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European Union

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PV/CONS 68
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DRAFT MINUTES

Subject: **3356th** meeting of the Council of the European Union (**ECONOMIC AND FINANCIAL AFFAIRS**) held in Brussels on 9 December 2014

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¹ Deliberations on Union legislative acts (Article 16(8) of the Treaty on European Union), other deliberations open to the public and public debates (Article 8 of the Council's Rules of Procedure).

LEGISLATIVE DELIBERATIONS

(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

"A" ITEMS

1. Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (LA + S)

14425/14 FISC 162 ECOFIN 932

+ COR 1 (bg, cs, de, et, fi, hr, hu, lt, pl, pt, ro, sk, sl, sv)

+ COR 2

+ REV 1 (cs)

The Council adopted the above Directive by unanimity. (Legal basis: Article 115 of the Treaty on the Functioning of the European Union)

Statement by Austria

"Austria commits to undertake its best efforts to ensure that – if it is technically feasible – automatic exchange of information on the basis of the revised Directive on Administrative Cooperation will be implemented earlier than 30 September 2018."

Statement by the Council

"Taking into account the Council conclusions of 22 May 2013, and in order to achieve a smooth transition to the new single global standard, the Council invites the Commission to present a proposal to repeal the Savings Taxation Directive (2003/48/EC of 3 June 2003), as amended, and to coordinate the repealing of that Directive with the date of application of the revised Directive on Administrative Cooperation with due regard to the derogation provided therein for Austria. In this respect, it should be ensured that Directive 2003/48/EC of 3 June 2003 continue to apply to this Member State during the derogation period."

Statement by the Council

"The Council confirms the importance of revising the existing EU savings agreements with Andorra, Liechtenstein, Monaco, San Marino and Switzerland to bring them into line with the Global Standard on automatic exchange of information."

2. Proposal for a Council Directive amending Directive 2011/96/EU on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States

– Political agreement

16435/14 FISC 221 ECOFIN 1157

approved by Coreper, Part 2, on 03.12.2014

The Council has reached a political agreement on the draft Directive, as set out in the Annex I to doc. 16435/14, with a view to adopting the Directive, subject to legal-linguistic revision, as an "A" item on the agenda of a forthcoming Council and agreed to enter into the minutes of its meeting the three statements set out in the Annex II and III to that document.

1. Draft Council Statement

"In applying the anti-abuse provision in Directive 2011/96/EU, Member States will endeavour to inform each other, under the existing EU legal instruments, when information may be useful to the other Member State."

2. Draft Council Statement

"The Council will take into consideration the anti-abuse provision in Directive 2011/96/EU in its future work on a possible anti-abuse provision to be included in Directive 2003/49/EC."

Statement by the Commission

"The Commission confirms that the proposed amendments to Article 1, paragraph 2 of the Parent Subsidiary directive are not intended to affect national participation exemption systems in so far as these are compatible with the Treaty provisions".

3. Proposal for a Directive of the European Parliament and of the Council on payment services in the internal market and amending Directives 2002/65/EC, 2013/36/EU and 2009/110/EC and repealing Directive 2007/64/EC [First reading]

– General approach

16613/14 EF 348 ECOFIN 1178 CONSOM 270 CODEC 2662

approved by Coreper, Part 2, on 05.12.2014

The Council confirmed the agreement on the general approach, as set out in doc. 16154/14.

The Luxembourg delegation made a statement, as set out below and in Annex to doc. 16612/14.

Statement by Luxembourg

"The first payment services directive (2007/64/EC) provided the legal basis for the creation of an EU-wide single market for payments and put in place a single passport for payment services providers.

The compromise text of the new payment services directive which repeals directive 2007/64/EC, undermines the passporting regime established by directive 2007/64/EC and the principle of home Member State supervision, and thereby reintroduces potential for market fragmentation. Such development in the area of cross-border supervision of payment institutions is in contradiction with the aim of the initial proposal which is to help developing an EU-wide market for electronic payments, and runs counter to the existing achievements in other financial services legislation. Luxembourg considers that it is necessary to adopt a coherent approach on cross-border supervision and the respective balance between the powers of home and host competent authorities in all financial services files.

Luxembourg emphasizes that the elements that undermine the existing passporting regime were neither inherent in the Commission initial proposal, nor are they part of the European Parliament's report as adopted in its plenary session.

In light of the above, Luxembourg cannot support the Council general approach and expects that future negotiations with the European Parliament will address Luxembourg's concerns."

"B" ITEMS

3. Financial Transaction Tax

- **Proposal for a Council Directive implementing enhanced cooperation in the area of Financial Transaction Tax**
 - State of play
16498/14 FISC 222 ECOFIN 1159

The Council discussed the Presidency report on the state of play regarding the Commission proposal for a Directive implementing enhanced cooperation in the area of Financial Transaction Tax. The Presidency reported on work carried out so far and indicated that this work will have to continue. France has summarised the views of the 11 Member States participating in the enhanced co-operation on FTT as follows:

"During the last few months we have worked hard, we have made progress on taxation of transactions in shares. We have also worked and made some progress on derivatives but more still needs to be done. Following our latest statement in May, we remain collectively committed to continue working hard and find concrete solutions for the first step of FTT, even if it will probably not be by the end of this year but at the beginning of the other year. The FTT is important not only because it is a tool for fighting speculation but also because it will be a very positive signal with regard to future work on tax harmonisation in Europe and we all know that this is the key issue ahead for the coming years."

4. **Any other business**

= **Current legislative proposals**

- Information from the Presidency

The Council took note of the state-of-play in relation to key financial services legislative files.
