ACCOUNTANCY EUROPE.

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Brussels, 5 October 2017

Subject: Amendments to the PANA Committee report and recommendations

Dear Chair,

We are pleased to provide below our views on certain amendments tabled for the PANA report and recommendations. We have contributed to the Committee's work in the past, notably through our participation at the public hearing on 6 March.

The July draft report and recommendations are, overall, well-balanced and put forward concrete suggestions. The report highlights lack of transparency as a key contributor to the many unacceptable and unlawful practices revealed by the Panama leaks. We are in favour of transparency and actively contribute to improving it. For example, we have developed a practical template for what to disclose in public Country by Country Reports[1].

However, we are concerned to see certain amendments that risk distracting the PANA report from its objectives while bringing no or limited practical impact. Furthermore, some of these amendments appear in breach of normal Better Regulation practices and risk being counterproductive.

[1] https://www.accountancyeurope.eu/wp-content/uploads/160711_CbCR_Template-1.pdf

AMENDMENTS 357 TO THE REPORT AND 567 TO THE RECOMMENDATIONS ON DIRECTIVE 2014/56/EU

We propose the following alternative wording to replace amendments 357 to the draft report and 567 to the recommendations:

Calls on the Commission and the European Parliament to monitor and assess the impact of Directive 2014/56/EU and Regulation 537/2014/EU;

The two above mentioned amendments call for reforming the Audit Directive. Re-opening audit legislation at this stage would not address the issues identified in Panama Papers for the following three reasons.

1) The new EU audit legislation already brings in new strict limitations for auditors' services. The Audit Regulation (537/2014) covering PIEs provides for a list of prohibited non-audit services, including tax advice. The Regulation also provides for mandatory audit firm rotation. In turn, the Audit Directive's section on "Professional ethics and scepticism" contains new provisions laying out the independence criteria for auditors – whether auditing PIEs or non-PIEs. There is no reason to believe that the reform's provisions would not be effective. Moreover, to our understanding the Panama leaks did not identify major issues stemming from auditor involvement.

2) Amending audit legislation now would go against the principles of Better Regulation. EU audit legislation was revised recently, following years of debate. The new rules entered into force in June 2016, and not all member states have even implemented them. Consequently, many of the provisions are just starting to deliver their effect. Further amendments to these rules should not be considered before the impact of recent changes has been duly studied.

3) By referring to the Audit Directive the amendments call for extending the rules covering audit rotation and prohibited non-audit services to non-PIEs. The EU institutions judged this to be totally disproportionate during the audit reform, as it risks harming EU SMEs.

In addition to the new audit legislation, the accountancy profession is bound by strict ethical requirements, in particular on independence, stemming from national laws, European legislation and the global IESBA Code of Ethics. This Code, for example, includes rules and guidance for professional accountants and auditors providing non-assurance services, and lists safeguards that must be undertaken to avoid conflicts of interest in their relationships with clients.

Therefore, we advise the European Parliament, in collaboration with the European Commission, to first monitor the implementation and eventually assess the impact of the new rules. This is also in line with the Parliament's positions as established in the reports of TAXE I (Para 162)[2] and TAXE II (Para 37)[3] Committees.

OTHER AMENDMENTS ON PERCEIVED CONFLICTS OF INTEREST IN ACCOUNTANCY FIRMS

Many other amendments also refer to, and call for, addressing perceived potential conflicts of interest in accountancy firms. These are, for example, amendments 104, 449, 453, 454 and 623 to the draft report and amendments 566 and 568 to the recommendations. This debate took place in the TAXE I and II Committees as well, and Accountancy Europe would like to re-iterate the two points below.

[2] http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0408+0+DOC+XML+V0//EN&language=EN
[3] http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0310+0+DOC+XML+V0//EN&language=EN

1) Such conflicts do not automatically rise from accountancy firms providing tax services to both public and private sector clients, given for example the following:

   - client relationships and confidentiality are protected by statutory or contractual terms, depending on the legislation
   - professional accountants and auditors are bound by a stringent Code of Ethics that also provides practical guidance for potentially problematic situations
   - the recent audit reform already made the relevant rules even more resilient against potential conflicts

2) In general advice from the accountancy profession supports the tax authorities, and accountants assist with effective tax compliance. Thus, the contribution of professional accountants and auditors helps render tax systems more effective and efficient, and resilient against fraud and abuse.

Ultimately, the problems highlighted in the PANA Committee's work will only be solved if all stakeholders cooperate – authorities, taxpayers, advisors, policy-makers, and the civil society. The accountancy profession stands ready to contribute and do its part.

AMENDMENT 707 ON WHISTLEBLOWER PROTECTION – IMPLEMENTABLE MEASURES FOR SMES

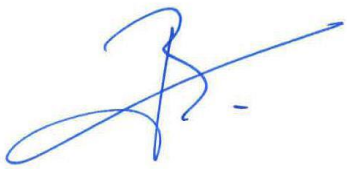
Amendment 707 to the recommendations states that employers should be encouraged to introduce internal reporting procedures – a position that we support as well.

However, the amendment also specifies that one person should be responsible for collecting reports. We believe that this proposal could be impractical to guarantee whistle-blower protection in SMEs and micro-enterprises. For example, appointing a whistle-blower person in a two-person company will create difficulties to guarantee the confidentiality or anonymity of the whistle-blower. Alternative approaches should be explored.

Therefore, we call on the Committee members to keep in mind the "think small first principle" and ensure that the recommendations are proportionate and fit for purpose for smaller entities.

We hope that you will find the comments above helpful. Should you have questions or wish to discuss the matters further, please contact Johan Barros (johan@accountancyeurope.eu, +32 2 893 33 88).

Sincerely,



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