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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: Position of the Council at first reading with a view to the adoption of a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL establishing the 'Fiscalis' programme for cooperation in the field
of taxation and repealing Regulation (EU) No 1286/2013

REGULATION (EU) 2021/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

**establishing the ‘Fiscalis’ programme for cooperation in the field of taxation
and repealing Regulation (EU) No 1286/2013**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 114 and 197 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Acting in accordance with the ordinary legislative procedure²,

¹ OJ C 62, 15.2.2019, p. 118.

² Position of the European Parliament of 17 April 2019 (not yet published in the Official Journal) and position of the Council at first reading of ... [(OJ ...)/(not yet published in the Official Journal)]. Position of the European Parliament of ... [(OJ ...)/(not yet published in the Official Journal)].

Whereas:

- (1) The Fiscalis 2020 programme, which was established by Regulation (EU) No 1286/2013 of the European Parliament and of the Council¹ and is implemented by the Commission in cooperation with the Member States and associated countries, as well as its predecessor programmes, have significantly contributed to facilitating and enhancing cooperation between tax authorities within the Union. The added value of those programmes, including as regards the protection of the financial and economic interests of the Member States and of the taxpayer, has been recognised by the tax authorities of the participating countries. The challenges for the next decade can only be tackled if Member States look beyond the borders of their administrative territories and cooperate intensively with their counterparts.
- (2) The Fiscalis 2020 programme offers Member States a Union framework within which to develop cooperation activities. That framework is more cost-effective than if each Member State were to set up individual cooperation frameworks on a bilateral or multilateral basis. It is therefore appropriate to ensure the continuation of the Fiscalis 2020 programme by establishing a new programme in the same area, the Fiscalis programme (the 'Programme').

¹ Regulation (EU) No 1286/2013 of the European Parliament and of the Council of 11 December 2013 establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020 (Fiscalis 2020) and repealing Decision No 1482/2007/EC (OJ L 347, 20.12.2013, p. 25).

- (3) In providing a framework for actions which supports the internal market, fosters the competitiveness of the Union and protects the financial and economic interests of the Union and its Member States, the Programme should contribute to: supporting tax policy and the implementation of Union law relating to taxation; preventing and fighting tax fraud, tax evasion, aggressive tax planning and double non-taxation; preventing and reducing unnecessary administrative burdens for citizens and businesses in cross-border transactions; supporting fairer and more efficient tax systems; achieving the full potential of the internal market and fostering fair competition in the Union; supporting a joint Union approach in international fora; supporting the administrative capacity building of tax authorities including by modernising reporting and auditing techniques; as well as supporting training the staff of tax authorities in that regard.
- (4) This Regulation lays down a financial envelope for the Programme, which is to constitute the prime reference amount, within the meaning of point 18 of the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources¹, for the European Parliament and the Council during the annual budgetary procedure.

¹ OJ L 433I, 22.12.2020, p. 28.

- (5) In order to support the process of accession and association by third countries, the Programme should be open to the participation of acceding countries and candidate countries as well as potential candidates and partner countries of the European Neighbourhood Policy if certain conditions are fulfilled. It might also be open to other third countries, in accordance with the conditions laid down in specific agreements between the Union and those countries covering their participation in any Union programme.
- (6) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council¹ (the ‘Financial Regulation’) applies to this Programme. The Financial Regulation lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect management, financial instruments, budgetary guarantees, financial assistance and the reimbursement of external experts.

