



Council of the  
European Union

Brussels, 20 April 2018  
(OR. en)

6972/18  
ADD 37

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
- = Marshall Islands
-



REPUBLIC OF THE MARSHALL ISLANDS  
MINISTRY OF FINANCE  
P. O. Box D, Majuro, MH. 96960  
Telephone: (692) [REDACTED] Fax: (692) [REDACTED]

2 February 2018

Fabrizia Lapecorella  
Chair of the Code of Conduct Group (Business Taxation)  
General Secretariat of the Council  
Rue de la Loi/Wetstraat 175  
1048 Bruxelles/Brussel  
Belgique/België

Dear Madam,

The Republic of the Marshall Islands Ministry of Finance has received the letter dated 22 December 2017 from the Chair of the Code of Conduct Group (Business Taxation) regarding the inclusion of the Republic of the Marshall Islands ("Marshall Islands") on the European Union ("EU") list of non-cooperative jurisdictions for tax purposes. We take note of the letter's conclusions that the Marshall Islands' commitments under criteria 2.2 and 3 were not assessed as being sufficient. The Marshall Islands hereby reiterates at a high political level, as it has previously on three different occasions,<sup>\*</sup> its firm commitment to address the deficiencies identified by the Code of Conduct Group by 31 December 2018 at the latest. A precise timeline and a description of the steps to address the deficiencies and concerns with respect to each criterion are set forth below.

Criterion 2.2

The Marshall Islands notes the conclusion of the Code of Conduct Group that the Marshall Islands facilitates offshore structures and arrangements aimed at attracting profits without real economic substance. The Marshall Islands hereby confirms its firm commitment to implementing substance requirements in line with the Terms of Reference attached to the letter dated 6 November 2017 from the Chair of the Code of Conduct Group (Business Taxation) by 31 December 2018. To aid in this effort, the Marshall Islands has already joined and attended the first meeting of a group hosted by the Organisation for Economic Co-operation and Development regarding criterion 2.2. The group proposes to assist in developing meaningful, targeted, and effective new tax requirements in the context of criterion 2.2.

Criterion 3

The Code of Conduct Group in prior letters has stated that, given the features of the Marshall Islands' legal system, some of the Base Erosion and Profit Shifting ("BEPS") minimum

<sup>\*</sup> The Marshall Islands submitted letters to the Code of Conduct Group on 17 November 2017, 30 November 2017, and 5 December 2017 (all attached). These letters firmly committed at a high political level to correct all deficiencies and concerns identified in the letter dated 6 November 2017 from the Chair of the Code of Conduct Group (Business Taxation), including those under criteria 2.2 and 3, by 31 December 2018. To the extent those commitments were not sufficient, the Marshall Islands submits the clarification and further details on its commitments contained in this letter.

standards might not be relevant to the Marshall Islands. The Marshall Islands hereby confirms its firm commitment to introducing those BEPS minimum standards that are relevant given the features of the Marshall Islands' legal system by 31 December 2018. Work to determine the changes required to be made to the Marshall Islands law has already begun.

In light of the firm commitments made by the Marshall Islands at a high political level and the Marshall Islands' consistent and extensive cooperation with the Code of Conduct Group to date, the Marshall Islands asks the Code of Conduct Group to recommend to the Council of the EU that the Marshall Islands be removed from the list of non-cooperative jurisdictions.

Sincerely,



Brenson S. Wase  
Minister of Finance  
Republic of the Marshall Islands

Enclosures

Page 2 of 2

ANNEX 1

**LETTER FROM THE  
REPUBLIC OF THE MARSHALL ISLANDS MINISTER OF FINANCE  
DATED 17 NOVEMBER 2017**



## Republic of the Marshall Islands

### Ministry of Finance

P.O. Box D ~ Majuro ~ Marshall Islands ~ 96960  
Phone No. (692) [REDACTED] Fax No. (692) [REDACTED]

17 November 2017

Fabrizia Lapecorella  
Chair of the Code of Conduct Group (Business Taxation)  
General Secretariat of the Council  
Rue de la Loi/Wetstraat 175  
1048 Bruxelles/Brussel  
Belgique/België

