obligation to the Czech National Bank regarding loans and connected payments. This does not apply to payments among related companies within a cash pool.
- Interest accruing or payments to controlling foreign companies (directly or indirectly holding more than 50% of the share capital/voting rights or for which an agreement on joint management has been prepared) is subject to a 25% withholding tax, provided that the Interest and Royalties Directive is not applicable or that the interest payment is covered (ie reduced or eliminated) by a double tax treaty. Other exemptions are also available.
- A 4:1 debt to equity ratio is acceptable under special methods of calculation. There are additional interest deductibility restrictions: an interest ceiling rule and an EBIT rule. Under the interest ceiling rule, net financing costs can only be deducted to the extent that the expense does not exceed a standard rate of interest (4.5% at present) of operating assets, or if higher Dkr 21.3m (revised annually), provided the ordinary thin capitalisation rules are observed. The EBIT rule restricts the amount by which taxable income can be reduced by net financing costs.
- Only certain rights in relation to real estate and certain insurance documents are subject to stamp duty.
- There is only WHT at 28% if interest is accrued on a permanent loan which is effectively performing an equity function.

	FINLAND	FRANCE	GERMANY	GREECE	HUNGARY	IRELAND	ITALY
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Tax issues

Withholding tax							
• Inter-company interest	No ²⁶	No ²⁹	No	Yes ³⁴	No	No ⁴²	No/Yes ⁴⁴
• Bank interest	Yes ²⁷	No ²⁹	Yes/No ³²	Yes ³⁵	No	No ⁴²	Yes/No ⁴⁵
Thin capitalisation	Yes ²⁸	Yes ³⁰	Yes ³³	Yes ³⁶	Yes ³⁹	No ⁴³	No/Yes ⁴⁶
Transfer pricing	Yes	Yes ³¹	Yes	Yes	Yes	Yes	Yes
Controlled foreign company	Yes	Yes	Yes	No	No ⁴⁰	No	Yes
Resident/non-resident bank account issues	No	No	No	No	No	No	No
Stamp duties	No	No	No	Yes ³⁷	No	No	Yes ⁴⁷

Legal/regulatory issues

Notional pooling allowed ¹	Yes	Yes	Yes	Yes	Yes	Yes	No ⁴⁸
Sweeping allowed	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Friendly pooling location for pan-European cash concentration	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Central bank reporting	No	Yes	No	Yes ³⁸	Yes	No	No
Exchange controls	No	No	No	No	No	No	No
Cross guarantee issues	No	Yes	No	Yes	No ⁴¹	No	Yes

27. There is WHT at 28% on interest paid to resident individuals, whereas no WHT is levied on interest paid to non-resident individuals, resident companies or non-resident companies.

28. A 3:1 debt/equity ratio is usually accepted.

29. Article 125 A, III of the FTC, which has applied since 1st March 2010, provides for a WHT exemption for French interest paid to non residents (provided they are not established in a State regarded as a non cooperative state and where payment is not made in a non cooperative state). Where interest is paid into a non cooperative state, WHT at the rate of 50% applies in France, unless the beneficiary provides evidence that the aim of the transaction is not the localisation of interest in a non cooperative State.

30. French thin capitalisation rules, applicable from 1st January 2007, do not apply in the following three cases where funding is raised: (i) by the master account company for the purpose of its cash pooling activity, (ii) in relation to banks and other financing companies, and (iii) for leasing operations. Guidelines were issued by the FTA (n°4 H-8-07) on 31st December 2007. French thin capitalisation rules apply to loans/financing between related parties (but should not extend to loans from third party banks except as of 2011 where they are secured by a related party). If banks only provide the 'service' of cash pooling but the financing of the cash pool is provided by a group company, French thin capitalisation rules should normally apply to interest paid to a group company.

French thin capitalisation rules contain the following two limits:

a) A limit on the maximum interest rate (acceptable interest)

b) A limit on interest deductibility based on three thin capitalisation tests:

- Debt to equity ratio of 1.5

- Interest coverage test (should not exceed 25% of the company's profit before tax, interest payable, depreciation and finance lease payments figure)

- Intra group interest receivable.

