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EX-ANTE EVALUATION

Accompanying the document

**Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
establishing the 'Fiscalis' programme for cooperation in the field of taxation**

{COM(2018) 443 final} - {SWD(2018) 324 final}

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Glossary

<i>Term or acronym</i>	<i>Meaning or definition</i>
C2020	Customs 2020 Programme
CCN-CSI	Common Communication Network/Common System Interface
DAC	Council Directive 2011/16/EU on Administrative Cooperation in the field of taxation and repealing Directive 77/799/EEC of 15.02.2011 (OJ L 64/1 of 11.3.2011) and its amendments
ECJ	European Court of Justice
eForms	Electronic forms for exchange of information between tax competent authorities under administrative cooperation
EMCS	Excise Movement and Control System
EPPO	European Public Prosecutor's Office
ESTAT	Eurostat
F2020	Fiscalis 2020 Programme
Fiscalis	The spending programme aimed at supporting the operation of tax systems
FTA	OECD's Forum on Tax Administration
FTT	Financial Transaction Tax
G20	Group of Twenty
IOTA	The Intra-European Organisation of Tax Administrations
ISF	The Internal Security Fund
MFF	Multi-annual Financial Framework
MOSS scheme	The Mini One-Stop-Shop
OLAF	The European Anti-Fraud Office
OSS	One-Stop-Shop
OECD	The Organisation for Economic Co-operation and Development
PMF	Performance Management Framework
SME	Small and Medium-sized enterprise
SMP	Single Market Programme
TAXUD	Directorate-General for Taxation and Customs Union
TFEU	Treaty on the Functioning of the European Union
TNA	Transaction Network Analysis
VAT	Value-added tax

1. PROBLEM STATEMENT AND NEEDS ASSESSMENT

On 2 May 2018, the European Commission adopted its proposals for a new Multiannual Financial Framework (MFF) for 2021-2027. Under these proposals, the Fiscalis programme will have a budget of EUR 270 million (in current prices) over this period. This ex-ante evaluation reflects the decisions of the MFF proposals and focuses on the changes and policy choices, which are specific to this programme.

EU tax policy

EU tax policy supports **revenue collection** for the EU and Member States' budgets. While initially it focussed on putting in place harmonising legislation mainly for indirect taxes, it has over the years widened its focus more on coordination on tax matters amongst Member States and the **fight against tax fraud, tax evasion and tax avoidance**. EU tax policy is a key element for ensuring the proper functioning of the single market including by avoiding distortions of competition through taxation. This policy has two branches: indirect and direct taxation. Both are addressed in the EU cooperation programme **Fiscalis**, which provides the necessary funding and implementation mechanisms for the EU's tax policy agenda.

Designed in 1993 purely as a training and exchange programme for tax officials, Fiscalis evolved over time to become a **fully-fledged tax policy framework** that actively fulfils an important element of the policy itself, namely by enabling and boosting cooperation and capacity building for all EU tax administrations. The various Fiscalis programmes have clearly been a game changer of the taxation landscape over the last 20 years and EU action in taxation relies to a large extent on the Fiscalis programme, which offers a flexible and simple framework for enabling tax cooperation with a substantial EU added value and impact despite its limited size.

On top of general tax provisions (Article 110 – 112 TFEU) which aim at avoiding protectionism measures, there are additional Treaty provisions applicable to each branch:

- EU regulatory intervention aiming at harmonising taxes is limited by the Treaties (Article 113 TFEU) to the area of **indirect taxation** (VAT and excise duties). In this domain – the largest source of revenue for national budgets – the Union developed a comprehensive set of rules as a fundament of the establishment and functioning of the single market and the avoidance of distortion of competition. The EU's intervention under the programme aims primarily at helping Member States to apply the rules correctly, to implement the EU legislation through common electronic systems, facilitate compliance with the help of databases and to adapt the implementation of these rules to a constantly changing political and technological environment.
- In the field of **direct taxation** (personal income tax and corporate tax), the Treaties confer no specific powers to the EU. The direct tax landscape is thus characterised by the juxtaposition of different tax systems. The EU can rely only on the general tax provisions (Articles 110 – 112 TFEU) and those relating to the single market (Articles 114-115 TFEU) to provide overall tax governance and adopt relevant EU legislation. Given the global and trans-European nature of the challenges for Member States to protect their tax bases, the EU's intervention under the programme focusses on setting and applying common principles as well as on strengthening the operational cooperation and the exchange of information and data between Member

States. Here again, Fiscalis is crucial in providing support for the implementation of the relevant EU legislation with cooperation activities and electronic systems.

Recent trends

The FISCALIS programme must be adapted in order to take into account the needs of recent developments in tax policy.

Indeed, over the recent years, the political agenda has been increasingly influenced by **tax competition** between countries and tax avoidance practices by companies. Those phenomena goes well beyond Member States' borders and involve also third countries. A series of tax scandals created expectations for the Union to take action to fight tax fraud, evasion and avoidance as they tax fraud evasion and avoidance as they distort competition, jeopardise the functioning of the single market and undermine social fairness.

To keep **pace with those developments, the number of initiatives tabled by the Commission** over the recent years increased tremendously (e.g. 4 amendments to DAC in only 3 years). Over the last 2-3 years, the tax agenda pursued at Union level therefore included many major initiatives with both communications announcing ambitious action plans and proposals to the legislators setting out concrete steps to enhance the functioning of taxation systems in the single market: DACs, VAT definitive regime, fair taxation. The full implementation and application of the recently adopted legislation of this agenda is still on-going and will require a coordinated EU approach. The Union equally should demonstrate that it is proactive and takes account of the (limited) capacity of Member States to take the necessary actions in isolation.

Another recent development which must be taken into account for the purposes of designing the future Fiscalis programme is the adoption by the Commission on 21 March 2018 of the proposals for the fair taxation of the digital economy¹. One of the proposals concerns the introduction of a harmonised system of a digital services tax (DST)², which is foreseen as an interim indirect tax. Subject to Council negotiations, the proposal for a Directive on the DST lays down a One-Stop-Shop mechanism for the declaration and payment of the new tax, which will require the administrative cooperation among Member States.

As to excise duties, recent or upcoming developments demonstrate that the Fiscalis programme can bring significant help. Since 2010, the automation of the monitoring³ of cross-border movements of excise goods under duty suspension has been seen by Member States and economic operators as an enormous improvement on its paper-based predecessor. However, some issues were identified in an evaluation performed in 2015: lack of synchronisation between excise and customs procedures, still paper-based monitoring of the movements of excise goods released for consumption and business-to-consumer sales requiring a local tax representative. The latter two were deemed very burdensome and especially detrimental to SMEs. Moreover, excise duty can also be seen

¹ COM(2018) 147 final, C(2018) 1650 final, and COM(2018) 148 final. See also the impact assessment accompanying the proposals SWD(2018) 81 final. The proposals are presented in the Commission Communication "Time to establish a modern, fair and efficient taxation standard for the digital economy" COM(2018) 146 final

² COM(2018) 148 final

³ Supported by the EMCS trans-European IT system

as a tool to fight climate change (e.g. polluting energy products) or to reduce the consumption of potentially harmful new products (e.g. electronic cigarettes).

In addition, tax administrations are also faced with **digitalisation**, new economic models such as **e-commerce** and **sharing economy** on one hand and resource cuts on the other hand. These trends raise new challenges for the functioning and performance of national tax administrations. They call for better and innovative ways to carry out their core tasks, i.e. collecting taxes which directly and feed the national and indirectly the Union budgets.

Beyond the political ambition of the Commission, Member States as well are insisting more and more on the **need for support to national administrations**, demonstrating the need for more and better - operational - cooperation between Member States to face the challenges on the European and international scene.

Future work on all these actions will be guided by the **need to reduce the costs and complexity of tax systems** for both the administrations and the taxpayers and economic operators. For administrations, the development and full use of automated tools and risk management techniques would release human and budgetary resources to concentrate on achieving targeted objectives. For taxpayers and economic operators, decreasing costs and complexity would encourage better tax compliance and facilitate trade.