¹ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- (7) The actions under the Fiscalis 2020 programme have proven to be adequate and should therefore be maintained. In order to provide more simplicity and flexibility in the execution of the Programme and thereby better deliver on its objectives, the actions should be defined only in terms of overall categories, with a list of illustrative examples of concrete activities, such as meetings and similar ad-hoc events, including, where appropriate, presence in administrative offices and participation in administrative enquiries, project-based structured collaboration, including, where appropriate, joint audits, and IT capacity building, including, where appropriate, access by tax authorities to interconnected registers. Where appropriate, actions should also aim to address priority topics in order to fulfil the objectives of the Programme. Through cooperation and capacity building, the Programme should also promote and support the uptake and leverage of innovation to further improve the capabilities to deliver on the core priorities of taxation.
- (8) Given the increasing mobility of taxpayers, the number of cross-border transactions, the internationalisation of financial instruments and the resulting increased risk of tax fraud, tax evasion and aggressive tax planning, all of which go well beyond Union borders, adaptations of or extensions to European electronic systems for cooperation with third countries not associated with the Programme and international organisations could be of interest to the Union or to Member States. In particular, such adaptations or extensions would avoid the administrative burden and the costs inherent in developing and operating two similar electronic systems for Union and international exchanges of information. Therefore, when duly justified by that interest, such adaptations or extensions should be eligible for funding under the Programme.

- (9) Considering the importance of globalisation and the importance of combating tax fraud, tax evasion and aggressive tax planning, the Programme should provide for the possibility of involving external experts within the meaning of Article 238 of the Financial Regulation. Such external experts should mainly be representatives of governmental authorities, including governmental authorities of non-associated third countries, including least developed countries, as well as representatives of international organisations, of economic operators of taxpayers and of civil society. In that context, a least developed country should be understood to mean a third country or non-EU territory that is eligible to receive official development assistance in accordance with the relevant list made publicly available by the Development Assistance Committee of the Organisation for Economic Cooperation and Development and based on the United Nations' definition of least developed countries. The selection of experts in expert groups should be based on the Commission decision of 30 May 2016 establishing horizontal rules on the creation and operation of Commission expert groups. As regards experts appointed in their personal capacity for acting independently in the public interest, the Commission should ensure that those experts are impartial, that they have no possible conflicts of interest with their professional responsibilities and that information about their selection and participation is publicly available.

- (10) In line with the Commission's commitment to ensure the coherence and simplification of funding programmes, set out in its Communication of 19 October 2010 on the EU Budget Review, resources should be shared with other Union funding instruments if the actions envisaged under the Programme pursue objectives that are common to various funding instruments, excluding double financing. Actions under the Programme should ensure coherence in the use of the Union's resources supporting tax policy and tax authorities.

- (11) With a view to cost-effectiveness, the Programme should exploit possible synergies with other Union measures in related fields, such as the Customs Programme established by Regulation (EU) 2021/444 of the European Parliament and of the Council¹, the Union Anti-Fraud Programme established by Regulation (EU) 2021/... of the European Parliament and of the Council²⁺, the Single Market Programme established by Regulation (EU) 2021/... of the European Parliament and of the Council³⁺⁺, the Recovery and Resilience Facility established by Regulation (EU) 2021/241 of the European Parliament and of the Council⁴ and the Technical Support Instrument established by Regulation (EU) 2021/240 of the European Parliament and of the Council⁵.

¹ Regulation (EU) 2021/444 of the European Parliament and of the Council of 11 March 2021 establishing the Customs programme for cooperation in the field of customs and repealing Regulation (EU) No 1294/2013 (OJ L 87, 15.3.2021, p. 1).

² Regulation (EU) 2021/... of the European Parliament and of the Council of ... establishing the Union Anti-Fraud Programme and repealing Regulation (EU) No 250/2014 (OJ L ..., ..., p. ...).

⁺ OJ: Please insert in the text the number of the Regulation contained in document st 5330/1/21 REV 1 (2018/0211(COD)) and insert the number, date and OJ reference of that Regulation in the footnote.

³ Regulation (EU) 2021/... of the European Parliament and of the Council of ... establishing a programme for the internal market, competitiveness of enterprises, including small and medium-sized enterprises, the area of plants, animals, food and feed, and European statistics (Single Market Programme) and repealing Regulations (EU) No 99/2013, (EU) No 1287/2013, (EU) No 254/2014 and (EU) No 652/2014 (OJ L ..., ..., p. ...).

