

**Notice**  
External transactions

***Syndicated lending involving foreign securities***

**I Issuance and placement of issues**

**1. Statutory reporting requirements for own issues under the Foreign Trade and Payments Regulation**

Direct contractual relationships between the issuing party and investors arises during the issuance process solely if a non-resident issuer uses the institutional facility of an own issue. Such an own issue involves direct contracts being concluded between non-resident issuers and resident investors. In the case of direct business dealings with non-residents, the resident investors are themselves subject to reporting requirements pursuant to sections 59 and 69 (2) number 1 of the Foreign Trade and Payments Regulation (*Aussenwirtschaftsverordnung*).

**2. Statutory reporting requirements for non-resident issues under the Foreign Trade and Payments Regulation**

Exactly which statutory reporting requirements apply to non-resident issues depends on the legal structure of the issuing syndicate. For this reason the following explanations focus solely on the basic variants of an issuing syndicate. As a rule, a non-resident issue involves several financial intermediaries combining to form a single issuing syndicate. However, direct contractual relationships with the issuer are limited to the syndicate's lead managers, who bear the overall responsibility for performance of the issuance contract.

**2.1 Underwriting syndicate**

In the case of an underwriting syndicate, the credit institutions participating in the issuing syndicate give the issuer a guarantee that the securities will be sold. The syndicate's lead manager promises to buy the complete issue and is subsequently responsible for distributing the tranches among the syndicate members. The lead manager places the total countervalue of the issue at the issuer's disposal. Hence a purchasing agreement is created between the issuer and the lead manager.

This makes the resident lead manager subject to reporting requirements. It follows that no reporting requirements apply to the resident members of a syndicate when they acquire tranches from the resident lead manager for placement in their own portfolios, as this represents a transaction between resident counterparties.

If an underwriting syndicate includes non-resident members, the resident lead manager must report the acquisition of tranches by non-resident syndicate members during the issuing phase as an incoming payment.

If resident syndicate members acquire an issue directly from a non-resident issuer or from a non-resident lead manager, they must report the amount of their tranche as an outgoing payment.

If the acquired tranches are placed in the market, the resident syndicate members must submit reports under the Foreign Trade and Payments Regulation in cases where non-residents purchase the securities from resident syndicate members.

## **2.2 Selling syndicate**

In the case of a selling syndicate, the issuing syndicate takes on the task of selling the issue for the account of the issuer, with the placement risk remaining with the non-resident issuer. If the resident syndicate members place the issue in their own name for the account of the non-resident issuer, they must submit a report under the Foreign Trade and Payments Regulation in the amount of the securities sold. If the domestic syndicate members are only responsible for carrying out delivery and payment instructions (placement in someone else's name for someone else's account), they do not have to submit a report. It is the responsibility of the respective domestic counterparties (dealers, final investors) to fulfil the applicable reporting requirements.

## **II. Commissions, interest and dividend payments**

Residents must report any commissions and fees they receive in connection with issuing business as well as any interest and dividend payments which they collect for their own account from non-residents or for their account from residents. No reporting requirement applies to accepting and forwarding paying agency commissions or to interest and dividend income for the account of third parties.

Financial institutions may also report incoming interest and dividend payments on foreign issues on behalf of their resident customers. If they choose to do so, however, they must clearly inform their resident customers of this in order to avoid duplicate reporting.

### **Contact**

Further information may be obtained from the Service Centre 'Außenwirtschaftsstatistik', 55148 Mainz, as well as from the Deutsche Bundesbank, Balance of Payments Statistics Division, post-code box 30 09, 55020 Mainz.

**Information: + 49 800 1234 111 (freephone when calling from within Germany)**

**Internet: [www.bundesbank.de](http://www.bundesbank.de)**