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Opinion statement

Dear Sir/Madam,

CFE Tax Advisers Europe has issued an [Opinion Statement](#) on the public consultation launched by the European Commission on 6 July 2022 on the policy options being considered 'to improve a regulatory framework for tax intermediaries', through a legislative proposal to tackle the role of 'Enablers' that facilitate tax evasion and aggressive tax planning in the European Union (Securing the Activity Framework of Enablers – SAFE).

CFE Tax Advisers Europe and its Member Organisations have always been supportive of reasonable and proportionate initiatives of the European Union. Nonetheless, CFE believes that there is a mismatch between the European Commission's stated objective of tackling aggressive tax planning and tax evasion, and the outlined policy options which focus solely on tackling the role of Enablers. Despite the recent introduction of a number of anti-avoidance

measures, the Information Note states that the EU is looking into possibilities to address aggressive tax planning related to the utilisation of structures/flows with little or no commercial substance to minimise taxes due within the EU, which is at odds with the stated policy objective of this consultation.

We note the Commission's view that despite all of the measures taken by the EU and Member States in this area, tax evasion and aggressive tax planning continue to be a substantial problem in the European Union. However, we are very concerned that this view is based on pre-BEPS project data, which is not reflective of the impact of the very considerable volume of new legislative measures that have been introduced on foot of BEPS. It would be wholly inappropriate to introduce further measures without first fully evaluating the impact of the measures recently introduced.

CFE strongly recommends that no additional legislative action is taken by the Commission until such analysis has been performed (which we understand will start imminently). In this regard, CFE notes the recent study commissioned by the European Parliament, Permanent Committee on Taxation (FISC), which too notes that the impact of recent EU regulations on tax compliance across the Single Market remains uncertain, given that most intermediary regulations such as DAC 6 have been implemented quite recently.

In the event of any action being taken, CFE's view is that any EU proposals should not have a disproportionate impact on reputable tax advisers, i.e., members of professional organisations who are giving advice on market-based, commercial transactions. Any additional compliance burden for reputable tax advisers must not in any event go beyond reasonable 'due diligence' to ensure that they do not promote aggressive avoidance regimes. Tax advisers play a very significant role in supporting the functioning of the tax system by assisting taxpayers to interpret complex tax laws, to meet their compliance obligations and engage with tax authorities in relation to disputes. Onerous due diligence obligations will in any event add another layer of compliance on intermediaries resulting in increased cost for taxpayers and potentially making tax advice a

"luxury product" which will leave many taxpayers unable to access professional tax advice at a reasonable cost. It will create an unlevel playing field between taxpayers and well-resourced tax authorities which would be contrary to the intrinsic right of defence.

To move forward in this very important area, CFE would like to draw to the Commission's attention the CFE paper on '[Professional Judgment in Tax Planning](#)'. This paper sets out a framework to help steer all advisers in the direction of an appropriate balance between the rights and obligations of taxpayers, thereby raising standards in tax advice and reducing incentives for aggressive tax avoidance.

We invite you to read the [Opinion Statement](#) and would welcome any feedback or queries concerning the position paper.

Kind regards,

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