The Union should also promote **more joint activities between direct and indirect taxes and between taxation and customs** by enhancing communication and promoting a more systematic sharing of best practices and tools, where appropriate. This can help to improve the efficiency of audits and controls and reduce the burden on taxpayers and economic operators.

If the Union wants to achieve all – or even any – of these current and future goals, it must act decisively and continue what it has started: it should provide the appropriate framework and means to deliver on its ambitious tax agenda and well-founded initiatives. The programme should thus be conceived and designed in such a way as to provide an enhanced level of administrative cooperation compared to the past and administrative agility to meet these – identified or unknown – evolutions, while also providing a consistent framework to monitor activities.

Finally, EU tax policy has been recently strongly influenced by the **international context**, and in particular by the negotiations at G20 and OECD level. In this fast-moving legal and international environment, there is a momentum (notably at OECD level) to deepen the cooperation on standard setting actions and allow to define not only the legal but also the IT frame that will govern tax policy in the coming years. Therefore, it appears that it would be in the interest of the Member States to influence the process by sharing IT elements with third parties to benefit from streamlining of the international framework and limiting the IT investments.

Although relatively straightforward with Member States, **international cooperation with third countries or international organisations** has specific constraints⁴, in particular when the Fiscalis 2020 programme is involved. These constraints are both of a legal and of a financial nature.

⁴ See all details in the note "Provision of services and/or software to international entities" sent to the ITSC in advance of its 90th meeting: Ares(2016)2800271

- On the legal side, assuming that cooperation with third countries or international organisations can occur under specific agreements (such as double tax treaties) and that legislation is in place at EU level, an important constraint identified relates to the requirement of an international agreement concluded in accordance with Article 218 TFUE between the Union and each third country that should make use of European electronic systems running under Fiscalis. As the procedure of Article 218 TFUE requires time to be completed, it does not allow the UE to be reactive enough and to position itself as a major partner in the implementation of electronic systems with a worldwide impact. In a context where there is a multiplication and internationalisation of interactions with third country administrations in terms of IT solutions, the existing EU solutions would ideally have to be globalised if we want the European IT solutions to be kept and avoid Member States from having to multiply their electronic systems. The legal constraints which are very burdensome and time-consuming would need to be overcome in the near future. The aspects linked to intellectual property rights would also have to be considered, notably concerning the ownership and the possible restrictions on the use of European electronic systems by third parties.
- On the financial side, the questions arises if third countries/parties would have to pay for getting IT solutions which have been developed under Fiscalis, knowing that in some cases the sharing of assets will create none or only marginal additional costs. These impacts on the Fiscalis budget would have to be evaluated in respect to its limited envelope and focus on supporting Member States. Fiscalis supports the current European electronic systems, but has a limited budgetary envelope until 2020 (about 22M€ per year for IT capacity building) which does not guarantee that urgent needs stemming from new legislation can be taken into account. For instance, if progress in Council is swift on the recent Digital Services Tax (DST) proposal (2019 at the latest) and Member States agree to introduce a legal base for intervention at EU level, a OSS relatively limited in scope could be subject to financing through Fiscalis.

Overcoming these legal and budgetary constraints is nevertheless very important if the EU wants to be a key player in the global tax context where more and more tax issues call for global solutions. The exportability of the IT solutions that Fiscalis helps putting in place is crucial for their sustainability. If the EU cannot export its IT solutions, the consequence will be that they will be overrun by global solutions and that Member States will have to live with two parallel IT worlds each having a cost price and jeopardizing the long term benefit of EU IT solutions.

The challenge for the post-2020 programme will thus be to propose a **new interaction model with the developments on the international scene** as to:

- How to use the programmes to join the forces of the Commission and the Member States and promote a **joint EU approach in the international fora**;
- How to coordinate the EU legislative, operational and support activities and thereby **avoid the duplication of efforts** or even parallel running of similar electronic systems and operations by Member States.

Sharing consistently with third countries/parties the technical approach already in place for the functioning of the single market while replying to their international commitments will be beneficial for Member States and for the EU. This cooperation could then develop into a common IT framework under the OECD conventions.

In addition, sharing IT assets and experience with the OECD presents an opportunity for the EU to propose its IT solutions and set of technical standards while **positioning as being a major player at global level** in the field of implementing taxation policies on a practical and technical point of view.

As EU tax policy has been recently mainly driven by the international context, the programme should in the future allow under flexible conditions organising joint actions and sharing EU developed and funded IT assets with international organisations and third countries.

In addition, a Multi-Annual Strategic Plan for Taxation will allow for a better planning of budgetary and human resources both at national and EU level. Accompanying reporting duties have been introduced to allow for a better monitoring of IT capacity building actions.

The **upcoming withdrawal of the UK from the EU** implies disentangling the UK as a Member State from all taxation electronic systems financed by Fiscalis 2020. The implications and costs, however, cannot be precisely estimated and are therefore not covered in this paper as they are still largely unknown at this stage of the ongoing negotiations between the EU and the UK.

Problem

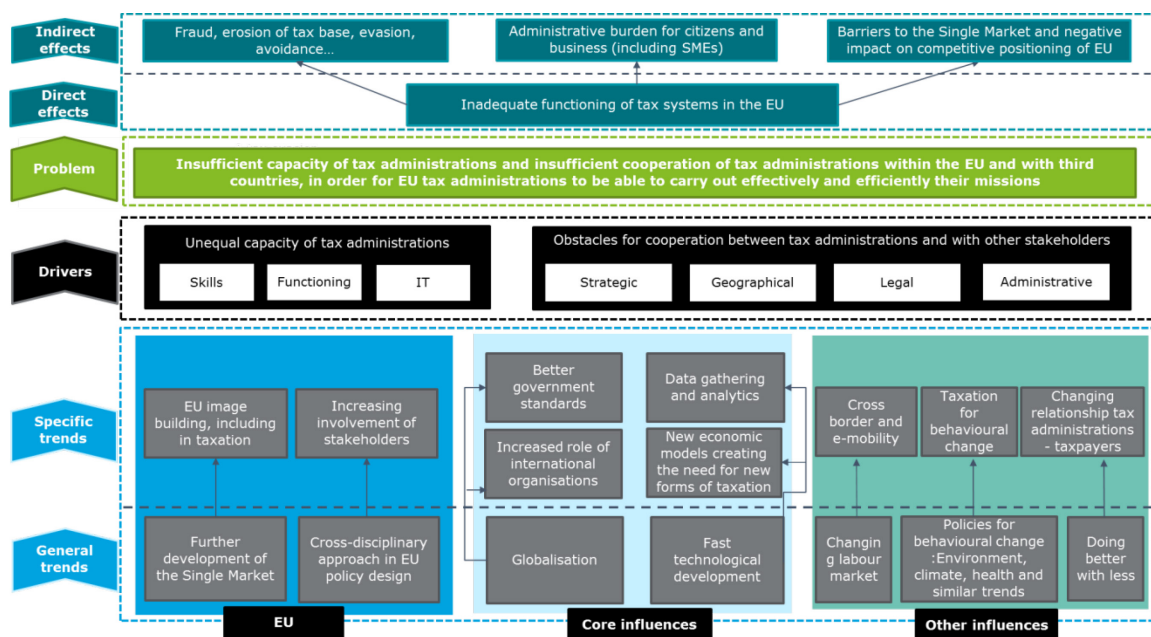
Against this background, the EU and the national tax administrations suffer from a **problem** of insufficient capacity and insufficient cooperation – both within the EU and with third countries – to carry out effectively and efficiently their missions. The drivers at the root of this problem are two-fold:

- unequal capacity of tax administrations: *unequal skills*, which entails that some may be more advanced / agile than others to respond to the identified trends; *unequal functioning*, which entails inconsistencies in the quality of processes and operations, with some being more performing than others; *unequal electronic systems*, which entails that some may be better equipped with electronic systems than others;
- obstacles for cooperation between tax administrations and other stakeholders: *strategic obstacles* (divergence in terms of priorities and strategic objectives, fiscal competition, etc.), *geographical obstacles* (relations among Member States and with third countries), *legal obstacles* (non-harmonised tax systems, mismatches of rules, uneven interpretation of tax concepts, etc.) and *administrative obstacles* (different processes, interoperability, etc.).

