

**taxud.c.1(2018)4836676 – Group on the Future of VAT  
GFV N° 072 REV 2**

**COMMENTS OF MEMBER STATES ON THE DRAFT AMENDMENTS TO COUNCIL IMPLEMENTING REGULATION (EU) No 282/2011**

<b>Nr</b>	<b>MS</b>	<b>Article</b>	<b>Comment</b>	<b>TAXUD position</b>	<b>TAXUD comment</b>
1.	AT	5a	In subparagraph. (b) the word “actively” should be deleted or replaced as DK proposed by “by any means”.	Implemented	
2.	AT	5b(1)	We support Alternative 1 with the following adaptations: In para. 1 we suggest deleting “through the electronic interface”. This seems physically not possible and any further restriction of this provision seems counter-productive for us (also with a view to the application of Art. 242a VAT Directive). The words “resulting in a supply” could also be deleted as they seem redundant. The requirement that there needs to be a supply that is “facilitated” is already contained in Art. 14a VAT Directive.	Not implemented	COM believes that the “resulting in a supply through the EI” is needed for “facilitate”, as otherwise a “click-through” would also facilitate a supply. The introductory part of this Article is further clarified in GFV072 Rev2.
3.	BE	5b(1)	We noted a broad agreement in favour of the first alternative, because it seemed broader in scope, puts the burden of proof on the digital platforms and is more future proof than a positive list. We may fully endorse the choice of alternative 1. However, the first sentence received quite some comments (see below). The Commission was not in favour of the suggestion to delete the definition of facilitate while exclusively keeping the exclusions. An interesting suggestion was made by the Finish delegation, which seemed to come down to turning the exclusions into positive conditions. Consequently, and although we may fully endorse the suggested drafting of alternative 1 for the reasons mentioned above, we’ve tried to come up with a positive definition, while ensuring the broad scope and future proof features of the initial draft.	Implemented	Alternative 1 is further used in Article 5b(1) in GFV072 Rev2. The opening sentence is further clarified in GFV072 Rev2.
4.	BE	5b(1)	Proposed drafting for Article 5b(1)	Not implemented	Following discussions on 13 June, a new revised drafting of Art. 5b(1) is provided in GFV072 Rev2.

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5.	IT	5b(1)	<p>1) The definition of the term facilitate for the purpose of Article 14a – paragraph 1 of article 5b of the VAT Implementing Regulation, definition of the scope of Article 14a.</p> <p>We prefer the first alternative (a negative list of functions excluding only a limited number of business models) for reasons of coherence with article 9a of the Implementing Regulation n. 282/2011. Moreover, the negative list is sufficiently broad to include most of the transactions in which the platforms act as facilitators and this kind of wording is similar to the one used by OECD (even though in a positive sense). The second alternative is more restrictive in scope: it is based on taxonomies or specific cases that could become rapidly obsolete due to evolution of the business models, giving also rise to litigation procedures when implemented.</p>	Implemented	Alternative 1 is used in GFV072 Rev2. Following discussions on 13 June, a new revised drafting of Art. 5b(1) is provided in GFV072 Rev2.
6.	EL	5b(1)	The Greek delegation proposes alternative 1 for the sake of legal certainty but considers that a better wording should be provided by the Commission.	Implemented	Alternative 1 is used in GFV072 Rev2. Following discussions on 13 June, a new revised drafting of Art. 5b(1) is provided in GFV072 Rev2.
7.	PL	5b(1)	<p>Alternative 1 and text improvement. Alternative 2 to be provided in explanatory Notes</p> <p>[...]In our view a list of conditions that must all be met to be excluded from the scope of Article 14a of Directive 2006/112/EC (the so called negative criteria list), currently included in Article 5b(1), should be extended to cover also the following activities:</p> <ul style="list-style-type: none"> <li>- the lack of direct or indirect involvement in fulfilment or storage of the goods;</li> <li>- the lack of direct or indirect involvement in customer support services such as assisting with returns or exchanges of the goods, assisting with refunds, customer dispute resolution, customer care regarding queries in relation to the underlying supply.</li> </ul> <p>The negative criteria list is better in a separate paragraph, i.e. 5b(2)</p>	Partially implemented	Alternative 1 is used in GFV072 Rev2. Following discussions on 13 June, a new revised drafting of Art. 5b(1) is provided in GFV072 Rev2. Adding the two further conditions would complicate the scheme.

