



Council of the  
European Union

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Brussels, 26 March 2018  
(OR. en)

6123/1/18  
REV 1 DCL 1

FISC 60

## DECLASSIFICATION

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of document: 6123/1/18 REV 1 RESTREINT UE/EU RESTRICTED  
dated: 15 February 2018  
new status: Public

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Subject: Draft letter to Anguilla, Indonesia and Trinidad and Tobago in relation to the "two out of three" exception

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

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

**RESTREINT UE/EU RESTRICTED**



Council of the  
European Union

Brussels, 15 February 2018  
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6123/1/18  
REV 1

**RESTREINT UE/EU RESTRICTED**

**FISC 60**

**NOTE**

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From: General Secretariat of the Council

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To: Code of Conduct Group (Business Taxation)

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Subject: Draft letter to Anguilla, Indonesia and Trinidad and Tobago in relation to the "two out of three" exception

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Delegations will find attached the after-meeting version of the draft letter to Anguilla, Indonesia and Trinidad and Tobago in relation to the "two out of three" exception following the Code of Conduct Group (Business Taxation) meeting of 14 February 2018.

*[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 **of** the three transparency criteria used for the screening. When the Council decided to introduce such an exception in November 2016<sup>1</sup>, 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*".

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

## RESTREINT UE/EU RESTRICTED

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~~ **take all necessary action with the aim of securing a rating of at least largely compliant** 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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