

To: Mr Pierre Moscovici
European Commissioner for Economic and Financial Affairs, Taxation and Customs, European Commission
Rue de la Loi / Wetstraat 200
1049 Brussels, Belgium

Subject: Insurance Europe comments on the need to review the VAT Directive

Brussels, 9 March 2018

Dear Commissioner Moscovici,

On 21 September 2017, the European Court of Justice (ECJ) issued three rulings related to the scope of Article 132(1)(f) of the [Directive 2006/112/EC](#) "Value Added Tax (VAT) Directive".

Two of these rulings, in cases [C-605/15](#) and [C-326/15](#), explicitly state that cost-sharing groups (CSGs) in the financial sector cannot benefit from a VAT exemption. According to the ECJ, under the general framework of the VAT Directive, only CSGs whose members conduct activities in the public interest (eg, education, healthcare) can benefit from a VAT exemption.

For most European countries — and therefore for their financial undertakings — these ECJ rulings constitute a seismic shift. Before the rulings, it had been generally accepted that financial services fall under the scope of the exemption, as evidenced by the fact that Article 132(1)(f), which is a mandatory provision to be implemented in national legislation, was interpreted broadly by a majority of EU member states.

As financial undertakings carry out activities that are exempt from VAT, they cannot deduct the VAT paid on their inputs. Therefore, insurance companies rely on CSG schemes — in member states in which these are available — to create an entity from which they receive exempt input supplies. Specialisation rules applicable to insurance business also force insurance companies to undertake their various activities through different entities (eg life and non-life insurance activities must be separated). In this context, CSGs enable the centralisation of support functions and the mitigation of the cost of irrecoverable VAT. Because of their simplicity and flexibility, CSGs are widely used in the insurance sector. Consequently, the recent ECJ rulings will force the entire insurance sector to reorganise in member states that interpreted the CSG exemption broadly.

At present, the only other way to limit the VAT burden on the insurance sector is VAT grouping (as foreseen in Article 11 of the VAT Directive). However, this provision is not mandatory and it has therefore not been implemented by all member states. Furthermore, this mechanism does not have the same purpose as CSGs and lacks their simplicity and flexibility, primarily because members of a VAT group need to have financial, economic and organisational links.

Insurance Europe is aware of the difficulties of finding a solution under the VAT Directive that is acceptable to all member states. Nonetheless, for all the reasons above, it calls on the European Commission to put forward a proposal that addresses this very important issue faced by European insurers as soon as possible.

Yours sincerely,



Sergio Balbinot, President