Questions and Answers on the VAT proposal for administrative cooperation

The Commission has repeatedly voiced concern at the level of VAT fraud currently taking place in the EU. Recent revelations of large-scale VAT evasion by wealthy individuals as part of the Paradise Papers and reports of how VAT fraud can result in tax revenues being spirited away to fund organised crime, including terrorist organisations, have also underlined the urgent need to tackle problems in this area.

Member States recently identified cross-border VAT fraud as <u>one of their top</u> <u>ten priorities</u> when it comes to the fight against organised and serious international crime. The most cautious estimates show that VAT fraud can lead to lost revenues of over €50 billion a year for Member States.

As part of the EU's efforts to tackle VAT fraud once and for all, the Commission recently launched its plans for an EU-wide VAT area which will be fraud-proof and better for business, while bringing in much needed revenues for Member States. Member States have also already made efforts to tackle VAT fraud. But to complete the picture, EU countries need to cooperate more to investigate and crack down on instances of VAT fraud. They also need access to the most relevant and up-to-date information so that they can react speedily and effectively. Improving the cooperation between Member States' tax authorities, other national law enforcement bodies and law enforcement authorities at EU level is the best way to reduce the damage made by criminals and to improve fairness of the taxation system in the short-term.

Today's proposals were first announced in April 2016 as part of the Commission's <u>VAT Action Plan</u> and formed part of the <u>20 measures to tackle the VAT gap</u>. As part of the VAT Action Plan, the Commission committed to presenting a proposal to enhance VAT administrative cooperation and 'Eurofisc', the EU's network of Member State VAT fraud experts. The measures announced today also respond to <u>concerns raised by the European Court of Auditors</u> in this area.

What are you proposing with today's package of measures?

Today's proposals will strengthen cooperation between Member States, enabling them to tackle VAT fraud more quickly and more efficiently. Taken together, the measures would give a major boost to our ability to track and clamp down on fraudsters and criminals who steal tax revenues for their own gain.

Key measures included in this legislation will lead to:

• Strengthening cooperation between Member States: VAT fraud can happen in a matter of minutes, meaning that Member States need to have the tools to act as quickly as possible. Today's proposal would put in place an

online system for information sharing within 'Eurofisc', the EU's existing network of anti-fraud experts. The system would enable Member States to process, analyse and audit data on cross-border activity to make sure that risk can be assessed as quickly and accurately as possible. To boost the capacity of Member States to check cross-border supplies, joint audits would allow officials from two or more national tax authorities to form a single audit team to combat fraud — especially important for cases of fraud in the e-commerce sector. New powers would also be given to Eurofisc to coordinate cross-border investigations.

- Working with other law enforcement bodies: The new measures would open new lines of communication and data exchange between tax authorities and European law enforcement bodies on cross-border activities suspected of leading to VAT fraud: OLAF, Europol and the newly created European Public Prosecutor Office (EPPO). Cooperation with European bodies would allow for the national information to be cross-checked with criminal records, databases and other information held by Europol and OLAF, in order to identify the real perpetrators of fraud and their networks.
- Sharing of key information on imports from outside the EU and on vehicle registration: Information sharing between tax and customs authorities would be further improved for certain customs procedures which are currently open to VAT fraud. A special system that means that goods arriving from outside the EU with a final destination of one Member State can arrive in the EU in another Member State and transit onwards VAT-free. VAT is only charged when the goods reach their final destination. This feature of the EU's VAT system aims to facilitate trade for honest companies, but can be abused to divert goods to the black market and circumvent the payment of VAT altogether. Under the new rules information on incoming goods would be shared and cooperation strengthened between tax and customs authorities in all Member States.
- Access to car registration data: Trading in cars is also sometimes subject to fraud due to the difference in how VAT is applied to new and used cars. Recent or new cars, for which the whole amount is taxable, can be sold as second-hand goods for which only the profit margin is subject to VAT. In order to tackle this type of fraud, Eurofisc officials would also be given access to car registration data from other Member States.

What is Eurofisc?