⁺⁺ OJ: Please insert in the text the number of the Regulation contained in document st 14281/20 (2018/0231(COD)) and insert the number, date and OJ reference of that Regulation in the footnote.

⁴ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17).

⁵ Regulation (EU) 2021/240 of the European Parliament and of the Council of 10 February 2021 establishing a Technical Support Instrument (OJ L 57, 18.2.2021, p. 1).

- (12) Information Technology (IT) capacity-building actions are set to attract the greatest part of the budget under the Programme. Therefore, specific provisions should describe and distinguish between the common and national components of the European electronic systems. Moreover, the scope of actions and the responsibilities of the Commission and of Member States should be clearly defined. To the extent possible, there should be interoperability between the common and national components of the European electronic systems, and synergies with other electronic systems of relevant Union programmes.
- (13) Currently, there is no requirement to draw up a Multi-Annual Strategic Plan for Taxation for creating a coherent and interoperable electronic environment for taxation in the Union. In order to ensure that IT capacity-building actions are coherent and coordinated, the Programme should provide for the requirement to draw up such a plan, a planning tool which should be compliant with and should not go beyond the obligations arising from the relevant legal acts of the Union.
- (14) This Regulation should be implemented by means of work programmes. In view of the mid- to long-term nature of the objectives pursued and building on experience gained over time, it should be possible for work programmes to cover several years. A shift from annual to multiannual work programmes, which should each cover no more than three years, would reduce the administrative burden on both the Commission and Member States.

- (15) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.¹
- (16) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making², this Programme should be evaluated on the basis of information collected in accordance with specific monitoring requirements, while avoiding an administrative burden, in particular on Member States, and overregulation. Those requirements, where appropriate, should include measurable indicators as a basis for evaluating the effects of the Programme on the ground. The interim and final evaluations, which should be performed no later than four years after the start of the implementation and the completion of the Programme, respectively, should contribute to the decision-making process of the next multiannual financial frameworks. The interim and final evaluations should also address the remaining obstacles to the achievement of the Programme's objectives and make suggestions for best practices. In addition to the interim and final evaluations, as part of the performance reporting system, annual progress reports should be issued to monitor the progress made. Those reports should include a summary of the lessons learnt and, where appropriate, of the obstacles encountered, in the context of the activities of the Programme that have taken place in the year in question.

¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

² OJ L 123, 12.5.2016, p. 1.

- (17) The Commission should organise regular seminars of tax authorities at which representatives of beneficiary Member States discuss issues and suggest potential improvements related to the objectives of the Programme, including the exchange of information between tax authorities.
- (18) In order to respond appropriately to changes in tax policy priorities, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of amending the list of indicators to measure the achievement of the specific objectives of the Programme and supplementing this Regulation with provisions on the establishment of a monitoring and evaluation framework. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

- (19) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council¹ and Council Regulations (EC, Euratom) No 2988/95², (Euratom, EC) No 2185/96³ and (EU) 2017/1939⁴, the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities, including fraud, to the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, to the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) has the power to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939, to investigate and prosecute criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council⁵. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

¹ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

² Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p. 1).

³ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.96, p. 2).

⁴ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

⁵ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

- (20) Third countries which are members of the European Economic Area (EEA) may participate in Union programmes in the framework of the cooperation established under the Agreement on the European Economic Area¹, which provides for the implementation of the programmes on the basis of a decision adopted under that Agreement. Third countries may also participate on the basis of other legal instruments. A specific provision should be introduced in this Regulation requiring third countries to grant the necessary rights and access required for the authorising officer responsible, OLAF and the Court of Auditors to comprehensively exercise their respective competences.
- (21) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 TFEU apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes and indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.

¹ OJ L 1, 3.1.1994, p. 3.