31. The French revised Finance Bill for 2009 introduced new transfer pricing documentation requirements as of 1st January, 2010 (art L13 AA of the FTC). The new rules apply to legal entities located in France which meet conditions relative to turnover or group regime. The French documentation should now contain (i) general business information on the environment the company operates in (from an economic, financial, regulatory and tax point of view) and (ii) specific information concerning France, detailing the transfer pricing policy applied (description of intra-group transactions, list of cost sharing agreements, presentation of the methods, if relevant comparative elements...). For companies which are not within the scope of Article L13 AA of the FTC, there are no specific transfer pricing documentation guidelines. However, transactions between related parties must be documented and be available to the tax authorities if requested.

32. WHT is imposed on bank interest paid to German resident companies. The rate is 25% (26.38% including the 5.5% solidarity surcharge). Most Double Tax Treaties reduce the WHT rate for interest paid to non German companies.

33. Thin capitalisation rules were replaced by 'Earning Stripping Rules' in 2008. Earning Stripping Rules allow a business to deduct interest expenses without limiting the extent of interest income in the same fiscal year. Interest expenses in excess of the interest income are only deductible up to 30% of EBITDA, as calculated under tax law.

The following two exemptions, from the 30% limitation, are available:

If the net interest expense is less than €3m.

If the business is not part of a 'consolidated group', or is only a proportional member.

If the 'equity percentage' of the business is greater than or equal to that of the 'consolidated group' as a whole (or is no more than two percentage points less than that of the group).

Interest expenses which are non-deductible under the above rules can generally be carried forward. Furthermore, the extent to which the relevant 30% portion of the EBITDA

is not utilised in the year, to cover excess interest expenses, can be carried forward for five years.

34. Greek withholding tax of 20% applies to interest paid by a foreign legal entity to a Greek non banking legal entity/beneficiary. Furthermore withholding tax of 40% applies to interest paid by a Greek legal entity to a foreign legal entity/beneficiary not having a permanent establishment in Greece. WHT on interest may be reduced or eliminated under the terms of a double tax treaty, whereas under the EU Royalty Interest Directive, provided that certain conditions are met, it may be reduced to 5% (for interest payable until 30th June 2013) or eliminated (if payable from July 2013 onward).

35. There is a deposit withholding tax of 10% but this is not applied in some situations (eg interbank deposits). No WHT applies on loan interest received by Banks. Bond interest received by Banks in Greece is subject to 10% withholding tax.

36. Accrued interest on loans which are paid or credited to affiliated enterprises is deductible on the condition that the relation of these loans or credits to the net assets of the enterprise does not exceed the ratio of 3:1 on average per fiscal year. Thin capitalisation rules also apply to bond loans. Intercompany loans also include loans provided by third companies, which are guaranteed by affiliated companies. Specific exemptions are provided by law (mainly for financial institutions).

37. Applicable to non banking loans if concluded or executed in Greece. A special levy of 0.6% is imposed on outstanding loan amounts provided by banks.

38. Where payments occur overseas without the intermediation of a Greek bank, Greek legal entities are required to report the transaction, regardless of the amounts involved, to the Bank of Greece for statistical purposes. Moreover, Greek banks which act as intermediaries for transactions between Greek residents and non Greek residents, where sums exceed €50,000, must notify the Bank of Greece (Bank of Greece Act 2535/21.1.2004 as amended).

39. Physical pooling is subject to the thin cap rules whilst notional pooling is outside of the scope of the thin cap provisions.

40. CFC considerations may arise only if a Hungarian resident individual holds a beneficial interest in a foreign entity (more than 10% shareholding) or the foreign entity derives more than 50% of its income from Hungarian sources (with some exceptions). This is not relevant in the current case.

41. Cross-guarantees may attract TP considerations.

42. There is domestic WHT at 20% but there are exemptions for most intra group interest paid in connection with pooling activities. WHT does not apply to banks resident in Ireland or in tax treaty countries.

43. Ireland does not have debt to equity thin capitalisation rules. Certain interest payments to overseas affiliates resident in non-EU countries with which Ireland does not have a Double Taxation Agreement may be regarded as non-deductible distributions.

