

Brussels, 16 November 2022

Subject: Draft report on lessons learnt from the Pandora Papers and other revelations (2022/2080(INI))

Dear Member of the European Parliament,

The European Tax Adviser Federation (ETAF) is a European umbrella organisation for 215 000 tax professionals from France, Germany, Belgium, Romania, Hungary and Austria. The main role and mission of ETAF is to represent the tax profession at European level in liaising closely with European policy makers in order to promote good legislation in tax and professional matters.

In this context, please allow me to provide you with an ETAF statement and a few amendment proposals on the [draft initiative report](#) (2022/2080(INI)) on lessons learnt from the Pandora Papers published on 14 October 2022.

As a preliminary remark, ETAF would like to thank the European Parliament for its follow-up on these important revelations, which must not be put on the shelf.

On the role of intermediaries in facilitating tax evasion

We welcome the recognition by the rapporteur that offshore secrecy jurisdictions and tax havens are the core of the problem. In this regard, we hope that the proposal for a Directive to prevent the misuse of shell entities for tax purposes (UNSHHELL) of December 2021, which focuses exclusively on companies established for tax purposes that do not pursue any real economic activity or other economic purpose, will bring concrete improvements on this front.

As the rapporteur does, ETAF also regrets the absence of visible investigations into the intermediary sector in the EU following the Pandora Papers (Nr. 5). Tax administrations in Member States should have more thoroughly analyzed the data leaks and launched criminal investigations where it was necessary.

Such investigations would also have helped to clearly determine who are the bad apples involved in the design of those schemes and if they are located in a country where the tax profession is regulated or not.

Very few data exist on this subject as shown by the [study](#) on the “*Regulation of Intermediaries, including tax advisers, in the EU/Member States and best practices from inside and outside the EU*”, requested by the FISC Subcommittee of the European Parliament and published in August 2022. Consequently, the role of professional regulation to guarantee a high quality of tax advice is often underestimated.

We propose to include the following provision, mentioning a core idea of the study:

9a. Refers to the study on the “Regulation of Intermediaries, including tax advisors, in the EU Member States and best practices from inside and outside the EU” of July 2022 requested by the FISC Subcommittee; notes the conclusion herein that it might seem counter-intuitive to continue to increase the legislative burden of law-abiding intermediaries without tightening entry to the tax advisory market; highlights the value of strong professional regulations for ensuring tax compliance and safeguarding the Member States’ tax revenues; calls on the Commission to thoroughly investigate the landscape of existing professional regulations in the EU and to fully assess their impact on tax compliance.

In our view, a restriction of market access in the Member States is essential for an effective fight against tax evasion and aggressive tax planning in the European Union. Such a restriction of market access can consist in obligations like strict theoretical and practical training, professional licencing, an obligation for continuous further training, professional supervision and/or the conclusion of professional liability insurance.

On the SAFE initiative

We are looking forward to the European Parliament’s take on the upcoming initiative of the Commission on Securing the Activity Framework of Enablers (SAFE) (Nr. 8). One sensible request would be to ask the Commission to properly identify the small pool of advisers who enable undesirable tax avoidance instead of targeting a whole profession which contributes significantly to the Member States’ tax revenues.

As advocated in our [reply](#) to the public consultation, we believe that, to tackle the core of the problem and avoid disproportionate bureaucracy, it is necessary to target non-regulated tax professionals, operating outside any binding professional law framework, and to strictly limit the material scope to complex structures in non-EU countries.

An overly broad scope, or one that neglects the necessary extraterritoriality, could affect law abiding tax advisers instead of the actual facilitators of tax evasion and aggressive tax planning. We propose to enhance Nr. 8 as follows:

*8. Welcomes the fact that the Commission is preparing new legislative initiatives in the field of the regulation of intermediaries through an act securing the activity framework of enablers (SAFE) in order to **effectively** tackle the role of **globally acting** enablers involved in facilitating tax evasion and aggressive tax planning; believes however that it is important to **exclude law-abiding tax professionals from further bureaucratic burden** and therefore calls on the Commission **to clearly define the term enabler**; awaits the Commission proposal without further delay;*

We would like to outline once again that, from ETAF’s point of view, ensuring a minimum level of professional regulation by making tax advice a reserved activity everywhere in the EU would be a much more effective tool to achieve the Commission’s goal of effectively curbing down tax evasion and aggressive tax planning.

On the enlargement of DAC 6

Finally, we doubt that extending reporting requirements under the sixth Directive on Administrative Cooperation (DAC 6) to cross-border arrangements for the management of assets of clients who are natural persons (Nr. 9) would bring any added value.

As shown by a [study](#) ordered by the FISC Subcommittee in March 2022, the DAC 6 Directive had not achieved the effects anticipated by the Commission and it remains unclear what exactly needs to be reported, as the introduced hallmarks are too vague.

Any change to the DAC 6 Directive should be made solely on the basis of the evaluations foreseen in articles 23 and 27 of the directive. A deviation from this would otherwise harbour the risk of disproportionate burdens for citizens. We therefore propose to change Nr. 9 of the report:

9. Calls on the Commission ~~to extend reporting requirements under~~ to submit its report on the application of the sixth Directive on Administrative Cooperation (DAC6) to cross-border arrangements to the European Parliament and to the Council in due time; ~~for the management of assets of clients who are natural persons~~; calls on the Member States and the Commission to thoroughly evaluate the relevance of Annex IV of this Directive; calls on the Commission to present its report to the Council in due time and to accompany the report with a legislative proposal where appropriate.

We thank you for your time and stay at your disposal for any question you might have.

Sincerely yours,



Philippe Arraou

ETAF President