Consequences

The **effect** of this performance problem is an inadequate functioning of tax systems in the EU, which in turn jeopardises the functioning of the single market and the 4 freedoms, undermines social fairness and affects EU competitiveness because of its indirect effects:

- negative effect on tax bases (tax fraud, erosion, avoidance, etc.) and subsequently EU and national budgets;
- administrative burden falling on citizens and businesses (including SMEs);
- negative impact on competitive positioning of EU: less EU companies operate cross border and foreign companies are discouraged from entering and operating on the EU market; or, third country operators may be unduly advantaged by the possibilities to avoid VAT created by insufficient cooperation between EU tax administrations.



Source: Deloitte 2018 study

In view of this changing environment, the Union has reached an important milestone in terms of potential furthering European integration and accompanying the national tax administrations on their way to becoming modern administrations and interacting more actively. Deepening the integration is the next logical step to enable tax administrations to respond efficiently to the current and upcoming challenges. Member States suggested considering in particular more enhanced operational cooperation and tackling better innovation⁵.

EU reply for post 2020 era

From its beginning, the Juncker Commission identified taxation as part of its 10 priorities and pursued an ambitious agenda aimed at fairer taxation and more transparency. It streamlined the European Semester to cater for more dialogue at all levels, included taxation as a specific policy area and created an advisory European Fiscal Board as part of its broader effort to enhance the EU's economic governance framework.

More recently, the White Paper on the future of Europe⁶ and associated reflection papers called on the EU to continue to take action for tax justice and transparency, both in the EU and globally. Fair and modern tax policies and enhanced operational cooperation can and should indeed play a decisive role in distributing the benefits of globalisation and economic growth fairly amongst the citizens and narrowing income inequalities, thereby strengthening social cohesion.

With this in mind, it will remain equally important to provide stronger instruments to tackle tax fraud, tax evasion and tax avoidance as well as to deal with third countries that refuse to play fair. International rules will therefore remain a specific area of focus and cooperation beyond the EU borders needs to be fully supported and simplified by the EU.

⁵ In particular during the Fiscalis Workshops held in 2016 and 2017

⁶ https://ec.europa.eu/commission/white-paper-future-europe-reflections-and-scenarios-eu27_en

The success of EU tax policy over the last decade is due to its integrated approach of legislation and implementation made possible by Fiscalis. This success formula is also a source of inspiration for other fora such as IOTA or FTA (OECD Forum on Tax Administration) which apply the EU method and get their first positive results. These international organisations have perfectly understood that the current and future challenges – which are linked to potential complete digitalisation and dematerialisation of operations and the need for agility and adaptability of tax administrations – lie with the implementation of rules, at a time where the conception of legislation in the tax arena is being stabilised. The Union should therefore maintain and even expand its successful approach but this can only be done if the necessary budgetary means are made available to do so.

The Union should therefore continue to promote this integrated and practical approach. As such, it could demonstrate to EU citizens and businesses that the EU brings added value for ensuring fair taxation by helping tax administrations to collect the taxes due. As demonstrated by the many recent new initiatives in taxation, it is of utmost importance to continue to actively support and strengthen the functioning of the taxation systems in the single market, while contributing to the gradual elimination of existing barriers and distortions within the single market.

2. EU ADDED VALUE

Looking back at EU interventions in the tax area over time, one can now see that the following landscape (see Annex 1) has taken form:

- EU interventions resulting in **harmonisation of tax law** based on Article 113 TFEU. Such legislation is due to the wording of the legal provision itself limited to the indirect taxation area and covers VAT, excise duties and energy taxation. ECJ jurisprudence of 2006 clarified that this legal basis refers both to material rules and procedural rules. An example of procedural rules is the regulation which set the rules for administrative cooperation for VAT. A more recent example of an EU intervention in this area is the FTT proposal (*category 1*).
- EU interventions resulting in – not harmonisation but – **approximation of tax laws and administrative actions** based on Article 114 or 115 TFEU. As opposed to Article 113 TFEU, Articles 114 and 115 are non-tax specific provisions which allow adopting EU measures which are deemed necessary for establishing and ensuring the functioning of the single market. The Fiscalis programme was in the past exclusively based on Article 114 (and its predecessor Article 95 TEC) as a measure to support the single market. In this sense, the creation and maintenance of the CCN/CSI is an EU intervention which allows electronically interconnecting all tax administrations which need to be able to exchange information amongst them for the purpose of a well-functioning single market (*category 2*).
- More recently – with the last generation of Fiscalis 2020 – an additional part has been added which is **administrative cooperation** aiming at improving Member States' administrative capacity to implement Union law (*category 3*). Administrative capacity building is the umbrella that encompasses processes and procedures, electronic systems and human capacity. Indeed, Article 197 TFEU allows the EU to adopt regulations which shall establish measures to support Member States in their effort and responsibility to implement Union law.

Where Fiscalis based on Article 114⁷ provides for a (partially constraining) cooperation framework with measures necessary for the functioning of the single market (shared competence), Fiscalis under Article 197 TFEU provides for a voluntary cooperation framework that Member States can choose to make use (supporting competence).

Fiscalis has always played an important role for supporting and facilitating the **implementation of the EU interventions at the first level**. Indeed, the implementation of the VAT directives and the directives for excise duties often required cooperation actions in terms of electronic systems (and related support), common best practices and administrative procedures and a common interpretation of the EU measures set at the first level. What characterises these activities is that they accompany the implementation of category 1 and 2 EU measures which directly aim at harmonising or approximating tax law, be it material or procedural tax rules.

As regards the lessons learned, the existence of the Fiscalis programme brings a significant –added value by providing financial means to work out common and shared implementation mechanisms for EU tax legislation. Indeed, a significant part of the EU tax legislation requires electronic systems to be put in place for allowing exchanging information in relation to tax payers (citizens or businesses) or cross-border transactions. This exchange of information amongst Member States takes place because Fiscalis allows financing electronic systems or at least their common components and agreeing at operational level on the business and technical requirements of these electronic systems. Without Fiscalis no common electronic systems would be developed and many EU legislative acts would remain unimplemented or their implementation would suffer from important delays and technical obstacles.

Capacity building could be further developed with more focus on enhanced administrative cooperation whereby Member States work together by themselves – without necessarily the leadership and support of the Commission – to make changes happen in tax fields of direct interest to them.

The EU added value of Fiscalis has been confirmed by the preliminary results of the Mid Term evaluation of Fiscalis 2020 stating that the programme as a whole complements tax initiatives at national level. Indeed, European electronic systems developed newly under Fiscalis 2020 build upon systems for information sharing already in place. This demonstrates that they are absolute pre-requisite where cooperation and information sharing has and would otherwise not come about.

