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CAPITAL AND COMPANIES
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FISMA/B3

Factual Summary

Factual Summary of the responses to the public consultation on assessing the potential for further transparency on corporate income taxes

1. INTRODUCTION

Following the Commission's Tax Transparency Package launched March 2015 and the Action Plan on *A Fair and Efficient Corporate Tax System in the EU* (endorsed June 2015), an impact assessment has been under way to examine the extent to which greater transparency through Country-by-Country Reporting (CBCR) can ensure firms pay taxes where profits are made. Accompanying this is a public consultation launched by the Commission in June 2015, which seeks the views of stakeholders in assessing the case for further disclosure of corporate tax matters in the EU.

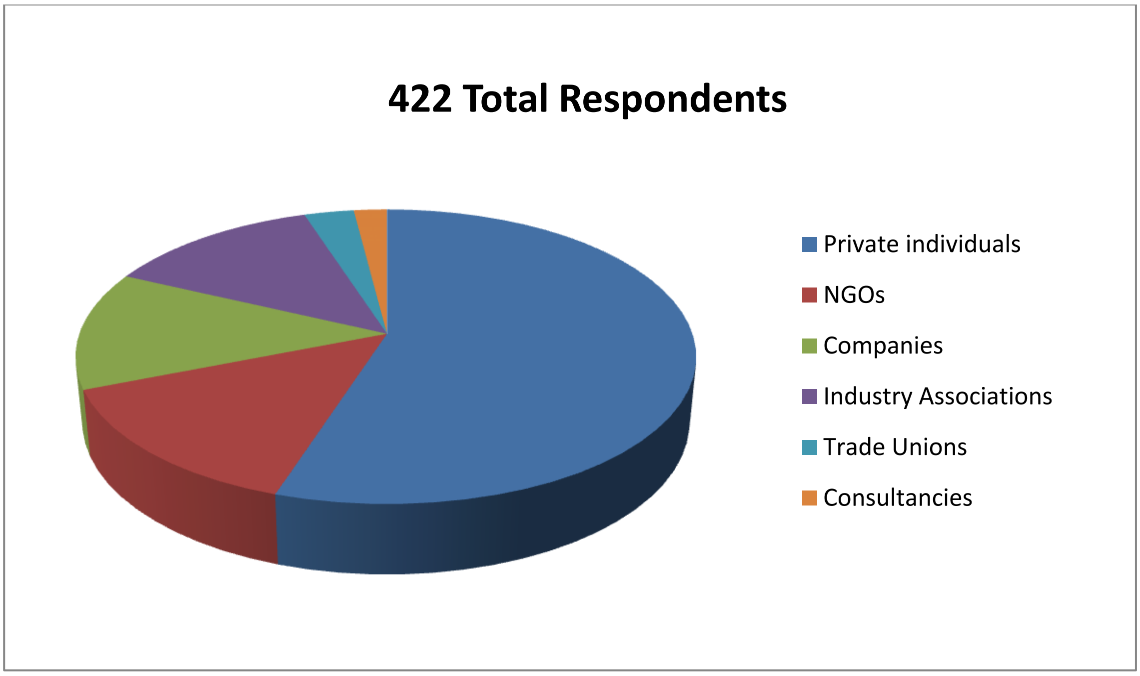
The Consultation, intended to examine the potential for these measures, drew stakeholders from across the spectrum. Some four hundred and twenty-two firms, industry associations, private individuals and NGOs as well as trade unions and think tanks participated in our public consultation. These represent fourteen countries both within and outside the EU, mostly at the national and international level. Almost 90 per cent of the businesses that took part were very large multinationals.

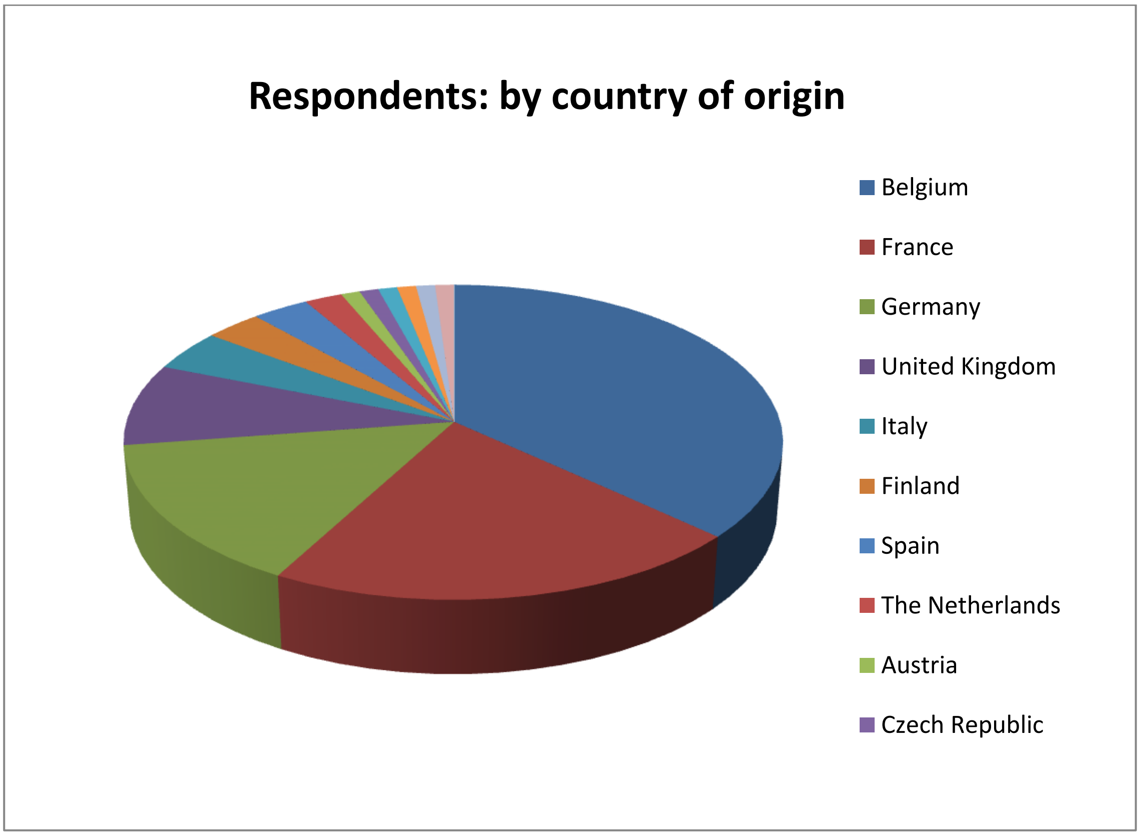
The percentages given in this factual summary correspond to the responses submitted by stakeholders. DG FISMA thanks all who contributed for their valuable comments and suggestions- many of which are conveyed in this summary.