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8.	IT	Question 2	2) What is the VAT treatment of the B2B supply between a non-EU established supplier and the electronic interface? Since it seems necessary to modify the VAT Directive, we consider that the second solution (possible exemption with the right to deduction) would be the best one. Also the OECD solution appears efficient, given the need to modify the Directive.	To be discussed	COM initiated the internal steps to propose a change in the VAT Directive → exempt with right of deduction. See GFV077
9.	EL	Question 2	The Greek delegation prefers the reverse charge mechanism but can also accept the alternative solution if it is chosen by the majority of the other delegations.	Implemented	Further text improvements in Art. 5b - see GFV072 Rev2.
10.	EL	5b(2), (3) and (4)	Greek delegation agrees with the Commission's proposals for paragraphs 2, 3 and 4 of the Article 5b of the VAT Implementing Regulation.	Implemented	Further text improvements in Art. 5b - see GFV072 Rev2.
11.	AT	5b(2)	Subparagraphs b. and c. of para. 2 could be deleted as they are merely declarative when applied with Alternative 1. Contrary, para. 2 subparagraph a. may still have relevance.	To be discussed	Paragraph 2 could be moved in the Explanatory notes. This paragraph 2 is in [] in the revised text in GFV072 Rev2.
12.	PL	5b(2)	In turn, we believe that a more suitable place for a catalogue of activities that in itself (if not combined with other functions) are not implemented to give electronic interfaces the capacity to be covered by the deemed supplier regime, currently included in paragraph 2 of Article 5b, would be paragraph 1 of this Article. In general, we are of the view that such a catalogue could be retained in the implementing regulation to provide business with greater legal certainty. Such rules would ensure that certain electronic interfaces, which may be often involved in the underlying supply but to the very limited extent (e.g. entities solely providing access to a payment system or payment processing), are not regarded as interfaces facilitating the underlying supply within the meaning of Article 14a of Directive 2006/112/EC.	To be discussed	This paragraph 2 is in [] in the revised text in GFV072 Rev2.

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13.	AT	5b(3)	The content of para. 3 may be better placed in the recitals and/or explanatory notes. If left in the Regulation it may have a negative effect on provisions where this is not explicitly mentioned.	Implemented	Paragraph 3 deleted from GFV072 Rev2. To be implemented in the Explanatory notes.
14.	AT	5b(4)	In para. 4 (a) the words “or the information available on VAT rates provided by the tax authorities” should be deleted. In subparagraph. (c) we suggest using “did not know or should not have known”. Furthermore, the recitals should contain a wording that taxable persons can rely on third party information (including the applicable tax rate) insofar as they have applied normal business checks on their plausibility.	Implemented	Suggestions implemented in GFV072 Rev2, now para 3. Note taken for the internal controls either in recitals or the Explanatory Notes.
15.	AT	54b	We agree with the Commission that the part in square brackets could be deleted. Furthermore, we suggest adding the following points to this provision: nature of the goods; supply date (or if not available date of acceptance of payment; for both goods and services); returned goods (from which destination, value, nature); maybe even place of departure of goods, where available (to check whether there is no case of Art. 14a)	Partially implemented	Renumbered Article 54a Part in [] to be provided in the Explanatory notes. Elements added: Description of goods; time of supply for goods & services Elements not added: Returned goods, place of departure – this information not readily available in all platforms. Place of departure not relevant as Article 242a applies to Article 14a(2) - domestic and EU supplies
16.	IT	54b	The record keeping obligations under Article 242a. We suggest to add the following information to the set of mandatory information required by tax authorities: - date of supply (this element is already cleared up in Article 41b of the implementing regulation, but it would be appropriate that it is kept and provided to the tax authority) - country where goods are located at the time of sale (this information would be useful to exclude an importation)	Partially implemented	Renumbered Article 54a Part in [] to be provided in the Explanatory notes. Elements added: description of goods; time of supply for goods & services Elements not added: country where goods are located – this information

