



Council of the
European Union

Brussels, 26 March 2018
(OR. en)

6123/18
DCL 1

FISC 60

DECLASSIFICATION

of document:	6123/18 RESTREINT UE/EU RESTRICTED
dated:	13 February 2018
new status:	Public
Subject:	Draft letter to the jurisdictions concerned by the end of the "2 out of 3" exception in June 2018

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.



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NOTE

From: Chair of the Code of Conduct Group (Business Taxation)
To: Code of Conduct Group (Business Taxation)
Subject: Draft letter to the jurisdictions concerned by the end of the "2 out of 3" exception in June 2018

Delegations will find attached a document from the Chair in view of the meeting of the Code of Conduct Group (business taxation) on 14 February 2018.

Cf. Annex 5 of the Chair's note, doc. 6085/18 EU RESTRICTED.

DECLASSIFIED

[Relevant for: Anguilla, Indonesia, and Trinidad and Tobago]

[author of the last commitment letter received/other contact point]

[postal address]

Brussels, [date]

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

- **Update of transparency criteria**

Your Excellency,

(For Trinidad and Tobago) Following the notification last December that your jurisdiction was placed on the EU list of uncooperative jurisdiction and independently of this current situation, ...

(For Indonesia) In November 2017, you were informed that the Council's Code of Conduct Group (business taxation) determined that Indonesia is compliant with the screening criteria used by the EU in 2017 to establish the EU list of non-cooperative jurisdictions for tax purposes. You were also informed that the Code of Conduct Group will continue monitoring developments to ensure that the screening criteria continue to be met. In this context...

(For Anguilla) In January 2018 you received a letter inviting you to commit by the end of February 2018 to address the deficiencies identified in the 2017 screening exercise. Independently of this invitation to address the current deficiencies, ...

...we want to remind you that the screening criteria used for the 2017 exercise relied on a specific exception for the tax transparency criteria. This exception provided the possibility to be compliant only with two out the three transparency criteria used for the screening. When the Council decided to introduce such an exception in November 2016¹, it was also decided to stop applying the exception for those jurisdictions "*which are rated "Non Compliant" on criterion 1.2 or which have not obtained at least "Largely Compliant" rating on that criterion by 30 June 2018*".

¹ <http://data.consilium.europa.eu/doc/document/ST-14166-2016-INIT/en/pdf>

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According to our information, we understand that your jurisdiction continues to have a [Non Compliant/Partially Compliant] rating by the Global Forum on Transparency and Exchange of Information. Unless the situation evolves until 30 June 2018, your jurisdiction will (stop being / will continue being) (compliant / non-compliant) with the EU screening criteria as regards transparency.

To anticipate this deadline, the Code of Conduct Group invites your jurisdiction to commit at high political level to address this deficiency by [the end of 2018/2019]. On the basis of this commitment, the Code of Conduct Group will evaluate with you the possible actions that can be taken to address this situation and will not recommend to the Council of the EU, after 30 June 2018, to (include / maintain) your jurisdiction in the list of non-cooperative jurisdictions as long as no other criteria have been failed.

We would be grateful for your response to reach us by 16 March 2018.

Sincerely,

[COCG chair signature]

c.c. General Secretariat of the Council
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