Dear Madam,

The Republic of the Marshall Islands Ministry of Finance has received the letter dated 6 November 2017 from the Chair of the Code of Conduct Group (Business Taxation) regarding the assessment of the Republic of the Marshall Islands (the "Marshall Islands") for compliance with the criteria agreed by the Council of the European Union (the "EU") concerning the areas of tax transparency, fair taxation, and implementation of anti-Base Erosion and Profit Shifting measures (the "6 November Letter"). We take note of the concerns and deficiencies referenced in the 6 November Letter, including the Annex I thereto, regarding criteria 1.1, 1.2, 2.2, and 3. The Marshall Islands hereby firmly commits at a high political level to address these deficiencies and concerns by 31 December 2018 at the latest as set forth in this letter. A precise timeline and a description of the steps to address the deficiencies and concerns with respect to each criterion are set forth below.

#### Criterion 1.1

The Marshall Islands has committed to automatic exchange of information under the Common Reporting Standard ("CRS") with its first exchange to take place in 2018. To this end, the Marshall Islands executed the Multilateral Competent Authority Agreement in October 2015, deposited a unilateral Declaration on the Effective Date for Exchanges of Information under the Multilateral Competent Authority Agreement in December 2016, and signed the multilateral Convention on Mutual Administrative Assistance in Tax Matters, as amended by the 2010 Protocol, and deposited its instrument of ratification in December 2016. The Marshall Islands has also enacted a domestic legal framework to translate the reporting and due diligence rules of the CRS into domestic law and is currently undertaking the technological steps necessary to transmit relevant data via the Common Transmission System developed by the Organisation for Economic Co-operation and Development ("OECD") Forum on Tax Administration.

As discussed in the Marshall Islands' reply to the letter dated 9 June 2017 from the Chair of the Code of Conduct Group (Business Taxation) (the "9 June Letter"), as a part of its commitment to implement the CRS, the Marshall Islands has committed to automatically exchange

Page 1 of 5



information with all interested appropriate partners. As a non-reciprocal jurisdiction, the Marshall Islands does not expect to actively seek out additional exchange partners, but it will automatically exchange information with all jurisdictions which express an interest in receiving information automatically under the CRS from the Marshall Islands and which meet the requirements necessary to engage in automatic exchange in accordance with the OECD's Standard for Automatic Exchange of Financial Account Information in Tax Matters in terms of confidentiality and data safeguards and proper use of the information exchanged.

The Marshall Islands interprets the 9 June Letter and the 6 November Letter as an expression of interest by, or on behalf of, all EU Member States in receiving information automatically under the CRS from the Marshall Islands. Consequently, the Marshall Islands hereby commits to include all EU Member States on its list of intended exchange partners. The Marshall Islands has not yet submitted official notification of its intended exchange partners to the Coordinating Body Secretariat pursuant to Section 7(1)(f) of the Multilateral Competent Authority Agreement. As it has taken the "wider approach", reporting financial institutions in the Marshall Islands are required to be collecting information in relation to all non-residents. The Marshall Islands plans to publish its final list of exchange partners and submit official notification to the Coordinating Body Secretariat adequately in advance of the domestic reporting deadline of 31 May 2018.

#### Criterion 1.2

The Marshall Islands hereby confirms its commitment to addressing the deficiencies identified by the Global Forum on Transparency and Exchange of Information for Tax Purposes ("Global Forum") with respect to the OECD Exchange of Information on Request standard in order to obtain a rating of at least "Largely Compliant". In fact, the Marshall Islands has already addressed all elements rated as non-compliant or partially compliant in its Phase 2 Peer Review Report ("Phase 2 Report").