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			- type of goods; type of service (this information could be necessary to determine the tax rate)		not readily available in all platforms. Information not relevant as Article 242a applies to Article 14a(2) - domestic and EU supplies
17.	EL	54b	The Greek delegation agrees with the Commissions' approach	Implemented	Renumbered Article 54a Part in [] to be provided in the Explanatory notes.
18.	AT	57a	In para. 3 it seems that the first "and/or" needs to be replaced by a comma and the "and/" of the second "and/or" should be deleted. If more than one scheme is meant, the regulation should (and does) use the plural, i.e. special schemes.	Implemented	
19.	IT	57a	Definition of "intrinsic value": we are in favour of identifying only one definition of "intrinsic value", that should be valid for both customs and VAT purposes. The term "intrinsic value" is used in the duty relief regulation (Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty), but here it is not specifically defined one single definition would give certainty to all the persons involved in online sales in the application of exemptions on duties and taxes.	Not implemented	The conclusion of the discussion at the GFV of 13 June 2018 was that a definition of "intrinsic value", if required, has to be included in customs legislation or the concept has to be clarified in explanatory notes.
20.	AT	57b	In para. 2 the wording "are carried out" should be replaced by a more precise wording.	Implemented	
21.	PL	57b(2)	Pursuant to the proposed Article 57b(2) of IR 282/2011 „Where a taxable person not established within the Community uses the Union scheme for intra-Community distance sales of goods, the Member State from which intra-Community distance sales of goods are carried out shall be the Member State of identification”. In document GFV 072 REV 1 the Commission explained that a second paragraph was added to determine the Member State of Identification (MSI) for a taxable person not established in the EU aiming to use the Union scheme to declare intra-EU distance sales of goods. However, Article 369a(2) of Directive 2006/112/EC clearly states that MSI means	Implemented	And amendment to the VAT Directive will be proposed to correct this inconsistency (see GFV No 077).

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			<p>either (i) the Member State where the taxable person has established his business or (ii) where he has a fixed establishment. This provision does not foresee that MSI can also be the MS from which the taxable person not established within the Community carries out intra-EU distance sales of goods. It is important to note that Directive 2017/2455 does not modify paragraph 2 of Article 369a.</p> <p>Against this background, we were wondering whether the Commission is not concerned that one may claim that the proposed Article 57(b) of IR 282/2011, may not be in line with Directive 2006/112/EC, by going beyond the scope of Article 369a(2) of this Directive?</p>		
22.	LU	57d(2)	<p>In SCIT documents 179 and 181, it is suggested to have a pre-registration phase during the last calendar quarter of 2020. Such a pre-registration phase would mean that a trader can register during Q4-2020, the IOSS scheme only being applicable as from 1st of January 2021. Art. 57d(2) however advocates that the IOSS shall apply as from the day the taxable person has been allocated the individual VAT identification number. If a pre-registration phase is retained, should there not be a legal provision as was done for MOSS (Art. 2 of Council Regulation (EU) No 967/2021 of 9 October 2012 amending Implementing regulation (EU) No 282/2011)? If no legal provision is provided, how will a pre-registration phase to IOSS work given the current wording of Art. 57d(2)? Does the Commission argue as follows: as IOSS does not exist from a legal point of view prior to 2021, it is obvious that for IDs allocated in Q4-2020, IOSS will only be applicable as from 1st of January 2021.</p> <p>Will Member States have to transmit the pre-registered IOSS numbers to the central repository (Art. 3(4) of amended COM IR 815/2012) ahead of 1st of January 2021? That would to LU's understanding be necessary as a pre-registered trader might send a parcel mentioning the IOSS number before end of December 2020 (use of IOSS number before existence of the special scheme and thus in theory not permitted) whereby the parcel arrives in the EU on 1st of January 2021.</p>	Implemented	See Article 2 added in Annex 1.

