BRUSSELS | 24 APRIL 2023

CFE Annual Forum & General Assembly Held in Brussels

CFE Tax Advisers Europe, the leading European association of tax institutes and associations of tax advisers, held its annual Forum and General Assembly last week in Brussels. Two panels of participants at this year’s Forum entitled ‘Towards a Closer EU Fiscal Union’ debated the EU’s VAT in the Digital Age (ViDA) proposals and the EU Directive on minimum tax (Pillar 2).

Benjamin Angel, Director, DG TAXUD, European Commission provided a key note speech reflecting on the European fiscal integration and the ensuing opportunities and challenges. Mr Angel highlighted the European Union leadership in the enactment of the Directive on minimum tax, enabling the EU to drive discussions on both Pillar 1 and 2 at the OECD level.

“*EU is having more sway in OECD discussions of the tax proposals, designed to ensure companies earning more than €750 million pay a 15% minimum tax on their global earnings. There is strength in numbers. We can shape the outcome of discussion when we speak with the same voice*.", Mr Angel said.

Separately, CFE’s President Ian Hayes noted that a number of progressive initiatives have been taken by CFE as a contribution in developing modern tax systems, such as the project on professional judgment in tax planning. Highlighting the need for diversity inclusiveness and CFE’s contribution to this topic, the CFE president said:

"*We are proud to have had inclusive and gender-balanced panels at our Forum, which are more reflective of our society. Excellent. As set out in the founding treaties, the European Union is committed to eliminating inequalities and promoting the principle of equality between women and men in all their actions. Achieving a more inclusive tax system is a joint responsibility of all of us, requiring action by all the EU institutions, member states, professionals and society at large.*

*Today I am very proud to announce the following, might I say, progressive initative that you are all invited to: CFE Tax Advisers Europe within its Partnership Agreement with the European Parliament, alongside ICAEW and PwC Women in EU Finance Network are delighted to invite you to join us to hear and share reflections on a pathway towards a more gender equal tax system by 2030 on 4 July 2023 in the European Parliament. More details will follow in due course***",** Mr Hayes said.

The next CFE General Assembly and the European Conference on Tax Advisers' Professional Affairs have been scheduled for 20 - 22 September 2023 in Helsinki, Finland, co-organised with *Suomen Veroasiantuntijat,* Finland's Association of Tax Professionals.

European Commission Refers Belgium to ECJ Over ATAD Implementation

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The European Commission has referred Belgium to the Court of Justice of the European Union concerning its transposition of the CFC rules under the Anti-Tax Avoidance Directive (Directive (EU) 2016/1164).

Under the Anti-Tax Avoidance Directive, a Member State where a parent company of a MNE is located is able to tax profits of a 'controlled foreign company' in another Member State when the tax paid by the controlled foreign company is less than half of what would be paid in the Member State of the parent company (the CFC rule). The company should be granted a tax credit for all taxes that it has paid abroad. However, contrary to the Directive, Belgian law does not allow a taxpayer to deduct from its tax liability the tax already paid by a controlled foreign company in the state of tax residence.

The Commission initially issued a letter of formal notice on 2 July 2020, followed by a reasoned opinion on 1 December 2021, in which it requested that Belgium amend their legislation within two months. The Commission did not consider that Belgium's reply to the reasoned opinion was satisfactory, and has as such now decided to refer Belgium to the Court of Justice of the European Union.

International Fiscal Association Invites Views on Tax Avoidance in Advance of European Conference (5 - 7 July)

The International Fiscal Association (IFA) will hold its European region conference on 5-7 July 2023 in Amsterdam. Through an online survey, the organisation is collecting views on the conference theme "*Tax Avoidance in the European Union and Beyond*".

The programme focuses on the critical issues of tax avoidance, abuse of law, State aid, dispute resolution, and the EU’s green tax agenda, with participation of high-level policy makers. Marnix van Rij, Dutch State Secretary for Tax Affairs and the Tax Administration, and European Commission officials Benjamin Angel and Gerassimos Thomas will participate in the conference.

CFE Tax Advisers Europe's Director of Tax Policy, Aleksandar Ivanovski, will participate in a session dedicated to the Unshell and SAFE Directives, the European Commission's initiative addressing tax enablers. The latter initiative is set to be published a few weeks for before the conference.

