

WRITTEN QUESTION E-6189/08
by Johan Van Hecke (ALDE)
to the Commission

Subject: Proposal for a Council Regulation COM(2007)0746/2 laying down implementing measures for Directive 2006/112/EC

On 28 November 2007, the European Commission adopted the proposal for a Council Directive amending Directive 2006/112/EC as regards the treatment of insurance and financial services (COM(2007)0747/2) and the proposal for a Council Regulation COM(2007)0746/2 laying down implementing measures. The proposals are intended to create more legal certainty as regards the exemptions from VAT for insurance and financial services and also to tackle the problem of 'hidden VAT' (i.e. the accumulation of non-recoverable VAT in a chain of business as arises e.g. when a financial services provider outsources its activities). The proposals address this problem by introducing the concept that the exemption will extend to the supply of any constituent element of an insurance or financial service, which constitutes a distinct whole and has the specific and essential character of the insurance or financial service concerned.

The provision of a credit rating is often carried out by independent third parties (credit rating agencies) in relation to a financial transaction or product. The financial services provider is not normally able to provide such a credit rating itself, and so is not in a position to outsource such a function; the provision of a credit rating constitutes for VAT purposes a primary service of its own supplied by the credit rating agency. The problem of hidden VAT does not arise in relation to the provision of a credit rating. Because the objectives of the aforementioned proposals are to create more legal certainty and to address the problem of hidden VAT, and;

(a) there is no legal uncertainty as regards the treatment of the provision of a credit rating (under current law, it is taxable at the standard rate), and

(b) credit rating agencies are not supplying an outsourced service so the problem of hidden VAT does not arise,

would the European Commission confirm:

1. that the provisions contained in the proposed Council Regulation COM(2007)0746/2 (e.g. Articles 13 and 20) apply only where credit rating services are supplied as part of an outsourcing of activities or a sub-contracting by the relevant financial services provider, and
2. that they do not have the effect of creating an exemption for the provision of a credit rating by an independent third party (such as a credit rating agency)?