In the limited time between the adoption of its Phase 2 Report in November 2016 and its Fast-Track review in June 2017, and despite its limited financial and human resources, the Marshall Islands made clear and significant progress in addressing the recommendations for elements A.1, A.2, B.1, and C.3 in its Phase 2 Report. With regard to elements A.1 and A.2, the Marshall Islands parliament enacted the Associations Law (Amendment) Act 2017 on 11 April 2017, which provides for enhanced monitoring and enforcement of entities' compliance with recordkeeping obligations, and using these tools, the Marshall Islands is commencing a robust and effective system of monitoring and enforcement. For elements B.1 and C.3, the Marshall Islands competent authority updated its practices and procedures both to ensure that access powers are used effectively to obtain all information sought in future exchange of information ("EOI") requests and to safeguard fully the confidentiality of information provided in incoming BOI requests going forward. As stated in the Marshall Islands' reply to the 9 June Letter, this progress was sufficient for the Global Forum to upgrade the Marshall Islands' rating to "Partially Compliant" via the Fast-Track Review Procedure.

Prior to its Fast-Track review, the Marshall Islands also sought to enact legislative amendments to address the element A.1 determination in its Phase 2 Report that its legal and regulatory framework lacks sufficient mechanisms to ensure ownership and identity information is

available in all cases for bearer shares and for shares held by nominees. The Marshall Islands parliament sits only for relatively brief periods in January and August of each year. Despite diligent efforts to draft and introduce legislation, there ultimately was insufficient time to introduce satisfactory legislation to address these recommendations in advance of the Fast-Track review. Nevertheless, the Marshall Islands continued its efforts to bring its legal and regulatory framework with respect to element A.1 "In Place" in the parliament's August session and, on 2 November 2017, successfully passed the Associations Law (Amendment) Modernization and Improvement Act, 2017.

The Associations Law (Amendment) Modernization and Improvement Act, 2017 (the "Amendment") was developed in close cooperation with the Global Forum Secretariat. The Amendment not only addresses the remaining recommendations for element A.1 in the Marshall Islands' Phase 2 Report but also satisfies the more demanding requirements of the Global Forum's 2016 *Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information for Tax Purposes* ("2016 Terms of Reference") regarding the availability of ownership and identity information on beneficial owners. The Amendment imposes stringent recordkeeping obligations on bearer shares, the intent and cumulative effect of which are to convert all existing and future bearer shares into registered shares and to subject bearer shares to heightened scrutiny even beyond those applicable to registered shares. The Amendment also requires every domestic corporation, partnership, limited partnership, and limited liability company to use all reasonable efforts to obtain and maintain up-to-date records of their beneficial owners, which is defined in line with the Financial Action Task Force definition. These new recordkeeping requirements will be monitored and enforced by the Marshall Islands authorities using the tools provided for under the Associations Law (Amendment) Act 2017. Penalties for failure to adhere to the requirements include a fine of up to \$50,000, forcible dissolution, or both.

Given its success under the Fast-Track Review Procedure, the Marshall Islands' second round review, which will be against the 2016 Terms of Reference, has been accelerated to launch in Q3 2018.<sup>1</sup> The Marshall Islands is confident the legislative and practical changes it has implemented ensure it will achieve at least a "Largely Compliant" rating in its Q3 2018 evaluation.

#### Criterion 2.2

The Marshall Islands notes the conclusion in the 6 November Letter that the Code of Conduct Group (Business Taxation) experts have provisionally considered the tax system of the Marshall Islands to be harmful. Given the Marshall Islands' commitment to the effective and efficient exchange of information in furtherance of tax transparency, its lack of preferential tax measures that could be regarded as harmful, and its lack of double taxation agreements, the Marshall Islands asks the experts to reconsider this provisional conclusion.

<sup>1</sup> The Marshall Islands initially anticipated its second round review to be launched in Q3 or Q4 2017. Under the Global Forum's Fast-Track Review Procedure as originally drafted, jurisdictions receiving a provisional upgrade in the Fast-Track process were to have their second round review accelerated to launch in Q3 or Q4 2017. However, the Global Forum later determined that this schedule would leave inadequate evidence of practice for legislation passed in anticipation of a Fast-Track review and would not cover an appreciably different review period. Thus, the Marshall Islands' evaluation was instead scheduled for Q3 2018.