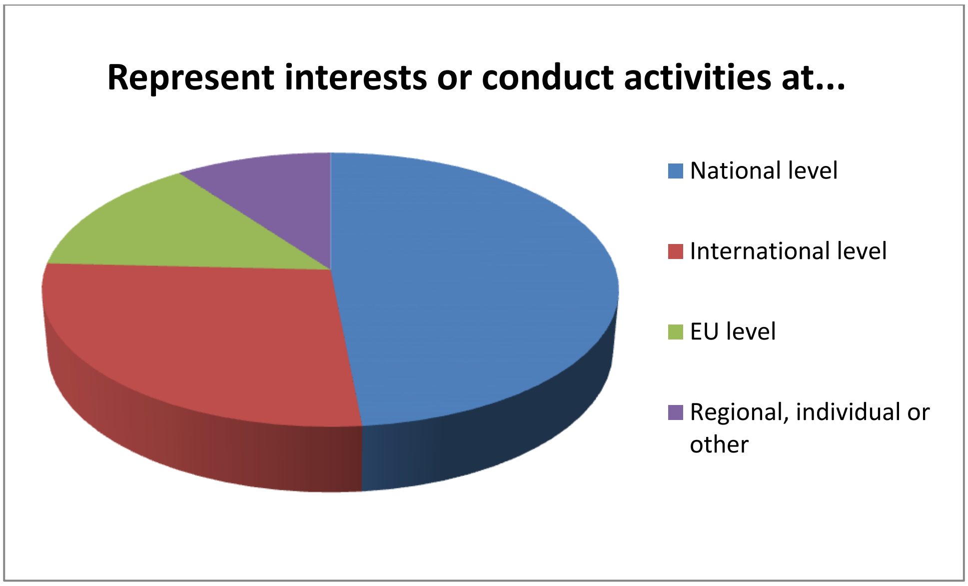
Beyond a statistical analysis of the data, the summary provides a qualitative presentation of the valued opinions and input received.

2. RESPONDENTS

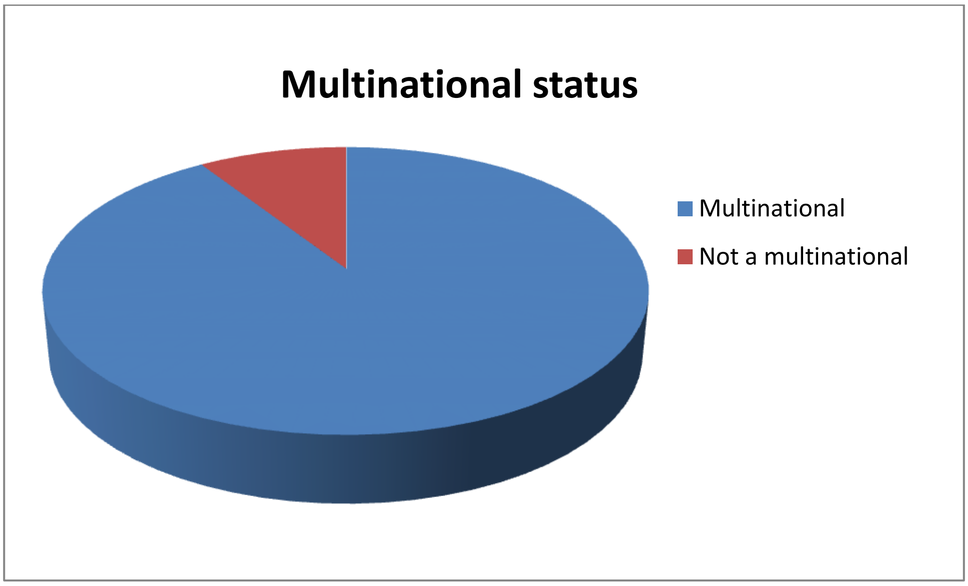
A Breakdown of Respondents by Sector, Country and Level of Engagement

