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**DRAFT MINUTES**  
**COUNCIL OF THE EUROPEAN UNION**  
(Economic and Financial Affairs)  
2 October 2018

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1. **Adoption of the agenda** 12448/18

The Council adopted the agenda set out in 12448/18.

2. **Approval of "A" items**  
a) **Non-legislative list** 12450/18

The Council adopted the "A" items listed in 12450/18 including COR and REV documents presented for adoption. Statements related to these items are set out in the Addendum.

For the following items the documents should read as follows:

3. Council Implementing Decision on a VAT derogation for Hungary as regards use of passenger cars for non-business purposes  
*Adoption*  
approved by Coreper, Part 2, on 26.09.2018
- 11932/18  
11895/18  
**+ COR 1 (it)**  
FISC

5. Council Implementing Decision on a derogation for Spain as regards excise duty on electricity for vessels at berth in a port  
*Adoption*  
approved by Coreper, Part 2, on 26.09.2018
- 11934/18  
11795/18  
**+ COR 1 (pt)**  
FISC

b) **Legislative list (Public deliberation in accordance with Article 16(8) of the Treaty on European Union)** 12452/18

Internal Market and Industry

1. **Regulation on cash controls**  
*Adoption of the legislative act*  
approved by Coreper, Part 1, on 26.09.2018
- 12231/18  
**+ COR 1**  
**+ ADD 1 REV 1**  
PE-CONS 49/18  
UD

The Council approved the European Parliament's position at first reading and the proposed act was adopted, with Poland abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Articles 33 and 114 TFEU).

Statements related to this item are set out in the Annex.

## Economic and Financial Affairs

### **2. Regulation on administrative co-operation in the field of VAT**

*Adoption*

approved by Coreper, Part 2, on 26.09.2018



12621/18 + ADD 1  
10472/18

+ **COR 1 (fi)**

+ **REV 1 (de)**

FISC

The Council adopted this Regulation as set out in 10472/18.

Statements related to this item are set out in the Annex.

### **3. VAT E-publications**

*Political agreement*

approved by Coreper, Part 2, on 26.09.2018



12622/18

FISC

The Council reached a political agreement on the draft Directive, as set out in doc. 12622/18.

### **4. Council Directive on extending period of application of optional reverse charge mechanism and of quick reaction mechanism (VAT)**

*General approach*

approved by Coreper, Part 2, on 26.09.2018



12659/18

FISC

The Council reached a general approach on the draft Directive, as set out in doc. 12659/18.

## Transport

### **5. Revision of Regulation on wet-lease**

*General approach*

approved by Coreper, Part 1, on 26.09.2018



12346/18

AVIATION

The Council reached a general approach on the draft Regulation, as set out in doc. 12346/18.

### Legislative deliberations

(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

3. **VAT "quick fix"** 12564/18
- a) **Directive as regards harmonising and simplifying certain rules in the VAT system and introducing the definitive system for the taxation of trade between Member States** SC
  - b) **Regulation as regards certain exemptions for intra-Community transactions** SC
  - c) **Regulation as regards the certified taxable person** SC
- General approach*

The Council reached a general approach on the draft legislative acts, as set out in doc.

12564/18. The Council and the Commission made a joint statement related to this agenda item that is set out in the Annex.

4. **VAT Generalised Reverse Charge Mechanism goods and services** SC 12565/18
- General approach*

The Council reached a general approach on the draft Directive, as set out in doc. 12565/18.

5. **Anti-money laundering and prudential supervision** ⓘ 12108/18  
**Amended proposal for a Regulation and communication for strengthening the Union framework for prudential and anti-money laundering supervision of financial institutions** 12111/18
- Presentation by the Commission*

The Commission presented its legislative proposal for strengthening the Union framework for Anti-money laundering and prudential supervision, which was followed by comments from Ministers.

6. **Any other business** 12426/18  
**Current financial services legislative proposals**
- Information from the Presidency*

The Council took note of the state of play of implementation of financial services legislation.