- (22) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the cost of controls, the administrative burden, and the expected risk of non-compliance. That choice should include the consideration of the use of lump sums, flat-rate financing and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of the Financial Regulation. The eligible costs should be determined by reference to the nature of the eligible actions. The coverage of travel, accommodation and subsistence costs for participants in meetings and similar ad-hoc events and the coverage of costs linked to the organisation of events is of utmost importance in order to ensure the participation of national experts and tax authorities in joint actions.
- (23) In accordance with Article 193(2) of the Financial Regulation, a grant may be awarded for an action which has already begun, provided that the applicant can demonstrate the need for starting the action prior to signature of the grant agreement. However, the costs incurred prior to the date of submission of the grant application are not eligible, except in duly justified exceptional cases. In order to avoid any disruption in Union support which could be prejudicial to Union's interests, it should be possible to provide in the financing decision, during a limited period of time at the beginning of the multi-annual financial framework 2021-2027, and only in duly justified cases, for eligibility of activities and costs from the beginning of the 2021 financial year, even if they were implemented and incurred before the grant application was submitted.

- (24) Since the objective of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (25) Regulation (EU) No 1286/2013 should therefore be repealed.
- (26) In order to ensure continuity in providing support in the relevant policy area and to allow implementation to start from the beginning of the multi-annual financial framework 2021-2027, this Regulation should enter into force as a matter of urgency and should apply, with retroactive effect, from 1 January 2021,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation establishes the ‘Fiscalis’ programme for cooperation in the field of taxation (the ‘Programme’) for the period from 1 January 2021 to 31 December 2027.

This Regulation lays down the objectives of the Programme, its budget for the period 2021-2027, the forms of Union funding and the rules for providing such funding.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) ‘taxation’ means matters, including design, administration, enforcement and compliance, relating to the following taxes and duties:
 - (a) value added tax as provided for in Council Directive 2006/112/EC¹;

¹ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

- (b) excise duties on alcohol as provided for in Council Directive 92/83/EEC¹;
 - (c) excise duties on tobacco products as provided for in Council Directive 2011/64/EU²;
 - (d) taxes on energy products and electricity as provided for in Council Directive 2003/96/EC³;
 - (e) other taxes and duties referred to in point (a) of Article 2(1) of Council Directive 2010/24/EU⁴ insofar as they are relevant for the internal market and for administrative cooperation between Member States;
- (2) ‘tax authorities’ means public authorities and other bodies which are responsible for taxation or tax-related activities;
- (3) ‘European electronic system’ means an electronic system that is necessary for taxation and for the execution of the missions of tax authorities.

¹ Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages (OJ L 316, 31.10.1992, p. 21).

² Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco (OJ L 176, 5.7.2011, p. 24).

³ Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).

⁴ Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.3.2010, p. 1).

Article 3
Programme objectives

1. The general objectives of the Programme are to support tax authorities and taxation in order to enhance the functioning of the internal market, to foster the competitiveness of the Union and fair competition in the Union, to protect the financial and economic interests of the Union and its Member States, including protecting those interests from tax fraud, tax evasion and tax avoidance, and to improve tax collection.

2. The specific objectives of the Programme are to support tax policy and the implementation of Union law relating to taxation, to foster cooperation between tax authorities, including exchange of tax information, and to support administrative capacity building including as regards human competency and the development and operation of European electronic systems.

Article 4
Budget

1. The financial envelope for the implementation of the Programme for the period 2021 – 2027 shall be EUR 269 000 000 in current prices.

2. The amount referred to in paragraph 1 may also cover expenses for preparation, monitoring, control, audit, evaluation and other activities for managing the Programme and evaluating the achievement of its objectives. Moreover, it may cover expenses relating to studies, meetings of experts, information and communication actions, in so far as they are related to the objectives of the Programme, as well as expenses linked to information technology networks that focus on information processing and exchange, including corporate information technology tools and other technical and administrative assistance needed in connection with the management of the Programme.

