Investor Self-Declaration and verifying its reliability

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This is an unofficial translation. The official instruction is drafted in Finnish and Swedish languages.

Section 10b of the Act on the Taxation of Nonresidents' Income (627/1978, the Tax at Source Act) was amended in April 2019. According to Section 10b(4) of the Tax at Source Act, an Investor Self-Declaration, that indicates the beneficiary's information necessary for the levying of tax at source can be deemed to be a reasonable measure to determine the beneficiary's country of residence. According to the provision, the dividend beneficiary must declare in the Investor Self-Declaration the necessary information for the levying of tax at source, and the Investor Self-Declaration must be sufficiently reliably documented. The Authorised Intermediary must verify that the Investor Self-Declaration is consistent with the other information on the beneficiary possessed by the Authorised Intermediary. This guidance describes the contents and validity of the Investor Self-Declaration and the procedure to verify its reliability under Section 10b(4) of the Tax at Source Act.

Explanatory note for the English version

In this guidance, the dividend beneficiary means the shareholder, i.e. the owner of the shares, who has the right to the dividend on the record date according to the Finnish Companies Act (624/2006). The concept of beneficial owner is used when referred to the beneficiary entitled to the dividend in accordance with the tax treaty.
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1 Foreword

This guidance concerns the identification of a beneficiary who is a non-resident taxpayer when dividend is paid by a publicly listed company to a nominee-registered share. The guidance instructs the procedure for the investigation and identification of the beneficiary under the amendment coming into force on 1 January 2021 (amendment 522/2019).

According to Section 10b(2) of the Act on the Taxation of Nonresidents' Income (627/1978, hereinafter 'the Tax at Source Act'), the dividend provisions of an international tax treaty may be applied if an Authorised Intermediary has taken reasonable measures to determine the beneficiary's country of residence and to verify that the criteria for the applicability of the tax treaty are fulfilled. According to Section 10b(4) of the Tax at Source Act, the following can be deemed as reasonable measure to ascertain the facts about the beneficiary's country of residence: a tax-at-source card issued by the Finnish Tax Administration, a certificate issued by the tax authority of the beneficiary's country of residence, or an Investor Self-Declaration (hereinafter also 'ISD'), which contains the necessary information for imposing tax at source on the beneficiary. The Investor Self-Declaration must be sufficiently reliably documented and consistent with the information possessed by the Authorised Intermediary.

According to the government proposal concerning the legal amendment (HE 282/2018 vp, pp. 37-38), the Investor Self-Declaration means an Investor Self-Declaration (ISD) pursuant to the OECD's Treaty Relief and Compliance Enhancement (hereinafter 'TRACE') model. As required by the government proposal (282/2018 vp, pp. 37-38), the TRACE Implementation Package for the adoption of the Authorised Intermediary, a standardised system for effective withholding tax relief procedures for cross-border portfolio income documents (hereinafter 'TRACE IP'), describing the ISD procedure concerning the examination and identification of a beneficiary who is a non-resident taxpayer, has been taken into account in this guidance.

This guidance instructs the contents and validity of the Investor Self-Declaration and the procedure to verify its validity. The guidance describes the information that the dividend beneficiary must declare in the ISD and confirm, and the procedure that the Authorised Intermediary (hereinafter also 'AI') can use to verify

- the correctness of the information provided by the dividend beneficiary;
- the applicability of the relevant tax treaty to the beneficiary and the beneficiary’s right to tax treaty benefits; and
- other facts affecting the eligibility for tax treaty benefits.

By following the procedure described in this guidance, the Authorised Intermediary will receive legal certainty. The payer will receive legal certainty if the Contractual Intermediary closest to the beneficiary in the chain of custody has followed the procedure laid out in this guidance when identifying the beneficiary on behalf of the payer and verifying the beneficiary's right to tax treaty benefits. The procedure described in this guidance is optional. Chapter 11 describes the procedure in situations where there is no Investor Self-Declaration.

This guidance is primarily applied to situations in which tax treaty benefits are granted. However, this guidance also discusses special situations referred to in the TRACE IP, where tax at source is not levied pursuant to Section 3 of the Tax at Source Act.

This guidance describes the responsibilities of the dividend beneficiary and the responsibilities of the Authorised Intermediary, when it applies the procedure for determining
and identifying a beneficiary who is a non-resident taxpayer. Otherwise, the responsibilities and liabilities of the Authorised Intermediary are described in more detail in the guidance Authorised Intermediary's responsibilities and liabilities.

The documents concerning the TRACE recommendation are available on the website of the OECD.

2 Contents of the Investor Self-Declaration

2.1 Investor Self-Declaration

The Investor Self-Declaration is applicable in situations where dividend income is received from Finland and paid by a publicly listed company. It means the declaration provided by an account holder who is a customer of an Authorised Intermediary, i.e., the dividend beneficiary, certifying that the account holder is the beneficial owner in accordance with the applicable tax treaty. The Investor Self-Declaration is in accordance with the OECD's TRACE model and it must be reliably documented and consistent with the other information on the beneficiary possessed by the Authorised Intermediary. The contents required on the ISD depend on whether the beneficiary is a natural person or an entity.

The Authorised Intermediary can utilise the ISD templates (ISD – Individuals and ISD – Entities) attached to this guidance in its procedure regarding the ISD. The attached ISD templates are in accordance with the model forms in the TRACE IP-document. The mandatory information in the ISD are described in this chapter. Other information presented in the ISD templates are not mandatory in Finland. However, the beneficiary may declare this information, like information of such tax treaties to which the ISD can not be applied. As a rule, an ISD is account-specific, but it can also be customer-specific when the customer's information has been verified to be correct and it has been verified that the circumstances on all accounts are in accordance with the ISD.

