

Relief at Source and Refund: FASTER



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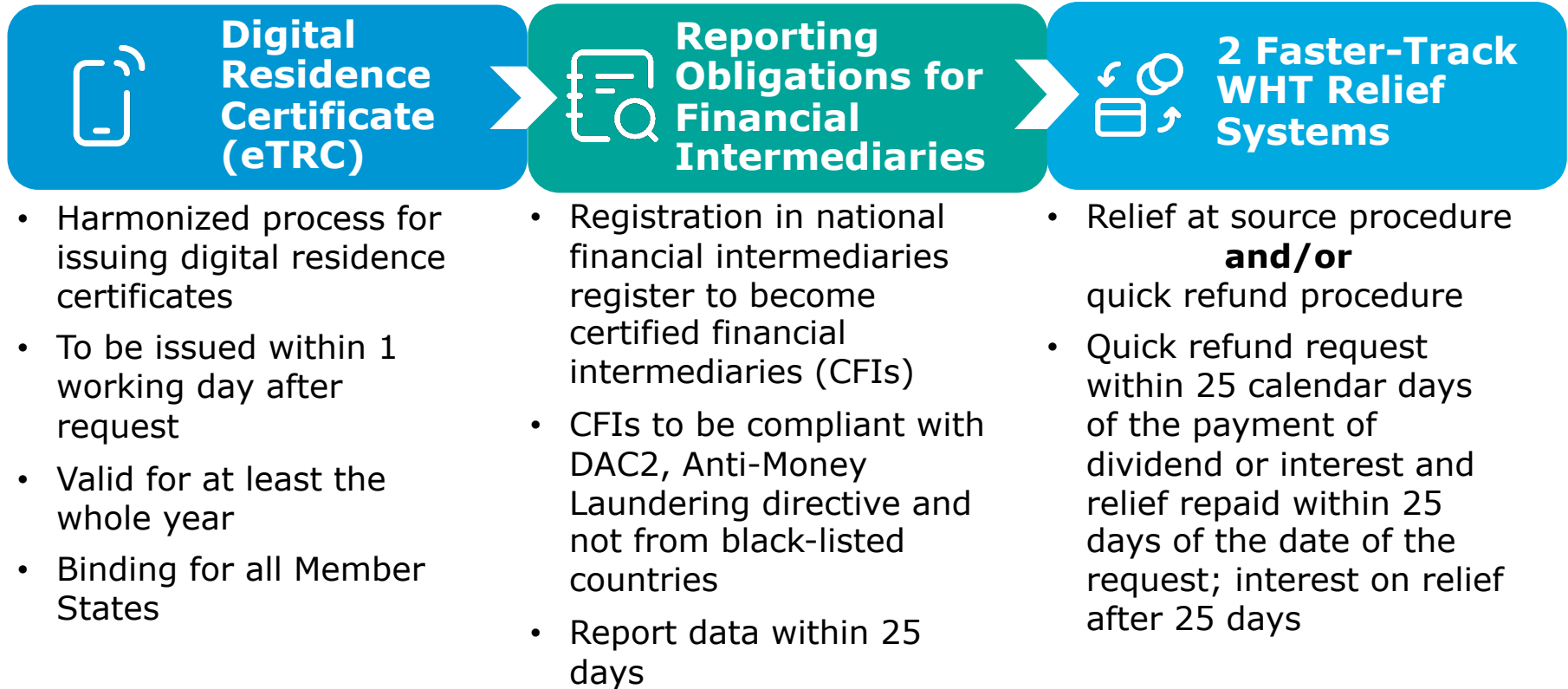


