

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COUNCIL

Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes*(2021/C 413 I/01)*

The Council of the European Union,

1. UNDERLINES the importance of promoting and strengthening of tax good governance mechanisms, fair taxation, global tax transparency and fight against tax fraud, evasion and avoidance, both at the EU level and globally;
2. APPRECIATES the continuous productive cooperation on tax matters between the EU Code of Conduct Group on Business Taxation ("Code of Conduct Group") and most jurisdictions around the world;
3. WELCOMES the progress in the relevant jurisdictions through the active steps taken by the agreed deadlines and new commitments taken towards resolving the deficiencies that the Code of Conduct Group had identified;
4. REITERATES that the effective exchange of information with all Member States is a condition for Turkey to fulfil criterion 1.1 of the EU list; in this regard RECALLS its conclusions of 18 February 2020 and 22 February 2021; TAKES NOTE of the commitment by the Government of Turkey of 19 May 2021 to effectively activate automatic information exchange relationships by 30 June 2021 with all Member States with which Turkey has diplomatic relations; also NOTES the steps taken to activate exchange relationships with some additional Member States by Turkey; UNDERLINES that further engagement and technical work on effective exchange of data from Turkey to all Member States will be required to meet the agreed international standards and fully comply with the conclusions of the Ecofin Council of 22 February 2021; TAKES NOTE that the progress made by Turkey is still not fully in line with the commitments required under the above mentioned conclusions. REITERATES that information for fiscal years 2020 and 2021 and onwards has to be sent according to the OECD calendar and standards for automatic exchange of information with all Member States; CALLS on Turkey to urgently begin or to continue bilateral technical work with Member States and solve outstanding technical issues to effectively exchange data as soon as possible, but no later than 31 December 2021; CONSIDERS that practical steps in the field of effective exchange of information are an issue of common interest that would contribute to tax-cooperation between the EU and Turkey; INVITES the Group to continue following closely the technical progress concerning the effective exchange of information with all Member States; INVITES the Group to inform the Council about developments in this regard and to continue maintaining and strengthening the dialogue and the technical follow-up on the implementation of effective exchange of data with Turkey in line with the agreed international standards and to address the outstanding issues where no progress has been made; CONSIDERS that only effective automatic exchange of information with all Member States would have been sufficient to fulfil requirements under the above mentioned Council conclusions; RECALLS the February 2021 Council conclusions and the importance of ensuring the effective exchange of tax information with all EU Member States;

5. REGRETS that some jurisdictions have not taken sufficient steps to implement their commitments by the agreed deadline, or engaged in a meaningful dialogue that could lead to such commitments and INVITES these jurisdictions to engage with the Code of Conduct Group in order to resolve the remaining issues;
 6. APPROVES the COCG Report set out in doc. 12212/21;
 7. APPROVES accordingly the revised EU list of non-cooperative jurisdictions for tax purposes ('EU list') set out in Annex I;
 8. ENDORSES the state of play set out in Annex II with respect to commitments taken by cooperative jurisdictions to implement tax good governance principles.
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ANNEX I

The EU list of non-cooperative jurisdictions for tax purposes**1. American Samoa**

American Samoa does not apply any automatic exchange of financial information, has not signed and ratified, including through the jurisdiction they are dependent on, the OECD Multilateral Convention on Mutual Administrative Assistance as amended, did not commit to apply the BEPS minimum standards and did not commit to addressing these issues.

2. Fiji

Fiji is not a member of the Global Forum on transparency and exchange of information for tax purposes ('Global Forum'), has not signed and ratified the OECD Multilateral Convention on Mutual Administrative Assistance as amended, has harmful preferential tax regimes, has not become a member of the Inclusive Framework on BEPS or implemented OECD anti-BEPS minimum standard, and has not resolved these issues yet.

3. Guam

Guam does not apply any automatic exchange of financial information, has not signed and ratified, including through the jurisdiction they are dependent on, the OECD Multilateral Convention on Mutual Administrative Assistance as amended, did not commit to apply the BEPS minimum standards and did not commit to addressing these issues.

4. Palau

Palau does not apply any automatic exchange of financial information, has not signed and ratified the OECD Multilateral Convention on Mutual Administrative Assistance as amended, and has not resolved these issues yet.

5. Panama

Panama does not have a rating of at least 'Largely Compliant' by the Global Forum on Transparency and Exchange of Information for Tax Purposes for Exchange of Information on Request and has not resolved this issue yet. Panama has a harmful foreign-source income exemption regime and has not resolved this issue yet.

6. Samoa

Samoa has a harmful preferential tax regime and has not resolved this issue yet.

7. Trinidad and Tobago

Trinidad and Tobago does not apply any automatic exchange of financial information, does not have a rating of at least 'Largely Compliant' by the Global Forum on Transparency and Exchange of Information for Tax Purposes for Exchange of Information on Request, has not signed and ratified the OECD Multilateral Convention on Mutual Administrative Assistance as amended, has harmful preferential tax regimes, and has not resolved these issues yet.

8. US Virgin Islands

US Virgin Islands does not apply any automatic exchange of financial information, has not signed and ratified, including through the jurisdiction they are dependent on, the OECD Multilateral Convention on Mutual Administrative Assistance as amended, has harmful preferential tax regimes, did not commit to apply the BEPS minimum standards and did not commit to addressing these issues.

9. Vanuatu

Vanuatu does not have a rating of at least 'Largely Compliant' by the Global Forum on Transparency and Exchange of Information for Tax Purposes for Exchange of Information on Request, facilitates offshore structures and arrangements aimed at attracting profits without real economic substance and has not resolved these issues yet.

ANNEX II

State of play of the cooperation with the EU with respect to commitments taken by cooperative jurisdictions to implement tax good governance principles**1. Transparency****1.1. Commitment to implement the automatic exchange of information, either by signing the Multilateral Competent Authority Agreement or through bilateral agreements**

The following jurisdiction is expected to effectively exchange information with all 27 Member States according to the timeline referred to in paragraph 6 of the Council conclusions of 22 February 2021 and paragraph 4 of the Council conclusions of 5 October 2021.

Turkey**1.2. Membership of the Global Forum on transparency and exchange of information for tax purposes ('Global Forum') and satisfactory rating in relation to exchange of information on request**

The following jurisdiction, which committed to have a sufficient rating by the end of 2018, is waiting for a supplementary review by the Global Forum:

Turkey

The following developing country without a financial centre, which committed to have a sufficient rating by the end of 2019, is waiting for a supplementary review by the Global Forum:

Botswana

The following jurisdictions are waiting for a supplementary review by the Global Forum:

Anguilla, Barbados, Dominica, Seychelles**1.3. Signatory and ratification of the OECD Multilateral Convention on Mutual Administrative Assistance (MAC) or network of agreements covering all EU Member States**

The following developing countries without a financial centre, which have made meaningful progress in the delivery of their commitments, were granted until 31 December 2021 to ratify the MAC:

Thailand**2. Fair Taxation****2.1. Existence of harmful tax regimes**

The following jurisdictions, which committed to amend or abolish their harmful foreign-source income exemption regimes, were granted until 31 December 2022 to adapt their legislation:

Costa Rica, Hong Kong, Malaysia, Qatar, Uruguay

The following jurisdictions, which committed to amend or abolish preferential tax regimes in the scope of the FHTP, were granted until 31 December 2022 to adapt their legislation:

Jamaica, Jordan, North Macedonia, Qatar
