

# A FAIR & COMPETITIVE DIGITAL ECONOMY – EU DIGITAL LEVY

EFAMA COMMENTS ON  
THE EUROPEAN COMMISSION'S  
PUBLIC CONSULTATION

**12 April 2021**

## EFAMA Statement on European Commission's Public Consultation on A fair & competitive digital economy – EU Digital Levy

EFAMA is grateful for the opportunity to comment on this initiative that is being launched by the Commission with the aim to present a legislative proposal to introduce an EU digital levy by January 2023.

We have been monitoring the relevant developments with respect to the EU recovery plan, the 2021-2027 Multiannual Financial Framework (MFF) proposals and the linked tax policy measures that are being discussed. We very much welcome the Commission's work to putting forward proposals for new own resources to support EU's borrowing and repayment capacity in these challenging times.

We understand the Commission is working as mandated by the European Council<sup>1</sup> and will ensure that any proposal will complement the OECD process, with the following policy options being considered: i) **A corporate income tax** top-up to be applied to all companies conducting certain **digital activities** in the EU; ii) **A tax on revenues** created by certain **digital activities** conducted in the EU; iii) A tax on **digital transactions conducted business-to-business** in the EU.

EFAMA fully supports the aim of the Public Consultation to define an approach to the taxation of the digital economy and would kindly ask the Commission to keep our industry's special requirements in mind, especially when drafting the new tax rules to ensure investment structures and end-investors will not be covered by them. **Our understanding is that the industry's activities should not be in scope of the EU Digital Levy. For EFAMA, any new tax legislation on "digital activities" (or "digital transactions") should not borne by the end-investors.**

We can read in the Commission's [roadmap](#) that this initiative "(...) is intended to not interfere with the ongoing work at the G20 and OECD level on a reform of the international corporate tax framework" and that the work undertaken by the OECD Inclusive Framework will be considered and taken into account in the design and scope of the EU initiative.

**The care that is being taken at OECD level** in the design of the new set of rules **to addressing the challenges of the digital economy** and at the same time **to preserving the tax neutrality in respect to investment funds** (which is a "*widely recognised principle that underpins the design of the international tax rules*") **is the same care that needs to be taken at EU level when designing the new EU digital levy.**

EFAMA is taking part in this public consultation to ensure the necessary scope exclusion/carve-out rules will be drafted and the creation of an additional layer of tax liability at the fund level (or any unintended consequences to end-investors) will be avoided.

To ensure the introduction of an EU Digital Levy does not jeopardize the tax neutrality in respect to investment funds, EFAMA would welcome if the Commission could build on the work of the Inclusive Framework when designing the tax.<sup>2</sup>

Any new tax obstacles to end-investors in a fund should always be avoided. From that perspective, introducing an EU Digital Levy without the necessary carve-out/exclusion rules may have an adverse effect on investment activity within the EU, with investors ultimately bearing the burden and all the related costs.

EFAMA would like to call your attention to the following **key concerns that should be considered by the Commission** when developing the policy options (in particular when working on the **scope and definition of digital activities/transactions**) and designing the EU Digital Levy:

---

<sup>1</sup> Please refer to Council's [conclusions of 21 July 2020](#).

<sup>2</sup> EFAMA is monitoring upcoming work of the teams that are finalising/fine-tuning the technical carve-out/exclusion rules at the OECD. Please refer to [EFAMA's comments from December 2020](#) on the OECD/G20 Inclusive Framework public consultation on the Reports on the Pillar One and Pillar Two Blueprints.

- The fund and asset management industry is a highly regulated industry operating under significant and specific legal, regulatory, transfer pricing and tax frameworks.
- For the purposes of this initiative, the industry should not be deemed as “engaged” or “present” in the digital economy.
- The application of a EU Digital Levy to investment funds would be totally inappropriate to the way the industry operates.
- The industry is not highly digitalised, is not heavily reliant on intangible assets or data and user participation is not fundamental to business models.
- Investment funds are structured as tax neutral investment pooling vehicles as a matter of public policy.
- The role that investment funds have to play in providing investors with a diversified portfolio and global market access is crucial and not to be underestimated.

The Commission should be well aware of the pivotal role **our industry will play in the post-pandemic economic recovery and in the further development of the Capital Markets Union**. If we want to boost the latter and protect the tax neutrality that is to be granted to investment funds, new taxes need to be designed with care.

**We stand ready to assist the Commission in the design of the EU Digital Levy to ensure the tax neutrality in respect to investment funds is preserved.**

xxx



**About EFAMA:**

EFAMA, the voice of the European investment management industry, represents 28 member associations, 58 corporate members and 24 associate members. At end Q4 2020, total net assets of European investment funds reached EUR 18.8 trillion. These assets were managed by more than 34,350 UCITS (Undertakings for Collective Investments in Transferable Securities) and almost 29,650 AIFs (Alternative Investment Funds).

More information available at [www.efama.org](http://www.efama.org)

Or follow us on Twitter @EFAMANews or LinkedIn @EFAMA.

**Contacts:**

**António Frade Correia**

Senior Tax Advisor

[antonio.fradecorreia@efama.org](mailto:antonio.fradecorreia@efama.org) | +32 2 513 39 69

12 April 2021