Article 5

Third countries associated with the Programme

The Programme shall be open to the participation of the following third countries:

- (a) acceding countries, candidate countries and potential candidates, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions, or similar agreements and in accordance with the specific conditions laid down in agreements between the Union and those countries;

- (b) European Neighbourhood Policy countries, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions, or in similar agreements and in accordance with the specific conditions laid down in agreements between the Union and those countries, provided that those countries have reached a sufficient level of approximation of the relevant legislation and administrative methods to those of the Union;
- (c) other third countries, in accordance with the conditions laid down in a specific agreement covering the participation of the third country in any Union programme, provided that the agreement:
 - (i) ensures a fair balance as regards the contributions of and benefits for the third country participating in the Union programmes;
 - (ii) lays down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes, and their administrative costs;
 - (iii) does not confer on the third country any decision-making power in respect of the Programme;
 - (iv) guarantees the rights of the Union to ensure sound financial management and to protect its financial interests.

The contributions referred to in point (c)(ii) of the first paragraph shall constitute assigned revenues in accordance with Article 21(5) of the Financial Regulation.

Article 6

Implementation and forms of Union funding

1. The Programme shall be implemented in direct management in accordance with the Financial Regulation.
2. The Programme may provide funding in any of the forms laid down in the Financial Regulation, in particular through grants, prizes, procurement and the reimbursement of travel and subsistence expenses incurred by external experts.

CHAPTER II

ELIGIBILITY

Article 7

Eligible actions

1. Only actions implemented in order to attain the objectives set out in Article 3 shall be eligible for funding.

2. The actions referred to in paragraph 1 shall include the following:
- (a) meetings and similar ad-hoc events;
 - (b) project-based structured collaboration;
 - (c) IT capacity-building actions, in particular the development and operation of European electronic systems;
 - (d) human competency-building and other capacity-building actions;
 - (e) support actions and other actions, including:
 - (i) the preparation of studies and other relevant written material;
 - (ii) innovation activities, in particular proof-of-concepts, pilot projects and prototyping initiatives;
 - (iii) jointly developed communication actions;
 - (iv) any other relevant actions provided for in the work programmes referred to in Article 13 which are necessary for attaining the objectives set out in Article 3 or are in support of those objectives.

Annex I contains a non-exhaustive list of possible forms of relevant actions as referred to in points (a), (b) and (d) of the first subparagraph.

Annex III contains a non-exhaustive list of priority topics for actions.

3. Actions consisting in the development and operation of adaptations of or extensions to the common components of the European electronic systems for cooperation with third countries not associated with the Programme or international organisations shall be eligible for funding when they are of interest to the Union or to Member States. The Commission shall put in place the necessary administrative arrangements, which may provide for the third parties concerned to contribute financially to those actions.
4. Where an IT capacity-building action as referred to in point (c) of the first subparagraph of paragraph 2 of this Article concerns the development and operation of a European electronic system, only the costs related to the responsibilities conferred on the Commission pursuant to Article 11(2) shall be eligible for funding under the Programme. Member States shall bear the costs related to the responsibilities conferred on them pursuant to Article 11(3).

Article 8

Participation of external experts

1. Where beneficial for the completion of an action implementing the Programme objectives set out in Article 3, representatives of governmental authorities, including those from third countries not associated with the Programme, including from least developed countries, and, where relevant, representatives of international and other relevant organisations, representatives of economic operators, representatives of organisations representing economic operators and representatives of civil society may take part as external experts in such an action.
2. Costs incurred by the external experts referred to in paragraph 1 of this Article shall be eligible for reimbursement under the Programme in accordance with Article 238 of the Financial Regulation.
3. The external experts referred to in paragraph 1 shall be selected by the Commission, including from experts proposed by the Member States, on the basis of their skills, experience and knowledge relevant to the specific action, on an ad-hoc basis, based on needs.

The Commission shall assess, *inter alia*, the impartiality of those external experts and the absence of conflict of interests with their professional responsibilities.