As demonstrated by its actions and reiterated in this document, the Marshall Islands is committed to the international standards on exchange of information for tax purposes and has invested substantial time and resources in furtherance of compliance with these standards. In December 2016, the Marshall Islands signed the multilateral Convention on Mutual Administrative Assistance in Tax Matters, significantly expanding its EOI network and providing an efficient framework for automatic exchange of information with all interested appropriate partners. As discussed with respect to criterion 1.1 above, the Marshall Islands is making clear and substantial progress in fulfilling its commitment to carry out its first automatic exchange of information in 2018. Further, as discussed with respect to criterion 1.2, the Marshall Islands has worked with the Global Forum Secretariat to address the deficiencies identified in its Phase 2 Report and has positioned itself to achieve a "Largely Compliant" rating against the 2016 Terms of Reference in its upcoming Q3 2018 evaluation. These actions have included passing additional obligations relating to keeping accounting records.

Also, the Marshall Islands operates no preferential tax measures that could be regarded as harmful. As detailed in the Marshall Islands' reply to the 9 June Letter, the Marshall Islands operates a territorial system of taxation based on gross revenue rather than profits in which only gross revenue generated from activities carried on within the Marshall Islands is subject to taxation. Marshall Islands law does not provide for a tax preference on income relating to intellectual property or permit any other similar preferential tax regime, and the Marshall Islands does not issue tax rulings. Those tax incentives which Marshall Islands law does offer apply solely to activities carried on within the territory of the Marshall Islands and are generally available equally to both non-citizen and citizen investors.

Further, the taxation or non-taxation of an entity's gross revenue by the Marshall Islands would not preclude any other jurisdiction from taxing the entity's gross revenue or profits. As indicated in the Marshall Islands' reply to the 9 June Letter, the Marshall Islands is a party to no double taxation agreements.

Regarding criterion 2.2 specifically, the Marshall Islands maintains that its system of taxation does not attract profits to the Marshall Islands which do not reflect real economic activity in the Marshall Islands. As stated in the Marshall Islands' reply to the 9 June Letter, the Marshall Islands' financial sector is small, comprising only three banks, four money lenders, two money transfers/remitters, three insurance companies, and one credit union, and there are no offshore banks operating in the Marshall Islands. The financial and insurance sectors contributed only USD 10.0 million in gross value added to the Marshall Islands economy in 2016. Further, Marshall Islands banks do not service non-residents. According to the Marshall Islands Economic Policy, Planning and Statistics Office, non-resident bank deposits in the Marshall Islands totalled USD 0 as of 2016. In addition, it is not possible to form or register a trust in the Marshall Islands. The Marshall Islands notes that the Terms of Reference attached to the 6 November Letter state the absence of a corporate tax or applying a nominal corporate tax rate equal to zero or almost zero cannot alone be a reason for concluding that a jurisdiction does not meet the requirements of criterion 2.2.



The Marshall Islands hereby commits to continuing to engage in meaningful dialog and cooperate with the Code of Conduct Group (Business Taxation) to better understand the experts' concerns with respect to criterion 2.2, to identify any issues relevant to criterion 2.2 that arise in the Marshall Islands, and to develop appropriate solutions where needed so that the Marshall Islands may address these issues in line with the Terms of Reference attached to the 6 November Letter by 31 December 2018 at the latest.

Criterion 3

The Code of Conduct Group (Business Taxation) in its 9 June Letter and its 6 November Letter states that, given the features of the Marshall Islands' legal system, some of the Base Erosion and Profit Shifting ("BEPS") minimum standards might not be relevant to the Marshall Islands. The Marshall Islands agrees. As the Marshall Islands operates a territorial tax system based on gross revenue rather than profits, has no intellectual property or similar preferential regime, is a party to no double taxation agreements, applies no transfer pricing rules, and does not issue tax rulings, among other reasons, few (if any) of the BEPS standards, including the four minimum standards, are relevant to the Marshall Islands. For these reasons, the Marshall Islands to date has not become a member of the Inclusive Framework on BEPS and has not committed to implement the BEPS minimum standards (the reference in Annex I to the 6 November Letter to a prior commitment by the Marshall Islands to implement some of the BEPS minimum standards is not accurate).

As a small nation with limited financial and human capital that has already committed substantial resources to implementing and complying with other OECD standards, the Marshall Islands has not yet undertaken a thorough assessment of which BEPS minimum standards, if any, may be relevant to the Marshall Islands' legal system. The Marshall Islands hereby commits to undertake such an assessment of the BEPS minimum standards and to introduce those minimum standards that are relevant given the features of the Marshall Islands' legal system by 31 December 2018. If possible, this assessment will be carried out in consultation with the Global Forum Secretariat.

