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VH/AP

**EACB comments on  
the EC roadmap consultation about VAT on  
Financial Services**

The European Association of Cooperative Banks (EACB) gladly takes the opportunity to comment on the EC roadmap consultation about VAT on Financial Services

The EACB welcomes the modernization of the VAT treatment of financial services as the existing regulations are out-of-date and do no longer reflect current practices in the financial sector. The current situation leads to legal uncertainty and an unbalanced level playing field and thus a lack of neutrality. To remain competitive in international financial markets, there is an urgent need to achieve greater legal certainty concerning the VAT status of financial services and, at the same time, ensure the neutrality of VAT and thus avoid additional costs for the financial industry. For this reason, the EACB members believe that the new initiative of the European Commission, started last year with preparations for a study by collecting the most comprehensive data possible and producing an overview of the measures applied by Member States regarding the provisions governing the VAT treatment of financial and insurance services, is therefore highly important.

A large majority of the services provided by banks and other (licensed) financial institutions are historically regarded and treated VAT exempt. Opposite to the social exemptions first drafted in article 13A of the Sixth EU Directive (now Art. 132 of EU Directive 2006/112/EG), most financial services are exempt based on so called technical exemptions of article 13B of the Sixth EU VAT Directive (now Art. 135 of EU directive 2006/112/EG). The world has changed a lot since then. The CJEU tends to decide the cases on VAT exemptions strictly, with the effect that almost all types of outsourced and ancillary services from financial institutions are VAT liable. The result of these decisions is a steep rise in non-recoverable VAT (or so called hidden VAT). This leads to legal uncertainty and regulatory complexity on the one hand, and to an unbalanced level playing field and thus lack of VAT neutrality in especially the B2B supply chain on the other.

As a result, we would like to make some comments on the two issues, which we identified, and that this initiative aims to tackle

Concerning the Lack of VAT neutrality, EACB believes that the purpose of VAT exemptions would be neglected when financial services would simply be taxed. Thus, the policy option of removing the tax exemption does not consist the solution for this problem. A reason for the exemption has been the technical difficulties in defining the tax base of many financial services in the past. However, more important and still of relevance today was the aim to reduce costs for financial services rendered to private customers (B2C). As a typical example was the goal that credit receivers should not pay VAT additional to their interest rate. In the end the private customer would have to bear the load of an additional VAT. In that respect, the approach chosen in the 2007 initiative of the EC, an option for financial institutions to tax, would respect this purpose much more. That would mean an amendment of the current text of Article 137 so that not Member States, but the financial institutions themselves, would have an option to tax.

**The voice of 2.914 local and retail banks, 81 million members, 209 million customers in EU**

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Our concern is the lack of a level playing field in the B2B business with regard to the fintech, big tech and other services providers without a (full) banking license but with a (near) full right to recover input VAT as their 'financial' services are often considered VAT taxable by local Tax Authorities. These issues need to be solved by carefully aiming at optimal feasible neutrality.

To get there we believe the primary point to address is realizing the economically attributable VAT to be recoverable as much as possible in the B2B supply chain. For this reason, we need to get into a situation of taxable supplies and recoverable VAT for the input VAT concerned. This can easily be reached if the option to tax would be changed from a possibility for national law makers to implement to a mandatory request.

Also, EACB emphasizes the importance of a new exemption clarifying the qualifying conditions for an outsourced service to be exempt, given that the exemption is currently subject to a number of different interpretations among Member States.

In addition, the cost –sharing-arrangements (Art. 132 (1) (f) VAT directive) should be made applicable for companies rendering financial and insurance services. A more detailed definition of the conditions for deducting input VAT – especially for separating deductible input VAT from not deductible input VAT, would be extremely helpful, because the provisions laid down in the VAT directive give room for various interpretations.

Regarding Legal uncertainty and regulatory complexity, the EACB believes that this problem is in many ways inseparably connected to the first problem and therefore solutions are the same to some extent. In our view, the legislative package launched by the European Commission in 2007 which comprised a proposal for a Council Directive and a proposal for a Council Implementing Regulation has been an constructive attempt to reach modernization and harmonisation of VAT rules. Nevertheless, we are not in favour of putting much emphasize only on discussions around definitions again with reference to the difficulties in the 2007 proposal and all following versions. In our view, the solutions should be mainly of a systemic and general nature where definitions should be less important. It is time to make some principal decisions on the VAT system for financial services in order to make it more robust, current and as simple as possible. If reference is necessary, we believe common business terms should be defined.

In this context, taxing financial and insurance services with a reduced rate would cause the same problems of selection as between services object to tax exemption and services object to tax. If a company would mainly render services that are taxed by a reduced rate, but its input services are object to the standard tax rate, this situation could cause a surplus of deductible VAT. Still, if all services are to be taxed, both B2B and B2C, we would prefer a reduced rate and in that way not to harm the access for consumers to credit and other financial services too much.

The EACB, as a representative of the banking industry, will also provide specific answers on the upcoming EC consultation, which will have a potential influence on the business activities of the financial sector.



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