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23.	AT	57e	<p><u>Intermediary registration</u></p> <p>We do not see the necessity to introduce a new identification number for intermediaries. This would only create further complexity. Instead we suggest connecting the “role” of intermediary to the VAT identification number pursuant to Art. 214 (as is done currently with the right to use the EU-scheme of the MOSS). Admittedly, this may require creative interpretation of Art. 369q(2) VAT Directive but in our view would be worth it.</p>	To be discussed	This approach may indeed be simpler, but requires a change in the VAT Directive.
24.	LU	57e	<p>Art. 369q(2) refers to an individual identification number and not to an individual VAT identification number as Art. 369q(1). To my understanding no clarification is needed.</p> <p>However, as an intermediary might also be registered as a trader to one of the special schemes, he should, upon registration, fill in box 21 of the registration form (COM IR 815/2012, Annex I, Column E in GFV N° 073 REV1).</p>	To be discussed  Implemented	<p>Most MS are in favour of such a clarification.</p> <p>An intermediary could indeed be registered as a user of one of the special schemes. Box 21 will be completed accordingly in GVF No 073 REV2.</p>
25.	LU	57f(2)	<p>During the meeting the Commission raised the following question: What happens to import goods on the road in case of a change of MSI?</p> <p>Some Member States advocated that the former IOSS number shall remain valid for some time.</p> <p>To LU’s understanding that solution entails the risk of a taxable person having two MSIs at the same time which is not in line with implicit unicity constraint of an MSI (Art. 369l, 2nd paragraph, sub (3)).</p>	Not implemented	Unlike in the current MOSS for services, there are two taxable events in the import scheme (supply and importation) which take place consecutively. Hence the need for such provision.
26.	AT	57g and 58(2)	<p>If an intermediary gets excluded, generally, he should inform the MSI 15 days before the end of the month prior to that in which he intends to cease using the scheme. The MSI could/should upon receipt of this information inform the represented taxable persons, that they need to find a new intermediary (or to start using the IOSS themselves if they are established in the Union) until the beginning of the next month. If during that time period, the taxable person gets a new intermediary with the same MSI (or if the taxable person himself uses the OSS with the same MSI) one could allow him to continue using his IOSS number. If,</p>	Not implemented	This is not foreseen as the intermediary is not using the special scheme himself.

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			<p>however, the taxable person chooses an intermediary that is identified in a different Member State than his old intermediary, the old IOSS number should be deleted and a new IOSS-number should be allocated by the new MSI. In this case, it seems reasonable to still allow imports with the old IOSS number for a couple of days (in case they have already been sent away with the old IOSS number before the end of the month but have not yet passed customs).</p> <p>If the intermediary has persistently failed to comply with the rules related to the import scheme, one could think about a grace period during which the taxable person could get a new intermediary. This should, however, not be longer than 15 days, only apply in bona fide cases, and only if any tax undeclared or still due is declared and paid within this period.</p> <p>Regarding the quarantine period in case of voluntary deregistration in general, we would not oppose its deletion. In any case, the rules for this quarantine period should be the same for all schemes.</p>		<p>This has not been provided for as we are in a situation of non-compliance of the intermediary.</p> <p>Noted. The Quarantine period of removed in the new draft in Annex 1.</p>
27.	LU	57g(2)	LU agrees that this deadline for a taxable person to inform that he intends to cease using is 15 days before the end of the month for the Import scheme.	Implemented	Noted.
28.	LU	57g	<p>The original idea behind a quarantine period was to prevent MSI shopping within the context of Union and non-Union scheme, to limit the switch of MSI to the business cases linked to a change of business structure of the taxable person covered by Art.57f. On the one hand taxable persons registered to the non-Union scheme are less probable to constantly change the MSI, on the other hand taxable persons registered to the Union scheme, having their place of business in EU or outside of the EU (whereby they have one or more fixed establishments in EU) can still avoid the quarantine period of Art. 57g(1) by invoking the exclusion reason foreseen in Art. 57f.</p> <p>Removing the quarantine period will encourage change of MSI, as such MSI shopping. Isn't the exclusion reason provided for in Art. 57f denatured? How force the taxable person to fill in the correct reason</p>	Not implemented	This is rather a control issue.