The purpose of the ISD is that the dividend beneficiary provides the AI with the necessary information and proves that the information is correct. The AI verifies the reliability of the information. As a rule, the ISD will remain valid until the last day of the fifth calendar year following the year in which the ISD was signed, when the AI has followed the procedure described in this guidance and verified the reliability of the information. However, the AI must verify the reliability of the information dividend payment specifically to a sufficient degree, if there have been changes in the beneficiary's circumstances, or the tax at source rate collected from the dividend is under 15 per cent and the amount of the dividend is not minor. A dividend of less than EUR 2 500 is considered to be minor.

In case of a special situation referred to in Chapter 6, where tax at source is not levied based on Section 3 of the Tax at Source Act, the reliability of an ISD must always be a verified dividend payment specifically in a special due diligence procedure.

If the AI follows the other procedure described in Section 10b(4) of the Tax at Source Act in identifying the beneficiary, the AI must always verify the beneficiary's right to the dividend payment specifically. The other procedure is discussed in Chapter 11.

2.2 The beneficiary referred to in the Investor Self-Declaration

The dividend provisions of an international tax treaty are applied if the dividend payer or the intermediary closest to the beneficiary, who at the time of the dividend distribution is registered in the Register of Authorised Intermediaries referred to in Section 10d, has taken reasonable measures to determine the beneficiary's country of residence as well as verified that the provisions on dividends of an international treaty can be applied
to the beneficiary (Section 10b(2) of the Tax at Source Act). In situations described in this guidance, where tax treaty benefits are granted at source on the basis of an interpretation of the tax treaty, the beneficial owner means the beneficiary entitled to the dividend in accordance with the tax treaty between Finland and the beneficial owner's country of residence. The definition of the beneficial owner and related limitations may vary in the existing tax treaties, for which the Authorised Intermediary must check the tax treaty provisions. Furthermore, in the interpretation of the definition of the beneficial owner, the AI may utilise the OECD Commentary of the Model Tax Convention where applicable. In the Finnish tax and legal practice, it is deemed that in the interpretation of the provisions of tax treaties in accordance with the OECD Model Tax Convention, it is reasonable to give significance to what is stated in the OECD Commentary of the Model Tax Convention about the interpretation of the treaty regardless of whether the other party of the treaty is an OECD member state (Supreme Administrative Court ruling KHO 2011:11).

The Tax at Source Act is followed only in situations where the provisions concerning the taxation of income or assets laid down in a treaty made with the country or in another international treaty in which Finland is a party do not provide otherwise (Section 1(3) of the Tax at Source Act). In the case of a benefit based on Section 3 of the Tax at Source Act, such as a case where there is an equivalence, the procedure described in Chapter 6 of the guidance must be followed, and the benefits can be granted only if the prerequisites specified in the chapter in question are met.

2.3 The beneficiary is a natural person (ISD – Individuals)

2.3.1 Information on the custodial account of the shares

The Investor Self-Declaration must specify the account(s) that is/are covered by the ISD and where the shares based on which the dividend is paid are held. The account number is sufficient as the account's identifying information.

2.3.2 Personal information

The Investor Self-Declaration must specify the full name of the beneficiary, including the first and last name, and date of birth. Additionally, the ISD must specify the beneficiary's permanent address in the country of residence, and the mailing address if it is different from the permanent address. The address information must include the street name, property number, possible suite number, postal code, city and country.

The ISD must also specify the beneficiary's Tax Identification Number (TIN). If the beneficiary's country of residence does not issue Tax Identification Numbers, the ISD must state this.

2.3.3 Information and certifications concerning the applicable tax treaty

In the Investor Self-Declaration, the dividend beneficiary must certify that they are a resident of the country in question for tax purposes in the manner referred to in the tax treaty between Finland and the country where the beneficiary is a resident for tax purposes. A general certificate concerning all tax treaties is therefore insufficient; the certification must include a specific reference to the tax treaty between Finland and the beneficiary's country of residence. Additionally, the certificate must indicate that the beneficiary is not a resident for tax purposes of any other country.
In situations where the beneficiary has more than one country of residence, the requirement for granting treaty benefits is that the AI receives a reliable explanation from the beneficiary on which tax treaty can be applied to the beneficiary. An explanation must always be requested in these kinds of situations in order to verify the reliability of the ISD. The explanation may comprise, for example, a certificate of residence issued by the tax authority in the beneficiary's country of residence.

In addition to the certificate concerning the country of residence for tax purposes, the dividend beneficiary must certify that they are the beneficial owner of the dividend income from Finland in the manner referred to in Section 2.2, and therefore eligible for tax treaty benefits. The certification must comprise at least the following segments:

- I certify that I am a resident of my country of residence for tax purposes in the manner referred to in the tax treaty.
- I certify that I am not acting as an agent, nominee or conduit with respect to the income to which this Investor Self-Declaration relates.
- I certify that I am the beneficial owner of this dividend, and that I meet any additional criteria to claim such treaty benefits.
- I certify that the income covered by the Investor-Self-Declaration is not attributable to a permanent establishment.
- I certify that I will notify the intermediary promptly of any changes in my circumstances.

2.3.4 Power of attorney and authorisations

The AI must ensure that it can submit the information on the beneficiary to the Tax Administration, other legislation notwithstanding. For example, the EU General Data Protection Regulation (GDPR) requires that the customer is explained the intended use of the gathered data and that the customer's consent for the disclosure by transmission of data is obtained.