44. With regards to loan interest, there is no WHT if paid to resident companies and WHT of 12.5% or 27% if paid to non-resident companies. There is no WHT on interest on cash pooling system if paid to resident companies and no WHT if paid to non-resident companies but only if certain conditions are met regarding the status of the account from which the interest is paid. In this respect, the tax authorities have considered WHT as not applicable on zero balance cash pooling, but applicable on notional cash pooling. However, a case by case analysis is necessary. The Interest and Royalties Directive has been introduced in Italy and provides for a WHT exemption for inter-company interest payments in certain conditions.

45. There is no WHT on bank interest paid to non-residents on deposit accounts. A rate of 27% applies for interest paid within Italy.

	LUXEMBOURG	MALTA	NETHERLANDS	NORWAY	POLAND	PORTUGAL	ROMANIA ⁷³
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Tax issues

Withholding tax							
• Inter-company interest	No ⁴⁹	No ⁵⁴	No	No	Yes(20%) ⁶²	Yes (21.5%) ⁶⁹	Yes(16%) ⁷⁴
• Bank interest	No ⁴⁹	No ⁵⁴	No	No	Yes(20%) ⁶³	Yes(21.5%) ⁷⁰	Yes(16%) ⁷⁴
Thin capitalisation	No ⁵⁰	No	Yes	Yes ⁵⁶	No ⁶⁴	Yes ⁷¹	Yes ⁷⁵
Transfer pricing	Yes ⁵¹	No	Yes	Yes	Yes	Yes	Yes
Controlled foreign company	No	No	No ⁵⁵	Yes	No	Yes	No
Resident/non-resident bank account issues	No	No	No	No	No	Yes	No ⁷⁶
Stamp duties	No ⁵²	No	No	No	No ⁶⁵	Yes	Yes/No ⁷⁷

Legal/regulatory issues

Notional pooling allowed ¹	Yes	Yes	Yes	No ⁵⁷	Yes ⁶⁶	Yes	Yes ⁷⁸
Sweeping allowed	Yes	Yes	Yes	Yes ⁵⁸	Yes ⁶⁷	Yes ⁷²	Yes ⁷³
Friendly pooling location for pan-European cash concentration	Yes	Yes	Yes	Yes ⁵⁹	No	No	No ⁷⁹
Central bank reporting	No ⁵³	Yes	Yes	No	Yes	Yes	Yes/No ⁷³
Exchange controls	No	No	No	Yes ⁶⁰	No ⁶⁸	No	No
Cross guarantee issues	No	No	Yes	Yes ⁶¹	Yes	No	Yes ⁸⁰