CFE members are cordially invited to share their views through the survey and to join the discussions in Amsterdam. Registration is possible here.

European Parliament Approves Carbon Borden Adjustment Mechanism & Emissions Trading Scheme Reforms

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The European Parliament has now approved the provisional agreement reached with the European Council in December 2022 concerning the European Union's key legislative reforms to reduce greenhouse gas emissions by 55% by 2030, namely the Carbon Border Adjustment Mechanism ("CBAM"), reform of the Emissions Trading System ("ETS") and the Social Climate Fund.

Carbon Border Adjustment Mechanism

The CBAM aims to incentivise non-EU countries to increase their climate ambition and to ensure that EU and global climate efforts are not undermined by production being relocated from the EU to countries with less ambitious policies. The goods covered by CBAM are iron, steel, cement, aluminium, fertilisers, electricity, hydrogen as well as indirect emissions under certain conditions. Importers of these goods would have to pay any price difference between the carbon price paid in the country of production and the price of carbon allowances in the EU ETS. The CBAM will be phased in from 2026 until 2034 at the same speed as the free allowances in the EU ETS are being phased out.

Emissions Trading System

Under the reform to the ETC, emissions will be cut by 62% by 2030 compared to 2005-levels. It also phases out free allowances to companies from 2026 until 2034 and creates a separate new ETS II for fuel for road transport and buildings that will put a price on GHG emissions from these sectors in 2027 (or 2028 if energy prices are exceptionally high). It will also include emissions from the maritime sector and aviation, phasing out the free allowances to the aviation sector by 2026 and promote the use of sustainable aviation fuels.

Social Climate Fund

The deal with member states to set up an EU Social Climate Fund (SCF) in 2026 to ensure that the climate transition will be fair and socially inclusive was adopted *with 521 votes to 75 and 43 abstentions. Vulnerable households, micro-enterprises and transport users who are particularly affected by energy and transport poverty will benefit from this. When fully in place, the SCF will be funded from auctioning ETS II allowances up to an amount of €65 billion, with an additional 25% covered by national resources (amounting to an estimated total of €86,7 billion).*

The legal texts of the legislative proposals must now be endorsed by the European Council, following which they will be published in the Official Journal of the European Journal and enter into force 20 days later.

European Parliament Approves Rules for Tracing Crypto-Assets

The European Parliament has approved provisional rules agreed with the European Council in mid-2022 for the tracing of crypto-asset transfers. The rules will introduce a uniform legal framework for crypto-assets markets in the EU and provide the means for crypto-assets to be traced and blocked in the same way as in other traditional money transfers.

Crypto-asset Transfers

The so-called "travel rule", already used in traditional finance, will in future cover transfers of crypto assets. Information on the source of the asset and its beneficiary will have to "travel" with the transaction and be stored on both sides of the transfer.

The law would also cover transactions above €1000 from so-called self-hosted wallets (a crypto-asset wallet address of a private user) when they interact with hosted wallets managed by crypto-assets service providers. The rules do not apply to person-to-person transfers conducted without a provider or among providers acting on their own behalf.

MiCA - Uniform EU Market Rules for Crypto-Assets

MiCA will cover crypto-assets that are not regulated by existing financial services legislation. Key provisions for those issuing and trading crypto-assets (including asset-reference tokens and e-money tokens) cover transparency, disclosure, authorisation and supervision of transactions. Consumers would be better informed about the risks, costs and charges linked to their operations. In addition, the new legal framework will support market integrity and financial stability by regulating public offers of crypto-assets.

Finally, the agreed text includes measures against market manipulation and to prevent money laundering, terrorist financing and other criminal activities. To counter money-laundering risks the European Securities and Markets Authority (ESMA) should set up a public register for non-compliant crypto assets service providers that operate in the European Union without authorisation.

To reduce the high carbon footprint of crypto-currencies, significant service providers will have to disclose their energy consumption.

The legal texts of the legislative proposals must now be endorsed by the European Council, following which they will be published in the Official Journal of the European Journal and enter into force 20 days later.

The selection of the remitted material has been prepared by: Aleksandar Ivanovski & Brodie McIntosh