In addition to the information reported on the Authorised Intermediary's annual information return, information on the beneficiary includes the information required for the verifying the correctness of the procedure. For more details on the information submitted on the Authorised Intermediary's annual information return, see the Annual information return of an Authorised Intermediary, technical guidance for application.

2.4 The beneficiary is an entity (ISD – Entities)

2.4.1 Information on the custodial account of the shares

The Investor Self-Declaration must specify the account(s) that is/are covered by the ISD and where the shares based on which the dividend is paid are held. The account number is sufficient as the account's identifying information.

2.4.2 Identifying information of the entity

The Investor Self-Declaration must specify the entity making the ISD. The official name of the entity is specified in the ISD in the form it was entered on the entity's constitutive documents. If the name was changed at a later date, the official name is specified in the form valid at the time the ISD is given. The ISD must specify the country in which the entity was incorporated. The ISD does not need to specify the beneficiaries of the entity if the entity itself is the beneficial owner as referred to in the tax treaty.
The Investor Self-Declaration must specify the legal form of the entity that submitted the ISD. The options include:

- Body Corporate
- Government (state, municipality or other public entity)
- International organisation
- Pension institution or fund
- Charity (Non-profit organisation)
- Collective investment vehicle
- Partnership
- Trust
- Estate
- Other

The ISD must specify the entity's statutory address in its country of residence, as well as the mailing address if it is different from the statutory address. The address information must include the street name, property number, possible suite number, postal code, city and country. The ISD must also specify the beneficiary's Tax Identification Number (TIN). If the beneficiary's country of residence does not issue Tax Identification Numbers, the ISD must state this.

### 2.4.3 Information and certifications concerning the applicable tax treaty

In the Investor Self-Declaration, the dividend beneficiary must certify that they are a resident of the country in question for tax purposes in the manner referred to in the tax treaty between Finland and the country where the beneficiary is a resident for tax purposes. A general certificate concerning all tax treaties is therefore insufficient; the certification must include a specific reference to the tax treaty between Finland and the beneficiary's country of residence. Additionally, the certificate must indicate that the beneficiary is not a resident for tax purposes of any other country.

In situations where the beneficiary has more than one country of residence, the requirement for granting treaty benefits is that the AI receives a reliable explanation from the beneficiary on which tax treaty can be applied to the beneficiary. An explanation must always be requested in these kinds of situations, in order to verify the reliability of the ISD. The explanation may comprise, for example, a certificate of residence issued by the tax authority in the beneficiary's country of residence.

In addition to the certificate concerning the country of residence for tax purposes, the dividend beneficiary must certify that they are the beneficial owner of the dividend income from Finland in the manner referred to in Section 2.2, and therefore eligible for tax treaty benefits. The certification must comprise at least the following segments:

- I certify that I am a resident of my country of residence for tax purposes in the manner referred to in the tax treaty.
- I certify that I am not acting as an agent, nominee or conduit with respect to the income to which this ISD relates.
- I certify that I am the beneficial owner of this dividend, and that I meet any additional criteria to claim such treaty benefits.
- I certify that the income covered by the ISD is not attributable to a permanent establishment.
- I certify that I will notify the intermediary promptly of any changes in my circumstances.
2.5 The format of the Investor Self-Declaration and confirmation of the information

In Finland, the Investor Self-Declaration does not have a specific format requirement. An ISD constitutes a sufficient explanation of the beneficiary's right to the dividend when the AI possesses the information on the beneficiary required for the ISD in this guidance. The information must be available in a compiled manner and certified correct by the dividend beneficiary. The ISD may therefore comprise several different pieces of information and contain several documents and files.

Under certain conditions, the identification of the beneficiary may utilise the Anti-Money Laundering/Know Your Customer (hereinafter 'AML/KYC') information collected of the customer, as well as a declaration submitted by the customer for some other purpose. Such declaration submitted for another purpose may be, for example, a Self-Certification in accordance with the CRS/DAC2 requirements submitted to a financial institution by the account holder or, for instance, a certificate collected for the systems of the Qualified Intermediary systems of the United States, Ireland or Japan. The utilisation of this kind of a declaration requires that it contains the beneficiary information specified in this guidance and that the customer confirms the correctness of the information by also submitting the same information in the levying of tax at source. The AI must always take reasonable measures to verify the correctness of the information.

The AI may utilise the beneficiary information described above in its procedure related to the Investor Self-Declaration. However, the beneficiary must self-declare the information on the country of residence for tax purposes as well as the certifications described in Sections 2.33 and 2.43. The beneficiary must also, if necessary, provide the information required for the special due diligence procedure referred to in Chapter 6.

The Investor Self-Declaration must have been certified to be correct by the beneficiary in a documented manner. The beneficiary must certify the correctness of the information in the ISD with a signature, an electronic signature or some other certification given by the beneficiary (such as a recording or a digital footprint). The certification must indicate the time of the certification of the correctness of the information. When the beneficiary is an entity, information on the right of the person who gave the certification to represent the entity must be provided in connection with the certification (authority to sign). In this respect, the OECD's CRS standard and its commentaries can be utilised as a source for an interpretation. The AI or its employee cannot certify the correctness of an Investor Self-Declaration on behalf of the beneficiary.

3 Responsibilities of an Authorised Intermediary

This chapter describes the responsibilities of an Authorised Intermediary when it investigates and identifies the beneficiary while collecting information from the beneficiary for its Investor Self-Declaration. The other responsibilities and liabilities of the AI are described in the guidance Authorised Intermediary's responsibilities and liabilities.