46. Thin capitalisation rules have been replaced by interest capping rules for interest accrued in tax years starting on or after 1st January 2008. The interest capping rules are not applicable to banks and certain other financial entities. Instead, a specific rule limiting the deductibility of interest must be applied. With specific reference to interest paid under a cash pooling agreement, on the basis of the clarifications given by the tax authorities, interest expenses arising from a 'notional cash pooling system' are subject to the above mentioned limitation of deductibility (interest capping rule).
47. Stamp duties of €1.81 are applicable on each account statement sent under a cash pooling system to the companies showing the charge or the credit if (i) the account statement is issued within the territory of Italy and (ii) the amount charged or credited is higher than €77.47. In the case of a bank current account, stamp duties of €73.80 are due every year by companies.
48. Although Italian regulations do not expressly prohibit the notional cash pooling, it is in breach of certain principles. In accordance with new opinions on this issue, Italian banks can only offer the cash pooling systems that basically fall within the 'zero balance system' category.
49. If the EU Savings Directive is not applicable and if interest is not directly profit participating.
50. There are no formal rules, however informal thin capitalisation rules exist in Luxembourg for the holding of participations with an applicable ratio of 15:85.
51. On 28th January 2011, the Luxembourg Tax Authorities published a transfer pricing circular to clarify the tax treatment of companies principally realising intra-group financing transactions ("Circulaire du directeur des contributions L.I.R. n°164/2 du 28 janvier 2011"). The circular applies to all entities principally realising intra-group financing transactions, (ie the circular does not apply to holding activities) and 'Intra-group financing transactions' are defined as any activity consisting of the granting of loans or fund advances to associated enterprises, refinanced by financial means and instruments such as public issuances, private loans, fund advances or bank loans. Bank deposits or other non-group transactions are out of the scope of this circular. From the date of the circular's publication, the tax authorities will only give binding information in relation to the margins to be realised for financing activities if: The company has an actual presence in Luxembourg (not a Luxembourg tax resident only due to incorporation under Luxembourg law). The company assumes the financing activity risks. The circular details that to assume the risks, the financing company must have sufficient equity in relation to the transaction. The circular stipulates that in addition to adequate capital for any functions performed, risks assumed and assets owned, adequate capital must be held of at least 1% of the financing amount or €2m. The company must provide a transfer pricing report compliant with the OECD guidelines, ie containing functional and risk analysis, the transfer pricing method applied and an economic analysis of the reviewed transaction. For a company to have an actual presence in Luxembourg, the following criteria must be met: The majority of the members of the board of directors (or managers empowered to act for the company) should be Luxembourg residents or, if non-Luxembourg resident, should be taxable on at least 50% of their income (as defined by the circular) in Luxembourg; All tax return filing obligations must be complied with; The minimum capital requirement as described above. The binding information provided by the Luxembourg Authorities, in relation to financing activities, remains valid for five years (renewable for five years) as long as the facts and circumstances of the case at hand remain unchanged.
52. In general, there is no registration tax payable on the operations of cash management activities. However, if loan agreements are registered in Luxembourg, these are subject to a proportional registration duty at a rate of 0.24%. Documents for which registration is not normally mandatory, must be registered if they are filed in a Luxembourg court or they are, directly or indirectly, produced to an autorité constituée (such as a court). This may result in registration duties becoming due and payable, at a fixed rate of €12 or an ad valorem rate which depends on the nature of the registered document. In particular, upon presentation of a claim evidenced by a document in writing (such as a loan documentation) to the registration formality, an ad valorem registration duty of 0.24% is due on the principal amount of the claim.
53. Unless a local bank is involved (regulatory supervision if intra-group cash management).
54. Withholding tax is applicable when the debt claim is effectively connected to a Maltese permanent establishment of the non-resident.
55. No CFC rules as such, but the participation exemption does not apply to deemed 'passive' shareholdings if the subsidiary pays a low income tax rate, and there is a statutory valuation rule which brings, into the taxable base, certain annual increases/decreases in the fair market value of certain participations.
56. Although there are no formal thin capitalisation rules in Norway, the arm's length principle applies.
57. Notional pooling is not a service provided in Norway, although Norwegian banks branches provide notional pooling. Zero Balancing Cash Pools and Balance Netting Cash Pools (single and multi currency) are provided by Norwegian banks.
58. Norwegian banks provide sweeping solutions toward most European countries.
59. The Norwegian Public Companies Act (ASA) and the Companies Act (AS) are relatively liberal with regards to Norwegian entities and companies within the EU/EEA area.
60. There are only exchange controls for transactions denominated in a currency other than NOK.
61. Cross guarantees raise transfer pricing issues in Norway.
62. Relevant DTT or Interest and Royalties Directive may provide for a lower tax rate or for exemption. In order to apply preferential DTT rates, the Polish entity paying the interest must have the tax residency certificate of the interest recipient/beneficial owner.
63. Relevant DTT may provide for a lower tax rate or for exemption. In order to apply preferential DTT rates, the Polish entity paying the interest must have the tax residency certificate of the interest recipient/beneficial owner.
64. For the purpose of thin capitalisation rules, interest arising from notional pooling will not be subject to thin capitalisation rules in Poland as long as the Bank is being seen as party to the transaction. Please note that loans for the purpose of thin capitalisation rules are understood as agreements whereby the lender commits to transfer the ownership of defined amounts of monies and the borrower commits to reimburse the same amount.
65. So far Polish tax authorities have taken approach that notional pooling payments should not suffer stamp duty tax, in line with the treatment for physical cash pooling payments.
66. Please note that there is a clear regulation allowing notional pooling in Polish Banking Act. However, this regulation has only a limited scope of application. It is applicable only to companies forming a tax capital group. Nevertheless, it is commonly accepted to perform notional pooling transactions based on the freedom of the parties to conclude agreements.
67. There are a number of practical obstacles to the operation of cash sweeping activities in Poland.
68. All notionally pooled balances will need to be in one currency to avoid foreign exchange practical difficulties.
69. The relevant DTT or the Interest and Royalties Directive may provide a lower tax rate or an exemption.
70. The relevant DTT may provide a lower tax rate or an exemption.
71. Only applicable to non-EU related parties.
72. Sweeping is allowed between companies of the same group.
73. Romanian companies are required to fill in either a DIE (a statement for external receipt – 'Declaratie de Incasare Externa') or a DPE statement (statement for external payment – 'Declaratie de Plata Externa') within ten days of concluding a transaction exceeding