<u>Eurofisc</u>is a network of national EU Member State analysts working in different areas of fraud risk. It was set up in 2010 to improve the capacity of Member States to combat organised VAT fraud, especially carousel fraud. Managed by EU Member States, Eurofisc allows them to exchange early warnings on businesses suspected of being involved in carousel fraud. The European Commission contributes with administrative and logistical support without having access to operational data.

However, Eurofisc could be greatly strengthened and improved in order to better fight carousel fraud in particular. The speed at which information is exchanged must be improved, while information exchange needs to be more targeted: swift responses are key to fighting carousel fraud which can happen

in the blink of an eye.

What information and data is currently shared between Member States and what needs to be improved?

While the tax authorities of Member States do already exchange some information on business and cross-border sales, this cooperation relies heavily on the manual processing of information. At the same time, VAT information and intelligence on organised gangs involved in the most serious VAT fraud are not shared systematically with EU enforcement bodies. Finally, a lack of investigative coordination between tax administrations and law enforcement authorities at national and EU level mean that this fast-moving criminal activity is not currently tackled quickly enough.

To combat the most serious cross-border fraud cases, national tax authorities exchange targeted information multilaterally within Eurofisc, a network of tax officials. Tax authorities can also carry out simultaneous controls in other Member States and arrange for tax officials from other Member States to be present in administrative offices and during administrative enquiries.

However, those instruments for administrative cooperation are not fit for purpose and need to be improved:

- The main mechanism for exchanging information is inefficient as it relies on manual collation and circulation of information which could easily be made automatically available. These practices generate complexity and delays and therefore decrease the value of the information exchanged, consuming the resources of tax administrations resources that could be freed up for other tasks;
- VAT information and intelligence on organised crime structures involved in serious VAT fraud is not currently shared between, on the one hand, tax administrations and Eurofisc, and on the other hand, other law enforcement authorities at national and EU level. A multidisciplinary approach involving both is critical to identify, prosecute and have a real impact on stopping the real perpetrators of crime, putting an end to serious VAT fraud;
- The way Eurofisc tax officials identify and exchange information and intelligence about risky traders and fraudulent networks is complex and causes delays. In addition, while Eurofisc tax officials are the first to be warned about new fraudulent networks and have strong expertise in serious VAT fraud, they play no role in the coordination of the subsequent audits;
- At the moment, tax officials cannot be directly involved in on-the-spot audits carried out by other tax administrations. That can generate delays and put a strain on the resources of the tax administrations where the business being audited is based.

What are the different kinds of VAT-related frauds that this proposal aims to tackle?

Today's measures would vastly improve the current problems the EU faces with VAT fraud. The main issues are:

1. Missing trader fraud and carousel fraud

The problem:

VAT fraud can occur when a company that has collected VAT from its buyer and should pay this amount to the tax authority does not do so but instead disappears. The business owner simply vanishes with the money. Most fraud takes place when the company buys goods from another Member State, because purchasing the goods is VAT-free on cross-border transactions. When selling the goods on domestically, the company receives the entire amount of VAT, which it pockets. Because the company disappears, this type of fraud is called missing trader fraud.

Carousel fraud goes even further. In this case the same goods are bought and resold by the fraudster several times via middlemen. Each time the amount of collected VAT increases and the company either disappears or becomes insolvent before the tax authority can collect the accumulated VAT. With carousel fraud, the same product goes around several times before the fraudsters disappear.

The most damaging VAT fraud is committed by organised crime groups through VAT carousel fraud. Organised crime groups benefit from their international criminal structures and connections to establish efficient cross-border VAT fraud schemes to extort money from national budgets.

The <u>European Court of Auditors</u> and Europol estimate that organised crime groups cause €40-60 billion of the annual EU-wide VAT revenue losses and that 2% of those groups are behind 80% of the carousel fraud. Proceeds of VAT carousel fraud are usually reinvested in new criminal activities or laundered.