FASTER | Proposal to Streamline Withholding Tax Procedures

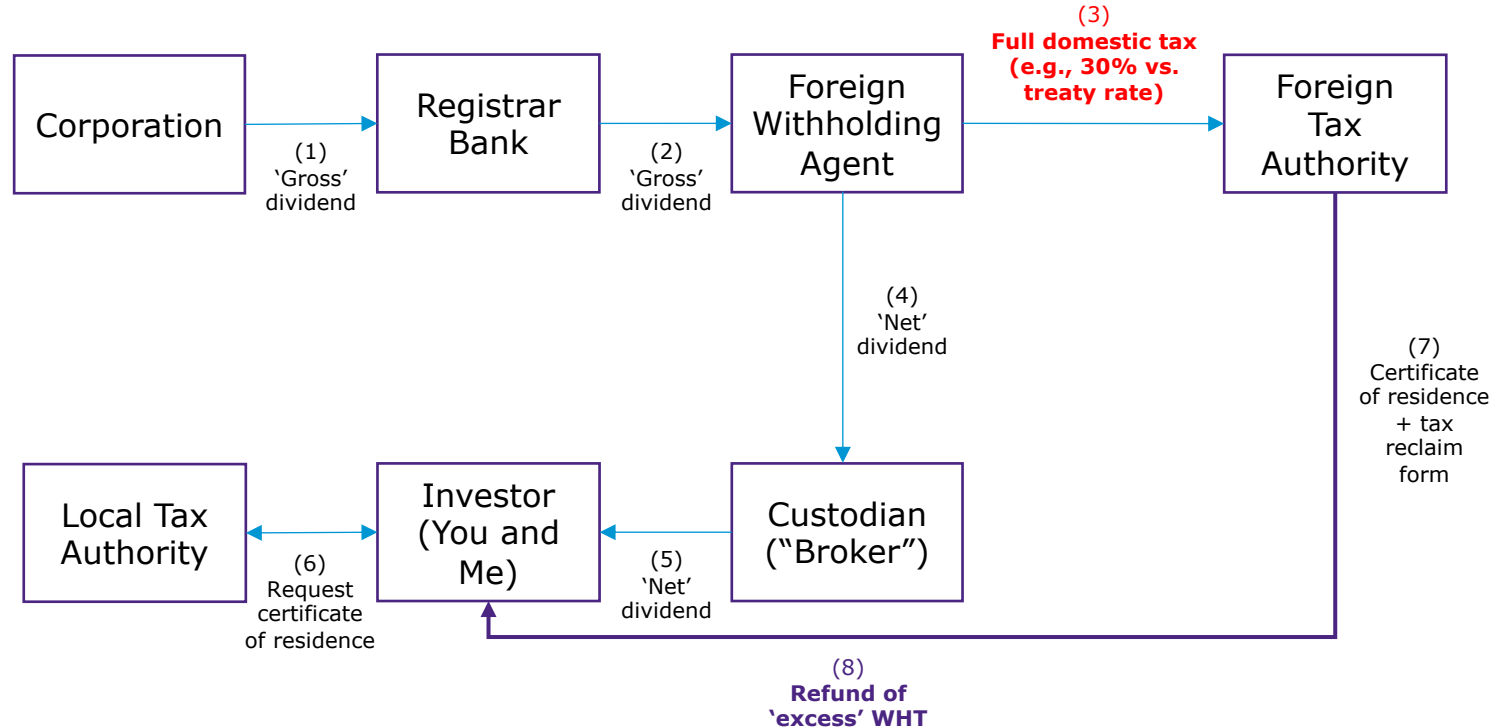
Proposal for a Council Directive on Faster and Safer Relief of Excess Withholding Taxes of 19 June 2023

- **Aim:**
 - Modernization/digitalization and standardization of withholding tax relief procedure
 - Making relief procedures faster, more efficient, and less costly
 - Strengthening these procedures against the risk of tax fraud and abuse
- **Scope:** Dividends from publicly traded shares and interest from publicly traded bonds
- **Current status:** European Parliament adopted opinion on FASTER on 28 February 2024
- **Envisaged effective date:** 1 January 2027