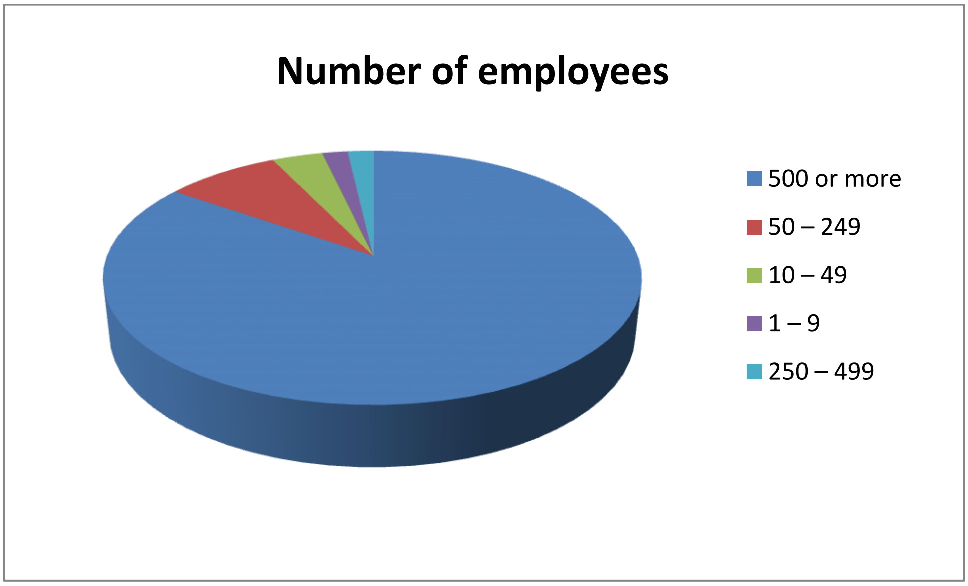


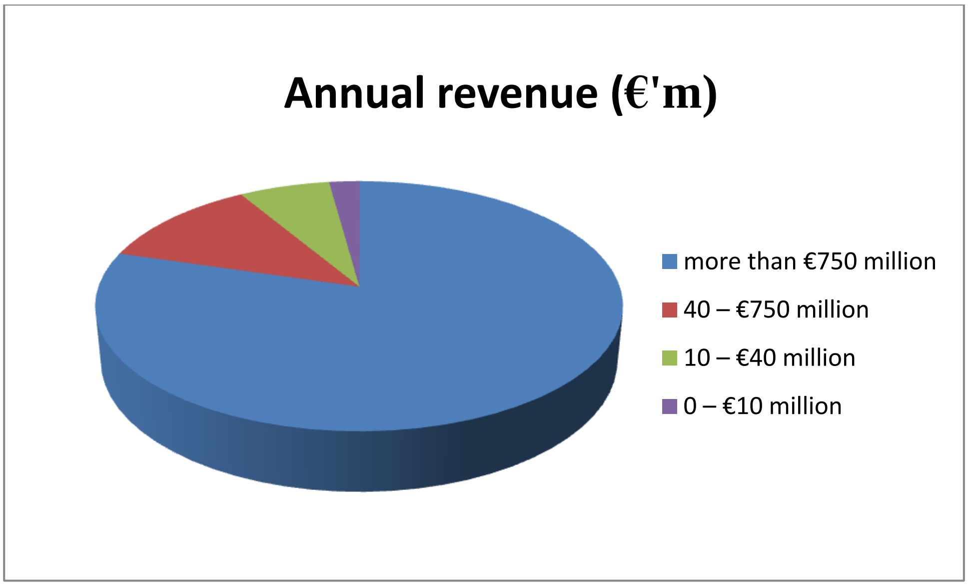




A Breakdown of Business Characteristics







3. ANALYSIS OF RESPONSES

I. SCOPE OF TRANSPARENCY REQUIREMENTS IN THE EU

Q1) Regarding corporate transparency, which of the following measures would you support?

a) No EU Action (current tax transparency requirements in the EU are sufficient).
b) The EU should adopt transparency initiatives at the international level, leaving implementation to Member States.
c) The EU should implement international initiatives e.g. BEPS at the same pace and extent as global partners to ensure a level playing field.
d) The EU should be at the forefront of and possibly go beyond current initiatives at the international level e.g. by publically disclosing tax information extended to all other sectors.

Although most business respondents feel no change is necessary, or that the EU should rely on international initiatives, there is resounding support from civil society organisations that the EU should take the lead in this global endeavour. A staggering 96% of NGOs and trade unions surveyed believe that the EU should be at the forefront and possibly go beyond OECD's BEPS and extend current disclosure requirements. An overwhelming majority (88%) of individuals declared the same.

In the private sector, opinion appears to be more divided. Almost half of businesses (45%) believe that the EU should implement international initiatives such as BEPS at the same pace as global partners to level the playing field. Approximately a third of companies (34%) are happy with the status quo and deem current requirements to be sufficient. Of the remaining respondents, more argue that implementation should be left to the discretion of Member States rather than the EU, whose remit is to achieve, rather than pioneer and go beyond international initiatives aimed at further transparency.

II. OBJECTIVES OF FURTHERING CORPORATE TRANSPARENCY

Q2a) With which of the following objectives do you think a new EU initiative on tax transparency should aim to achieve?

1) Firms should pay tax where they actually make profit
2) Member States should stop harmful tax competition
3) Help tax authorities orientate their audits on businesses
4) Firms should act as they communicate in terms of contribution to welfare
5) Firms should structure their investments based on real economic merit
6) Fairer competition between multinational firms and SMEs.

Almost all individuals and civil society organisations support objectives 1, 3, 5 and 6. Three-quarters of these groups agree that a possible initiative should aim to achieve objectives 2 and 4. Approximately 20% of NGOs & trade unions do not believe that a goal of the initiative should be for Member States to stop harmful tax competition.

Approximately a third of business respondents agree with all of the objectives, with the exception of the first statement: just over a quarter of firms believe that a new initiative should aim to ensure that taxes are paid where profits are generated but almost half did not support this goal. The remaining one quarter of businesses voiced no opinion on this issue while roughly a third of companies disagreed with the six statements.

Q2b) What other objectives would you include, if any? Explain briefly.

One company remarked: “an EU initiative on transparency should also aim for the following objectives: a) provide a level playing field for companies resident in the EU and non-EU resident companies; b) foster an EU-wide implementation and avoid single country solutions; c) safeguard business secrets of companies in order to avoid putting EU resident companies at a disadvantage compared to non-EU companies”.

Suggestions put forward by NGOs and trade unions include: 1) requiring firms to report taxes paid as a percentage of turnover and profits, which would make it easier for national tax authorities to locate where firms are taking steps to pay minimal (or near zero tax); 2) simplifying the tax code as it is not simply a question of disclosing more information; 3) contributing to an international framework that allows multinationals & wealth to be taxed to a degree that is appropriate given the current economic climate (without being captured by private interests); and 4) to reduce the dependence of countries’ tax rulings on international capital & multinationals’ interests.