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			<p>(such as a transfer of the place of business from LU to FR) when the exclusion reason of Art. 57g(1) does not foresee a quarantine period anymore? Will taxable persons not be tempted to provide as exclusion reason Art. 57g as there is no consequence anymore to providing wrong information?</p> <p>To LU's understanding would be a situation not to be encouraged from a tax audit perspective. Why authorise taxable persons from non-Union scheme and those not established in the EU making use of the Union scheme for intra-EU distance sales [Art. 57b(2)] as well as from the Import scheme to constantly change MSI?</p>		
29.	LU	57g	Under MOSS the reason for expressing the quarantine period in calendar quarters was that the return period was a calendar quarter. As the return period in IOSS is a month, why is the quarantine period not expressed in months, that is in return periods applicable to IOSS?	Not implemented	The quarantine period is removed in the new draft.
30.	LU	57g	Development has already be done in MOSS for Union and non-Union scheme. Abolishing the already implemented quarantine period will generate extra IT development costs.	Not implemented	
31.	LU	58	<p><u>On the exclusion of an intermediary:</u></p> <p>Should there not be a broader discussion on this topic of appointment/non-appointment of an intermediary? A similar discussion should be launched within the context of Art. 369r(3.)(e), that is when an intermediary notifies MSI that he no longer represents the taxable person. Will the taxable person be excluded as requested by VAT DIR (as he does not fulfil the conditions to be in anymore if not established in EU and not a country outside EU with whom EU has a mutual assistance agreement) or will he be given the same opportunity as in case the intermediary is deleted from the identification register. As an intermediary may as well represent a taxable person established in EU (e.g. an LU-established trader represented by an LU-established intermediary), this taxable person would have the choice to either appoint a new intermediary or not to rely on an intermediary anymore.</p>	Implemented	See amendments to Article 58.

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			<p>How will this use case be taken into account?            What if the intermediary changes MSI [Art. 57f(2.)] and some of the taxable persons represented by him do not want to follow? Will they have to be excluded or will these traders be given some time to appoint a new intermediary?            If the taxable person and his intermediary have a continuous disagreement, why does the taxable person have to rely on the intermediary to state that the latter one does not represent the taxable person anymore [Art. 369r(3)(e)]? What if the intermediary refuses to do that declaration? Is the taxable person then blocked from changing/choosing another intermediary to represent him?</p>		
32.	PL	58	<p>Concerns regarding the lack of a uniform approach in terms of dates as of which exclusion /deletion from the import scheme becomes effective. In accordance with the proposed Article 58(1)(4) of IR 282/2011 an exclusion of a taxable person from the import scheme shall be effective as from the first day of the calendar quarter following the day on which the decision on exclusion is sent by electronic means. In turn, pursuant to the proposed Article 58(2)(4) a deletion of an intermediary from the import scheme is effective as from the first day of the month following the day on which the decision on deletion is sent by electronic means.            In light of the above, it is not clear to us why Article 58 draws distinction between the taxable person and intermediary with respect to the date as of which the exclusion /deletion from the import scheme is effective. We are of the view that in both of these instances the exclusion /deletion should be effective starting from the first day of the month following the day on which the decision was sent, because under the import scheme the tax period is one month.</p>	Implemented	See new text of Article 58(3).
33.	LU	58(1)	<p><u>Date when exclusion becomes effective:</u>            The legal provision applies, amongst others, to IOSS for which there is a monthly return period according to Art. 369s VAT DIR. Does it make any sense to un-correlate the effective exclusion (first day of the calendar quarter following the day on which the decision on exclusion was sent)</p>	Implemented	See new text of Article 58(3).

