



Council of the
European Union

Brussels, 13 March 2018
(OR. en)

6972/18
ADD 27

FISC 113

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council

To: Delegations

Subject: The EU list of non-cooperative jurisdictions for tax purposes

- Compilation of commitment letters received from jurisdictions
- = Hong Kong
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財經事務及庫務局局長

香港添馬添美道二號
政府總部二十四樓



SECRETARY FOR FINANCIAL
SERVICES AND THE TREASURY

24/F, Central Government Offices
2 Tim Mei Avenue, Tamar
Hong Kong

傳真號碼 Fax No. : (852) [REDACTED]
電話號碼 Tel. No. : (852) [REDACTED]
本函檔號 Our Ref. : TsyB R 183/800-1-4/1/0 (C)
來函檔號 Your Ref. :

16 November 2017

By Email

Secretariat.COOG-jurisdictions@consilium.europa.eu

Fabrizia Lapercorella
Chair of the Code of Conduct Group (Business Taxation)
Council of the European Union
Rue de la Loi 175
B-1048 Brussels
Belgium

Dear Mrs Lapercorella,
EU's Screening Process

Thank you for your letter of 23 October 2017 setting out the issues that the experts of the Code of Conduct Group (Business Taxation) (COOG) identified in relation to Hong Kong.

First of all, I would like to reassure the European Union that Hong Kong, being an international financial centre and a responsible member of the international community, is fully committed to enhancing tax transparency across jurisdictions and meeting the new international tax standards promulgated by EU and OECD.

In our letter of 4 July 2017, we set out our follow-up actions in the implementation of Automatic Exchange of Financial Account Information in Tax Matters (AEOI). They represent the firm commitments of the Hong Kong Special Administrative Region Government. I am pleased to inform you that we have been moving forward in the past months as pledged and significant progress has been made.

Regarding the issues identified in relation to Hong Kong by the experts of COCG, please note our commitments with timeline are as below.

Criteria 1.1 and 1.3

As an update, Hong Kong now has 45 tax treaties in place, including 38 Comprehensive Avoidance of Double Taxation Agreements (CDTAs) and 7 Tax Information Exchange Agreements (TIEAs). Riding on the CDTAs, we have signed 15 bilateral Competent Authority Agreements (CAAs) for AEOI with the relevant jurisdictions, including six EU Member States.

While discussions on CAAs for AEOI have been initiated with 14 EU Member States, the exchange relationships will in fact be covered by the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention) to be extended to Hong Kong soon. As mentioned in our letter of 4 July 2017, we obtained in-principle agreement from the Central People's Government of the People's Republic of China to extend the application of the Multilateral Convention to Hong Kong. The amendment bill for facilitating this extension was introduced into our Legislative Council on 18 October 2017 and is now under scrutiny. It remains our target for the Multilateral Convention to enter into force in Hong Kong in the second half of 2018 after the completion of the necessary local legislative procedures and administrative ones as specified by OECD. This will provide a platform for Hong Kong to exchange tax related information under AEOI with all EU Member States and many other jurisdictions via a multilateral approach from September 2018.

As foreshadowed in our letter of 4 July 2017, financial institutions in Hong Kong have started to collate information of account holders who are tax residents of 75 jurisdictions starting from 1 July 2017. These include tax residents from all EU Member States. The financial institutions will furnish annually the necessary information to the Inland Revenue Department of Hong Kong from 2018 onwards. Hong Kong will exchange the information with all EU Member States starting from September 2018. We are pleased to re-confirm our commitment in this regard with the above timeline.

Criterion 2.1

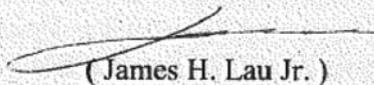
Regarding Hong Kong's tax regimes relating to corporate treasury centres, captive insurers and professional reinsurers which were reviewed by the Forum on Harmful Tax Practices (FHTP) under OECD's Inclusive Framework on BEPS earlier this year, Hong Kong has already made a firm commitment to introduce legislative amendments to revise the three tax regimes in line with FHTP's advice. Our letter to the Chair of the Inclusive Framework on BEPS dated 19 June 2017 at **Annex A** signifies this commitment. Since then, we have been working on the necessary legislative amendments and plan to publish an amendment bill in the Gazette of the Government of the Hong Kong Special Administrative Region by end December 2017. The relevant extract of the amendment bill is at **Annex B**. With the above progress, we would like to reaffirm our commitment to revise these three tax regimes by 31 December 2018.

As for Hong Kong's tax regimes relating to Offshore Funds and Offshore Private Equity Funds, we are prepared to look into how to modify the tax regimes to address your concern and introduce the corresponding legislative amendments by 31 December 2018. To facilitate our drawing up the legislative amendments, we should be grateful for more detailed guidance from COCG on the key concerns over these two regimes. An early advice in this regard, preferably by **early December 2017**, would be most helpful in allowing us to meet the timeline. We are committed to working with COCG on removing the "harmful" elements from these two tax regimes.

Conclusion

I can assure you that Hong Kong will continue to respond positively to the calls from the EU and OECD on compliance with new international tax standards. If you or your colleagues have any questions, please contact our subject officer [REDACTED]

Yours sincerely,



(James H. Lau Jr.)
Secretary for Financial Services and the Treasury

c.c.

Commissioner of Inland Revenue

Special Representative for Hong Kong Economic and Trade Affairs to the
European Union, Brussels Economic and Trade Office

Head of Office, European Union Office to Hong Kong and Macao