III. FIVE POLICY OPTIONS REGARDING EXTENT OF DISCLOSURE

3a) Are there other appropriate options for extending corporate transparency, such as reporting requirements for tax advisors? Please explain briefly.

Businesses & Industry Associations

One business respondent summarises well the views of firms: **"**Implementing BEPS Action 13 at the EU level is the only option conceivable, provided that it is implemented in coordination with the EU's main external economic partners. Whereas we are not opposed to greater transparency, it is essential that such transparency applies to all companies operating in the European market and under the same standards (no isolated national law) and that the information resulting from this transparency is reserved for tax authorities".

NGOs, Trade Unions & Think Tanks

A large majority asserts: *"Over two-third EU member states currently offer tax rulings to transnational enterprises. These agreements have been abused to offer "sweetheart deals" to companies, which is why the public needs access to this information. The lack of public information also means that tax administrations in developing countries cannot identify corporate tax dodgers. Though the European Commission's Tax Transparency Package, which encourages the exchange of tax rulings between Member States, is supposed to be a response to the Luxembourg Leaks, it only addresses a fraction of the problem. For example, over 150 companies in the leaks were associated with the United States, but they will simply be out of bounds under this proposal. If all EU tax rulings were made public, companies would have a harder time negotiating the types of tax deals that do not stand up to public scrutiny. This measure would build on public CBCR, the cornerstone for corporate tax transparency".*

"The EU should be at the forefront of tax transparency efforts by requesting member states to publicly disclose the information contained in the BEPS country by country reporting template. This will ensure comprehensiveness and consistency - as some member states are already starting to implement the OECD BEPS guidelines on country by country reporting. The EU should apply this reporting requirement to 'large undertakings' (as defined in the accounting directive) rather than the threshold proposed under BEPS, which will exclude too many companies from the reporting requirements. The Commission's plan for information exchange within the EU will not be sufficient, as the general public and jurisdictions outside the EU will be left in the dark. As such, there needs to public transparency on these rulings".

Private Individuals

A few representative statements were made:

1. Public fiscal transparency should not be limited to very large multinationals (as in Action 13). 2. All corporations must publish their annual accounts. 3. Rulings must be public. 4. Treaties on trade and/or investment protection must include the obligation of transparency and prohibit tax avoidance. 5. A public registry must be kept of the final *beneficiaries of corporate profits. 6. Sanctions against non-observance of tax legislation must come under criminal law. 7. Transparency Option D (full public disclosure of tax-related information) must apply to accounting/tax advisory firms especially those with transnational operations (PWC, Deloitte and Touche, KPMG, Ernst and Young) who are central to the issue of corporate tax avoidance exposed in the LuxLeaks".*

3b) Please rate below how well each option would achieve the identified objectives (using + for a positive response, 0 for no effect, - if the option runs counter to the objective).

Key

The option achieves the objective

The option has no effect on the objective

The option runs counter to the objective

The option divides opinion. The majority believes this has no effect on the objective but a significant minority believe the option achieves the objective.

The option divides opinion. The majority believes this has no effect on the objective but a significant minority believe the option runs counter to the objective

Table 1. Businesses and Industry Associations

Businesses and Industry Associations	1. Firms should pay tax where profit is made	2. Member states should stop harmful tax competition	3. Help tax authorities oriente their audits on firms	4. Firms should act as they say re. contribution to welfare	5. Firms should invest based on economic merit, not tax	6. Fairer competition between multinationals and SMEs
a) No EU action						
b) Implementation of BEPS 13 at EU level						
c) Publication of anonymous/aggregated data by EU tax authorities						
d) Public disclosure of tax-related info by firms or tax authorities						
e) Publically available corporate tax policies						
f) Other (as described in 3A)						

Table 2. NGOs and Trade Unions

NGOs and Trade Unions	1. Firms should pay tax where profit is made	2. Member states should stop harmful tax competition	3. Help tax authorities oriente their audits on firms	4. Firms should act as they say re. contribution to welfare	5. Firms should invest based on economic merit, not tax	6. Fairer competition between multinationals and SMEs
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Table 3. Private Individuals

Private Individuals	1. Firms should pay tax where profit is made	2. Member states should stop harmful tax competition	3. Help tax authorities oriente their audits on firms	4. Firms should act as they say re. contribution to welfare	5. Firms should invest based on economic merit, not tax	6. Fairer competition between multinationals and SMEs
a) No EU action						
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d) Public disclosure of tax-related info by firms or tax authorities						
e) Publically available corporate tax policies						
f) Other (as described in 3A)						

Although most businesses and industry associations do not believe the implementation of BEPS would match the objectives, a considerable number contend that BEPS at the EU level would 1) ensure firms pay tax where profit is made, 2) stop harmful tax competition between Member States and 3) help tax authorities orientate their audits on firms. A public disclosure of tax-related information, they argue however, would distort competition between multinationals & SMEs and be detrimental to the goal of aligning profits with economic activity.

There is unanimous agreement among NGOs and trade unions that the status quo i.e. "No EU Action" would be counterproductive towards achieving the objectives. Public disclosure of tax-related information, on the other hand, would contribute to all six objectives; and the implementation of BEPS at the EU level would help tax authorities orientate their audits on firms.

There is resounding support from private individuals for public disclosure of tax-related information (with the belief that this would help achieve all six objectives). There is also overwhelming support for the implementation of BEPS, although a considerable number do not believe BEPS would contribute to the alignment of tax where profit is made or to fairer competition between multinationals and SMEs. Option is divided on whether the publication of anonymous/aggregate data would help achieve objectives 1, 2 and 5. Most individuals agree that making corporate tax policies public would achieve the objectives but some do not believe this would affect goals 2, 5 and 6.

Q3c) In your opinion, what would be the most appropriate option(s)?

The most popular option among firms is option B, where almost half (45%) support the implementation of BEPS 13 at the EU level. Exactly a quarter of businesses surveyed were in favour of “no EU action”, acknowledging that Member States may implement BEPS regardless. The other 30% of responses are divided more or less equally between the remaining policy options.

