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CFE Opinion Statement on OECD Public Consultation on a Crypto-Asset Reporting Framework

On 29 April 2022, CFE issued an [Opinion Statement](#) on the OECD public consultation on a Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard. CFE recognises the need to understand and meet the challenges presented by the crypto revolution. For this reason we are supportive of the OECD efforts to establish global transparency but are of the view there is a clear need to focus on how this framework is implemented. CFE is concerned about the scope and nexus rules of the framework, and believes a tax framework for e-assets should be developed prior to a system for exchange of information.

CFE is of the view that existing tax legislation establishes canons of taxation that have the capacity to deal with crypto assets and that what is needed is convertability which enables ready adaptation. Accordingly it should be no surprise that in our view amendment to the Common Reporting Standard (CRS) is a necessary precursor for this to happen and we are wholly supportive of the OECD proposals in this respect. We are not sure, at this stage, that the proposal for the development of a CARF, which underlies this consultation, has the necessary structural foundations to enable implementation and, therefore, risks substantial untargeted and unmatched overreporting if introduced in haste.

Release of an early CARF, which we think will not be globally accepted, will act

as a disincentive for the economic and prosperous development of the sector in mature tax environments. It will act as a driver for crypto activity to develop in countries which make clear their intention not to introduce regulation and reporting in accord with a CARF.

CFE wonder whether a country by country implementation is necessarily the way to progress and think it far too early to form a view one way or another. That said, we reiterate our support both for a clear enunciation of a global taxation framework which includes cryptoassets, signposted by the Common Reporting Standard, and further research into what a Crypto Asset Reporting Framework which has global connectivity and matched reporting could look like.

CFE reiterates its position that it welcomes the work of the OECD in seeking to establish a crypto-asset reporting framework and exchange of information in this field in light of the development of new financial technologies, and remains available to assist in any further stakeholder consultation processes.

We invite you to read the [statement](#) and would welcome any feedback or queries concerning the position paper.

ECJ Decision on Disclosure of Information in *Airbnb* Case C-974/20

The Court of Justice of the European Union has handed down its decision in case [C-974/20 *Airbnb Ireland UC vs Région de Bruxelles-Capitale*](#) concerning the sharing of customers' details with Brussels' regional authorities, which would enable tax authorities to be able to identify individuals who owe regional taxes on accommodation used for tourism purposes, finding this requirement does not contravene the prohibition in Article 56 of the TFEU.

The Court held in its ruling that:

1. A provision of the tax legislation of a Member State requiring intermediaries, in respect of tourist accommodation establishments that are located in a region

of that Member State and for which they act as intermediary or carry on a promotion strategy, to provide the regional tax authorities, on the latter's written request, with the particulars of the operator and the details of the tourist accommodation establishments, as well as the number of overnight stays and of accommodation units operated during the past year, must be regarded as being indissociable, as regards its nature, from the legislation of which it forms part and, accordingly, falls within the 'field of taxation' which is expressly excluded from the scope of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce').

2. Legislation which imposes an obligation on providers of property intermediation services, irrespective of their place of establishment and the manner in which they mediate, in respect of tourist accommodation establishments that are located in a region of the Member State concerned and for which they act as intermediary or carry on a promotion strategy, to provide the regional tax authorities, on the latter's written request, with the particulars of the operator and the details of the tourist accommodation establishments, as well as the number of overnight stays and of accommodation units operated during the past year, does not contravene the prohibition laid down in Article 56 TFEU.

EU VAT Committee Publishes Meeting Papers & Updated Guidelines

Papers have now been [published](#) from the 130th meeting of the EU Commission VAT Committee, held on 28 March 2022.

At the meeting, the Committee considered questions concerning the application of EU VAT provisions, including the VAT treatment of: crypto-assets; digital payment services; the permanent address or habitual residence of non-EU travellers; the scope of the One-Stop-Shop; and, reduced rates for supplies of

goods and services in the context of social wellbeing, welfare or social security work. The Committee also considered issues arising from recent judgments of the Court of Justice of the European Union.

Additionally, the VAT Committee's [Guidelines](#) have now been updated in relation to topics discussed late last year, including on VAT groups where the PE and branch of a company are located in different Member States.

EU Commission to Consult on Regulation of Tax Profession

On 25 April, the European Parliament's Permanent Subcommittee on Tax Matters held a [hearing](#) concerning regulation of the provision of tax advice across the European Union, "*How to reinforce the regulation of intermediaries to create an intermediary sector that ensures a fair and user-friendly tax system?*". The hearing was a follow-up to a hearing held in November 2021 concerning the Pandora Papers, tax evasion and tax avoidance. Members of the Subcommittee discussed the role of tax intermediaries in tax avoidance and tax evasion and evaluated options to improve tax intermediaries' regulatory framework to deter them from playing any part in tax abusive activities.

During the hearing, Ms Jasna Voje from DGTAXUD at the European Commission participated in the discussion, and informed attendees that a public consultation will be launched shortly exploring policy options being considered by the Commission to improve tax intermediaries' regulatory framework. Ms Voje explained that the Commission have in mind not to regulate the profession in terms of qualification requirements but instead to introduce a sort of behavioural monitoring measure; that the Commission want to establish standards which intermediaries must adhere to, an instrument setting out harmonised definitions of wrong-doing across the EU, with limits and consequences, to tackle the activities of intermediaries operating in the grey-zone of providing tax advice.

The hearing featured interventions by the Organized Crime and Corruption Reporting Project, KPMG and CFE Tax Advisers Europe. Aleksandar Ivanovski

and Brodie McIntosh gave a presentation concerning the CFE [Discussion Paper on An Ethics Quality Bar for All Advisers](#), which sets out a proposed Ethics Quality Bar for advisers to reflect on when giving advice, questioning whether there is manipulation and artificiality in tax planning. The CFE's Professional Affairs Committee prepared this paper based on its long-standing commitment to high professional standards in tax advice and to stimulate a discussion on how to tackle this problem among all who have an interest in how our tax systems function in Europe.

Registration Reminder: CFE Forum 2022 on 12 May 2022 in Brussels

CFE Tax Advisers Europe's [2022 Forum](#) will be held on 12 May 2022 in Brussels on the topic of *“The Future of Holding Companies & VAT Grouping in the Current Tax Policy Climate”*. The conference will examine issues surrounding the European Commission’s Unshell Proposal and how policy developments affect the use of holding companies and VAT groups across tax structures.

A key-note on EU's Unshell proposal will be provided by Benjamin Angel, Director, DG TAXUD, European Commission. Speakers from a wide range of stakeholder perspectives will examine issues raised by the Commission’s proposal, legitimate uses of holding companies, and problems with the divergence in approaches throughout the EU on VAT grouping. More details about the programme, line-up of speakers and the registration link for the event is available [here](#).

The selection of the remitted material has been prepared by:
Piergiorgio Valente/ Aleksandar Ivanovski/ Brodie McIntosh/ Filipa Correia