An Authorised Intermediary is responsible for:
- ensuring that the dividend beneficiary understands the intended use for which data is submitted and collected;
- ensuring through guidance that the dividend beneficiary knows to submit the required information with correct content;
- ensuring the validity of the Investor Self-Declaration by verifying its reliability;
- taking the reasonable measures described in Chapter 4; and
• following the special due diligence procedure, if necessary, in a situation described in Chapter 6 of the guidance.

The AI is also responsible for turning the dividend beneficiary's attention to the beneficiary's tax status certification, and advise the beneficiary to contact the tax authority of their own country of residence or the Finnish Tax Administration, insofar as the tax treaty definition related to the taxation of dividends is unclear to the beneficiary.

The AI must assess the reliability of the Investor Self-Declaration in the manner described in more detail in Chapter 4, also with respect to the dividend beneficiary's certification. If the AI's reliability assessment reveals issues indicating the special procedure described in Chapter 6, the AI may not apply the Investor Self-Declaration without following the special due diligence procedure, even if the beneficiary has certified being the beneficial owner of the income.

If the AI verifies the reliability of the Investor Self-Declaration using the procedure described in this guidance, revealing no issues conflicting with the Investor Self-Declaration, the AI may trust the ISD. However, the AI may later become aware of issues that indicate that the tax treaty was applied incorrectly. The AI must then notify the Tax Administration without delay, even if the AI themselves was not responsible for the error. In situations where the AI knows or should know that the national tax evasion provision (the Act on Assessment Procedure 1558/1995, Section 28) or the Principal Purpose Test regulation applies to the dividend payment transaction, the tax treaty benefits cannot be granted at source.

4 Validity of the Investor Self-Declaration

4.1 Procedure for verifying the reliability of the Investor Self-Declaration

Pursuant to Section 10b(4) of the Tax at Source Act, an Investor Self-Declaration must be sufficiently reliably documented and consistent with the other information on the beneficiary possessed by the AI. An ISD is valid when an Authorised Intermediary has received a documented Investor Self-Declaration from the dividend beneficiary and verified that it is reliable by referencing the other information on the beneficiary in their possession.

The preferential tax at source rate may be applied to a payment of dividends only if the AI has received from the dividend beneficiary a carefully filled Investor Self-Declaration that supports the tax rate the beneficiary has requested to be applied, and has verified the validity of the ISD. The format of the ISD is discussed in more detail in Section 2.5. Furthermore, it is required that the AI does not know or have reason to know any issues based on which the Investor Self-Declaration is unreliable or incorrect.

The Authorised Intermediary that assumes the responsibility for the correctness of dividend payment information must take reasonable measures to verify the validity of the Investor Self-Declaration. The reliability of the information is verified for the first time when the dividend beneficiary submits an ISD for the first time. The reliability can be verified account-specifically when the information collected for the ISD is received.

When assessing reliability, the AI who assumes responsibility for the beneficiary's information must compare the information received from the dividend beneficiary to all information on the beneficiary they possess, in order to verify whether the information reported by the dividend beneficiary in the Investor Self-Declaration is reliable. The AI must utilise all reasonable measures of CRS/DAC2 or FATCA reporting as well as the documentation and information collected for Know Your Customer (KYC) and Anti-
Money Laundering (AML) purposes, and observations made based on this collected information. Documentation related to KYC and AML means the documentation required by the legislation of the country of residence of the Authorised Intermediary receiving the Investor Self-Declaration. Furthermore, in verifying the reliability must be utilised the clearing materials of the share transaction, the means of acquisition and the entries based on which the dividend was paid.

When verifying the reliability of an Investor Self-Declaration, the AI may utilise publicly available information, or they must request documentation confirming the reliability from the dividend beneficiary. This kind of documented explanation must be requested from the dividend beneficiary for example, when the beneficiary is demanding benefits under a tax treaty that differ from the statutory tax rate. The AI must then request a documented additional explanation from the dividend beneficiary that proves the beneficiary’s eligibility for the benefit. In the case of a pension fund, for example, subject to a zero tax rate under a tax treaty, the AI must request an additional explanation from the beneficiary. Such additional explanation could comprise, for example, the constitutive documents of the pension fund, or a certificate issued by an authority in the country of residence of the beneficiary being a pension fund referred to in the tax treaty.

The AI must assess whether the Investor Self-Declaration is unreliable or incorrect. The AI must examine whether the dividend beneficiary is reporting information that affects the reliability of the ISD. The AI must therefore assess whether the certifications given by the beneficiary in the ISD are reliable when examined against the information on the beneficiary possessed by the AI. If the beneficiary has certified in the manner described in Section 2.3.3. or 2.4.3. that it is not a question of this kind of situation, but the AI knows or should know that the certification given by the beneficiary is unreliable, the ISD cannot be deemed to be reliable.

It is the responsibility of the AI to monitor whether any changes take place in the dividend beneficiary’s circumstances that would affect the reliability and validity of the Investor Self-Declaration. Changes in circumstances are discussed in Section 4.3. It is the responsibility of the dividend beneficiary to ensure that all information provided in the ISD is up to date, and notify the Authorised Intermediary of any changes in circumstances.