Almost three quarters of NGOs and trade unions believe the most appropriate course of action to be a full disclosure of tax information towards the public. Only a few support BEPS 13 and believe corporate tax policies should be made available to the public. These respondents are the strongest advocates of greater transparency aimed at the public. Not one respondent opted for “no EU action”.

Among private individuals, who account for over half (55%) of the respondents to this public consultation, more support a public disclosure of CBCR than any other option (37%). Just over a quarter of individuals support an implementation of BEPS 13 at EU level and the same percentage demand corporate tax policies to be made available to the public.

IV. OPTION B- EU INITIATIVE ON TRANSPARENCY AIMED AT TAX AUTHORITIES, BASED ON OECD BEPS

Q4) What information should firms necessarily disclose to tax authorities?

All NGOs and trade unions (without exception) support the disclosure requirements under BEPS 13, where the approval rating among businesses is 57%. A further 10% of firms agree that more disclosure in the form of subsidies/explanatory narrative would be beneficial. One business association pointed out that companies should only be subject to one CBCR standard, to be applied across the board. Since BEPS is not legally binding, this could result in duplicated requests for information under multiple CBCR standards which would raise costs.

Q5) Which EU entities should be covered? Please comment on what other EU entities should be included if responding "other".

While 40% of businesses and industry associations support the BEPS 13 guideline that very large companies with an annual revenue of EUR 750m or more should be required to comply, over a third argue that company size is not an effective criterion for determining which firms should be subject to regulation since there is no correlation between firm size and the legitimacy of their tax behaviour. These respondents suggest that "only high risk groups should be required to comply".

Three quarters of NGOs and trade unions believe that all large firms and groups should be subject to BEPS requirements. This is similar to the majority of private individuals (65%) who feel that both large and the largest firms should disclose information to tax authorities.

Q6a) How would you assess the extent to which firms will need to change current practices (tax planning or structure) as a result of being more transparent <u>to tax authorities?</u>

Very few firms and business associations agree that more transparency towards tax authorities would encourage businesses to comply with tax rules and end the use of tax gaps, mismatches and loopholes etc. A full third of this group argue that this will in fact have no effect on firms' tax planning. The remaining forty percent of businesses state alternative views such as that a) impact on tax behaviour will depend on the company and b) while groups with aggressive tax planning policies may re-evaluate their tax planning strategies, more transparency is unlikely to affect business structure as EU firms comply with national laws where they operate. One company suggests that the requirements would lead to a strengthening of internal controls and boost the importance of tax in managerial decisions.

Over half of private individuals, however, believe that greater transparency towards the authorities would increase tax compliance by firms and reduce the exploitation of tax gaps, mismatches and loopholes designed to minimise tax payments. Almost 80% of NGOs and trade unions agreed with the view that "without leaks and whistleblowers, even governments only see a small window into the inner workings of companies. While tax administrations often have highly competent staff, the number of such staff is limited".

Q6b) What mechanisms would incentivise firms to change? Please explain.
Responses submitted by industry associations include: 1) a consistent worldwide implementation of the OECD BEPS recommendations; 2) changes in the Boards' attitude towards risk and the new cooperative compliance framework will also bring also results; and 3) having a professional relationship with the tax authorities built on trust and cooperation changes business behaviour – the OECD BEPS project Action 13 recommendations facilitate these relationships.

Companies added that the private sector cannot be held responsible for tax competition between EU Member States; that it is necessary to 1) eradicate tax competition between Member States, as this distorts companies' investment decisions; and 2) develop and enforce internationally consistent changes in tax laws or regulations. NGOs and trade unions did not provide an answer as such but commented that a public disclosure of CBCR would be the preferred option.

Q7) What consequences would further transparency aimed at tax authorities have on public finance?
Roughly half of all businesses believe this would lead to a relocation of tax bases within Europe. Two-thirds of all private individuals and a quarter of NGOs and trade unions argue that further transparency would lead to an increase in tax paid in Europe (against 15% individuals and just one NGO who believe European tax receipts will fall).

However, many business stakeholders have indicated that the full BEPS package will likely increase taxes paid in 'source' (mostly non-EU) states, and decrease taxes paid in 'resident' (mostly EU) states. A common view among those who selected "other" is that it is very difficult to accurately quantify how BEPS 13 would impact taxes paid in the EU. Given that transparency measures will be enforced alongside other BEPS/international tax proposals, it will be almost impossible to trace any increase or decrease in taxes paid to one specific initiative.

An international accounting firm is of the view that current tax transparency requirements in the EU are broadly sufficient − that a new initiative on tax transparency will not affect firms' tax planning. Under these circumstances, they argue that further tax transparency towards tax authorities will have no significant impact on public finances.

Q8) Can you provide an estimate of any additional costs or resources that firms will face in preparing a consolidated CBCR according to BEPS 13? Please explain.

An NGO coalition quoting the UK Treasury: A widely held view is that "the costs affecting firms are likely to be modest and should not be overstated. The estimate by the UK Treasury in its regulatory impact assessment for the introduction of CBCR in the Finance Act 2015 (certified by the Office for Budget Responsibility) is that one-off costs would be negligible and annual costs to businesses affected could be £0.2 million". Company accounts are managed through sophisticated software, which can be programmed to produce whatever data are needed. Firms would incur additional costs only if the data required is not already compiled for their own or other purposes, which is not the case for CBCR. In contrast, establishing a data management system for tax authorities to receive and store securely reports which must be protected as confidential would be substantial.

Studies undertaken by Transparency International suggest that CBCR will incur small or negligible costs. These would be far outweighed by the potential benefits for society. No new information will be required and potential costs rate as insignificant when compared to the likely benefits of increased transparency. Making the data public may be cheaper for both transnational corporations (TNCs) and governments. The information exchange system proposed by the OECD will demand considerable costs.