The 6 November Letter states that the Code of Conduct Group (Business Taxation) will not recommend to the Council of the EU to include in the list of non-cooperative jurisdictions any country or jurisdiction which commits to correct the identified concerns by 31 December 2018 at the latest. In light of the firm commitments made by the Marshall Islands at a high political level through this letter, the Marshall Islands asks the Code of Conduct Group (Business Taxation) to adhere to this statement and not recommend to the Council of the EU that the Marshall Islands be included in the list of non-cooperative jurisdictions.

Sincerely,



Brenson S. Wase  
Minister of Finance  
Republic of the Marshall Islands

ANNEX 2

**LETTER FROM THE  
REPUBLIC OF THE MARSHALL ISLANDS MINISTER OF FINANCE  
DATED 30 NOVEMBER 2017**



Republic of the Marshall Islands

Ministry of Finance

P.O. Box D - Majuro - Marshall Islands - 96960  
Phone No. (692) [REDACTED] - Fax No. (692) [REDACTED]

30 November 2017

Fabrizia Lapecorella  
Chair of the Code of Conduct Group (Business Taxation)  
General Secretariat of the Council  
Rue de la Loi/Wetstraat 175  
1048 Bruxelles/Brussel  
Belgique/België

Dear Madam,

On 21 November 2017, the Republic of the Marshall Islands Ministry of Finance received via email a more detailed overview of the experts' assessment of the Republic of the Marshall Islands ("Marshall Islands") under the five criteria of criterion 2.2. We have reviewed these more detailed conclusions of the experts and now provide the further responses below with respect to each conclusion.

Criteria 1 and 2 of Criterion 2.2

Pursuant to the Marshall Islands Associations Law non-resident domestic entities are defined as entities formed under the laws of the Marshall Islands that are not doing business in the Marshall Islands. Conversely, resident domestic entities are defined as entities formed under the laws of the Marshall Islands that are doing business in the Marshall Islands.

The Associations Law places no restrictions on who may form, own, manage, or administer a resident domestic entity or a non-resident domestic entity. A Marshall Islands citizen or resident may form, own, manage, or administer a non-resident domestic entity, and a foreign citizen or resident may form, own, manage, or administer a resident domestic entity.

As discussed in prior correspondence, the Marshall Islands operates a territorial system of taxation based on gross revenue in which only gross revenue generated from activities carried on within the Marshall Islands is subject to taxation. Revenue generated from activities carried on outside of the Marshall Islands is not subject to tax. This is applicable to both resident domestic entities and non-resident domestic entities. As non-resident domestic entities, by definition, are not doing business in the Marshall Islands, they do not generate revenue from activities carried on within the Marshall Islands. Resident domestic entities that derive revenue from activities both within and outside the Marshall Islands may file for apportionment pursuant to §111 of the Income Tax Act 1989, and the tax will be levied only on that portion which is earned in, or derived from sources or parts of transactions within, the Marshall Islands.

Page 1 of 3



As demonstrated above, the advantages accorded by the Marshall Islands' tax system are equally available to both citizens and non-citizens of the Marshall Islands as well as residents and non-residents of the Marshall Islands. We respectfully submit that advantages are not accorded only to non-residents or in respect of transactions carried out with non-residents and that advantages are not ring-fenced from the domestic market, and therefore, that the Marshall Islands' tax system is not harmful under criteria 1 and 2 of criterion 2.2.

Criterion 3 of Criterion 2.2

As discussed in prior correspondence, real economic activity and a substantial economic presence in the Marshall Islands are required in order to take advantage of the tax incentives provided under the Income Tax Act 1989. Pursuant to Part VII of the act, a five-year exemption from the tax on gross revenue is available for companies engaged in offshore or deep sea fishing, manufacturing for export or for both export and local use, agriculture, or hotel and resort facilities that invest a minimum of \$1,000,000 and/or provide employment and pay wages of more than \$150,000 in total per year to local Marshallese citizens. Tax incentives are also available for consortiums engaged in deep seabed hard mineral mining within the Marshall Islands' exclusive economic zone that pay the Marshall Islands government a royalty, production charge, or combination of production charge and a share of net proceeds accruing from the mining activity. Further, fish loining plants are exempt from the tax on gross revenue for 25 years from the date such business is commenced.