### 4.2 Validity of the Investor Self-Declaration

As a rule, an Investor Self-Declaration will remain valid until the last day of the fifth calendar year following the year in which the ISD was signed. However, the ISD only remains valid until a change in circumstances takes place, due to which the Authorised Intermediary knows or should know that the original ISD is incorrect or unreliable. If the Investor Self-Declaration proves that the beneficiary is a government or an international organisation, the ISD will, as a rule, remain valid indefinitely, unless changes in circumstances take place that affect the reliability of the ISD. The AI must, at regular intervals, remind the dividend beneficiary of the beneficiary’s responsibility for ensuring that the information submitted in the ISD is up to date and correct.

The AI must monitor the correctness of the information submitted in the Investor Self-Declaration also during the validity period of the ISD. In practice, the AI must have a procedure in place for ensuring that any changes detected in the account holder’s circumstances also lead to a reassessment of the ISD’s correctness and, if necessary, to its updating. In situations where 15 per cent or more of tax at source is collected from a dividend paid to a nominee-registered share, or the amount of the dividend is minor, the validity of the ISD does not need to be a separately verified dividend payment specifically, unless the AI wishes.
Example 1
The customer signed an Investor Self-Declaration on 22 November 2020, certifying that the customer lives in Spain in the manner specified in the tax treaty between Finland and Spain, and that the customer is the beneficial owner of the dividend benefit. The validity of the ISD ends on 31 December 2025 unless there is a change in circumstances.

Example 2
On 20 April 2021, in the situation described in Example 1, the customer notifies the Authorised Intermediary of a new permanent mailing address located in Germany. The AI must react to the change in mailing address, because the mailing address is now in a different country than the one where the customer certified as the country of residence for tax purposes. The AI may not apply the tax treaty between Finland and Spain, nor any other tax treaty, before it has received an explanation from the customer on the customer's country of residence for tax purposes.

In situations where less than 15 per cent of tax at source is levied from a dividend paid to a nominee-registered share, and the amount of the dividend is not minor, the reliability of the Investor Self-Declaration must be verified using the procedure described in Section 4.4. of this guidance.

4.3 Changes in the dividend beneficiary's circumstances

As a rule, an Investor Self-Declaration will remain valid until the last day of the fifth calendar year following the year in which the ISD was signed, so the AI does not need to examine the reliability of the ISD separately with each payment of dividends, unless there have been changes in circumstances or the situation is not described in Section 4.4. or Chapter 6.

A change in circumstances is any change due to which additional information is obtained related to the beneficiary's taxation status or the applicable tax treaty, conflicting with that beneficiary's information on the country of residence for tax purposes or applicable tax treaty. In such a case, tax treaty benefits cannot be granted based on the original Investor Self-Declaration. Instead, the AI must request a new reliable ISD from the dividend beneficiary, explaining the beneficiary's country of residence for tax purposes and certifying that the application criteria of the tax treaty between the country of residence and Finland are fulfilled. Alternatively, the AI may collect a reliable explanation from the dividend beneficiary and the necessary documentation that can then be used to verify the reliability of the original ISD. The AI must retain all original and new documents, such as copies and notes, proving the verification of reliability.

An Authorised Intermediary is deemed to always be informed of a change in circumstances if:

- the dividend beneficiary reports a change in circumstances or submits a new Investor Self-Declaration;
- the AI receives information on a change in the beneficiary's circumstances by other means, such as from a public address information system;
- the AI detects a change in the beneficiary's circumstances in its AML, KYC, FATCA, CRS, DAC2 or other procedure; or
- the AI knows or should know, based on their own operations, that the Investor Self-Declaration is not valid.
Other changes in circumstances detected when reasonable measures are taken are changes that may affect the reliability of the ISD. Such changes include situations where the dividend beneficiary submits, for other purposes, information that conflicts with the information in the Investor Self-Declaration. Also in a situation where changes in circumstances (e.g. the beneficiary's tax liability status and/or country of residence) are detected when reasonable measures are taken, and the changes may affect the reliability of the ISD, the reliability must be reassessed. This kind of change in circumstances detected when reasonable measures are taken may be related to, for example, a change detected during the assessment of a self-certification referred to in CRS reporting. Correspondingly, a change detected during an AML/KYC examination that may affect the reliability of the Investor Self-Declaration requires the reassessment of the reliability of the ISD. Furthermore, changes affecting the beneficial owner of the account referred to in the anti-money laundering legislation that may affect the interpretation of the tax treaty are such changes.

The effect of changes in ownership on the reliability of the information submitted by the dividend beneficiary in a Investor Self-Declaration is assessed based on whether the changes affect the reported tax status and the applicable tax treaty. An increase or decrease in the dividend beneficiary's ownership alone does not require a reassessment of the reliability of the ISD, if the change in ownership does not affect the interpretation of the tax treaty.

In a situation where an account holder buys new Finnish shares to a custodial account for which it has been verified that the account holder in question is the beneficial owner under the tax treaty between Finland and the country of residence, the reliability of the ISD does not need to be reassessed. This requires, however, that the payment of the new Finnish dividends does not involve conditions based on which the account holder could not be deemed to be a beneficial owner referred to in the tax treaty, or the shares are otherwise connected to an arrangement the primary purpose of which is to obtain a tax benefit.

### 4.4 Verifying validity in situations where the tax at source levied is less than 15% and the amount of the dividend is not minor

If less than 15 per cent of tax at source is levied from a dividend paid for a share, and the amount of the dividend is EUR 2 500 or more, the Authorised Intermediary must take the reasonable measures described in this section. The Authorised Intermediary must then verify that the Investor Self-Declaration is consistent with the other information on the beneficiary they possess by verifying the reliability of the ISD dividend payment specifically. This ensures that the regular preferential tax at source rate of 15 per cent according to a tax treaty is not used for tax evasion purposes or aggressive tax planning. This procedure also ensures that the Tax Administration will receive sufficient and correct information on payment of dividends in the manner referred to in the government proposal (HE 282/2018 vp, pp. 5-6) for tax control purposes. In a situation requiring special due diligence procedure described in this section, the ISD cannot be deemed valid and no tax treaty benefits can be granted based on it unless the AI receives the additional explanations described in this section.