The fix:

The measures announced today would have a profound effect on how Member States exchange information around cross-border VAT fraud in the EU, allowing them to consolidate information on the businesses taking part in this activity in different countries and to investigate suspicious activity more easily. Once agreed, the rules would put in place a mechanism by which Member States would be able to jointly process and analyse data on VAT fraud via the Eurofisc network of Member State experts. At the same time, Member States would be able to jointly audit and assess companies operating cross-border where there is reason to believe that fraudulent activity is taking place. EU countries would also be able to send officials abroad to assess cases of VAT fraud in other Member States where their country has been losing out on tax revenues.

2. Clamping down on VAT fraud arising from imports from outside the EU

The problem:

Goods that arrive from outside the EU with a final destination of one Member State can arrive in the EU via another Member State and transit onwards VAT-free (under the so-called customs procedures 42 and 63). VAT is only charged

when the goods reach their final destination. This feature of the EU's VAT system aims to facilitate trade for honest companies, but can be used by criminals to divert goods to the black market and circumvent the payment of VAT altogether. In practice these procedures are often abused with a combination of tricks such as under-evaluation of the value of imported goods to evade customs duties.

Currently, tax authorities have difficulty detecting such fraud on time. This is further exacerbated by the fact that Member States of import and of destination have to wait for the importer's paperwork (or 'recapitulative statement') to arrive before carrying out checks. Often the importer fails to send this statement. The entire process can be cumbersome and lengthy, while fraud can occur very quickly.

The fix:

For the first time, tax authorities will share information on imported goods from outside the EU that make use of customs procedures 42 and 63 leading to VAT fraud. The relevant information about the imported goods (e.g. VAT numbers, value of the imported goods, type of commodities etc.) already submitted electronically with customs declarations, will be shared by the Member State of import with the tax authorities in the Member State of destination.

The tax authorities in both countries would therefore be able to cross-check this information with the information reported by the importer and by the recipient in his VAT return.

The measure proposed will allow:

- the Member State of destination to inform the Member State of import if the VAT number of the customer, albeit valid, had been used by the importer without their knowledge;
- the tax authorities to cross-check the customs information with the VAT recapitulative statements and to detect undervaluation at the moment of import, designed to avoid customs duties;
- automated access to the VAT Information Exchange System (VIES) by customs authorities responsible for checking the conditions for the VAT exemption in customs procedures 42 and 63.

3. VAT fraud in the sale of second-hand cars

The problem:

Trading in cars is also sometimes subject to fraud due to the difference in how VAT is applied to new and used cars. Recent or new cars, for which the whole amount is taxable, can be sold as second-hand goods for which only the profit margin is subject to VAT. The cars can then be sold on without the VAT being paid on the whole price to the tax administrations in other Member States. This kind of fraud has been taking place for years and has now profoundly altered the level playing field between honest businesses and fraudsters in this sector.

The fix:

Tax authorities will be given access to information held in car registration databases so that fraud in the second-hand car market can be identified and acted upon as quickly as possible. Currently, Member States face difficulties when they have suspicions about specific vehicles and they do not know which Member State should be made aware. This may delay action, hampering the ability of the Member State receiving the car to react quickly.

The Commission proposes to improve access to vehicle registration data by allowing Member States to have access to car registration data in other Member States through <u>EUCARIS</u>, the existing the European vehicle and driving licence information system. This would increase administration capacities to react to fraud on cars and allow quick reaction when that fraud is flagged to enforcement agencies.

How will the proposal change the way EU agencies such as Europol and OLAF work together to crack down on fraud? What role will the EPPO play?

The proposal involves a much more integrated and intertwined anti-VAT fraud system in the EU with clearer and more direct links between tax authorities, law enforcement and intelligence agencies. Europol and OLAF are the two bodies that are at the forefront of the fight against fraud at EU level. A direct link between Eurofisc, Europol and OLAF as well as with the EPPO for the most serious VAT fraud cases, would maximise the value of the information in the fight against criminal organisations.