Firms & consultancies: A significant portion of respondents commented that it is not possible at this stage to arrive at an estimate. One warns, however that: "[a]dditional costs are certain. Contrary to popular belief, this country-by-country information is not currently available within companies and requires the allocation of financial and human resources to put in place appropriate information systems. The high costs will mean a competitive advantage granted to companies that do not bear the same obligation".

A consulting firm comments that costs will likely be significant: costs will "vary depending on complexity, existing resources and ERP and reporting systems and scale of international operations". There will be costs to assess and establish data gathering processes and requirements for additional reporting. Some companies may resource internally, while others may seek external providers. Resources will be needed to analyse and review data.

Individuals: The most commonly held view is that costs are negligible where firms are already equipped with data for internal assessments. Another individual posits: "firms will claim that the costs of preparing a consolidated CBCR are considerable but I doubt whether they will exceed the costs of the complicated structures presently employed to escape tax. Naturally, the additional tax they will pay will be an additional cost but this will be countered by the benefit of reduced taxes for SMEs and the general public".

Q9) What implications would transparency to tax authorities have in terms of fostering a growth-friendly environment and making the EU an attractive place to invest?

An overwhelming majority of NGOs and trade unions (87%) believe that furthering corporate transparency under BEPS 13 would contribute to a more growth-friendly environment, making the EU an attractive place to invest. Not a single NGO or trade union believes BEPS would have a negative impact on the business environment. In stark contrast, only 16% of firms and industry associations reaffirm this view, with the vast majority of the private sector (65%) arguing that investment would be curtailed.

V. OPTIONS C & D- EU INITIATIVE ON FURTHER PUBLIC TRANSPARENCY OF TAX-RELATED INFORMATION

Q10) What would be the potential benefits/costs of a public disclosure of information compared to a disclosure to tax authorities only? Please explain.

There is unanimous agreement among firms that a public disclosure would endanger, rather than bring benefits to the EU. Risks highlighted include: 1) exposure of business strategy of EU firms; 2) distorted competition undermining the success of European multinationals, especially vis-à-vis US firms; 3) loss of tax revenue for Member States (see also question 20); 4) a deterioration of relations between Europe and the tax administrations of third countries (see question also 18); 5) reputational damage to European companies as the publication of raw data can lead to erroneous interpretations. These reinforce the view that disclosing sensitive information to competitors would pose inherent risks to long-term growth and investment in the EU.

An individual commented: “Tax authorities in numerous countries have been known to make secret deals with large organisations. This is inherently undemocratic and unjust. Only by exposing data to the public (citizens, NGOs, the media) will businesses be forced to react”.

The three most stated views of NGOs and trade unions are as follows:

1) “We see only potential benefits. If the public sees the tax contribution of MNEs to society, the revenue from income tax will increase – levelling the playing field between MNE's and SME's”.
2) “Public CBCR allows authorities in developing countries to have access without having to implement a burdensome exchange system. It would provide information to a wide range of stakeholders, thereby strengthening efforts to monitor corporate governance and responsibility, tax payments, and potentially corrupt practices. There is also strong interest in CBCR from investors as it would provide more details about business activities on a geographical basis and help to assess risks arising from aggressive tax planning”.
3) “It would allow public interest groups and investigative journalists to verify whether companies are paying their share of tax in the countries where they do business, especially where tax authorities have a lack of capacity, so enabling third party analysis for governments. Finally, it is the only option that would promote accountability and help restore public trust in large companies”.

Q11) What information would it be absolutely necessary to include in a <u>fully publicised</u> CBCR (option D)?

Apart from information under CRD IV which is already publically disclosed, and additional BEPS 13 information which is made available to tax authorities, there is very little support from firms and industry associations for additional public disclosures. Only a fraction of businesses believe subsidies should be reported.

On the other hand, virtually all individuals are in favour of a full public disclosure of all listed information. “Other tax-related information” is deemed less necessary but over two-thirds of this group maintain that narratives/explanatory statements would be crucial. Virtually all NGOs and trade unions are in favour of all the listed categories being made available to the public. Organisations list the following as additional information to be shared: a) 'community contributions' paid by transnational corporations to governments, b) where capital expenditure is concerned, the flows/expenditures rather than just a stock or fixed value at the time of reporting, and c) not only a headcount of employees but also the costs associated with hiring and contracting.

Q12) In the case of option C − tax authorities publishing aggregated/anonymous information based on returns filed by firms − what information should be disclosed (on a country-by-country basis)?

There is a general lack of support for anonymous/aggregated data. Reasons stated include: a) anonymous information largely neutralises the deterrent effect of data publication, b) it appears to facilitate keeping individuals and governments in the dark as to what each corporation is doing, and c) “aggregated information obviously leads to a lack of transparency”.

Suggestions were put forward in the case that the EU decides to go down this route: “the only benefit to anonymised bulk data is to be able to monitor the effectiveness of government policy (i.e. how the BEPS Action Plan has worked, or how effective tax incentives have been), but to do this to any degree of use one needs to be able to break down by sector, and ideally within sector. However, this would become a very burdensome exercise”.

Q13) Would you or your organisation be interested in receiving further information on tax disclosures (specific or aggregated)? If yes, explain how the information would be used.

Almost all NGOs and trade unions (94%) responded “yes”, explaining that the information obtained would allow them to participate in public overview of tax practices. A widely held view is that “public disclosure of CBCR would allow public interest groups and investigative journalists to ensure that transnational corporations are exposed when they do not contribute their share of tax in the countries where they do business”. Public disclosure would be of particular benefit to countries in which tax authorities are strapped for resources and do not have the time to undertake relevant investigations.

Three-quarters of firms do not appear to be interested in tax-related disclosures, though some would use the information to make data comparisons. Unlike civil society organisations, their primary objective is not to broadcast and disseminate this information, but rather to view it as evidence of fair treatment of firms in tax matters.

Q14) Which entities should be required to comply?

a) Size

More firms and business associations (about two-thirds) selected "other" than any other option, commenting that firm size should not be a deciding factor in whether businesses ought to comply. This is because it would be wrong to assume that the risk of harmful tax practices is related to a company's size.