CHAPTER III

GRANTS

Article 9

Award, complementarity and combined funding

1. Grants under the Programme shall be awarded and managed in accordance with Title VIII of the Financial Regulation.
2. An action that has received a contribution from another Union programme may also receive a contribution under the Programme, provided that the different contributions do not cover the same costs. The rules of each contributing Union programme shall apply to its respective contribution to the action. The cumulative funding shall not exceed the total eligible costs of the action, and the support from different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.
3. In accordance with point (f) of the first paragraph of Article 195 of the Financial Regulation, grants shall be awarded without a call for proposals where the eligible entities are tax authorities of the Member States and of third countries associated with the Programme as referred to in Article 5 of this Regulation, provided that the conditions set out in Article 5 of this Regulation are met.

4. In accordance with point (a) of the second subparagraph of Article 193(2) of the Financial Regulation, in duly justified cases specified in the financing decision and for a limited period, activities supported under this Regulation and the underlying costs may be considered eligible as of 1 January 2021, even if they were implemented and incurred before the grant application was submitted.

Article 10

Co-financing rate

1. By way of derogation from Article 190 of the Financial Regulation, the Programme may finance up to 100 % of the eligible costs of an action.
2. The applicable co-financing rate where actions require the awarding of grants shall be set out in the multiannual work programmes referred to in Article 13.

CHAPTER IV

SPECIFIC PROVISIONS

FOR IT CAPACITY-BUILDING ACTIONS

Article 11

Responsibilities

1. The Commission and the Member States shall jointly ensure the development and operation of the European electronic systems listed in the Multi-Annual Strategic Plan for Taxation referred to in Article 12 (the ‘MASP-T’), including design, specification, conformance testing, deployment, maintenance, evolution, security, quality assurance and quality control of those systems.
2. The Commission shall, in particular, ensure the following:
 - (a) the development and operation of the common components established under the MASP-T;
 - (b) the overall coordination of the development and operation of European electronic systems with a view to their operability, interconnectivity and continuous improvement and their synchronised implementation;

- (c) the coordination of European electronic systems at Union level with a view to their promotion and implementation at national level;
- (d) the coordination of the development and operation of European electronic systems as regards their interaction with third parties, excluding actions designed to meet national requirements;
- (e) the coordination of European electronic systems with other relevant actions at Union level relating to e-government.

3. Each Member State shall, in particular, ensure the following:

- (a) the development and operation of national components established under the MASP-T;
- (b) the coordination of the development and operation of the national components of European electronic systems at national level;
- (c) the coordination of European electronic systems with other relevant actions at national level relating to e-government;
- (d) the regular provision to the Commission of information regarding the measures it has taken to enable its authorities and economic operators to make full use of European electronic systems;
- (e) the implementation of European electronic systems at national level.

Article 12
Multi-Annual Strategic Plan for Taxation

1. The Commission and the Member States shall draw up a Multi-Annual Strategic Plan for Taxation (MASP-T) and keep it up to date. The MASP-T shall be aligned with relevant legal acts of the Union. It shall list all tasks that are relevant for the development and operation of European electronic systems and shall classify each European electronic system, or part of such European electronic system, as:
 - (a) a common component, meaning a component of the European electronic systems developed at Union level, which is available for all Member States or has been identified by the Commission as common for reasons of efficiency, security and rationalisation;
 - (b) a national component, meaning a component of the European electronic systems developed at national level, which is available in the Member State that created it or contributed to its joint creation; or
 - (c) a combination of the components referred to in points (a) and (b).
2. The MASP-T shall also cover innovation and pilot actions, as well as the supporting methodologies and tools related to the European electronic systems.

3. Member States shall notify the Commission of the completion of each task allocated to them under the MASP-T. They shall also report regularly to the Commission on the progress of their tasks.
4. No later than 31 March of each year, Member States shall submit to the Commission annual progress reports on the implementation of the MASP-T in the period from 1 January to 31 December of the preceding year. Those annual reports shall be based on a pre-established format.
5. No later than 31 October of each year, the Commission shall draw up a consolidated report on the basis of the annual reports referred to in paragraph 4, assessing the progress made by the Commission and Member States in the implementation of the MASP-T, and shall make that report public.