In a nutshell, the programme delivers very tangible results:

- As regards activities which stem directly from Union law and aim at implementing in a harmonised way the EU acquis, with both (i) activities on the correct implementation of Union legislation (VAT directives, excise duties directives) and (ii) electronic systems development further to legislation on administrative cooperation in taxation:
 - o The number and variety of European electronic systems, that has increased over time with e.g. the creation of a common database for tax rulings and is

⁷

Article 114 TFEU concerns the adoption of the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.

still increasing with the automatic exchange of financial account information since September 2017 or the TNA, ;

- The operation and improvement of EMCS over time;
 - All the support to effective administrative cooperation between Member States, thanks e.g. to the electronic forms and other computerised formats as IT tools or the country profiles⁸ developed by a project group on the practical aspects of administrative cooperation;
 - The presence of one Member State in another Member State in administrative offices and the participation in administrative enquiries and – subject to an appropriate legal basis – even joint audits by tax officials;
 - The development and operation of the MOSS and in the coming years the OSS for VAT purposes
- As regards activities aimed at improving the administrative capacity of the participating countries, i.e. lifting up the quality of the individual administrations and their components up to a higher level, by (i) enhancing systems, tools, processes, procedures and techniques for administering taxes; (ii) improving the structure and policy of the administration so as to fulfil all its core duties; and (iii) developing the skills and knowledge of its human resources:
- The workshops such as e.g. the event being organised by TAXUD legal units with national judges to explain to them and train them in relation to the key principles of EU tax legislation;
 - The project groups allowing e.g. exchanging experience and good practices in the area of e-audit and compliance risk management, discussing with Member States the removal of withholding tax barriers and the creation of a code of conduct in the context of the Capital Market Union;
 - Expert teams - introduced since Fiscalis 2020 programme – which allow for enhanced operational cooperation between Member States and under the coordination of one of them; as an example in direct taxation, 6 Member States worked together in the DAC2 IT collaboration expert team in order to establish joint specifications of the national IT components necessary to support the automatic exchange of financial account information; recent feedback from the participating countries indicates that, despite some practical difficulties mainly due to the first-time use of this new instrument, the experience is a clear success and the return on investment is promising; there is accordingly room for learning from these first experiences and in the light thereof to promote the instrument use it more widely and extensively.
 - The numerous working visits, which allow discussing specific topics and which in view of the benefits reaped is more and more used by tax

⁸ Each country profile lists the operational details of administrative cooperation in a specific Member State, such as its internal organisation, information directly available, procedures to gather more information, special provisions as regards the notification of taxpayers subject to a request for information in view of data protection laws, retention period of documents etc., which all reduce and simplify contacts between tax administrations.

administrations with 41 visits in 2014 and then 198 in 2015, 171 in 2016 and 127 in 2017; tax administrations select mostly themes in relation to fight against fraud, avoidance and aggressive tax planning (e.g. on transfer pricing issues) for their working visits.

- Technical assistance, which developed significantly since the financial crisis and whereby the programme lends support – jointly with SRSP⁹ - not only to those specific Member States benefitting from assistance but also more generally to all countries to whom Country Specific Recommendations on the need to strengthen tax collection have been addressed in the context of the European Semester exercise.

3. THE OBJECTIVES

The programme's **general objective** is to support the single market, foster Union competitiveness and protect the financial and economic interests of the Union and its Member States.

The Programme has the **specific objective** to support tax policy, tax cooperation and administrative capacity building, including human competency and the development and operation of the European electronic systems.

Given the particular challenges and objectives of Fiscalis, the specific objectives of the new programme will be mainly addressed at the level of the programme structure and priorities. Traditional delivery mechanisms will remain in place as direct management through mainly grants and procurement proved to be effective. The identity of beneficiaries – tax administrations – prevent using certain instruments such as equity or quasi-equity investments, loans or guarantees, or other risk-sharing instruments.

4. PREFERRED POLICY OPTIONS

4.1. Preferred option description

The current Fiscalis 2020 programme offers a flexible and simple framework for enabling cooperation and integration with a demonstrated EU added value and impact despite its limited size (0,02% of total EU budget over period 2014-2020). It provides the operational, organisational, methodological and budgetary framework to implement the EU tax policy objectives and activities through:

Actions	Annual average amounts of the F2020 budget in nominal terms
<i>IT capacity building</i> , which consists in developing, maintaining and operating European electronic systems relating to the exchange of tax information;	22,4 €m
<i>Joint actions</i> , which consist in cooperation mechanisms such as expert	8,1 €m

⁹ Regulation (EU) 2017/825 of the European Parliament and of the Council of 17 May 2017 on the establishment of the Structural Reform Support Programme for the period 2017 to 2020 and amending Regulations (EU) No 1303/2013 and (EU) No 1305/2013, OJ L 129, 19.5.2017, p. 1.

teams, allowing for enhanced operational cooperation, and enable officials to carry out joint operational activities under their core responsibilities, share experience and join efforts to deliver on tax policy	
<i>Human competency building (incl. support activities)</i> , which consists in developing a human competence framework and training content made available through e-learning modules or otherwise, all supporting the professional skills of tax officials	1,4 €m
Total	31,9 €m

As no action seems fit for delivering alone on the general and specific objectives as a whole, a **combination of actions** will be required. The evaluation and monitoring activities of the programmes and the external study and related stakeholder's consultations allowed identifying in total a set of 5 complementary actions¹⁰, i.e. two more possible actions than under the current programme:

- IT capacity building;
- Joint actions;
- Human capacity building;
- Support to international cooperation (new) in order to allow the EU stepping into activities at international level (see above under "Recent trends")
- Support to voluntary structural cooperation or centralisation (new) in order to centralise activities between Member States willing to do so, paving the way to possible fully centralised activities.

¹⁰ The Fiscalis 2020 programme currently includes a small support line (100 €/yr). Although marginal in amount, this support line is of critical importance for the proper implementation of the programme: it may cover a.o. mission and representation expenses, conference and meeting costs, costs of Committees, information and management systems, ICT equipment and services. Although not discussed in this impact assessment, it is proposed to keep this support line and even to increase slightly its amount in the post-2020 programme in view of its increasing use.

Depending on the level of ambition in terms of support and contribution of the future programme to tax policy, each of the four remaining actions may either be **stopped** or cover a **reduced or extended scope**, as shown in the figure below:

ACTIONS	SCOPE			
IT capacity building	0-None	1-Legacy 2020	2-Future projects	3-Innovation
Joint actions	0-None	1-Limited basic joint actions	2-All basic joint actions	3-Enhanced operational cooperation
Human capacity building (incl. support)	0-None	1-Focused training	2-All basic human capacity actions	3-Enhanced human capacity building
International cooperation	0-None	1a-Joint events		2a-Joint actions
		1b-Shared IT specifications	2b- Shared specific software modules	3b- Shared fully functional application
Centralisation	0-None	1-Voluntary structural cooperation		2-Centralisation

The scope of each action under the on-going Fiscalis 2020 programme is highlighted in green.

ACTIONS	SCOPE			
IT capacity building	0-None	1-Legacy 2020	2-Future projects	3-Innovation
Joint actions	0-None	1-Limited basic joint actions	2-All basic joint actions	3-Enhanced operational cooperation
Human capacity building (incl. support)	0-None	1-Focused training	2-All basic human capacity actions	3-Enhanced human capacity building
International cooperation	0-None	1a-Joint events		2a-Joint actions
		1b-Shared IT specifications	2b- Shared specific software modules	3b- Shared fully functional application
Centralisation	0-None	1-Voluntary structural cooperation		2-Centralisation

The scope of each action under the preferred option for the future Fiscalis programme is highlighted in orange.

Building on these various actions and their possible scope, a **large number of modulations** is possible. In line with the feedback gathered the Member States' consultations and as shown on the figure on next page, this ex-ante evaluation proposes the following policy option.

KEY FEATURES OF CURRENT FISCALIS 2020 PROGRAMME AND PREFERRED OPTION FOR FUTURE PROGRAMME

<u>ACTIONS</u>	Current 2020 programme	<u>OPTION 3</u> Continuity “plus”
IT-1: Legacy 2020	+++	+++
IT-2: New projects	+++	+++
IT-3: Innovation	0	+
JA-1: Basic joint actions	+++	+++
JA-2: Enhanced operational cooperation	++	++
Human capacity building	+++	++
International cooperation	+	++
Centralisation	0	0

Legend: 0: not possible / +: to a very limited extent / ++: to some extent / +++: to a good extent

The Union needs to **seize the political momentum** where tax issues are high on the political agenda to consider offering more services to Member States in this challenging period for tax administrations, in particular more operational cooperation. In areas such as the taxation of the digital economy, e-commerce, use of new technologies, administrative cooperation, fight against VAT fraud, measuring VAT gap or tax recovery, the EU has an opportunity to shape the agenda. This scenario therefore aims at providing the programme with the financial and cooperation means to cope with these new challenges and thereby bring strong EU added value for a limited budget in supporting Member States in building administrative capacity and managing their tax systems.

