

Dear Sven,

Thank you for your email on the recent instances of tax conduct by German banks in relation to “cum-ex” and “cum-cum” transactions.

Following the release of news, we have conducted a first internal analysis on these tax arrangements. From our preliminary findings and the facts revealed, we are however unable at this stage to clearly identify the relevance of the potential threat to the integrity of financial markets generated by these practices. Nonetheless, we acknowledge that there may be merit of National Competent Authorities and/or the EBA monitoring the ongoing investigations in Germany and their outcome in order to consider further potential action in line with EBA competencies.

Moreover, we have also considered in our analysis further links to the 4th Anti-Money Laundering Directive (EU) No. 2015/849. Before we engage in an in-depth assessment on that matter, we would first need some clarifications whether the tax arrangements constitute a criminal misconduct, namely tax fraud, according to the sanctioning framework of Germany. Therefore we will keep on observing the developments and seek potential action at later stages.

Finally, we would like to thank you for your suggestions of how to proceed with further investigation. However, the remit of a 2005-2018 tax-related data collection may exceed resources and competencies of the EBA.

Kind regards,

Andrea Enria
Chairperson



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