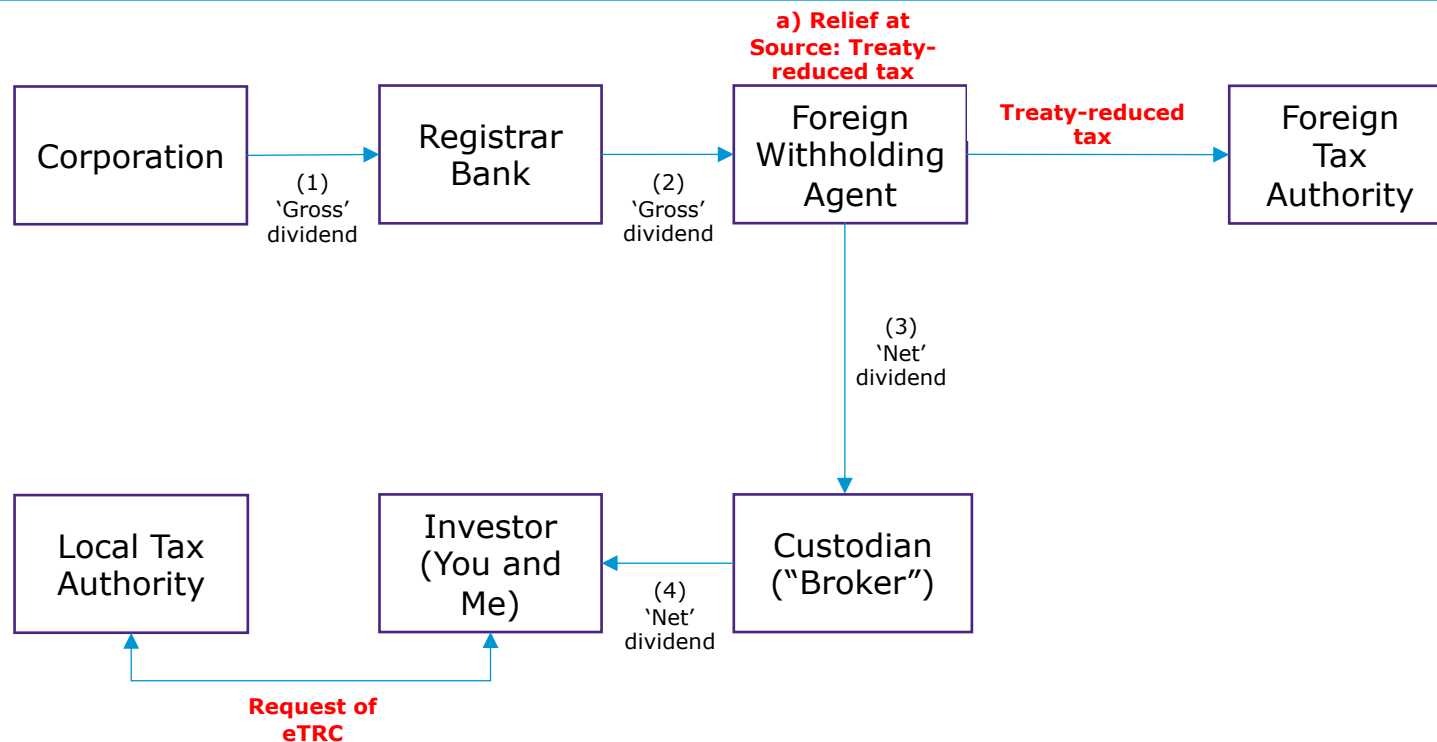
FASTER | 3 main building blocks



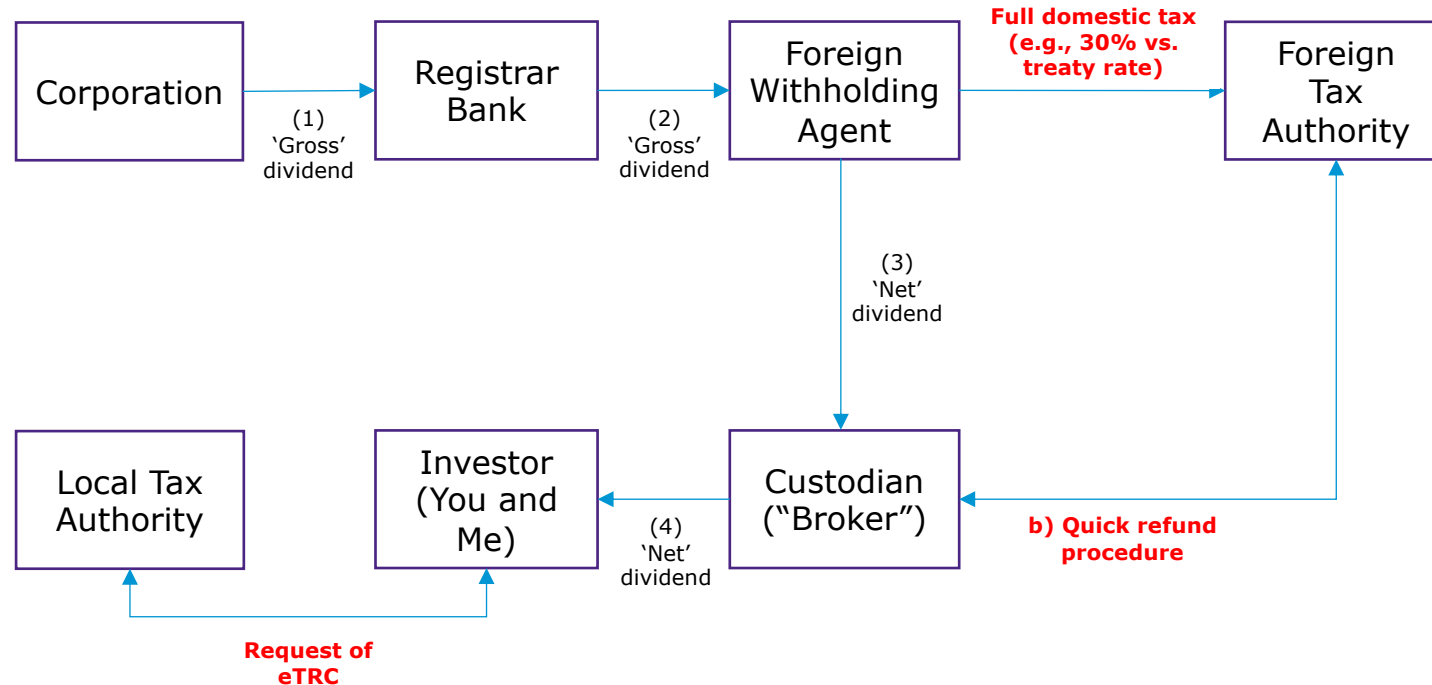
WHT-procedure: The 'slow' status quo...