This scenario proposes to **effectively address the present and incoming challenges** in the taxation field and to deliver on and implement the ambitious tax policy. It would allow providing common solutions – identified in new EU regulatory interventions – and more effective tools to the identified common problems. In particular, the policy initiatives against tax fraud and tax evasion, the introduction of major tax reforms such as the VAT definitive regime or the Common Consolidated Corporate Tax Base and the progress in the area of excise duties, energy taxation and other future EU initiatives would depend on Fiscalis for their implementation. In addition, the bottom-up approach whereby national tax administrations themselves actively identify areas of enhanced operational cooperation could equally be continued leading to further "de facto" European integration. The programme would be an enabler for modern and efficient national tax administrations which interact and perform in a digital environment and deal with emerging challenges and trends.

Concretely, this option would propose a comprehensive framework to **address coherently the challenges** identified above:

- On top of the continuity of existing electronic systems as of 2020 ("legacy 2020"), IT capacity building would ensure that new IT projects can be on-boarded as it has happened so far; in addition, innovation would be made possible, i.e. some budget is also available for working on new technologies and trends (e.g. e-commerce, big data, data analytics, blockchain...), cyber-attacks and other unforeseen events.
- Cooperation would be increased and intensified – although only limited additional financial means would be required – in order to help simplify rules, improve compliance, prevent where possible and fight fraud and increase transparency as well as to accompany the enhanced exchange of information brought about by new IT developments. Such increased cooperation would materialize not only through the traditional joint actions and capacity building activities but also through enhanced operational cooperation.

Over the recent years, a cascade of new EU directives and regulations has been adopted. As they require accompanying IT solutions – many of which have not yet been put in place –, the budget is increasingly devoted to **operating and maintaining electronic systems**. This trend is expected to continue and even accelerate given the pace of technological development and emerging needs that can be better covered with strong IT tools.

A budget for **new IT expenditure** would be welcome to allow developing new electronic systems and financing their operation as required by the future legislation. Experience shows indeed that tax policy is not static but has to react dynamically to real economy developments that are not easy to identify in advance (e.g. the digital economy, transparency rules). It is therefore predictable that there will be a need to deliver in

programmatic terms to the challenges as they happen, although it is difficult to identify currently the mix of activities and systems to develop and we have to rely on the recent past experience. In this view, TAXUD has already initiated a new legislative initiative related to the collection of payment data from the payment service providers and its exchange between the tax administrations. This initiative will imply new common standards for the collection of data on the one hand, and the development of new IT solution for the exchange of data (being a central repository or a distributed application) on the other hand.

This scenario should also allow taking into account **innovation** (e.g. digitalisation, new business models, adoption of new, disrupting IT capabilities such as blockchain and data analytics, that are being currently examined, capable to increase effectiveness and efficiency of the existing and future European electronic systems) and factor in news risks (e.g. cyber-attacks); it would also allow covering the costly evolution towards more interoperability with customs and other law-enforcement authorities and thus contribute to the realisation of the Digital Single market.

Additional major challenges will affect taxation in a near future and it does not only concern IT. For example, the VAT system needs to be entirely revamped in order to be able to deal with the emerging sharing economy models or the increasing e-commerce issues. This requires a **strong and efficient cooperation** – through traditional joint actions such as workshops, project groups or working visits – between agile, flexible, efficient and responsive tax administrations in order to protect not only national, but also the European budget.

As identified through the stakeholder's consultations, it would however be opportune to go beyond these traditional tools and develop further **enhanced operational cooperation** under project-based undertakings, i.e. closer forms of cooperation that empower tax administrations to work more in clusters on a thematic or geographic basis and, thereby, make changes happen faster while at the same time rationalising efforts, creating operational integration and facilitating interaction by establishing closer working relationships, systematic sharing of expertise and experiences. The progressive but constant shift over the recent years towards such enhanced cooperation would deserve more means to reach its full potential. Such enhanced cooperation will bring benefits both on the business side (e.g. organisation of large scale joint audits to tackle complex cross-border topics such as issues with transfer pricing) and the IT side (e.g. joint drafting of specifications of national components allowing ultimately more approximation in the tax practices).

Finally and in view of the tax scene being more and more driven by the international context, the programme should be more open to **cooperation with international organisations**, in particular the OECD and related bodies such as the Global Forum for Tax Administrations or the Forum for Tax Administration. Recognising, where appropriate in view of policy objectives, these international organisations as partners for the execution of the Fiscalis programme and favouring the joint organisation of events and actions and deepened cooperation on legislative and operational activities in these cases would allow significant progress for a better achievement of EU tax policy. As regards IT, whereas the development of joint fully functional applications could be foreseen in specific cases, focusing on joint specifications and collaborative development

of specific modules¹¹ in view of the respective strengths would already bring significant added value while implying no significant financial investment by any of the parties.

With only a small increase in the resources allocated to Fiscalis under the next MFF, the EU can maintain its current role and capacity of steering the tax agenda by combining tax regulatory interventions with integrated implementation approaches with specific and meaningful EU actions in the tax field. All the substantial enhancements suggested under this scenario would allow reinforcing exponentially the effects of the well-established joint actions and IT / human capacity building initiatives and thereby reaping significantly more benefits from Fiscalis.

4.2. Subsidiarity, proportionality and intended legal basis

The EU tax objectives of fighting against tax fraud, tax evasion and tax avoidance as well as supporting the functioning of the single market and competitiveness cannot be achieved by the EU or Member States alone. Common rules and European cooperation are needed to enable the European Commission and participating countries to jointly work out common solutions and best practices at operational level to deliver on these objectives and face all related challenges.

Such a high degree of cooperation and coordination can only be achieved with a centralised approach, ideally at Union level. Fiscalis activities are more cost-effective than if each participating country were to set up individual cooperation frameworks on a bilateral or multilateral basis and develop national IT solutions for transnational problems. The Fiscalis activities and mechanisms of cooperation moreover allow deepening significantly the trust amongst national tax administrations that is necessary for a smooth cooperation and co-functioning of EU tax systems in the single market.

Against this background, the Fiscalis programme will concentrate the EU intervention on setting up efficient mechanisms (and the indispensable IT tools) for administrative cooperation, aiming at providing more effective means to national tax administrations in their fight against tax fraud while indirectly facilitating taxpayer's tax compliance.

Articles 114 and 197 TFEU provide the legal basis for EU intervention as regards respectively the establishment and functioning of the single market and the improvement of the administrative capacity of participating countries to implement Union law.

¹¹ The EU computerised format for the automatic exchange of information on immovable property is one example of such a specific module. The OECD has included this automatic exchange of information in its work programme for several years but it has only a basic one at its disposal. In view of the entry into force of automatic exchange under the DAC in 2015, the EU developed a comprehensive computerised format. Subject to appropriate provisions in the programme, the EU could finance the adaptation of its format in view of a mandatory automatic exchange of such information under the joint EU-OECD auspices and thereby promote the EU agenda against tax fraud on the international scene while ensuring the consistency for EU Member States with IT systems developed inside the EU.

5. DELIVERY MECHANISMS

5.1. Overall delivery mechanisms

Management mode

The programme is implemented through **direct management**. Concretely, the Commission services have to review and accept every single action in view of: the objectives and conditions embedded in the regulation; the adopted annual work programme; and the eligibility criteria contained in the financing decision/grant agreements.

It is proposed to keep this management mode as, given the nature of the programme's activities, its focus on tax administrations as beneficiaries and the national sovereignty of Member States as regards taxation, it provides for the most efficient allocation of financial resources and greatest impact possible. Indeed, it offers both flexibility and steering power to the Commission for allocating yearly through its financing decision the appropriate funds according to priorities agreed with Member States through comitology, including emerging needs.