The proposal will also develop the exchange of information and intelligence between Member States tax administrations in Eurofisc and law enforcement authorities at the EU level:

- Member States (via Eurofisc) would be able to exchange information and intelligence with OLAF and Europol to allow those agencies to crosscheck the information with their own data. This would help to identify the criminals behind the schemes and their business partners in the EU. Europol would then be able to share the information with national law enforcement authorities leading to more action against VAT fraud suspects. OLAF would be able to coordinate investigations at national level.
- Member States would be obliged to spontaneously send information on VAT fraud cases involving at least two Member States connected to cross-border VAT fraud above €10 million to the EPPO for appropriate follow-up.

Will personal data of businesses and consumers be recorded and exchanged?

Today's proposal would trigger new exchange and joint processing of existing VAT information, which could include personal data. However, data collection would be strictly targeted and circumscribed to operators supposedly involved in fraudulent transactions. The data would be kept only for the time necessary for analysis and investigation by national tax authorities empowered to enforce VAT obligations. They would be used solely to identify

potential fraudsters at an early stage and to put an end to fraudulent networks whose purpose is to abuse the VAT system by perpetrating VAT fraud. They would be accessed and used by authorised personnel alone.

Nevertheless, these measures would ultimately be subject to Article 8 of the <u>Charter of Fundamental Rights</u> and the existing <u>General Data Protection</u> <u>Regulation</u> will be respected.

Who did you consult for this proposal and what are the next steps?

In 2016, the Commission announced its intention to propose a definitive VAT system in order to create a robust single European VAT area. Among the short-term measures, the Commission announced that it would seek to improve the exchange and analysis of information by tax administrations and with other law enforcement bodies, to strengthen Eurofisc and to introduce new tools such as joint audits.

In their <u>conclusions of May 2016</u> on fighting VAT fraud, Member States acknowledged that improving administrative cooperation between tax authorities was of significant importance. The Council also called on the Commission to propose ways of addressing legal obstacles and practical limitations in the EU and within the Member States that are holding back a qualitative leap in information exchange. In November 2016, the European Parliament welcomed the VAT Action Plan and supported its measures to reduce the VAT gap and tackle VAT fraud in its <u>resolution</u>.

In spring 2017 the European Commission <u>consulted the general public</u> in drawing up the current proposal. The Commission also sought the opinion of the tax authorities in the Member States.

These legislative proposals will now be submitted to the European Parliament for consultation and to the Council for adoption.

When will the proposals enter into force?

The measures will enter into force as soon as they are agreed by the Member States and the European Parliament has given its opinion. However, as the implementation of the automated access to the information collated by the customs authorities and to vehicle registration data will require new technological developments, their application will be deferred until 1 January 2020 to allow the Member States and the Commission to carry out those developments.

For More Information

Press release on the proposed tools to combat VAT fraud

<u>Action Plan on VAT - Towards a single EU VAT</u> area

Press release on reform of EU VAT rules

Q&A on reform of EU VAT rules

Yves Mersch: Digital transformation of the retail payments ecosystem

Introductory speech by Mr Yves Mersch, Member of the Executive Board of the ECB, at the Joint ECB and Banca d'Italia conference, Rome, 30 November 2017

Efficient and safe retail payments systems are a precondition for the functioning of any modern economy. They allow for everyday transactions to take place, thus providing the foundation for commerce and trade.

Central banks through cash and banks have traditionally offered these services. And they were successful in creating a secure and trusted payment ecosystem for consumers.

However over time the banking **ecosystem has developed inefficiencies**. It has lost some ability to innovate and adapt to the changing needs of the enduser.

In Europe technological disruptions, competition from non-banks and regulatory pressure has forced banks to re-examine how they provide retail payment services.

The ability to provide real-time services will be essential if banks want to retain and gain customers. The **strategic importance of instant payments** cannot be overstated.

The move towards a real-time world with the provision of real-time services cannot happen without pan-European instant payments. They will provide a **new framework for innovative and efficient retail payments** in Europe.

My talk today will focus on instant payments but I will also briefly discuss the alleged innovation brought by private virtual currency schemes without an identifiable issuer.