The AI is obligated to actively request information dividend payment specifically in order to verify that the information on the beneficial owner and the applicable tax treaty in the Investor Self-Declaration is reliable. When verifying reliability, the Authorised Intermediary must follow the procedure described in Section 4.3. and carefully review share ownership information in order to ensure that the application criteria of the tax
treaty are fulfilled. Share ownership information means trading information and other information related to the beneficial owner and share ownership.

As a rule, tax treaty benefits may not be granted at the time of the dividend payment as based on the Investor Self-Declaration if, in connection with the payment of dividends, possible arrangements related to share ownership are detected. These include changes in the nature of ownership that affect the interpretation of the tax treaty. They can be, for example, stock lending arrangements or other agreements based on which a third party is compensated for the dividend. However, tax treaty benefits may be granted when the AI receives a reliable explanation and documentation of the dividend beneficiary being eligible to the tax treaty benefit, the arrangement notwithstanding.

In situations where the shares are the object of the arrangement, additional information must be requested. If, for example, the dividend beneficiary bought the shares just prior to the time of the dividend distribution, the AI must determine the arrangements related to the trade and, if necessary, request the related documents. The AI must determine whether the seller disposed of the shares right after the dividend distribution, and whether the trade transaction involved an agreement, that affects the interpretation of the tax treaty. If it is a question of for example a stock lending arrangement, the AI must request the documents concerning the stock lending. The AI must determine the contents of the lending agreement.

The Authorised Intermediary must request additional documentation when the arrangements involve derivatives. Such arrangements include synthetic financing arrangements, or derivative financial instruments, and total return swap arrangements. The AI must determine the purpose of the arrangement and review the related documentation. The AI must determine the beneficial owner of the dividend on the record date of the share.

Tax treaty benefits may not be granted based on the Investor Self-Declaration if the shares were acquired no more than 30 days before the payment of dividends, and the amount of the dividend is not minor. However, the tax treaty benefits can be granted when the AI receives a reliable explanation and the related documentation that proves that the share acquisition is not part of an arrangement that could affect being eligible for the tax treaty benefits.

### 4.5 Examples of situations where the Investor Self-Declaration is unreliable or incorrect

An Authorised Intermediary may not apply the preferential tax rate if they knew or should have known that the information or certifications in the Investor Self-Declaration are unreliable or incorrect. Neither can the AI apply the tax rate specified in the Investor Self-Declaration if the ISD was not fully completed, or the AI has information that is in conflict with the information in the ISD.

The assessment of whether the Authorised Intermediary knew or should have known that the Investor Self-Declaration is unreliable or incorrect only takes into consideration the information the Authorised Intermediary possesses on the beneficiary, including the beneficiary’s account information and the AML/KYC process information related to the beneficiary. The Authorised Intermediary may also be notified of the unreliability or incorrectness of the ISD by an authority.

The AI is considered to know or have reason to know that the Investor Self-Declaration is not reliable also in situations where the AI or its related entity is planning, marketing, organising, making available, giving support or advice, or is a party in an arrangement that affects the reliability of the ISD. An entity is a related entity of another entity, if either the other entity controls the other entity, or two entities are under mutual control.
When this is applied, control means direct or indirect ownership of the votes or value of the entity that exceeds 50 per cent.

See below for a list (TRACE IP, pp. 31-32) of circumstances where the Authorised Intermediary is considered to have reason to know that the Investor Self-Declaration is unreliable or incorrect. The list is not exhaustive.

- The beneficiary is a natural person, and the AI has examined, in order to comply with applicable Know Your Customer Rules, the passport of the beneficiary and the photograph in the passport does not match the appearance of the person presenting the passport.
- The AI shall not treat a beneficiary as a resident of a country other than the Source Country if the permanent residence address on the Investor Self-Declaration is outside the Source Country but the AI has a mailing or residence address for the beneficiary inside the Source Country, i.e., Finland. The AI nevertheless may treat the beneficiary as a resident of a country other than the Source Country if the AI has in its possession or obtains additional corroborative documentation that supports the beneficiary’s claim not to be a resident of the Source Country.
- The AI shall not treat a beneficiary as a resident of a country under an income tax treaty if the permanent residence address on the Investor Self-Declaration is outside the applicable treaty country. The AI nevertheless may treat the beneficiary as a resident of the applicable treaty country if the AI has in its possession or obtains additional corroborative documentation that supports the beneficiary’s claim that it is a resident of the applicable treaty country.
- The AI shall not treat a beneficiary as a resident of a country under an income tax treaty if the permanent residence address on the Investor Self-Declaration is in the applicable treaty country but the AI has a mailing or other address for the beneficiary outside the applicable treaty country. If the AI has a mailing or residence address for the beneficiary outside the applicable treaty country, the AI may nevertheless treat the beneficiary as a resident of the applicable treaty country if the AI has in its possession or obtains additional corroborative documentation that supports the beneficiary’s claim that it is a resident of the applicable treaty country.
- The AI may not rely on the Investor Self-Declaration to reduce the withholding rate on a dividend payment if
  - the AI has been involved in arranging or structuring a transaction pursuant to which the person that provided the Investor Self-Declaration obtained from the AI the security which generates the dividend payment; and
  - under the law of the Source Country, that person is not entitled to a reduced rate with respect to income on securities received pursuant to such transaction.
- The AI shall not treat a beneficiary as a resident of a country under an income tax treaty if the only residence or mailing address it has for the beneficiary in that country is an in-care-of address or a P.O. Box. The AI may nevertheless treat the beneficiary as a resident of the applicable treaty country if the AI has in its possession or obtains additional corroborative documentation that supports the beneficiary’s claim that it is a resident of the applicable treaty country.
- The AI will be considered to know that the information contained in the Investor Self-Declaration is incorrect if it has been informed by the beneficiary, the competent authority or a payor or another intermediary that the information contained in the ISD is unreliable.