Types of intervention

About 80% of programme's expenditures relates to IT capacity building and is made directly by the Commission through **procurement**. As regards most joint actions, the beneficiaries are exclusively public authorities and **grants** fulfil all identified needs. Therefore, no opportunity or need in terms of types of intervention was identified other than the current public procurement contracts, grants and to a minor extent reimbursement of expert costs.

Financial instruments¹² are not suitable financing instruments, as they aim at addressing market failures in the provision of external financing and are therefore unfit for the objectives and the beneficiaries (Member States & Candidate Countries) of the programme.

Eligibility rules & co-financing rates

Eligibility rules are fundamental and should remain limited to a list of eligible actions in order to keep the programme simple and flexible for all actors, whether Commission services as central management team or participating countries as beneficiaries. They may also cover other expenses specified in the regulation, including some technical and administrative assistance expenses.

Co-financing rates are up to 100% in certain cases. They are set out in the annual work programmes in the cases where actions require the awarding of grants.

Conditionality

The programme aims at fostering (voluntary) cooperation between Member States. Against this background, it would be counterproductive to subject participation in

¹² Financial instruments are "Union measures of financial support provided on a complementary basis from the budget in order to address one or more specific policy objectives of the Union. Such instruments may take the form of equity or quasi-equity investments, loans or guarantees, or other risk-sharing instruments, and may, where appropriate, be combined with grants" (see Article 2(p) of the Financial Regulation).

activities to any particular condition, except the appropriate profile and qualifications, including language skills, of participants in activities.

Work programmes and comitology

The Commission shall adopt work programmes by means of implementing acts adopted through comitology, i.e. the Commission is assisted by a committee that has to provide a positive opinion at qualified majority before the annual work programme is adopted as an implementing act. This allows for adjustments during the programme duration and gives appropriate flexibility to implement the objectives of the programme in accordance with the most up-to-date needs and challenges identified in a collaborative way by the Commission and participating countries. The strong involvement of Member States in the comitology procedure demonstrates the importance they give to the programme.

Prevention of errors, irregularities or fraud (audit, controls)

The programme presents a low risk profile in view of the identity of beneficiaries, i.e. Member States and other participating countries. Standard provisions on the protection of the financial interests of the Union as foreseen in the Financial Regulation are therefore deemed sufficient.

Simplification & flexibility

As explained above, the programme is already streamlined with a strong focus on outputs and results. The on-going programme already implements all simplifications identified in past evaluations. The main additional simplification identified would consist in an extended use of lump sums / unit costs and the possibility to adopt multi-annual work programmes to avoid the annual administrative burden of comitology.

Whereas flexibility is usually a key consideration when establishing EU action programmes in order to ensure that a programme and its objectives are able to address new policy needs and priorities over its period of execution, predictability is the key concern in the case of the Fiscalis programme. Over the last 25 years, the programme has indeed evolved from a mechanical support approach to an ambitious policy framework that fulfils an important element of the tax policy itself. It has now reached a stage of maturity that makes it critical to the functioning of tax administration itself, not in the least because of the operational focus and the IT capacity built over the years. Against this background and in view of the broad scope of intervention that allow encompassing almost all aspects of tax cooperation and activities, predictability – and not flexibility – is the key concern for the operations of future programmes.

5.2. Synergies & complementarities with other EU action programmes and funds

An important consideration for the Commission in preparing the post-2020 MFF is also to look at synergies and complementarities across programmes in order to step up the added value of EU intervention.

This ex-ante evaluation should therefore be read jointly with other proposed EU action programmes and funds that pursue similar objectives in related fields of competence and especially:

- The Customs programme¹³, that supports cooperation in the field of customs;
- The Single Market Programme¹⁴, which supports EU actions for achieving a better functioning of the single market;
- The Justice, Rights and Values programme¹⁵, that
- The EU Anti-Fraud programme¹⁶, that combats fraud and other illegal activities affecting the financial interests of the Union;
- The Reform Support programme¹⁷, that helps specific EU countries build more effective institutions, stronger governance frameworks and efficient public administrations;
- The Digital Europe programme¹⁸ and other IT synergies;
- Horizon Europe¹⁹ and other research and innovation actions.

It also analyses the option to merge the programme with its customs equivalent, despite the failure of this solution in the past.

Customs programme

Significant synergies exist already at operational level with the other TAXUD programme for customs, Customs 2020. In the field of IT, there is cross-fertilisation and joint funding of common IT components such as the secured network (Common Communication Network). Identical IT management approaches and common horizontal support mechanisms are also in place. Moreover, the same type of actions is used and a similar approach for human capacity building and training is followed. The programme management, in terms of proposal management, action management, implementing acts, performance monitoring, is fully streamlined. In addition, there is an emerging and growing need for joint activities between taxation and customs, in particular in the domain of e-commerce and the customs control of excise products.

On the one hand, merging the two programmes might present some benefits. A unique programme for both tax and customs officers would promote the cooperation between these two bodies at national level and EU level and would better respond to the need of cross-border cooperation between the two different bodies. National customs and tax administrations could thus cooperate and participate in different activities together. This might lead to efficiency gains and the development of common approaches.

Nonetheless, on the other hand, there are four main reasons that led to decide not to consider the merge as a relevant policy option.

First, the two programmes support the implementation of different policies lying on different legal Treaty bases. Customs policy is an area of exclusive EU competence, where the ultimate objective is that customs administrations act as if they were one. Subject to unanimity rules, taxation policy remains an area of national sovereignty and competence where the EU is only entitled to take measures for ensuring the proper functioning of the single market. This distinction is reflected at the level of the programmes: Customs is based on Article 33 TFEU and aims at supporting the

¹³ COM(2018) 442

¹⁴ COM(2018) 441

¹⁵ COM(2018) 383

¹⁶ COM(2018) 386

¹⁷ COM(2018) 391

¹⁸ COM(2018) 434

¹⁹ COM(2018) 435

functioning and modernisation of the customs union while Fiscalis is based on Article 114 and 197 TFEU and aims at improving the proper functioning of the taxation systems in the single market.

Second, the two programmes support different policies with different objectives. Although the operational elements and outputs of both programmes are quite similar, important nuances appear however. The Customs programme supports the coherent application and effective implementation of Union law and policy in the field of customs. This operational objective of Customs aims to create the same customs experience across the different participating countries. The equivalent objective in Fiscalis does not exist, as this programme does not seek the uniformity of tax legislation. At the level of the higher level impacts of the set objectives, important differences exist also. The Customs programme is a supporting tool that aims at contributing to ensure that customs administrations act as one, thus contributing to the achievement of the full potential of the Customs Union, while Fiscalis targets the improvement the proper functioning of the taxation systems in the single market by enhancing cooperation between participating countries Customs aims at contributing to protect the financial and economic interests of the Union and Member States, to increase safety and security. Fiscalis contributes to the fight against tax fraud, tax evasion and aggressive tax planning and the implementation of Union law, in particular on administrative cooperation. The two programmes differ thus substantially in terms of ambition.

Third, the merger of the two programmes would only bring benefits to a marginal extent. The two programmes already have a common management and shared processes. In addition, the two programmes already present almost the same type of eligible actions, which facilitates considerably their management at both EU and national level as in many Member States the two programmes are managed by the same entity. This mirroring of actions also facilitates cross-fertilisation between customs and tax administrations already today. Therefore, as the organisational and management synergies already exist between the two programmes, it is unlikely that the merger would bring significant economies of scale from this point of view.

Fourth, although a unique programme could be perceived as a promising tool to improve the cooperation between tax and customs officers, it could also neglect the specific needs of each body. In addition, a single programme could also hamper the visibility of one body compared to the other. It could be possible that in some cases one of the two is considered more significant than the other according to the strategic priorities of the country. This scenario is currently avoided as the two programmes are set up to respond to the specific needs of each body, and ensure their respective visibility.

The combination of these reasons indicates that a merger is not a good option and has therefore been discarded.