Because only gross revenue generated from activities carried on within the Marshall Islands is subject to taxation, these tax incentives are directly proportional to the activity carried on within the Marshall Islands. All require the activity benefiting from the incentives to be factually manifested within the Marshall Islands, and none take the form of an intellectual property or similar regime. Further, the tax authority is entitled to investigate the economic substance and activities of companies operating within the Marshall Islands, including whether companies claiming tax incentives satisfy the relevant investment, employment, or other requirements. Therefore, we respectfully maintain that the Marshall Islands' tax system is not harmful under criterion 3 of criterion 2.2.

Criterion 4 of Criterion 2.2

As discussed above and in prior correspondence, the Marshall Islands taxes gross revenue—broadly defined by the Income Tax Act 1989 to include all gross receipts without deduction of costs or expenses—rather than profits. For this reason, rules for profit determination are not relevant to the Marshall Islands tax system.

Despite not applying rules for profit determination, the Marshall Islands has taken appropriate steps to ensure taxing countries are able to exercise their rights. The Marshall Islands is committed to the international standards on exchange of information for tax purposes and, as a party to the multilateral Convention on Mutual Administrative Assistance in Tax Matters, has a broad exchange of information network. For purposes of exchange of information on request, the Marshall Islands recently received an upgrade in its rating through the Fast-Track Review Procedure and thereafter has continued to make legislative and practical improvements to ensure it achieves at least a "Largely Compliant" rating in the second round of reviews. These actions have included passing additional obligations relating to keeping accounting records.

Regarding automatic exchange, the Marshall Islands has committed to automatic exchange of information under the CRS beginning in 2018 and, to this end, has become a party to the Multilateral Competent Authority Agreement, has enacted an appropriate domestic legal framework, and is currently undertaking the necessary technological steps to exchange information automatically with all interested appropriate partners. The Marshall Islands has further committed to include all EU Member States on its list of intended exchange partners.

In addition, as stated in prior correspondence, the Marshall Islands is a party to no double taxation agreements. Thus, the taxation or non-taxation of an entity's gross revenue by the Marshall Islands would not preclude any other country from taxing the entity's gross revenue or profits.

For the reasons stated above, we respectfully contend that the Marshall Islands' tax system is not harmful under criterion 4 of criterion 2.2.

The Marshall Islands would like to take this opportunity to reiterate the commitment made in its letter dated 17 November 2017 to continuing to engage in meaningful dialog and cooperate with the Code of Conduct Group (Business Taxation) to better understand the experts' concerns with respect to criterion 2.2, to identify any issues relevant to criterion 2.2 that arise in the Marshall Islands, and to develop appropriate solutions where needed so that the Marshall Islands may address these issues in line with the Terms of Reference by 31 December 2018 at the latest. We look forward to continuing to work with Code of Conduct Group (Business Taxation) on this matter.

Sincerely,



Brenson S. Wase  
Minister of Finance  
Republic of the Marshall Islands



ANNEX 3

**LETTER FROM THE  
REPUBLIC OF THE MARSHALL ISLANDS MINISTER OF FOREIGN AFFAIRS & TRADE  
DATED 5 DECEMBER 2017**





REPUBLIC OF THE MARSHALL ISLANDS  
MINISTRY OF FOREIGN AFFAIRS  
PO BOX 1349  
MAJURO, MARSHALL ISLANDS 96960

5 December 2017

Ms. Fabrizia Lapecorella  
Chair of the Code of Conduct (Business Taxation)  
European Union  
Rue de la Loi/Wetstraat 175-13-1048 Bruxelles/Brussels

Madam,

I wish to thank the EU and the Code of Conduct Group and experts for prior communications on the structure, nature and reforms to be considered for the Marshall Islands corporate taxation system.