A hefty eighty percent of NGOs and trade unions believe that the vast majority of transnational corporations should be covered, and "[a]t the very least large undertakings and public-interest entities as defined in the Accounting Directive". A quarter of private individuals share this view and over half of all individuals stated that at least large firms or groups should be included.

b) Connection with EU markets

Virtually all NGOs and trade unions remarked that both businesses listed and established in the European Economic Area (EEA) should be obliged to comply, as well as those controlling operations in the EEA even if they are not established in the EEA. Forty percent of businesses and industry associations argue that firms established outside of the EEA should be covered if they control operations within the EEA. In other words, reporting requirements "should not be restricted to companies based in Europe, but must be extended to foreign companies operating in the European market, if capability permits".

Thirty percent of businesses and industry associations agree that firms listed in the EEA should be required to comply. Of the 29 respondents who offered an alternative approach, the most popular view is that the vast majority of transnational corporations should be included- and at the very least large groups and public-interest entities, as stipulated in the Accounting Directive.

Q15) Which operations should be covered?

There exists widespread consensus (89%) among NGOs and trade unions that firms with operations both within and outside the EEA, even if these are not controlled from the EEA, should be required to disclose information to the public. The majority of private individuals shared this view, arguing that simply regulating firms with operations within the EEA and foreign operations controlled from the EEA would not be sufficient.

There appears to be no prevailing consensus among firms and business associations on this issue. While a minority supports that both companies within and outside the EEA should be subject to reporting, a third voiced no opinion. One non-EU organisation backs BEPS 13 − which requires disclosures of both inland and foreign operations to tax authorities. Another firm opined: "there should be no difference from BEPS 13 recommendations if any decision on further disclosure is to reduce administrative complexity and costs for the reporting enterprise".

Q16) Considering the EU may have more stringent rules on public disclosures than other countries, would this risk placing firms based/listed in the EU at a competitive disadvantages compared to non-EU firms operating in the EU?

Almost 90 percent of firms and industry associations agree that businesses would be disadvantaged against a mere 6 percent of NGOs and trade unions that share this position. A widely held view in the business sector is that because investments in the EU could fall, it is all the more important to extend rules to the broadest possible extent- to ensure a level playing field across the globe.

89% of civil society organisations disagree strongly with the statement, arguing that greater transparency would promote legal and economic certainty, and thereby foster pro-growth conditions. A small minority who selected “no opinion” consisted mostly of private individuals.

Q17) Is there a risk that tax transparency “made public” could have unintended costs/implications for companies?

Eighty-one percent of firms and industry associations responded “yes” against just 6 percent of NGOs and trade unions who expressed the same sentiment. Like the staggering 90% of civil society organisations ruled out any risk of potentially harmful consequences on companies, 75% of SMEs and microenterprises see no risk of a public disclosure.

Unintended consequences listed by companies and those who share this concern include: public misinterpretation of figures (owing to the complexity of accounting technicalities or simply a lack of understanding), interpretation by competitors, and subsequent reputational damage to firms. This could have profound implications for a firm’s sales, revenue and therefore profit.

Q18) Would you expect measures to have an impact on the EU’s relations with third countries such as developing countries or the OECD?

Comments put forward by NGOs and individuals generally suggest a positive impact. Relations with developing countries would improve as the EU would be seen as a more credible partner. A key idea reiterated in the feedback was that since developing countries are losing more to corporate tax dodging than they are receiving in ODA (official development assistance), CBCR will play an important role. Clamping down on harmful tax practices via enhanced transparency would help free up resources for development purposes − in infrastructure, health, education etc.

One think tank remarked that developing countries have a large and legitimate interest, pointing out that “A recent IMF report estimates the impact of multinationals’ profit reallocation on developing countries to be over $200bn a year, three times as high as on OECD countries in terms of GDP”.

Firms and business associations, however, are less sure of the benefits. A widespread view among firms is that there will be commercial consequences for firms that are subject to the new measures: “Reporting obligations will impose additional administrative costs, including demands on time. As a result there will be a competitive disadvantage to the firms subject to the rules. Difficulties are likely to be encountered when dealing with those jurisdictions that are not OECD members, in so far as they do not fully participate in and implement the initiatives".

Q19) At the level of the firm, how would you assess the extent to which companies will need to change their tax-planning practices following information <u>made public</u>?

Responses put forward by NGOs and trade unions diverge greatly from those of the private sector, which in turn differ from those of individuals. A full 70% of individuals believe that public disclosure would reduce harmful tax practices. Almost three-quarters of NGOs and trade unions feel firms would opt to shift profits back to where they were generated.

In contrast, almost half of businesses and industry associations suggest public disclosure would have no impact on tax planning.. Moreover, "as current tax laws in most EU countries are considered to give full and adequate access to tax authorities, it is believed that further tax transparency will not significantly impact the manner in which firms are structured".

Q20) What other effects on public finance, if any, would tax transparency towards the public have compared to information intended only for tax authorities?

Only a few businesses and industry associations believe that transparency towards the public would result in a reallocation of tax bases within Europe. Many more in this category believe that taxes paid in Europe would decrease (38%), rather than increase (<10%). In contrast, two-thirds of private individuals contend that tax receipts in Europe will rise. Keen to promote awareness and a "more informed public opinion", individuals argue that only public scrutiny will make transnational corporations align tax payments with profit-generating activities.

Of the firms that hold alternative views, some feel there would be no change: "[w]e do not believe that additional tax transparency towards the public will have any effect on public finance over and above the (unquantifiable) effect of implementing BEPS Action 13 on an EU-wide and global basis". Despite this, one company warns: "[t]here is a risk that such public disclosure would consume tax authority resources in responding to external queries about the connection between disclosed information and tax collections; that such disclosure could politicise the tax administration process, which is a result that could undermine the fair and efficient application of tax laws".