	SLOVAKIA	SPAIN	SWEDEN	SWITZERLAND	UNITED KINGDOM
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Tax issues

Withholding tax					
• Inter-company interest	Yes(19%) ⁸¹	Yes(19%) ⁸⁶	No	No ⁹¹	Yes(20%)
• Bank interest	Yes(19%) ⁸²	Yes/No ⁸⁷	No	Yes(35%) ⁹²	Yes/No ⁹⁶
Thin capitalisation	No	Yes/No ⁸⁸	No ⁹⁰	Yes	Yes ⁹⁷
Transfer pricing	Yes/No ⁸³	Yes ⁸⁸	Yes	Yes ⁹³	Yes
Controlled foreign company	No	Yes/No ⁸⁹	Yes	No	Yes
Resident/non-resident bank account issues	No ⁸⁴	No	No	No	No
Stamp duties	No	No	No	No ⁸⁴	No

Legal/regulatory issues

Notional pooling allowed ¹	Yes	Yes	Yes	Yes	Yes
Sweeping allowed	Yes	Yes	Yes	Yes	Yes
Friendly pooling location for pan-European cash concentration	Yes	Yes	Yes	Yes	Yes
Central bank reporting	Yes ⁸⁵	Yes	Yes	No	No
Exchange controls	No	No	No	No	No
Cross guarantee issues	No	No	No	No ⁹⁵	No ⁹⁸

€50,000 with a non-resident entity. The National Bank of Romania (NBR) must be notified of any loans, with a reimbursement period of over one year, received by a resident from a non-resident. Moreover, Romanian resident legal entities opening accounts abroad must provide monthly reports of any transactions performed through the overseas accounts by the 20th of the following month. This reporting requirement also applies to residents performing non-monetary operations (eg netting, clearing) with non-residents. Any investment over 10% in a non-resident company (or branch authorised to perform activities abroad), by either a Romanian company or individual must be notified to NBR within 30 days of the investment being made.

- 74.** WHT is not applicable on domestic interest payments and interest payments made to non-residents suffer tax at 16%. The relevant DTT may provide a lower tax rate or an exemption, subject to obtaining a tax residence certificate for the non-resident beneficiary. Interest income from Romania to a company or a permanent establishment located in an EU/EFTA member state is exempt from WHT in Romania, provided that the effective beneficiary of the interest income has a direct holding of at least 25% of the share capital (for a non-interrupted period of at least two years) of the Romanian company.
- 75.** The deductibility of interest expenses and net foreign exchange losses is assessed on the basis of two criteria. The first criterion limits the deductibility of interest on loans contracted from related parties and non-financial institutions, to an interest rate of 6% (applicable for 2011) for loans denominated in a foreign currency and to the reference interest rate (as announced by the NBR for the last month of the quarter) for loans denominated in the local currency. Any interest paid in excess of the above mentioned rates is non-deductible for tax purposes. The second criterion is the debt to equity ratio. If the debt to equity ratio is higher than 3:1, or the equity is negative, then interest expenses and net foreign exchange losses on long term loans (other than those expressly referred to by law) are wholly non-deductible in the year they are incurred. Any non-deductible interest subject to this criterion may be carried forward (until it is fully deducted) to future tax periods where the debt to equity ratio is positive and falls below 3:1. The debt to equity ratio rules do not apply to Romanian banks, branches of foreign banks, leasing companies, mortgage companies, credit institutions and non-bank financial institutions. Loans from financial institutions are outside the scope of the thin capitalisation rules.
- 76.** There may be reporting obligations (FN 65).
- 77.** It depends on the specifics of the legal arrangement, the object of the contract and the form in which the contractual documentation is executed (in which case notary taxes may apply).
- 78.** It depends on the specifics of the legal arrangement (eg to not breach company law provisions, affect creditors' interest etc). There are no express regulations on notional pooling or sweeping. Moreover, cash pooling operations are considered to be lending operations, so they are only accepted if they are intra-group, provided that other legal provisions are not breached.
- 79.** Cash pooling is not specifically regulated under Romanian legislation. Therefore, there are practical difficulties in implementing such cash pooling arrangements.
- 80.** Depending on the specifics of the legal arrangement, there may be issues regarding cross guarantees (eg transfer pricing and substance over form principles).
- 81.** Generally applicable to interest payments made by Slovak residents to non-residents from non DTT countries. An exemption from WHT is available under the specific rules set by the EU directive. A relevant DTT can provide a reduction in WHT.

