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Response to the public consultation by the European Commission on Vat reform of Financial and Insurance Services

The Malta Business Bureau (MBB) and the Malta Institute of Financial Services Practitioners (IFSP) believe that there is room to review VAT rules applicable to players in the insurance and financial services industry since current VAT rules do give rise to a irrecoverable VAT costs for players in the sphere as well as legal uncertainty in the way rules introduced more than four decades back should be implemented today. In our view, an additional consideration that should be taken into account in the policy options relates to VAT Grouping.

Article 11 of the EU VAT Directive allows EU Member States, after consulting the VAT Committee, to regard as a single taxable person any persons established in the territory of that Member state who, while legally independent, are closely bound to one another by financial, economic and organisations links. In our view, given that financial services and insurance spheres are both characterised by a high level of outsourcing, VAT Grouping has the potential to be a major VAT saving solution. Having said this, in practice complexities and limitations arise in the context of groups of companies where related entities are established in different EU Member States. In light of the foregoing, we believe that in addition to the review and possibility revamp of cost-sharing arrangements in the financial services sphere, VAT grouping could be an interesting policy area especially if applied in a more pragmatic manner in a cross-border context.

With respect to other policy options, especially the taxability of services in the insurance and financial services sphere, we believe that:

- (i) The social impact of introducing VAT on financial services and insurance should not be disregarded. Whereas in theory, VAT-taxability of certain financial products should result in a lower VAT cost which can be passed on to consumers in the form of lower product costs, in practice would need to assess what proportion of the lower VAT cost borne by the supplier will be translated in a lower charge to the end customer.
- (ii) Issues in determining the taxable amount of certain transactions is expected to remain. Furthermore, the introduction of a VAT on fee-based financial services may be contrary to basic VAT principles if the fee based payment is ancillary to another service not based on a fee. For example, a yearly credit facility fee is closely tied to the granting of credit, and therefore, one needs to assess whether following

fundamental VAT principles, such a fee ought to be treated as ancillary to the granting of credit, likewise sharing the same VAT treatment of granting of credit.

Other taxes such as Insurance Premium Tax and Financial Services Taxes should not be disregarded. Whereas the scope of rules governing for example VAT and IPT differ, at the end of the day such taxes are still taxes on consumption which increase the cost of the financial or insurance product to the end consumer for example in case of insurance products due to (a) the irrecoverable VAT element charged by the supplier; and (b) additional IPT charge.

Signed,

Malta Business Bureau

Malta Institute for Financial Services Practitioners