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PLATFORM FOR TAX GOOD GOVERNANCE

Consultation on Initiative on introducing effective disincentives for advisors and intermediaries when dealing with potentially aggressive tax planning schemes

Meeting of 7 December 2016

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Introduction

On 10 November 2016, the European Commission launched a public consultation to gather feedback on the way forward for EU action on advisers and intermediaries who facilitate tax evasion and tax avoidance.

http://europa.eu/rapid/press-release_IP-16-3618_en.htm

Background

Recent revelations have highlighted how certain intermediaries, such as tax advisers, helped their clients to shift profits offshore for the purposes of avoiding tax. While some complex transactions and the setting up of off-shore companies may be entirely justifiable, it is also clear that other activities may be less legitimate and in some cases illegal.

As set out in the recent Communication on further measures to enhance transparency and the fight against tax evasion and avoidance, the Commission wants to shed more light on the activities of advisers and intermediaries. The aim is to reflect on how to build effective deterrents for these professionals when dealing with aggressive tax planning schemes and those who use them.

The European Parliament has called for tougher measures against those intermediaries who assist in aggressive tax planning schemes. The Council has also invited the Commission "to consider legislative initiatives on mandatory disclosure rules inspired by Action 12 of the OECD BEPS project with a view to introducing more effective disincentives for intermediaries who assist in tax evasion or avoidance schemes".

Aim of the consultation

This consultation will gather views on whether there is a need for EU action aimed at introducing more effective deterrents for advisers and intermediaries engaged in operations that facilitate tax evasion and tax avoidance, and how such rules should be designed.

The Commission is interested on whether and how a mandatory disclosure scheme for advisers and intermediaries could be put in place. Such rules would oblige intermediaries to give early information on schemes which could be viewed as aggressive or abusive planning for tax purposes and would reflect the goals of the OECD's non-binding guidelines (BEPS Action 12) for the disclosure of aggressive tax planning strategies. This public consultation will help to decide whether it is appropriate to introduce binding rules at the EU level and, if so, what the most legal suitable legal instrument should be.

This stakeholder consultation is open from 10 November 2016 to 16 February 2016.

The Commission welcomes contributions from interested parties in order to gather the broadest possible views on this topic.

Next steps

Once the consultation period is over, the Commission will decide on the next steps. These might include the preparation of an Impact Assessment report and of a legal proposal by mid 2017.

The Commission very much welcomes the participation of the Platform members in this public consultation. In addition, the Commission encourages you to pass the information on the public consultation to any other interested party.

Do Platform members already want to express their initial reaction to the Public consultation?