DUFAS

Dutch Fund and Asset Management Association

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DUFAS position on the EU Tax Omnibus

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From	DUFAS (the Dutch Fund and Asset Management Association)
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Subject	Direct Taxation Omnibus Directive (COM(2026) 560)
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DUFAS (the Dutch Fund and Asset Management Association) has taken note with interest of the European Commission's proposal of 24 June 2026 (COM(2026) 560) to simplify the European framework for direct taxation and to amend the Interest and Royalties Directive ("*IRD*"), the Parent-Subsidiary Directive ("*PSD*"), the Merger Directive, the Anti-Tax Avoidance Directive ("*ATAD*"), the Dispute Resolution Directive and the FASTER Directive (the EU Tax Omnibus, hereinafter: "*the Omnibus Proposal*").

DUFAS supports the objectives of the Omnibus Proposal, in particular the abolition of withholding tax on certain dividend and interest payments within the EU and the ending of prior authorisation procedures. These measures promote cross-border investment and are in line with the ambitions of the Savings and Investments Union. All the more so now that large institutional investors such as pension funds are being asked to contribute more to the national and European investment agenda. At the same time, DUFAS considers it essential that the benefits of these reforms are available not only to qualifying institutional investors that invest directly, but also to those that invest through investment funds. This goes to the core of the purpose and nature of investment institutions: investing under the principle of tax neutrality.

As a result of the removal of the participation threshold in the Parent-Subsidiary Directive (PSD) and the Interest and Royalties Directive (IRD) and the proposed abolition of the subject-to-tax requirement for pension institutions in the PSD, direct investments will in many cases become more attractive from a tax perspective than investments through a fund. After all, the subject-to-tax requirement continues to apply to funds. This creates an unjustified difference in treatment between direct institutional investors and fund investors, which undermines the principle of tax neutrality and distorts the level playing field between investment funds with institutional investors and discretionary mandates. There is a risk that a tax incentive will arise to move assets from funds to direct investments or mandates, without there being any investment-related reasons for doing so. Quite the contrary. This could thus become a trade-off between the economies of scale and efficiency gains of fund investing and better risk diversification versus a tax advantage in the form of a withholding tax exemption.

To prevent this, DUFAS proposes a two-track approach. First, regulated investment institutions in the form of UCITS, AIFs and ELTIFs that have a qualifying legal form under the PSD should be directly eligible for the exemption. Second, other regulated investment institutions should also have access to the exemption to the extent that their income is attributable to participants who would themselves be entitled to the exemption if they invested directly, such as pension funds and EU companies. This approach should also apply to tax-transparent funds and pooling vehicles in which

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pension funds or other institutional investors qualifying for the exemption invest jointly.

For tax-transparent funds, the participant can in principle itself rely on the exemption under the Omnibus Proposal if both the source state and the Member State of establishment treat the fund as transparent. DUFAS asks that this also apply where the source state classifies the fund differently from the Member State of establishment.
In the alternative, investment funds that are held wholly or almost wholly by pension funds should in any event be treated as a pension institution for the purposes of the exemption. In this respect, reference can be made to Article 3(1)(i) of the OECD Model Tax Convention (2017), which also treats as a recognised pension fund vehicles that invest '*exclusively or almost exclusively*' for the benefit of recognised pension funds.

In addition, DUFAS has concerns about the proposed anti-abuse provision in the Interest and Royalties Directive (IRD).

The Omnibus Proposal requires Member States, as of 1 January 2037, to levy withholding tax or to deny deductibility where interest or royalties are paid to a recipient in a third country where no corporate income tax is levied or a nominal zero rate applies. The explanatory memorandum shows that only the direct recipient of the payment is considered. It is unclear whether the test refers to the tax system of the recipient's country or to whether the recipient itself is taxed on the interest. On the second reading, tax-neutral funds in all third countries would be affected, including in countries with a regular corporate income tax.

DUFAS notes that this may also affect common, tax-neutral structures, even where the ultimate investors are fully taxed or, conversely, exempt, such as pension funds. This applies on the receiving side to regulated credit funds in third countries that invest in European bonds and loans, and on the paying side to European issuers such as securitisation vehicles.

For bonds held through a chain of intermediaries, as is the case for example with a listed bond, the issuer moreover does not know the direct recipient and cannot determine whether the measure applies. The exception for entities within the scope of Pillar Two offers no solution for investment institutions, since investment funds at the top of a structure are precisely treated as excluded entities under Pillar Two.

In DUFAS' view, this measure is insufficiently targeted at actual abuse and may also affect ordinary, tax-neutral structures, even where the ultimate investors are fully taxed or are themselves exempt, such as pension funds. DUFAS therefore calls for this provision to be reconsidered or, in the alternative, to be limited to transactions with associated parties, with regulated investment funds being excluded.

DUFAS: Dutch Fund and Asset Management Association
Since 2003, DUFAS has been committed to a healthy asset management sector in the Netherlands. DUFAS has more than 50 members: from large asset managers that invest Dutch pension and insurance assets to smaller, specialised asset managers. DUFAS raises awareness of the societal relevance of investing, helps develop sector standards

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and represents the sector in the introduction of new laws and regulations. In addition, DUFAS is committed to a single European market with uniform rules.

More information

Would you like to respond, or do you have any questions? We would be happy to hear from you. You can e-mail Daan Zebel, DUFAS' Manager Regulatory Affairs, at dz@dufas.nl