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			<p>from the return period in IOSS. Imagine e.g. that MSI excludes the taxable person as it is assumed that this taxable activities have ceased [Art. 369r(1)(b) VAT DIR] on 10/01/2022, the exclusion would only become effective on 01/04/2022 and the taxable person would still have to submit his monthly VAT return for February and March 2022. This effective exclusion date makes sense for Union and non-Union scheme where return periods are based on calendar quarters but is unreasonable within the context of IOSS.</p> <p>It should be differentiated that in case of IOSS the “The exclusion shall be effective as from the first day of the month following the day on which the decision on exclusion is sent by electronic means to the taxable person...”. The suggested wording would be in line with the legal provision of Art. 57g(2), 1st subparagraph, last sentence (“Cessation shall be effective as of the first day of the next month [...]”). In line as well with the deletion date of an intermediary provided for in paragraph 2 of the present article. To my understanding there is simply no objective reason to treat these similar situations differently.</p> <p>Maybe the best solution is to replace the highlighted wording by “exclusion shall be effective as from the first day of the return period following [...]”.</p>		
34.	LU	58(2)	<p><u>Suspension of VAT Id nrs of taxable persons when intermediary is excluded</u></p> <p>To LU’s understanding there should be a legal provision. Otherwise taxable persons not established within the EU, whereby their country of establishment has no mutual assistance agreement with the EU, would not fulfil the conditions required for use of IOSS [Art. 369m(1) VAT DIR]. Consequence would be immediate exclusion, wouldn’t it?</p> <p>Might the reason for rendering an exclusion of a taxable person belonging to IOSS effective only on the first day of the calendar quarter following the day on which decision was sent to taxable person or his intermediary [paragraph 1 of the present article] to prevent immediate exclusion of a taxable person upon deletion of his elected intermediary?</p>	Implemented	See new draft of Article 58(4)

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35.	LU	58(2)	<p><u>Information of taxable persons when intermediary is excluded</u></p> <p>Taxable persons have to be informed as without any additional provision deletion of the intermediary will entail that taxable persons do not fulfill the criteria of using the IOS (refer to previous comment).</p> <p>Upon registering a taxable person, the intermediary does provide the email address of the taxable person [Art. 369p(3)(c) VAT DIR and Annex I of amended COM IR 815/2012]. Hence: When deciding the deletion of an intermediary, the MSI shall address the decision, by electronic means, not only to the intermediary but to each and every taxable person represented by the intermediary. Some of the taxable persons will have to name a new intermediary in order to continue to use the IOSS, others can either get a new intermediary or choose to use IOSS without being represented by an intermediary anymore.</p>	Implemented	See new draft of Article 58(4)
36.	LU	58(2)	First subparagraph: the legal provision uses the term 'intermediary person' instead of the term 'intermediary' from the VAT Directive.	Implemented	The word 'person' is deleted.
37.	LU	58(2)	4 <sup>th</sup> subparagraph: the same date should be retained in paragraph 1 for taxable persons registered either by themselves or via an intermediary to IOSS.	Implemented	See new text of Article 58(3).
38.	LU	58(2)	<p>OK with the suggestion provided that the effective exclusion date is modified in paragraph 1 for traders in IOSS. LU assumes that the word “re-activate” means that under 1) COM retains that a taxable person is not immediately excluded in the sense of paragraph 1 as well as Art. 369r(3) and that the use of IOSS is only “suspended/invalidated” [wording in question 1)]. However, is such a provision in line with the essence of the VAT DIR, namely Art. 369m(1)?</p> <p>The projected deadline of a month to assign a new intermediary means to LU’s understanding that no imports of goods can be performed during that period under IOSS. Is that understanding correct?</p> <p>LU disagrees with reallocating a new individual VAT identification number to a trader if he does not designate a new intermediary within a given timeframe. To LU’s understanding the individual VAT identification</p>	Not implemented	Re-activation of IOSS VAT identification numbers has not been foreseen.