... vs. with FASTER



... vs. with FASTER



FASTER | Key Amendments proposed by the European Parliament (1)

European Parliament adopted opinion on FASTER on 28 February 2024
Approval of the Faster-Proposal is subject to the following **amendments**:

- Digital tax residence certificate (eTRC)
 - Issue of eTRC within **three working days** from submission of a request
 - The eTRC should include **information on the double tax treaty**
 - If **more than five working days** are required to verify the tax residency of a specific taxpayer, Member State should inform the person requesting the certificate of the additional time needed and the reasons for the delay **that, in any case, should be no longer than five working days**

FASTER | Key Amendments proposed by the European Parliament (2)

Certified financial intermediary (CFI)

- Member States should...
 - ...ensure that a financial intermediary is **registered** in their national register of CFIs **within two months from submission of a request**
 - ...inform all other Member States about rejections of registration and **update national registers** to reflect the status of financial intermediaries
 - ...take necessary measures to require CFIs in their national register to **report** to the competent authority the information referred to in Annex II within a **maximum of 20 calendar days** after the record date
 - ...provide that CFIs do not need to report information referred to in Annex II, heading E (anti-abuse measures), if total dividend paid to the registered owner on his shareholding in a company does not exceed **EUR 1.500** (*de-minimis rule*)
 - ...require CFIs in their national register to keep the documentation supporting the information reported for **six years**

FASTER | Key Amendments proposed by the European Parliament (3)

Request for Relief at Source or Quick Refund

- Member States should take the necessary measures to ensure that CFIs requesting relief on behalf of a registered owner verify the risks of **residence and citizenship by investment schemes** that present a potentially high risk

Quick Refund System

- Member States should process a refund request made under FASTER within 25 calendar days from the date of such request
- Interest shall be paid on the amount of such refund for each day of delay after the 25th day, **unless the Member State has reasonable doubts on the legitimacy of the refund request**
- Member States may **reject a refund request** if any verification procedure or tax audit, based on risk assessment criteria and according to the national legislation, is initiated

FASTER | Key Amendments proposed by the European Parliament (4)

Due diligence of registered owner's eligibility

- Member States shall ensure that CFIs obtain from registered owner a declaration, that he is the **beneficial owner** of the dividend or interest as defined under the national legislation of the source Member State **or a double tax treaty**


Monitoring and exchange of information

- To ensure the integrity of the internal market the European Securities and Markets Authority (ESMA) and the European Banking Authority (EBA) should regularly monitor the risk for **cum-cum and cum-ex** in the Union
- Member States should introduce coordinated cooperation and mutual assistance between national competent authorities, tax authorities and other law enforcement bodies, such as the European Public Prosecutor's Office (EPPO) to **detect and prosecute illegal withholding tax reclaim schemes**

FASTER | Key Amendments proposed by the European Parliament (5)

Evaluation by Commission and Report to European Parliament and Council

- In the evaluation report, the Commission should (*excerpt*):
 - ... examine further possible measures to facilitate self-processed withholding tax claims for small investors who engage directly with tax authorities without the intermediation of CFIs
 - ... conduct a **comprehensive analysis of the development of the service fees financial intermediaries charge** registered owners for the implementation of the quick refund procedure and the relief at source procedure;
 - ... examine whether a relief at source system could be envisaged as a procedure **for all Member States**; and introduce further measures to facilitate such a system for SMEs;
 - ... examine the potential of **technological tools** to render the system more efficient and fraud proof through better identification of the beneficial owner;
 - examine possible measures to **digitalise relief and refund processes**, and claims;
- Where appropriate, the evaluation report should be accompanied by a legislative proposal.

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- After adoption of EP's Opinion (28 February 2024)
→ **submission of the amended Proposal to the Council**
 - Opinion of European Parliament is not binding for the Council, but Council must consider it before it finally adopts the legislation

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- Legislation to be **implemented** by the Member States until **31 December 2026**

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- First **application** planned for **1 January 2027**

Thank you!



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