The foundations of instant payments and ensuring

stakeholder involvement

The Single Euro Payments Area (SEPA) was the origin of today's digital landscape for retail payments in Europe. It is a key ingredient of Europe's single currency and was necessary to bring the full benefits of the euro closer to all citizens. This integration of electronic retail payments in Europe was full of challenges and was only completed 12 years after the introduction of euro notes and coins. One of the most prominent issues that faced SEPA was the lack of full stakeholder involvement.

Initially, SEPA was considered an "IT" project to be implemented by banks. It was not seen in the overall context of a project that could transform payments in Europe. The project did not engage enough with Europe's consumers and businesses.

Support from all stakeholders is thus crucial to the success of any such undertaking. To facilitate such support, the ECB established the **Euro Retail Payments Board** (ERPB). The ERPB brings together both sides of the market, the supply and the demand side, the banks and the end users in order to further the development of an integrated, innovative and competitive market for euro retail payments in the EU. This co-operation has led to new synergies. It gave a voice to those who felt excluded from the process of innovation in retail payments.

Recently we have gone further to enhance European cooperation and have established, in conjunction with the European Commission, the **European Forum for Innovation in Payments** (EFIP). This body brings together the national payments committees with the ERPB to foster integration and innovation for retail payments in Europe.

The ERPB was instrumental in bringing the vision of real-time payments to Europe with the inception of instant payments. The European Payments Council, acting on guidance from the ERPB, created the SEPA credit transfer instant scheme. I am pleased that this scheme was successfully launched last week and let me congratulate the following eight countries who signed up as of today to the service. The tech savvy nations are: Austria, Estonia, Germany, Latvia, Lithuania, the Netherlands, Italy, and Spain. Now, European end-users whose banks have already joined and implemented the scheme can send and receive instant payments across Europe in less than 10 seconds.

A positive end-user experience will ultimately determine the success of instant payments. The ERPB is supporting the work of the industry and other stakeholders to facilitate the initiation of an instant payment using the recipient's mobile telephone number as a proxy for their IBAN, no matter where they are located in the EU. The ERPB expects that a pan-European mobile proxy lookup service will be ready by the end of 2018 at the latest and I urge all stakeholders to ensure that this deadline is met.

However, to facilitate the full roll-out of instant payments we have to enable reachability of all banks in Europe. To enable full reachability the Eurosystem has decided to launch an **instant payments settlement system** in central bank money, the Target Instant Payment Settlement (TIPS) Service.

Appropriate regulatory framework

SEPA and instant payments did not happen in isolation. An appropriate legislative framework that supports digitisation, innovation and competition is also needed. In Europe we realise this importance. The revised Payment Service Directive (PSD2) will provide the necessary legislative framework to allow for innovation. It will enhance payment account access for regulated and authorised third party providers. It will facilitate the participation of new actors in the payments market. These actors will provide new innovative services, reduce costs and give consumers more choice.

However this can only happen if standardised access to the payment account is provided. I would therefore call upon stakeholders such as banks, standard setting organisations and, third party providers to work together to ensure a single standard is developed for payment account access.

The competition introduced by the revised Payment Service Directive can also provide an opportunity for incumbent banks but only if they **act urgently to implement instant payments**. It is crucial that banks invest to upgrade their legacy batch systems to enable real-time processing and offer end-user solutions for instant payments. These solutions can provide them with a strong tool to face the upcoming competition.

The recent experience with contactless payments shows that banks, in cooperation with other stakeholders, are well capable to roll out payment innovations that can quickly take off and improve end-users' payment experience.

Virtual currencies

It is my view that future innovations in retail payments will be based on instants payments in combination with account access provided by the PSD2. I would like stress this point especially in view of the ongoing public debate around the alleged innovation brought by private virtual currency schemes or tokens.

While we have seen a substantial increase, albeit from low levels, in the value of some of the virtual currencies lately, we should not forget that their usage as a settlement asset is marginal and the **overall user acceptance** as a means of payment is negligible.

In fact, retail payment traffic in Europe alone is orders of magnitude higher than the global transaction volume of virtual currencies. In view of the speculative market environment for virtual currencies and for other types of virtual financial assets, one should bear in mind that these are by definition virtual: they do not constitute a claim on an issuer and **do not formally qualify as currency**.