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			number is a unique identifier of a taxable person using the IOSS and as such not at all linked to a peculiar intermediary by whom the trader was represented at a given moment in time. There is no objective reason for reallocating a new IOSS VAT number to the trader as the taxable person remains the same legal person/entity.		
39.	LU	58a	Given that IOSS return period is a month wouldn't it be preferable to replace "eight consecutive calendar quarters" by two years. To my understanding 8 quarters was perfectly fitted for MOSS as return periods in Union and non-Union scheme were calendar quarters; quarantine periods were always expressed in return periods. Wasn't that the reason behind the replacement of the quarantine period expressed in calendar quarters by a quarantine period expressed in years within the context of Art. 58b(1.) as the legal provision applies to all three special schemes?	Implemented	Replaced by 'two years'
40.	LU	58b(1)	Second subparagraph: Why is this deadline expressed in absolute time whereas for taxable person it is in 1st subparagraph expressed in return periods?	Implemented	
41.	LU	58b(2)(c)	To LU's understanding this wording might not be in line with provisions of Art. 47i of amended CR 904/2010. According to the cited article the first request of records has to be addressed by the Member State of consumption to the Member State of identification [Art. 47i(1.) CR 904/2010]. When the requesting Member State of consumption does not receive the records within 30 days of the request to the Member State of identification, that Member State may take any action according to its national law [Art. 47i(5.) CR 904/2010]. The highlighted wording of Art. 58 (2.) (c) does not match the sequence specified in Art. 47i(1.) CR 904/2010 as the wording advocates that a first request can be initiated by the Member State of consumption and that the Member State of identification issues a reminder of that request.	To be discussed	See suggested changes in Articles 58b and 63c.
42.	LU	59(3)	"or" To be replaced by "and" to render the provision meaningful.	Not Implemented	

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43.	AT	61	We would have a preference for a clean cut (i.e. for instance that corrections to a 2019 return can be made in the 2021 return).	Implemented	See comment 45.
44.	LU	61(1)	<p>Explanation is not right: Under MOSS a VAT return related to Q1-2018 has to be submitted for 20th of April 2018 at the latest (Art. 364 and 369f VAT DIR). That VAT return can be amended “within 3 years of the date on which the initial return was required to be submitted” [Art. 61(2.) of amended CR 282/2011]. As the return Q1-2018 was due on 20th of April 2018, that return can be corrected up to the 20th of April 2021 (20th of April 2018 + 3 years)!</p> <p>Hence: As the submission deadline of the return relating to return period Q4-2017 is 20th of January 2018, that return can still be corrected up to 20th of January 2021 (20th of January 2018 + 3 years).</p> <p>Thus, after 1st of January 2021, the following quarterly MOSS returns can be corrected Q4-2017 up to Q4-2020 and not Q1-2018 until Q4-2020!</p>	Implemented	The text of the explanation has been amended.
45.	LU	61(1)	LU is in favour of two systems. 2017 and 2018 imply retentions by MSI on VAT amounts paid by taxable persons to MSI, hence the need to maintain the prior-2021 reimbursement process. Option 2 is preferred (text in square brackets).	Implemented	The first option is deleted in Annex 1.
46.	LU	61a(1)(c)	Reference shall be Article 57f(1).	Implemented	
47.	LU	61a(1)	The taxable person being excluded from the scheme he opted for and having submitted his final VAT return, how will he declare amendments to previous VAT returns or to the final VAT return as there is no more subsequent return he can rely on?	To be discussed	The same issue arises under the current MOSS system. The OSS VAT return distinguished between new supplies and corrections. This is rather an IT issue. A possible solution could be to make it technically impossible to use the parts of the VAT return for new supplies in case of exclusion and to continue allowing only the use of the part for corrections.

