



SAFE - Securing the Activity Framework of Enablers

Platform for tax good governance meeting

September 13th, 2022

Background

Background | Problem definition

- Pandora papers and other similar investigations revealed how complex structures involving shell entities in third country have been eroding EU Member States' tax base
- Some enablers play a key role in designing complex structures that lead to tax evasion and aggressive tax planning
- No definition of “aggressive tax planning”
- Latest Commission initiatives have focused on combatting tax evasion and avoidance: ATAD I & II, DAC6, UNSHELL, AMLD (for tax evasion), but the tax consequences fall on the taxpayer

Background | Scope

- Enablers are intermediaries that provide a tax advice to taxpayers, that leads to tax evasion or aggressive tax planning as it will be defined in this proposal.
- The proposal will include clear and objective criteria for defining the forms of aggressive tax planning that are prohibited.
- EU and non-EU intermediaries in case of a link with the EU internal market:
 - e.g. enablers who design, market and/or assist in the creation of tax arrangements or schemes in non-EU countries that lead to tax evasion or aggressive tax planning for the EU Member States

Background | State of play

- The Open Public Consultation has been launched and the deadline for responses is the 12th of October
- Impact assessment is being prepared and policy options are being studied
- Proposal planned for first half of 2023

Policy options

Policy options

Three options are being considered on the impact assessment:

- **Option 1:** a prohibition to facilitate tax evasion and aggressive tax planning combined with due diligence procedures
- **Option 2:** a prohibition to facilitate tax evasion and aggressive tax planning combined with due diligence procedures and a requirement to register in the EU
- **Option 3:** a code of conduct

Policy options | Option 1

- This option involves a **prohibition on enablers** to facilitate tax evasion and aggressive tax planning
- Requirement to **carry out a due diligence procedure** to check whether the arrangement or scheme they are facilitating leads to tax evasion or aggressive tax planning
- Intermediaries should **keep records** of the due diligence procedures which should be made available to tax authorities upon request or inspection

Policy options | Option 2

- **Prohibition on enablers** to facilitate tax evasion and aggressive tax planning
- **Due diligence procedures** would also need to be carried out
- **Mandatory registration** for intermediaries which provide advice or services of a tax nature are required to register in a EU Member State. In case of non compliance enablers may be removed from the registry

Policy options | Option 3

- Code of conduct that requires all intermediaries to follow a code of conduct that ensures that they do not facilitate tax evasion or aggressive tax planning

Next steps

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- Analysis of the **public consultation** results after the submission deadline of **12 October**
- Further research on policy options and quantitative **impact assessment** of the directive.
- Meetings with relevant internal and external stakeholders.
- Draft proposal planned for 1st half of 2023.

Thank you. We look forward to receiving your input via the public consultation!



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