

Directorate-General for Taxation and Customs Union
Rue Joseph II 79
1000 Brussels
Belgium

Directorate-General for Financial Stability, Financial Services and Capital Markets Union
Rue de Spa 2
1000 Brussels
Belgium

Re: Proposal for a COUNCIL DIRECTIVE on the common system of a digital services tax on revenues resulting from the provision of certain digital services

16 May 2018

Dear Sir / Madam

We welcome the opportunity to provide feedback on the Commission draft legislation on for a digital services tax on revenues – COM(2018)148.

The World Federation of Exchanges (WFE) is the global industry association for exchanges and clearinghouses. Established in 1961, we represent over 200 market infrastructure providers around the world. WFE members include stock, futures, options and commodity exchange groups as well as standalone clearinghouses.

Our members are both local and global, operating the full continuum of market infrastructure in both developed and emerging markets. Of our members, 41 percent are in the Asia-Pacific region, 40 percent in EMEA and 19 percent in the Americas. The WFE works with global standard setters, policy makers, regulators and government organizations to support and promote the development of fair, transparent, stable and efficient markets.

The WFE supports the efforts of the OECD and G20 to understand digital transformation and to develop and implement a resilient framework that fosters a positive and inclusive global economy and society. We believe that reform to global tax principles should be responsive to changing economic patterns and business models, and supportive of healthy risk management and capital formation. Furthermore, tax policies should avoid precipitating unhealthy economic distortions or an unlevel playing field between foreign and domestic suppliers.

In this regard, the WFE supports the Commission's rationale for exempting trading venues from the tax as articulated in the recitals to the proposal:

“the user does not play a central role in the creation of value for the entity making available a digital interface. Instead, the value lies with the capacity of such an entity to bring together buyers and sellers of financial products under specific and distinctive conditions which would not occur otherwise...”

“[...] the regulated services which are excluded from the scope of this Directive aim at providing a safe environment for financial transactions...”

“[...] such services have the essential and distinct objective of facilitating funding, investments or savings.”¹

The EU already recognises the value of trading venues and seeks to exempt them in the draft legislation. WFE strongly agrees with this approach. There is considerable academic literature that finds positive links between well-functioning exchanges and economic growth, economic development and financial stability.²

The WFE is, however, concerned that the **drafting of the proposal would inadvertently capture non-EU trading venues** that are accessible, under established supervisory arrangements, to clients in the Union. This concern arises from the fact that the exemption in the draft text is applied only to “a trading venue or a systematic internaliser of any of the services referred to in points (1) to (9) of Section A of Annex I to Directive 2014/65/EU.” Given that trading venues and systemic internalisers are defined in MiFID II as EU-authorised entities (as opposed to third country trading venues), there is a risk that non-EU entities would suffer discriminatory treatment, even if they have been recognised by the EU authorities in other ways. Third country venues are no less valuable than EU venues and allow EU investors to diversify their investment portfolios. We encourage EU policymakers to preserve investor choice and maintain a level playing field for market infrastructures by ensuring all regulated trading venues are exempted from the legislation irrespective of their place of establishment.

¹ EC: [Proposal for a Council Directive on the Common System of a Digital Services Tax on Revenues Resulting from the Provision of Certain Digital Services](#) (March 2018)

² UNCTAD and WFE: [The Role of Stock Exchanges in Fostering Economic Growth and Sustainable Development](#) (September 2017)

The WFE welcomes well-designed international efforts to create a fair and coherent system of taxation. We fear however, the draft legislation may diverge from broader principles of non-discrimination and policy coherence, make international coordination more difficult, raise the prospect of retaliation from trading partners and lessen the availability of financial products and services to EU citizens.

We welcome the opportunity to comment on the proposal and remain at your disposal should you have any questions.

Yours sincerely



Nandini Sukumar

Chief Executive Officer