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48.	LU	61a(2)	Delete the word "and" to align wording to paragraph 1.	Implemented	The word 'and' is re-inserted in 61a(1)
49.	AT	62	We are not sure whether the last sentence of this provision is compatible with the new adjustment rules.	Not implemented	This provision is not about corrections but only about adjustments to payments (e.g. when the amount paid by a taxable person is lower than the VAT due following the VAT return).
50.	LU	63	<p>Comment is not correct and shall read: “The third paragraph must be kept as it will still be relevant for possible corrections to returns relating to periods as from Q4-2017 up to Q4-2018.”</p> <p>Reason:</p> <p>Under MOSS a VAT return related to Q1-2018 has to be submitted for 20th of April 2018 at the latest (Art. 364 and 369f VAT DIR). That VAT return can be amended “within 3 years of the date on which the initial return was required to be submitted. As the return Q1-2018 was due on 20th of April 2018, that return can be corrected up to the 20th of April 2021 (20th of April 2018 + 3 years)!</p> <p>Hence: As the submission deadline of the return relating to return period Q4-2017 is 20th of January 2018, that return can still be corrected up to 20th of January 2021 (20th of January 2018 + 3 years).</p>	Implemented	
51.	LU	63a	<p>Third subparagraph:</p> <p>The subsequent reminders gave rise to some issues in MOSS and a recommendation by COM that almost no MS respected: Often MSC emit subsequent reminders almost immediately, that is without waiting of being informed by MSI whether the taxable person paid the outstanding VAT debt within 10 days of the issuing of the payment reminder.</p> <p>E.g. Union and non-Union scheme the submission deadline of VAT return for Q1 is 30th of April (Art. 364 and 369f VAT DIR) whereby a payment reminder is issued by MSI on 10th May. Provided that the taxable person pays his outstanding VAT to MSI, the MSCs will only be</p>	Not implemented	This is an issues that should rather be addressed in explanatory notes or in guidelines to be agreed between MS.

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			<p>informed on 20th of June at the latest of eventual payments [Art. 47f of amended CR 904/2010 – transmission of the payment information relating to payments received from taxpayers in May will happen until the 20th of June at the latest].</p> <p>To my understanding postponing the emission of subsequent payment reminders by MSC to the deadline of a receipt of payment information on outstanding debt increases legal certainty for taxable persons.</p> <p>The earliest dates for emission of subsequent payment reminders by MSC would be in case of Union and non-Union schemes: 20/06/Year (Q1-Year), 20/09/Year (Q2-Year), 20/12/Year (Q3-Year) and 20/03/(Year+1) (Q4-Year).</p> <p>Similarly: In case of IOSS for M1 the return has to be submitted for end of February at the latest, the MSI payment reminder being emitted on 10th of March. MSC shall wait until receipt of the payment information message related to March, that is until 20th of April, before emitting a subsequent payment reminder.</p>		
52.	PL	63c	<p>Concerns regarding the possible deletion of the customer's name, where known to the taxable person, from the records to be kept.</p> <p>We are of the view that prior to the possible deletion of a requirement to include the name of the customer, where known to the taxable person, in the record kept under Article 63c, it should be examined whether (and to what extent) this information may be useful, particularly for audit purposes as well as to handle returns of goods. In this context one should bear in mind that as from the customs authorities' perspective the customer is the recipient of the goods, his data will be most likely included in the customs declaration.</p>	Not implemented	See explanation in Annex 1.
53.	AT	63c(1)	<p>The place where the dispatch or transport of the goods begins should be added, together with the information used to determine it. One could further consider adding proof of transport.</p>	Implemented	



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54.	AT	63c(3)	In Art. 63c(3) it should read that the information shall be recorded “by the taxable person and the intermediary”. This would better reflect Art. 369x and may be important in case the intermediary turns out not to be reliable.	To be discussed	