Single market programme

Despite its relevance for and being a fundamental enabler of the Single Market, the tax programme remained a stand-alone programme under the Single Market budget heading in view of its specific and highly integrated features.

Links exist however with the Single Market Programme (SMP), which contemplates a series of budget lines for supporting the delivery of the single market in the wider sense as an important contribution to empower citizens, consumers, businesses and

administrations. They are included in the scope of the Single Market Programme to ensure their uninterrupted delivery.

The SMP comprises the customs and tax policy development support budget line. This budget line finances a series of punctual activities – mainly studies - which support the Commission in its policy developing and designing role in the area of EU tax policy. This integration will allow links (e.g. through common framework contracts) with other Union actions under this programme.

Justice, Rights and Values programme

Potential but very modest synergies with JUST were also identified as regards training of judges and judicial clerks and similar capacity building actions of other law-enforcement authorities. Synergies as regards the protection of EU financial interests might also develop further in the future with the new European Public Prosecutor's Office (EPPO), which, as part of its duties, might need access to tax information, e.g. information available under EUROFISC (a platform funded by Fiscalis where Member States have a multilateral exchange of information for the early detection of fraud schemes) or information gathered from the future Transaction Network Analysis for enhanced VAT risk management.

Reform Support programme

The Commission's Structural Reform Support Service coordinates and provides tailor-made technical support to individual EU countries, in cooperation with the relevant Commission services. The support is notably provided through the Reform Support Programme. The objective is to help specific EU countries build more effective institutions, stronger governance frameworks and efficient public administrations. Such support reinforces the capacity of EU countries to design and implement policies to support job creation and sustainable growth. Inter alia, areas of support include governance and public administration, revenue administration and public financial management, rule of law, anti-corruption, anti-money-laundering and anti-fraud activities, migration and border control.

In recent years, bridges were built between the Fiscalis 2020 programme and Reform Support Programme to complement the structural reform process set up for Greece and Cyprus by SRSS. Specialised tax support and expertise is available and has been mobilised for the sake of the reform of the tax administration in Greece. This complementarity whereby the dedicated Fiscalis programme is primarily dealing with ensuring the implementation of EU tax policy across all countries while the interventions of SRSS and its relevant programme focus on providing tailor made assistance through dedicated projects to individual Member States should be maintained.

EU anti-fraud programme for the protection of financial interests

As the Fiscalis programme aims at supporting the tax authorities in protecting the EU financial interests, it has connections with the activities carried out by OLAF as regards combating fraud for the protection of Union financial interests in accordance with Art. 325 TFEU. Currently, various cooperation mechanisms are in place between TAXUD and OLAF but this takes place outside the Fiscalis programme. Given the particular mandate of OLAF, no additional synergies could be identified.

Digital Europe programme and IT synergies

Finally, there are possibly synergies to exploit in the area of IT with all programmes that run (significant) electronic systems. This is certainly true for the business agnostic part (e.g. data centres) while the situation for business specific part is probably rather different.

The multiplication or required electronic systems and an increasing Member State demand for support in reducing their IT (development) burden raise the issue of both the TAXUD delivery model and possible synergies and the long-term operation of customs electronic systems in the EU.

Discussions across Commission services led to the conclusion that the preferred strategy is to continue TAXUD operations while in the short term fine-tuning the internal organisation and continuing to build on the relationship with DIGIT, particularly as regards data centre management;

More generally speaking, actions carried out in relation to the development, operation and maintenance of European electronic systems will consider as far as possible the reuse of the building blocks²⁰ of the Connecting Europe Facility (CEF) as they promote compliance to the eIDAS regulation, support the implementation of the Tallinn Declaration and enable EU-wide interoperability. Where relevant, they will also consider the European Interoperability Framework²¹, which gives specific guidance on how to set up interoperable digital public services, and the Rolling Plan for ICT standardisation²², which aims at facilitating the identification and development of necessary ICT standards. Where applicable, coordination and synergies will also be searched with other relevant initiatives concerns about fraud and cybersecurity risks as well as in the field of FinTech and blockchain, such as the European Commission action plan on FinTech²³ adopted in March 2018 or the work of the EU Blockchain Observatory and Forum²⁴.

Horizon Europe and research and innovation

Policy relevant knowledge is becoming more and more important for all policies. Policy relevant knowledge will be necessary to find new ways how tax incentives and tax systems as a whole can contribute to encourage sustainable investments and make the economy and our societies move towards low carbon futures. This will help to unleash new opportunities and create jobs in the bioeconomy and in the circular economy. Synergies with the Horizon Europe programme and other research and innovation actions may provide useful support in this regard.

Conclusion

In terms of structure and positioning of the programme, the Commission services explored a variety of options to reap more benefits from mergers or at least synergies. There is however no simple answer: all options have advantages and drawbacks and none

²⁰ <https://ec.europa.eu/cefdigital/wiki/display/CEFDIGITAL/CEF+Digital+Home>

²¹ COM(2017) 134

²² https://ec.europa.eu/growth/industry/policy/ict-standardisation_en

²³ https://ec.europa.eu/info/business-economy-euro/banking-and-finance/fintech_en#action-plan

²⁴ <https://ec.europa.eu/digital-single-market/en/news/european-commission-launches-eu-blockchain-observatory-and-forum>

shows obvious efficiencies or savings. On balance, there is at this stage a reasonably strong case to continue with the current setting.

5.3. Other changes to delivery mechanisms

Taxation can no longer be dealt with only at EU level but requires intensive international cooperation, mainly through the G20: automatic exchange of information and transparency can be effective only if similar measures are promoted and agreed at worldwide level. The implementation of orientations or decisions taken should be better addressed at EU level, especially so as to allow for swift solutions. Identified obstacles are non-availability of funds under TAXUD programmes, lengthy legal procedures needed for concluding international bilateral agreements on the use of European electronic systems, complex or non-available financial instruments to cover the money stream from third countries towards the Commission to cover for the investment and maintenance costs. The impact of these obstacles is at the political level as it leads to missed opportunities for the EU to steer the global scene and to guarantee that Member States will be able to use the EU IT solutions also worldwide.

Against this backdrop, it is proposed to allow the Commission to take administrative arrangements with relevant interlocutors to facilitate and speed up the internationalisation of its cooperation in particular of the European electronic systems.

6. MONITORING AND EVALUATION

6.1. Final evaluation Fiscalis 2013

The Decision establishing the Fiscalis 2013 programme carries a legislative requirement for independent mid-term and final evaluations. The final evaluation²⁵ findings were broadly positive with regard to the Fiscalis 2013 programme's contribution to policy-level objectives. The European electronic systems helped identifying and combatting tax fraud and tax evasion by exchanging information and thereby improved revenue collection and protected the financial interests of Member States and the EU. The integration of EU electronic systems with national applications was identified as an important influencing factor to ensure that the information could be used to its full effect, e.g. for further risk analysis. The human networks between tax officials created by Fiscalis 2013 were also highlighted as one of the most important effects of the programme. They contribute towards a "common approach" related to tax fraud. According to the evaluation, ceasing Fiscalis would likely imply an overall reduction in Member States' ability to combat tax fraud and evasion and a reduced effectiveness within national administrations. This would probably lead to loss of tax revenues, risk distorting competition and, ultimately, this would have a detrimental effect on the functioning of the single market.

6.2. Monitoring Fiscalis 2020

Besides these periodic evaluations of the programme, the Fiscalis 2020 Regulation required the setup of a comprehensive and permanent Performance Management Framework (PMF) as a monitoring framework for the programme and its actions. Three

²⁵

http://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/common/publications/studies/fiscalis2013_final_evaluation.pdf

progress reports²⁶ were published so far, covering the years 2014, 2015 and 2016. The indicators give an overall positive assessment of Fiscalis 2020 and suggest that the programme is on course to fulfilling its objectives and that it plays an important role in facilitating the implementation and development of EU taxation policies. Fiscalis 2020 is marked by the successful introduction of new types of cooperation (expert teams) that allow structured operational cooperation amongst experts from Member States on common projects on a longer term and result-driven basis (1 year and more). More generally speaking, Fiscalis also generates economies of scale as it reduces costs of (IT) development and implementation for taxpayers and businesses, and it strengthens the Member States' and EU influence on the international scene.

