



## Overeenkomst tussen de bevoegde autoriteiten van Indonesië en Nederland met betrekking tot de fiscale kwalificatie van een fonds dat naar Nederlands belastingrecht kwalificeert als besloten fonds voor gemene rekening

11 juli 2017  
nr. IZV 2017-0000124826

De directeur Internationale Zaken en Verbruiksbelastingen heeft namens de Staatssecretaris van Financiën het volgende besloten.

### COMPETENT AUTHORITY AGREEMENT

The competent authorities of Indonesia and the Netherlands have reached the following mutual agreement regarding the application of the Convention between the Government of the Kingdom of the Netherlands and the Government of Indonesia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital Gains signed at Jakarta on 29 January 2002 and the related Protocol(s) (hereinafter: "Tax Convention") to investors in "*besloten fondsen voor gemene rekening*", also mentioned as Closed Funds for Mutual Account (hereinafter: "CFMA"). The Agreement is entered into under Article 27 (Mutual Agreement Procedure) of the Tax Convention.

This Agreement applies to CFMAs formed in conformity with the Decree of 11 January 2007, CPP2006/1870M, Dutch. Gov. Gaz. No 15, 2007, or any future similar decree with same substance that may replace the said decree.

The competent authorities of the Netherlands and Indonesia agree that a CFMA is fiscally transparent and is not a resident of the Netherlands either under the Dutch Law or Article 4 (Fiscal Domicile) of the Tax Convention. Therefore, a CFMA is not eligible to claim benefits in its own right under the Tax Convention.

A CFMA can also consist of several CFMAs as described in par. 4 of the Decree of 11 January 2007, CPP2006/1870M, Dutch. Gov. Gaz. No 15, 2007. Such an umbrella fund is also fiscally transparent.

Since a CFMA is fiscally transparent, all income and gains derived by CFMA from the fund assets are allocated to the investors in the CFMA in proportion to their participations in the fund. Where a CFMA act as a pooled investment vehicle for the assets of its investors, such as pension funds, the CFMA invests these assets on behalf of those investors.

### ***Request for application of the benefits of a Convention on behalf of the participants***

A CFMA which is established in the Netherlands and which receives items of income arising in Indonesia may, represented by its fund manager or its depository, in lieu of and instead of the investors in the CFMA, claim the benefits of the Tax Convention on behalf of the investors, provided that such investors are residents of the Netherlands under the Tax Convention and are beneficial owners of the income from investments in Indonesia and as long as each of the investors meets the requirements and procedures as set forth in Indonesia domestic regulation on tax treaty implementation.

Such claims may be subject to enquiry and, where requested, a fund manager or depository shall provide relevant information which may include a schedule of investors and allocated income relevant to a claim.

A CFMA may not make a claim for benefits on behalf of any investor in the CFMA if the investor has itself made a claim for benefits in respect of the same item of income.

If a CFMA intends to make a claim for benefits on behalf of an investor, the fund manager or its depository should clearly communicate this to the investor to avoid duplicate claims in respect of the same item of income.

This Agreement shall be subject to regular review.



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This Agreement will enter into force as of the date of the signing of the Agreement and will be effective on the same date (without any retroactive effect).

Agreed by the undersigned competent authorities:

*The Hague, 23-06-2017*

*Indonesian Competent Authority  
P.M. John L. Hutagaol  
Director of International Taxation  
Jenderal Gatot Subroto, Street number 40-42, Jakarta, 12190, PO Box 124, Republic of Indonesia*

*The Hague, 23th June 2017*

*Netherlands Competent Authority  
Harry Roodbeen  
the Director International Tax and Consumer Tax  
Korte Voorhout 7, 2511 CW, The Hague, The Netherlands*