Their purchasing power fluctuates wildly and depends solely on the market activity of speculators. It remains to be seen whether these virtual

currencies can be considered as a payment alternative for consumers — except in extreme case like in failed states- and to what extent they can compete with the solutions market players will be able to develop in the **safer and more efficient European retail payments market**.

The ECB continues to monitor these developments, not only from a market infrastructure perspective, but also as regards monetary policy, financial stability, and prudential supervision. And while we continue to fully meet the increasing demand for safe and efficient banknotes we shall also experiment with cash on different digital technologies. Other adventurous applications of a more disruptive nature are simply not robust enough from a legal, operational, governance point of view to name but a few shortcomings which make these assets unfit for recognition from the point of view of our mandate of efficient payments systems.

Conclusion

To conclude, the benefits of digital transformation and innovation for citizens can only be achieved by means of full stakeholder cooperation and an appropriate regulatory framework that fosters innovation.

Banks need to implement instant payments as soon as possible and provide an alternate narrative to the ongoing public debate on the alleged innovation brought by virtual currency schemes.

Instant payments in conjunction with the building blocks provided by the PSD2 can offer new business opportunities for banks and third party providers and provide citizens with a real-time safe payment experience.

Thank you for your attention

ECB, ESMA and FSMA seek participants for Euro Risk-Free Rates Working Group

The European Central Bank (ECB) has launched a <u>call for expressions of interest</u> to participate in the Working Group on Euro Risk-Free Rates for the euro area. The call is also issued on behalf of the European Securities and Markets Authority (ESMA), the Belgian Financial Services and Markets Authority (FSMA), and the European Commission.

The new working group's terms of reference were also published today and its work will be guided by them.

Applications are encouraged from financial sector representatives and non-banking institutions or associations. Candidates for the working group are asked to express their interest by 12 January 2018, using this <u>application</u>

Working Group

The working group, which will be chaired by a private sector representative and with a Secretariat provided by the ECB, will regularly consult market participants and end-users, as well as gather feedback from other public authorities. To ensure transparency at all stages of the identification and adoption of a new risk-free rate, the working group will regularly report on its meetings on the ECB website.

The ECB expects the working group to be operational and its composition to be announced by the beginning of 2018.

As announced in a joint press release by the four institutions on 21 September 2017, the new working group will be tasked with the identification and adoption of risk-free overnight rates to serve as a basis for an alternative to the current benchmarks used in a variety of financial instruments and contracts in the euro area.

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Joint press release of the United Nations, the African Union and the European Union

The United Nations Secretary General, Antonio Guterres, the Chairperson of the African Union Commission, Moussa Faki Mahamat, the President of the European Commission, Jean-Claude **Juncker**, and the High Representative/Vice President Federica **Mogherini** met this morning in the margins of the African Union/European Union Summit to discuss concrete steps to address jointly the dramatic situation of migrants and refugees victims of criminal networks, in particular inside Libya.

They agreed to put in place a joint EU-AU-UN Task Force to save and protect lives of migrants and refugees along the routes and in particular inside Libya, accelerating the assisted voluntary returns to countries of origin, and the resettlement of those in need of international protection. This action will build on, expand and accelerate the ongoing work done by countries of origin, and the IOM, with EU funding, which allowed so far the voluntary return to their countries of origin of 13 000 migrants since January.

The work of the Task Force will be closely coordinated with the Libyan authorities and be part of the overall joint work that the African Union and the European Union, and the United Nations, will intensify to dismantle traffickers and criminal networks, and to offer opportunities of development and stability to countries of origin and transit, tackling root causes of migration.

The United Nations, the African Union and the European Union agreed to upgrade in a systematic manner their trilateral cooperation and to meet on a regular basis at the highest political level, notably in the margins of the UN General Assembly.

Press contacts:

For the African Union Commission:

For the UN:

General public inquiries: <u>Europe Direct</u> by phone $\underline{00\ 800\ 67\ 89\ 10\ 11}$ or by $\underline{\text{email}}$