

## **VAT treatment of depositary services and global custody services**

This document should be read in conjunction with paragraph 6 of Schedule 1 to the VAT Consolidation Act 2010 (VATCA 2010)

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## Introduction

This manual sets out the VAT treatment of depositary services and global custody services provided in respect of an Irish special investment fund.

### 1 Depositary and Global Custody Services

An Irish regulated investment fund must appoint a depositary located in Ireland. The role of the depositary has evolved in recent years due to Directives such as the Alternative Investment Fund Managers Directive (AIFMD) and the UCITS Directive.

A depositary is required to supervise the investment activities of the fund and to report to the shareholders/unitholders annually as to whether the fund has operated in accordance with its founding documentation and the applicable regulations. This is often referred to as an “oversight” role.

In addition to the oversight role, depositaries typically provide a package of services that are often referred to as “global custody” such as safekeeping of assets, security settlement, income collection, corporate action processing, cash management and securities lending services.

### 2 VAT Treatment

The service of an oversight role undertaken by a depositary is subject to the standard rate of VAT.

The Court of Justice of the European Union’s judgment in Case C-169/04, *Abbey National*, held that the fund management exemption does not cover the functions of a depositary of UCITS funds as those functions are not the “management” of UCITS but involve the *“control and supervision of their activities, the aim being to ensure that undertakings for collective investment are managed in accordance with the law”*.

Revenue accepts that a global custody service, which includes taxable elements, such as physical safe-keeping and oversight, can constitute a composite supply of VAT exempt financial services, in cases where the taxable elements are incidental. The tax chargeable on a composite supply is at the rate appropriate to the principal supply, but if that principal supply is an exempt activity, tax shall not be chargeable in respect of that composite supply. Therefore, in cases where the “principal” component of a global custody service (which includes oversight), are VAT exempt financial services, the entire supply would be VAT exempt. This will be a question of fact in each case, based on the services supplied.

Further information in relation to “composite supplies” can be found [here](#).

### 3 Summary: VAT Treatment of Depositary Services & Global Custody Services

- Where the oversight function is the only service supplied, it is taxable at the standard rate.
- Where a composite supply is provided where the oversight function is the predominant supply, the composite supply is taxable at the standard rate.
- Where a composite supply is provided where the “global custody” function is the predominant supply, the composite supply is VAT exempt.
- Where the supply comprises separate supplies of oversight services and global custody services, the former will be taxable, and latter will be VAT exempt.