CHAPTER V

PROGRAMMING, MONITORING, EVALUATION AND CONTROL

Article 13

Work programme

1. The Programme shall be implemented through multiannual work programmes as referred to in Article 110(2) of the Financial Regulation.

2. The multiannual work programmes shall be adopted by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 18(2).

Article 14

Monitoring and reporting

1. Indicators to report on the progress of the Programme towards the achievement of the specific objectives laid down in Article 3(2) are set out in Annex II.
2. To ensure the effective assessment of the Programme's progress towards the achievement of its objectives, the Commission is empowered to adopt delegated acts, in accordance with Article 17, to amend Annex II to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework.
3. The performance reporting system shall ensure that data for monitoring the implementation and the results of the Programme are collected efficiently, effectively and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds.

Article 15
Evaluation

1. Evaluations of the Programme shall be carried out so that they feed into the decision-making process in a timely manner. The Commission shall make the evaluations publicly available.
2. Once there is sufficient information available about the implementation of the Programme, but no later than four years after the start of its implementation, the Commission shall carry out an interim evaluation of the Programme.
3. At the end of the implementation of the Programme, but no later than four years after the end of the period referred to in Article 1, the Commission shall carry out a final evaluation of the Programme.
4. The Commission shall communicate the conclusions of the interim and final evaluations, including its observations, to the European Parliament, to the Council, to the European Economic and Social Committee and to the Committee of the Regions.

Article 16

Protection of the financial interests of the Union

Where a third country participates in the Programme by means of a decision adopted pursuant to an international agreement or on the basis of any other legal instrument, the third country shall grant the necessary rights and access required for the authorising officer responsible, OLAF and the Court of Auditors to comprehensively exercise their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, as provided for in Regulation (EU, Euratom) No 883/2013.

CHAPTER VI
EXERCISE OF THE DELEGATION
AND COMMITTEE PROCEDURE

Article 17

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 14(2) shall be conferred on the Commission until 31 December 2028.

3. The delegation of power referred to in Article 14(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 14(2) shall enter into force if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 18

Committee procedure

1. The Commission shall be assisted by a committee referred to as the ‘Fiscalis Programme Committee’. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

CHAPTER VII

INFORMATION, COMMUNICATION AND PUBLICITY

Article 19

Information, communication and publicity

1. The recipients of Union funding shall acknowledge the origin of those funds and ensure the visibility of the Union funding, in particular when promoting the actions and their results, by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.
2. The Commission shall implement information and communication actions relating to the Programme, to actions taken pursuant to the Programme and to the results obtained. Financial resources allocated to the Programme shall also contribute to the corporate communication of the political priorities of the Union, insofar as those priorities are related to the objectives referred to in Article 3.

CHAPTER VIII

TRANSITIONAL AND FINAL PROVISIONS

Article 20

Repeal

Regulation (EU) No 1286/2013 is repealed with effect from 1 January 2021.

Article 21

Transitional provisions

1. This Regulation shall not affect the continuation of or modification of actions initiated pursuant to Regulation (EU) No 1286/2013, which shall continue to apply to those actions until their closure.
2. The financial envelope for the Programme may also cover the technical and administrative assistance expenses necessary to ensure the transition between the Programme and the measures adopted pursuant to Regulation (EU) No 1286/2013.
3. If necessary, appropriations may be entered in the Union budget beyond 2027 to cover the expenses provided for in Article 4(2), to enable the management of actions not completed by 31 December 2027.

Article 22

Entry into force and application

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament

The President

For the Council

The President

ANNEX I

Non-exhaustive list of possible forms of actions
referred to in points (a), (b) and (d) of the first subparagraph of Article 7(2)

Actions referred to in points (a), (b) and (d) of the first subparagraph of Article 7(2) may take the following forms, among others.