Example 3
A customer of an Authorised Intermediary has a permanent address in Sweden, and in a Investor Self-Declaration, they reported being a resident of Sweden for tax purposes. However, the customer has reported a mailing address in Finland. The AI may not treat the customer as a resident of Sweden unless the customer provides documentation proving that they are resident of Sweden for tax purposes. The customer provides the AI with a certificate of residence issued by the Swedish tax authority, proving that they have tax liability to Sweden, and a certificate of being a nonresident taxpayer issued by the Finnish Tax Administration. Based on the received explanation, the Authorised Intermediary may treat the customer as a resident of Sweden.

The Authorised Intermediary must react to and correct the beneficiary information within 30 days of detecting or being informed of the Investor Self-Declaration being unreliable or incorrect.

5 Indirect customers of an Authorised Intermediary

Authorised intermediaries may utilise service providers (subcontractors) when fulfilling their responsibilities related to a Investor Self-Declaration. However, the Authorised Intermediary is always responsible for the reasonable measures being taken in the manner described in this guidance. The use of a service provider does not affect the Authorised Intermediary’s tax liability, time or manner of reporting, responsibility to take reasonable measures or responsibilities related to collecting additional information requested from the dividend beneficiary; which are the same as if the Authorised Intermediary themselves took care of them.

In situations where an Authorised Intermediary assumes responsibility for dividend payment information collected by a Contractual Intermediary or some other third party, the Authorised Intermediary must verify the reliability of the Investor Self-Declaration as if the beneficiary were the Authorised Intermediary’s own customer. The Authorised Intermediary is responsible for the reliability of the information having been verified in the manner described in this chapter.

The party who verifies the reliability of an Investor Self-Declaration must have access to the information described in this chapter for the verification of reliability, such as information collected based on the AML/KYC process. If the Authorised Intermediary does not possess the information, they must ensure that they will be able to present and deliver the information to the Tax Administration for tax control purposes.

If a change has taken place in the dividend beneficiary’s circumstances that has not come to the knowledge of the AI that assumed responsibility of the beneficiary information, the AI must be able to prove that they did not know or should have known that it was the beneficiary’s neglect. The AI shall be considered to know that relevant information or statements contained in documentation, including preferential tax rate information, are unreliable or incorrect if a reasonably prudent person in the position of an Authorised Intermediary would question the reliability of the provided information. Neither may the information be trusted in a situation where a Contractual Intermediary does not deliver the documentation referred to in this chapter.

6 Special due diligence procedure in situations where tax at source is not levied under Section 3 of the Tax at Source Act

Tax at source can be left unlevied under Section 3 of the Tax at Source Act, if the Authorised Intermediary follows the special due diligence procedure described in this
chapter. The AI must then verify the dividend beneficiary in the manner described in this guidance, request a documented explanation of the fulfilment of the criteria for exemption from tax, and take the reasonable measures described in Chapter 4. Treaty benefits may not be granted if the beneficiary does not present an explanation of the fulfilment of the criteria for exemption from tax to the AI.

These are situations described in Attachment C to Investor Self-Declaration – Entities of the TRACE IP document (TRACE IP, p. 52). Each situation must be identified in the Authorised Intermediary's annual information return in the RateReason element.

**Foreign investment fund corresponding to a domestic investment fund and special investment fund**

The AI must follow the special due diligence procedure when not levying tax at source from a beneficiary who claims equivalence with a Finnish investment fund or special investment fund. The tax not being levied is based on the Tax at Source Act, according to which, tax at source shall not be levied on dividends paid to a foreign contractual investment fund that is equivalent to a Finnish investment fund or special investment fund and qualifies for tax exemption under section 20a of the Income Tax Act. The exemption is contingent on the dividend beneficiary submitting an explanation to the Tax Administration of how the criteria for tax exemption are satisfied. (Tax at Source Act, Section 3(10)).

In a situation where the dividend beneficiary claims equivalence with a Finnish tax-exempt investment fund, the AI must request a documented explanation proving that the fund is of this type, in addition to the Investor Self-Declaration. The AI must request from the beneficiary proof issued by the Tax Administration confirming that the criteria for tax exemption are satisfied. This kind of proof can be a tax at source card or an advance ruling issued to the beneficiary by the Tax Administration.

**Dividend beneficiary under the Parent-Subsidiary Directive**

The special due diligence procedure must also be followed in situations where the beneficiary claims to be a company referred to in the directive on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States of the European Union (90/435/EEC, Parent-Subsidiary Directive) (Tax at Source Act, Section 3(6)). In these situations, the AI must, in addition to the Investor Self-Declaration, obtain an explanation proving that the criteria for the applicability of the directive are satisfied. For example, the explanation must show that the beneficiary owns more than 10 per cent of the capital of the company distributing dividends and that the beneficiary is a company resident in and registered in the EU area.