While NGOs and trade unions seem conflicted as to whether tax receipts in Europe would rise or fall, a quarter believe public disclosure would lead to a reallocation of tax bases within Europe. A great majority (65%) regard public disclosure as a key means to tackling BEPS:

> "Public scrutiny and pressure will be key to making transnational corporations align tax with profit-generating economic activities of which turnover, people

employed and costs associated are likely to be good indicators. Whether this will increase or decrease taxes paid in EU member states will depend on whether the countries have been successful in attracting capital with low tax rates (these countries stand to lose), or whether they have lost revenue streams due to the profit reallocating activities (these stand to gain). Public information disables 'gaming' the system".

Q21) What implications would tax transparency <u>towards the public</u> have in fostering a growth-friendly environment and making the EU an attractive place to invest?

There is unanimous agreement (93%) among NGOs and trade unions that the impact on business-friendliness from tax information made public would be positive. Roughly three-quarters of private individuals share this view, with opinion divided between the remaining respondents. Almost three-quarters (72%) of firms and industry associations, however, assert that a public disclosure would hamper the business environment, scaring off foreign direct investment. The EU would effectively become a less attractive place to invest.

A key concern highlighted by businesses was that "if investors perceive it is more complex to do business in the EU and that greater costs and efforts are required to manage public opinion, this will reduce its attractiveness". Further, due the complexity of businesses, tax systems and business law, CBCR could easily be misunderstood with detrimental effects on corporate image.

Q22) Should the information prepared and provided by firms be subject to verification by an independent assurance agency (say, an auditor?)

Over two-fifths of businesses and industry associations voiced opposition to the proposal, arguing that verification by means of an independent audit should only be required under specific circumstances e.g. if tax authorities suspect inconsistencies in reporting or foul play. Multiple requests for audits would certainly drive up costs for firms.

The majority of NGOs and trade unions, who are in favour of an alternative approach, explained that "CBCR should be a separate table with related notes, which by definition will have to be consistent with the information in the financial statements. CBCR will be of interest to the auditors, no matter how it is published. If the information is not subjected to a formal audit (like the Chairman's Report) it will still attract auditor attention. [W]e would hesitate to encourage belief in the magic wand of auditors, as the banking crash reminded us that many of their audit opinions were not worth the paper they were written on".

Eighty percent of private individuals argue that despite the auditing costs incurred, tax information should be subject to verification by an independent authority. A small fraction of individuals remarked that even if a formal audit is not carried out, the information made public would attract the attention of auditors.

Q23) Should additional safeguards be put in place to protect data and guard trade secrets? (Note that in the absence of specific measures, general EU data protection rules would apply).

The vast majority of businesses (70%) and industry associations responded “yes”, stressing that additional protection should be available for commercially sensitive business and operational information. A lack thereof would undermine the competitiveness of EU firms and suffocate entrepreneurial spirit.

NGOs and trade unions responded with a resounding “no”, with 86% of these opposing safeguards of any sort. And although the majority (73%) of private individuals share this belief, 15% percent feel these would be necessary to guard against external competition (from non-EU firms). Another view is that specific measures should be in place to protect SMEs and sunrise industries in the EU.

Q24) Estimate any additional costs firms would face as a result of new transparency measures compared with just the implementation of OECD BEPS 13 at the national level. Identify any information not currently available and consider costs on a) public authorities and b) firms, if any.

Firms estimate that even with specific proposals, it is exceptionally difficult to estimate the cost of complying with new rules. One of Europe’s largest energy conglomerates posits that multinationals will face additional costs stretching into tens of millions of Euros as a result of BEPS 13. Governments participating in the OECD process have agreed to a more limited template (compared to the initial proposal) and flexibility over where data can be gathered from to mitigate some of the additional cost: “Any requirement to provide more granular data over the OECD's proposals, or to publically disclose the information, will likely substantially increase the cost of reporting”. Another firm posits that “reporting itself will cause cost about 1 Million per year for a multinational with 40,000 employees. In Addition - and these expenses will be significantly higher - multinationals will run into double Taxation”.

NGOs quoted a recent poll by PWC (2014) which finds that 59% of business leaders are in favour of publication, suggesting there is limited concern about non-trivial additional costs to businesses. Public CBCR would save tax authorities time and resources by allowing a simple data search via the register. Individuals suggest diverting existing staff to this area to minimise costs. One concluded: “[w]hatever costs in the time and effort of implementing tax transparency measures will be massively outweighed by generating huge incomes from companies formerly paying little or no tax in the EU”.

VI. OPTION E- EU INITIATIVE ON PUBLIC TRANSPARENCY OF CORPORATE TAX POLICY

Q25) Would you support a mandatory description of tax management practices by firms?

Only a very small minority of firms are in favour of this (either in place of or in addition to tax disclosures). The majority of businesses and industry associations (60%) oppose this measure, questioning its usefulness. As one private sector respondent explains: “the usefulness of such a statement to investors and stakeholders depends on its content and the process governing compliance. The option does not specify what would be included in the policy, how it should be governed… There is little evidence that public disclosure of tax management policy has any effect on a firm’s appetite for risky tax behaviour or on public perception of the enterprise”.

The vast majority of NGOs and trade unions support the mandatory description of tax management practices in addition to a full public disclosure of tax payments: “Enterprises should disclose tax policies and tax-related information in their annual report. This policy would provide investors, regulators and civil society with the opportunity to analyse tax-related risks and engage with firms if necessary. It would also represent an opportunity for boards of directors to analyse and manage tax-related risk”.

Although the majority of private individuals (57%) support the disclosure of tax management policies in addition to existing tax-reporting requirements, a significant number expressed scepticism. One individual remarked that consumers, employees, and society at large do not wish to see information that is more likely than not to be biased- since firms devote large amounts of resources to “earnings management” (mostly figures manipulation).

4. FINAL REMARKS AND ADDITIONAL COMMENTS

Q26) Is there anything else you would like to bring to the attention of the Commission, or any other issues you would like to raise?

The Commission Services have analysed and factored into the summary all additional comments that were submitted.