6.3. Mid-term evaluation of Fiscalis 2020

A mid-term evaluation of Fiscalis 2020 is on-going and its final report is due by 30 June 2018. The (draft) recommendations indicate that the programme is providing strong EU added value, building trust and fostering strong cooperation between Member States and also with other participating countries (candidate countries and potential candidates). The programme also eases the implementation of EU legislation, while allowing efficiency gains (through pooling of resources) especially in the area of electronic systems (where EU intervention is resulting in economies of scale and reduced development costs) and training modules (where EU intervention is reported as saving time and money for some administrations). Participants have also reported a high and growing interest in joint actions (particularly working visits, seminars and workshops) as an effective tool that contributes to cooperation and to improve the exchange of information between tax authorities. The introduction of Expert Teams is seen as a powerful vehicle to drive a deeper cooperation (on a regional or thematic basis) given its specific funding arrangements and operational setup. Some participants pointed out the possibility of increasing the current distribution of funds in favour of this administrative capacity building activity. Finally, the current monitoring system has been found to create substantial burdens on administrations and the Commission. This seemed partially due to the high number of indicators, which were difficult to manage and were not always fed into decision-making.

6.4. Ex-ante evaluation study

The Commission commissioned an **external study** to support this ex-ante evaluation by providing quantitative and qualitative information. The objective of this assignment was to identify the key drivers setting the taxation scene in a post 2020 context, the problems to be faced by the EU single market and Member States' tax administrations in relation to taxation in the period post 2020 which could be addressed under a future EU financing intervention, taking into account the nature of the identified drivers and their consequences and help the Commission with identifying objectives for an EU-level intervention based on the identified drivers and problems (Task 1); identify possible EU policy options to achieve the objectives set by the Commission and deploy a future EU financing intervention in response to the drivers and problems identified and assess the identified options' expected economic, social and environmental impacts (Task 2); comparing the options according to the set criteria (such as efficiency, effectiveness, relevance, coherence) rank the options with reasoned arguments (Task 3).

²⁶

https://ec.europa.eu/taxation_customs/fiscalis-programme/reference-documents_en

The study included dedicated **consultation activities** to gather more broadly the view from all stakeholders. Considering the particular scope of the programme (tax administrations are the only direct beneficiaries), these consultations concentrated on tax administrations by means of discussions in a project group, country visits/case studies and dedicated surveys. Interviews with business associations, NGOs and academics as well as with Fiscalis 2020 participants, consultants and international organisations (e.g. OECD) complemented these activities.

The external study and the related consultation activities confirmed the challenging times ahead of tax administrations and the **need for an ambitious programme** around 2 key dimensions: on the one hand, continuity and reinforcement of (IT and human) capacity building and cooperation actions for a proper application of EU and national tax provisions and, on the other hand, more enhanced operational cooperation and better tackling innovation.

Last but not least, an **open public consultation** on "EU funds in the area of investment, research & innovation, SMEs and single market" was launched aiming at gathering the views of citizens on a.o. policy challenges and needs for EU intervention as regards taxation. 4052 respondents provided feedback out of which only 6 reported that they have experience with the Fiscalis 2020 programme, representing 0.15 % of the total number of respondents. Also, only 47 comments referred to taxation. This very limited number of instances relating to Fiscalis confirms the limited overall interest of the public at large and the relevance of the programme objectives – and focus of stakeholders' consultations – on tax administrations.

The conclusions drawn from experience by the evaluation and monitoring activities indicate that the programme is a strong basis for replying to the needs of tax administrations and some adjustments would allow reaping even more benefits. In addition, an external study allowed identifying precisely and the open public consultation confirmed the many and significant challenges ahead of EU tax systems and the single market and – indirectly – the programme.

6.5. Monitoring strategy of the performance

The impact of the future Fiscalis programme is to be assessed through interim and final evaluations as well as by monitoring on an ongoing basis a set of high-level key performance indicators.

The results and outputs of the programme will be regularly subject to assessment through a comprehensive monitoring system, based on defined indicators, in line with the Commission's commitment to monitor the EU budget and ensure the accountability for value for money.

The basic legal act will provide for both an interim evaluation and a final evaluation of the programme, in line with the requirements of the Better Regulation Guidelines. The Commission will monitor the programme and the actions under it in cooperation with the participating countries.

On a yearly basis, a programme progress report containing a summary of performance over the course of the previous year in relation to the programme' objectives and the related output and result indicators.

6.5.1. Data for the monitoring

Data for measuring performance will be drawn from various data collection tools. The main tools envisaged at present are action follow-up forms, event assessment forms and a regular poll of tax officials.

Throughout the programme, depending on the future opportunities to collect data at more disaggregated level, there will be an attempt to make use of new tools.

In addition to the data collected via the tools described above, data to feed into the indicators comes from a variety of sources, namely:

- IT statistics;
- Data analytics
- Studies and surveys
- DG TAXUD business units own statistics gathered via questionnaires and surveys specific for their area of work and relevant for the programme
- Other bodies

6.5.2. Fiscalis programme core indicators

The monitoring system of the programme builds on the experience developed under the previous programme. The most meaningful indicators for the next generation of programme are presented in the table below, following contributions from the Mid-term Evaluation of the Fiscalis 2020 Programme, advice from JRC and recommendations from the ECA. Since the programme plays a supporting role, helping participating country administrations to share information and boost their capacity, the monitoring system focuses on following the progress of the programme's activities in terms of indicators at outputs (e.g. number of guidelines produced) and results (e.g. actual use of such guidelines) levels. These are the aspects where available data can be linked to the performance of the programme in concrete ways.

Whenever possible, it also follows indicators in areas related to the programme's high-level objectives. Because change in these indicators is affected by many factors, a causal relationship cannot be established to attribute change directly to programme performance. In other words, a causal relationship cannot be established. For this reason, rather than devoting substantial resources to collecting impact-level indicators expressly for monitoring the programme, it is proposed to track a limited number of indicators that are already being collected for various policy-related purposes. These will help gauge the direction of travel and ensure that the programme targets issues across its main activity areas that are most urgent for its stakeholders.

The experience of the Fiscalis 2020 programme suggested (based on the mid-term evaluation) that its monitoring system placed substantial burdens on administrations and DG TAXUD, without leading to big improvements in the programme's design and management. In part, this seemed due to the sheer number of indicators, which were difficult to manage and feed into decision-making. For this reason, DG TAXUD will consider the possibility to simplify the monitoring system and make it more purposeful and result-oriented.

The following core indicators²⁷ have been identified as relevant for measuring the performance of the programme's specific objective:

Specific objective:	
Support tax policy, tax cooperation and administrative capacity building, including human competency and the development and operation of the European electronic systems	
Indicators:	
(1)	Indicator 1: Union Law and Policy Application and Implementation Index (Number of actions under the Programme organised in this area and recommendations issued following those actions)
(2)	Indicator 2: Best Practices and Guideline Index (number of actions under the Programme organised in this area; percentage of tax administrations that made use of a working practice/guideline developed with the support of the Programme)
(3)	Indicator 3: Learning Index (Learning modules used; number of officials trained; quality score by participants)
(4)	Indicator 4: Collaboration Robustness Index (degree of networking generated, number of face-to-face meetings, number of on-line collaboration groups)
(5)	Indicator 5: Availability of European electronic systems (in time percentage terms)
(6)	Indicator 6: Availability of the Common Communication Network (in time percentage terms)
(7)	Indicator 7: IT simplified procedures for the national administrations and economic operators (number of registered economic operators, numbers of applications and number of consultations in the different electronic systems funded by the Programme)

²⁷

Availability and reliability of data were key considerations for selecting these core indicators.

Annex 1: Intervention overview for EU tax policy