**7 Retention of information related to the Investor Self-Declaration and access to the documentation**

The Authorised Intermediary must retain the original Investor Self-Declaration submitted by every beneficiary with an account with the AI, a verified copy of it, or a reliable electronic scanned version. Furthermore, the AI must retain all documentation related to the Investor Self-Declaration, including all information utilised in assessing the validity of the ISD.

At the request of the Tax Administration, the AI must send the aforementioned documents to the Tax Administration for review. The documents must be sent electronically.
in the manner instructed by the Tax Administration. Alternatively, the Authorised Intermediary must ensure that the Tax Administration has access to the documentation in the premises of the Authorised Intermediary for review purposes.

The documentation must be retained for a period of six years from the end of the dividend payment year. The information can be stored in an electronic format in such a manner that it can be delivered to the Tax Administration when necessary. The AI must also, upon request, correspondingly present the corresponding information that was received from a Contractual Intermediary and for which the Authorised Intermediary assumed responsibility.

A general description on other collection and retention of materials, see the guidance Authorised Intermediary's responsibilities and liabilities.

8 Dividend beneficiary's obligation to provide correct information

The dividend beneficiary must provide the Authorised Intermediary with the information requested and ensure the reliability of the information, so that the AI can investigate and identify the beneficiary in the manner described in this guidance. It is also the beneficiary's responsibility to ensure being eligible for the tax treaty benefits or present an additional explanation referred to in Chapter 6 of the fulfilment of the criteria for exemption from tax. The beneficiary may choose to consult the tax authority of their country of residence on whether the tax treaty between Finland and the beneficiary's country of residence applies to the beneficiary's income. The beneficiary must also notify the AI promptly of any changes in the beneficiary's taxation status.

If the dividend beneficiary submits incorrect information for taxation, submitting such information may result in the imposition of tax, tax increase or a delay penalty. If the incorrect information was submitted with the intention to avoid taxes, this may result in criminal punishment (tax fraud).

9 Corrections when an Investor Self-Declaration is later found to not be valid

In a situation where the Authorised Intermediary detects after the payment of dividends that the Investor Self-Declaration is unreliable, and there has been an under-withholding of tax at source, the AI must correct the error on its own initiative or contact the dividend beneficiary. When the error was made by the AI, the AI must correct the error on its own initiative. An error by the AI is a situation where, for example, there has been a miscalculation of the amount of tax, or the information was incorrectly stored.

If the error was due to the beneficiary, the AI must inform the dividend beneficiary that the under-withholding must be corrected by contacting the Tax Administration. The AI may relay the information to the Tax Administration, if the dividend beneficiary and the AI so agree. An error by the dividend beneficiary is a situation where, for example, the dividend beneficiary submits incorrect information to the AI or does not notify the AI of a change in the beneficiary's circumstances.

The Authorised Intermediary's tax liability and responsibilities in a situation where the dividend beneficiary has submitted an incorrect Investor Self-Declaration or failed to notify the AI of a change in the beneficiary's circumstances are discussed in more detail in the guidance Authorised Intermediary's responsibilities and liabilities.

10 Dividend payer
The dividend payer may follow the procedure described in this guidance in identifying a beneficiary who is a non-resident taxpayer in accordance with Section 10b (2) and (4) of the Tax at Source Act. In this case, the payer is responsible for determining the beneficiary's country of residence and ascertaining that the provisions on dividends of an international treaty can be applied to the beneficiary.

For the special features of nominee registration, the payer may in practice agree with the custody chain that a Contractual Intermediary will on behalf of the payer collect the Investor Self-Declaration from the dividend beneficiary, verifies its correctness taking the reasonable measures described in this guidance, submits the necessary information in an annual information return, and provides the additional information required by the Tax Administration for tax control purposes as specified in the guidance.

11 Other documentation in accordance with the § 10 b of the Tax at Source Act

The Authorised Intermediary may investigate and identify its customers, find out what their country of residence is for tax purposes and make sure that the provisions on dividends of the international treaty in question can be applied based on the Investor Self-Declaration. The procedure is optional for the AI, but following the procedure described in this guidance, the AI gets legal certainty. Alternatively, the AI can ascertain the dividend beneficiary’s entitlement for the dividend with other procedure described in the Section 10b of the Tax at Source Act or levy the tax at source in accordance with the Section 7 of the Tax at Source Act. On the application of the Section 7 of the Tax at Source Act, see the guidance Authorised Intermediary's responsibilities and liabilities.

In addition to the Investor Self-Declaration, checking a tax at source card issued by the Tax Administration or a certificate issued by the tax authority of the beneficiary's country of residence can be deemed to be a reasonable measure taken by the Authorised Intermediary to determine the beneficiary's country of residence (Act on Tax at Source, Section 10b(4)). However, it must be noted in such a case that the AI must verify that the dividend beneficiary is a beneficial owner referred to in Section 2.2. and that the international treaty's dividend criteria apply to the beneficiary.

In situations where there is no Investor Self-Declaration, the beneficiary's country of residence and the applicability of the international treaty must be determined separately in connection with each payment of dividends. The dividend beneficiary must present to the Authorised Intermediary a tax at source card issued by the Tax Administration or a certificate of residence issued by the tax authority of the beneficiary's country of residence. Furthermore, the AI must reliably determine the applicability of the tax treaty provisions to the beneficiary.

After the AI has determined the beneficial owner and ensured that the applicability criteria of the international treaty are satisfied, this information can be verified with the Investor Self-Declaration. A certificate of residence should be utilised as proof of the applicability of the tax treaty.

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