### Non-legislative activities

The Council addressed the following non-legislative discussion items (7-9)

- |    |   |          |
|----|---|----------|
| 7. | European Semester 2018 - Lessons learnt<br><i>Exchange of views</i>     | 12375/18 |
| 8. | Preparation of the international meetings in October in Bali, Indonesia |          |
|    | a) Terms of reference for the G20 meeting                               | 12662/18 |
|    | b) Statement to the IMFC  | 12663/18 |
|    | <i>Approval</i>   |          |
| 9. | Any other business  |          |
|    | Status of the implementation of financial services legislation          |          |
|    | <i>Information from the Commission</i>                                  |          |

- 
- |          |                                     |
|----------|-------------------------------------|
| <b>①</b> | First reading                       |
| <b>S</b> | Special legislative procedure       |
| <b>C</b> | Item based on a Commission proposal |
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**Statements to the legislative "A" items set out in 12452/18****Ad "A" item 1:**      **Regulation on cash controls**  
*Adoption of the legislative act***STATEMENT BY THE COMMISSION**

"Under Article 53(1) of the draft DIRECTIVE (EU) 2018/...OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of ...amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (AMLD 5), the Financial Intelligence Units exchange, spontaneously or upon request, any information that may be relevant for the processing or analysis of information by the Financial Intelligence Unit related to money laundering or terrorist financing. The decision on whether the information is relevant or not to be exchanged remains with the Financial Intelligence Unit, including for data to be received under the proposed Regulation on controls of cash. In this respect, the Commission underlines that, in the light of the general principles of EU law, the provisions of Article 8 of the proposed Regulation cannot be interpreted as affecting the provisions of the future Fifth Anti-Money Laundering Directive or as creating a mandatory obligation for exchange of information between Financial Intelligence Units for the purposes of the proposed Regulation.

Under Article 65(2) of the draft DIRECTIVE (EU) 2018/...OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of ...amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (AMLD 5), the Commission must assess the framework for Financial Intelligence Units ' cooperation with third countries and obstacles and opportunities to enhance cooperation between Financial Intelligence Units in the Union including the possibility of establishing a coordination and support mechanism. In this context, the Commission will also assess whether there is a need to further strengthen the cooperation between Financial Intelligence Units."

**STATEMENT BY GERMANY**

"In Germany's view, the uniform retention period of five years provided for in Article 13(4) appears problematic, because data may also be collected on individuals who have not violated any rules and who themselves have not given any cause for their data to be stored. It would therefore have been preferable for Article 13(4) to differentiate between retention periods for suspicious and non-suspicious individuals. However, Germany welcomes the compromise that was reached during the negotiations whereby the permissible one-off extension of the retention period is limited to three years in accordance with Article 13(5)."

**Ad "A" item 2:**      **Regulation on administrative co-operation in the field of VAT**  
*Adoption*

**STATEMENT BY THE COMMISSION**

"In a VAT system based on the principle of taxation in the Member State of destination of goods and services with Member States collecting VAT on behalf of the others in particular in e-commerce activities, in order to combat VAT fraud and evasion, it is crucial that Member States adapt their legislation to make possible and effective the presence and participation of officials from the Member States of taxation during the administrative enquiries. The Commission will closely monitor the effectiveness of the measure and will report to the Council."

**STATEMENT BY GERMANY**

"With reference to the fifth recital:

'Such access should be made available via the European Vehicle and Driving Licence Information System (EUCARIS) software application, whose use is mandatory for Member States under Council Decision 2008/615/JHA6 and Council Decision 2008/616/JHA7, as regards vehicle registration data.'

We understand the references to EUCARIS and to the two Council Decisions to mean that each Member State realises and administers the automated data retrieval from national vehicle registers for Eurofisc liaison officials via a national contact point.

With reference to Article 21a(2):

'Access to the information referred to in paragraph 1, shall be granted under the following conditions:

- i) access is in connection with an investigation into suspected VAT fraud or is to detect VAT fraud;
- ii) access is through a Eurofisc liaison official, as referred to in Article 36(1), who holds a personal user identification for the electronic systems allowing access to this information.'

We understand this to mean that access to the data is not granted for the purpose of prosecuting parking violations, and that the requesting Member State must ensure that the data are not used for the purpose of prosecuting parking violations. According to our understanding, the purpose limitation in Article 21a(2) ('VAT fraud') overrides the broader utilisation provisions of Article 55 in this respect."



**Statements to the legislative "B" items set out in 12448/18**

**Ad "B" item 3:**      **VAT quick fix**  
*General approach*

**STATEMENT BY THE COMMISSION AND THE COUNCIL**

"The Commission and the Council are aware of a certain divergence in the VAT treatment of independent groups of persons that pool their services and share costs between their members. The Council and the Commission recognize the need to clarify such VAT rules on independent groups of persons.

The Commission will analyse this matter in detail in a study to be launched shortly with a view, subject to its right of initiative, to a possible proposal."

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