- 82.** Interest payments from savings paid by Slovak banks to domestic entities.
- 83.** From 1st January 2009, there is an obligation to maintain transfer pricing documentation for transactions with foreign related parties.
- 84.** When a Slovak resident opens a bank account abroad, there is a reporting obligation to the National Bank of Slovakia.
- 85.** There are reporting obligations to the National Bank of Slovakia when a Slovak resident opens a bank account abroad and on foreign assets and liabilities.
- 86.** 19% generally, but exempt in certain cases – including interest to resident credit institutions. This may be reduced under a double tax treaty. WHT is eliminated on interest payments within the EU by domestic law unless it is obtained through a tax haven.
- 87.** 19%, unless paid to a Spanish resident bank, in which case it is exempt. The WHT rate may be reduced under a double tax treaty. WHT is eliminated on interest payments within the EU by domestic law unless the interest is obtained through a tax haven.
- 88.** Spanish thin capitalisation rules stipulate a 3:1 debt to equity ratio for financing obtained from non-resident related parties. However, thin capitalisation rules do not apply when the debtor is a regulated financial entity or when the creditor is a company resident in the European Union (except for tax havens) and the financing effectively comes from that territory (ie indirect indebtedness should be considered). Although thin capitalisation rules are not applicable to loans with EU lenders, it is advisable to keep an adequate and reasonable indebtedness ratio, as the Spanish Tax Authorities may challenge the interest deduction under Spanish transfer pricing rules.
- 89.** CFC rules are not applicable to EU resident companies, provided that evidence can be provided of the EU company's incorporation and that it is operated for valid business reasons ('motivos económicos válidos').
- 90.** There is a set of rules concerning which limits the deductibility of intra group interest.
- 91.** There is no WHT on inter-company interest as long as the loan does not qualify as a bond and the payer does not qualify as a bank for Swiss WHT purposes. From 1st August 2010, there is no WHT on inter-company interest which qualifies as a bond, except for where a foreign subsidiary of a Swiss company issues a bond on the market with the guarantee of the Swiss parent.
- 92.** There is no WHT on interest paid to another bank. Since 1st January 2010 there is an exemption from WHT for annual interest payments under CHF 200.
- 93.** There is no explicit transfer pricing law in Switzerland but there is an established practice.
- 94.** There is no stamp duty as long as the loans do not qualify as bonds for Swiss tax purposes.
- 95.** The use of cross guarantees results in a high degree of complexity which may lead to issues, eg in transfer pricing.
- 96.** There is no WHT on corporates for loans of less than 12 months. Additionally, WHT may be reduced or eliminated under a double tax treaty. The WHT rate is generally 20%.
- 97.** The UK tax authorities introduced new legislation in Finance Act 2009 referred to as 'the worldwide debt cap legislation' (debt cap). Broadly the legislation restricts the financing deduction, for corporate income tax purposes, of a UK group where that group is part of a worldwide group that is large and the financing deduction (the tested expense amount) of the UK group exceeds the 'available expense amount' as prescribed within the legislation.
- 98.** It may be necessary to consider whether the UK tax authorities need to be notified of the international transfer of capital.

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