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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	16 July 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SEC(2020) 271 final
Subject:	REGULATORY SCRUTINY BOARD OPINION Proposal for a Council directive amending Directive 2011/16/EU on administrative cooperation in the field of taxation

Delegations will find attached document SEC(2020) 271 final.

Encl.: SEC(2020) 271 final



EUROPEAN COMMISSION

Bruxelles, 15.7.2020
SEC(2020) 271

REGULATORY SCRUTINY BOARD OPINION

**Proposal for a Council directive amending Directive 2011/16/EU on
administrative cooperation in the field of taxation**

{COM(2020) 314 final}
{SWD(2020) 130 final}
{SWD(2020) 131 final}



EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB/

Opinion

Title: Impact assessment / Strengthen the exchange of information framework in the field of taxation.

Overall opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

The 2011 EU Directive on administrative cooperation (DAC) governs how national tax authorities exchange information. It helps Member States to collect taxes due, while allowing the internal market to function fairly and consistently. Reducing tax evasion promotes social justice and a level playing field for businesses in the common market.

Parliament has called for clear EU guidelines on the sharing economy. Similar tax obligations should apply to businesses providing the same services. Digital platforms have a role to play in ensuring that tax authorities get the data they need to enforce this.

This report looks at ways to improve the DAC's efficiency and expand its scope to digital platforms and sellers. It draws on a 2019 evaluation of the DAC. It also takes into account ongoing EU and international work on taxation of the digital platform economy.

(B) Summary of findings

The Board notes the additional written information provided in advance of the meeting and commitments to make changes to the report.

However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:

- (1) The report does not provide a complete and clear problem analysis, highlighting the cost of containing tax evasion in transactions on digital platforms.**
- (2) The objectives are not sufficiently specified and do not fully match the problem analysis.**
- (3) The report does not sufficiently substantiate and justify the preferred option. It does not sufficiently explore the possibility of exempting small platforms and occasional sellers.**

This opinion concerns a draft impact assessment which may differ from the final version.

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(C) What to improve

(1) The report should make clear that the initiative addresses the high cost of enforcing tax law and of preventing tax evasion on transactions through digital platforms. The report should better explain that the initiative aims to reduce these costs by requiring digital platforms to report certain information about their customers' transactions. Reducing such costs and containing tax evasion are clear benefits that should be further highlighted in the report. The report should argue clearly that this cost reduction depends on the cooperation of national tax authorities because digital platforms can locate anywhere.

(2) The report should better specify the objectives and adjust them to the problem analysis. It could clarify that it aims to improve national and local tax administration through EU wide co-operation, rather than cross-border transactions.

(3) The report should deepen the analysis of the proportionality of the options. It should strengthen the assessment of impacts on small platforms and occasional sellers. This should include administrative reporting requirements, consistency with the GDPR and incentives for these groups to enter this market. The report should expand its analysis of the pros and cons of exempting small platforms or occasional sellers from the new obligations and better justify its preferred option.

(4) The baseline should consistently be used as point of comparison against which the other options are assessed. When comparing the options, it should therefore score as zero.

(5) The report should better justify and examine any material impacts of clarifications to the Directive resulting from the evaluation.

The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.

If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.

Full title	Impact assessment on tax fraud and evasion – better cooperation between national tax authorities on exchanging information
Reference number	PLAN/2019/6239
Submitted to RSB on	3 April 2020
Date of RSB meeting	29 April 2020

ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

<i>I. Overview of Benefits (total for all provisions) – (€ million)</i>		
<i>Description</i>	<i>Amount</i>	<i>Comments</i>
<i>Direct benefits</i>		
Tax Revenues	2 647	Lower bound, including 20% tax rate and all platforms, recurring.
<i>Indirect benefits</i>		
Tax fairness	n/a	Improvement in tax fairness perception, resulting from taxpayers paying their fair share.
Strengthening the EU social market economy	n/a	European businesses would benefit from having lower overall compliance costs through having homogeneous requirements, rather than having multiple standards across each Member States. This would make it easier to comply with existing tax rules and would improve tax morale.
Improving the level playing field	n/a	European providers of goods and services that are currently compliant with the tax rules would benefit from ensuring their competitors also pay their fair share.

<i>II. Overview of costs – (€ million)</i>							
		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Full scope (services and goods)	Direct costs	-	-	875	105	189	31,5
	Indirect costs	-	-				