- (1) as regards meetings and similar ad-hoc events:
 - seminars and workshops that are generally attended by participants from all participating countries, at which presentations are made and participants engage in intensive discussions on and activities relating to a particular subject;
 - working visits that are organised to enable officials to acquire or increase their expertise or knowledge as regards tax policy;
 - presence in administrative offices and participation in administrative enquiries;

- (2) as regards project-based structured collaboration:
- project groups that are generally composed of representatives of a limited number of participating countries and are operational during a limited period of time for the purpose of pursuing a predefined objective with a precisely defined outcome, including coordination or benchmarking;
 - task forces, namely structured forms of cooperation that have a permanent or non-permanent character and that pool expertise to perform tasks in specific domains or to carry out operational activities, possibly with the support of online collaboration services, administrative assistance and infrastructure and equipment facilities;
 - multilateral or simultaneous control, consisting in the coordinated checking of the tax situation of one or more related taxable persons, that is organised by two or more participating countries, including at least two Member States, with common or complementary interests;
 - joint audits, consisting in administrative enquiries into the tax situation of one or more related taxable persons carried out by a single audit team that is composed of two or more participating countries, including at least two Member States, with common or complementary interests;

- any other form of administrative cooperation established by Council Regulations (EU) No 904/2010¹ or (EU) No 389/2012² or Council Directives 2010/24/EU or 2011/16/EU³;

(3) as regards human competency-building and other capacity-building actions:

- common training or development of e-learning to support the necessary professional skills and knowledge relating to tax;
- technical support aimed at improving administrative procedures, enhancing administrative capacity and improving the functioning and operations of tax administrations through initiating and sharing good practices.

¹ Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (OJ L 268, 12.10.2010, p. 1).

² Council Regulation (EU) No 389/2012 of 2 May 2012 on administrative cooperation in the field of excise duties and repealing Regulation (EC) No 2073/2004 (OJ L 121, 8.5.2012, p. 1).

³ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1).

ANNEX II

Indicators referred to in Article 14(1)

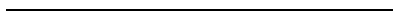
To report on the progress of the Programme towards the achievement of the specific objectives set out in Article 3(2), the following indicators shall be used.

A. Capacity Building (administrative, human and IT capacity)

- (1) the Union Law and Policy Application and Implementation Index (the number of actions under the Programme organised in the context of the application and implementation of Union law and policy relating to taxation and the number of recommendations issued following those actions);
- (2) the Learning Index (the number of e-learning modules used, the number of officials trained and the quality score given by participants);
- (3) the availability of European electronic systems (in time percentage terms);
- (4) the availability of the Common Communication Network (in time percentage terms);
- (5) an index of IT-simplified procedures for the tax authorities and economic operators (the number of registered economic operators, the number of applications and the number of consultations in the different electronic systems funded by the Programme);

B. Knowledge sharing and networking

- (6) the Collaboration Robustness Index (the degree of networking generated, the number of face-to-face meetings and the number of on-line collaboration groups);
- (7) the Best Practices and Guideline Index (the number of actions under the Programme organised in this area, and the percentage of tax authorities that made use of a working practice/guideline developed with the support of the Programme).



ANNEX III

Non-exhaustive list of possible priority topics for actions referred to in Article 7

In line with the specific and general objectives of the Programme, the actions referred to in Article 7 may focus, among others, on the following priority topics:

- (1) supporting the implementation of Union law relating to taxation, including training of staff in that regard, and helping to identify possible ways to improve administrative cooperation between tax authorities, including assistance for the recovery of claims relating to taxes;
- (2) supporting the effective exchange of information, including group requests, the development of standard IT formats, the access by tax authorities to beneficial ownership information and the improvement of the use of the information received;
- (3) supporting the effective operation of mechanisms of administrative cooperation and exchange of best practices between tax authorities, including best practices on recovery of claims relating to taxes;
- (4) supporting digitalisation and updating of methodologies in tax authorities;
- (5) supporting the exchange of best practices for combating value added tax fraud.