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FESE Response to the OECD Consultation on the Secretariat Proposal for a "Unified Approach" under Pillar One

FESE supports the goal of the OECD in trying to secure a global consensus over a fair taxation methodology for the digital economy. FESE welcomes the opportunity to comment on the OECD consultation regarding the Secretariat Proposal for a "Unified Approach" under Pillar One.

On this occasion, FESE wishes to primarily contribute to the first paragraph of the "questions for public comments", regarding the area of applicability of the initiative. FESE's main concern is related to the wording of the scope paragraph (page 7, section 2.2), which appears to be vague and could lead to the unintended inclusion of Trading Venues and Organised Market Places (OMPs), as well as other Financial Market Infrastructures (FMIs), such as Central Securities Depositories (CSDs) and Central Counter Parties (CCPs) in the application of the OECD proposal.

The scope (page 7, section 2.2) is referring to businesses which "*interact with their consumer base and create meaningful value without a traditional physical presence in the market*" and are "*highly digitalised businesses which interact remotely with users*". Later on, it is indicated that "*the proposed "Unified Approach" should be focused on large consumer-facing businesses, broadly defined*".

The above-mentioned definition of businesses could be more precisely defined to avoid FMIs falling into this broad category of economic activities. As Exchanges are key players in the smooth functioning of financial markets, they should be explicitly carved-out from the framework proposed by the OECD.

FESE believes that clarity is required regarding the scope of the "Unified Approach". In particular, regarding the definition of the businesses which will fall under and which ones will be carved out from the application of this framework. Otherwise, the provision of cross-border services provided by Exchanges and other FMIs, could easily make financial intermediaries fall in the category of businesses which "interact with their consumer base and create meaningful value without a traditional physical presence in the market" and are "highly digitalised businesses which interact remotely with users".

FESE therefore supports the statement in the second paragraph (page 7, section 2.2, number 20) that "*further discussion should also take place to consider whether other sectors (e.g. financial services) should also be carved out, taking into account the tax policy rationale as well as other practicalities*". FMIs cannot be considered as a digital centric business which interact remotely with users as the companies that are in the focus of this regulation.

It should be considered that including FMIs in the framework for digital taxation could have unintended consequences, potentially negatively affecting companies' ability to raise financing and hedge their risk. FESE therefore stands ready to contribute to the discussions going forward on the introduction of an explicit carve-out of FMIs and financial instruments, including spot commodity markets.

The Federation of European Securities Exchanges (FESE) represents 36 exchanges in equities, bonds, derivatives and commodities through 19 Full Members from 30 countries, as well as 1 Affiliate Member and 1 Observer Member.

At the end of September 2018, FESE members had 8,853 companies listed on their markets, of which 13% are foreign companies contributing towards the European integration and providing broad and liquid access to Europe's capital markets. Many of our members also organise specialised markets that allow small and medium-sized companies across Europe to access the capital markets; 1,340 companies were listed in these specialised markets/segments in equity, increasing choice for investors and issuers. Through their RM and MTF operations, FESE members are keen to support the European Commission's objective of creating a Capital Markets Union.

FESE is registered in the European Union Transparency Register with number 71488206456-23.

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