The Marshall Islands is a small nation with limited financial and human capital that has already committed substantial resources to implementing and complying with relevant OECD standards. It would be important to note, as a parallel example, ongoing efforts of the Republic of the Marshall Islands in improving and making good faith efforts.

As an example, I can point to the enclosed Associations Law (Amendment) Modernization and Improvement Act of 2017, which was passed into law by our parliament last month. I am not sure if this new information has yet been fully taken into account by the EU. The law's amendments contain important improvement regarding transparency and record-keeping regarding beneficial owners of corporate entities. This important legislative amendment is intended to address many of the concerns which have been raised, including at the OECD, regarding transparency and identification of beneficial owners of registered entities. I do not claim that these amendments offer solutions to all of the issue which the Code of Conduct Group has raised, but I do put forward that this is an example of the means and nature of continual improvement actively pursued by the government, to respond to continued concerns and minimum international standards. Within our unique structure and capacity, I can commit that further measures are possible, and we commit to continued and open engagement to identify and pursue such measures where they are relevant and appropriate to best ensure minimum standards. These reforms have been pursued with open engagement from partners, rather than the isolation and resentment which a negative listing could attach.

Our prior communication has indicated that we understand the EU member states to be interested in receiving information automatically from the CRS of the Marshall Islands.

Phone: (692) [REDACTED] Fax: (692) [REDACTED] Website <http://www.rmiembassyus.org/>

and has committed to include all EU member states on its list of intended exchange partners, and intends to publish a final list of exchange partners in advance of the 2018 domestic reporting deadline. As stated in earlier communications, our official data indicates that non-resident bank deposits in the Marshall Islands totaled \$0 USD as of 2016. We have responded, and commit to continued response, with international partners including the Code of Conduct Group. We have committed to pursue relevant BEPS minimum standards as soon as possible, and are willing to commit to these before the 31 December 2018 date.

Prior communication evidences the intention of the Republic of the Marshall Islands to engage in continued "good faith" efforts, including meaningful dialogue, to analyze and undertake appropriate measures and reforms, including, inter alia, an assessment of BEPS minimum standards and introduce relevant minimum standards within the context of our legal system, by 31 December 2018, and that, if possible, such assessment would be carried out in consultation with the Global Forum Secretariat. Similar commitments have been provided by Finance Minister Wase in the 17 November communication, including cooperation with the Code of Conduct Group (Business Taxation) to better understand concerns, identify relevant issues, and to develop appropriate solutions in line with the Terms of Reference in the 6 November letter, by 31 December 2018 at the latest, concerning all key criteria in the November 6 letter, including Annex 1 criteria 1.2, 1.2, 2.2, and 3. Regarding Criteria 3, the experts have inquired to commit to join the inclusive framework on BEPS and/or commit to, by the end of 2017, to apply relevant BEPS standards. I affirm that the Marshall Islands will continue to make good faith efforts to develop and apply relevant BEPS standards – in the context of our territorial tax regime and capacity – by the end of 2017, provided that there is continued communication, and that such standards can be enacted without additional legislation (which would rely on parliament activity, not due to resume until January 2018) and taking into account the upcoming holiday season. Nonetheless, we commit to pursuing such relevant standards, in our context, as soon as possible thereafter should the end of 2017 not be practicable, for logistical reasons explained herein.


We further note that the 6 November letter states that the Code of Conduct Group will not recommend to the EU Council to include in the list of non-cooperative jurisdictions any country or jurisdiction which commits to correct the identified concerns by 31 December 2018 at the latest. This letter, and prior communications, include a commitment to correct identified concerns by the date, and earlier where possible. I point to the recent legislative amendments as a good-faith example of our continued engagement and improvement, and I commit to further such measures within our small nation context. I would suggest that our continued engagement and response could be negatively impacted by stigmatization of negative listing. We are an honest actor with good intentions, and we very much want to continue building our structure and capacity, within the context of our small nation. While we want to continue to improve and ensure basic international standards, we are also doing this within our own context and scale. But we have – and I herein recommit – to pursuing and achieving such standards.

As an important political partner to the EU and its member states on many regional and

Phone: (692) [REDACTED] Fax: (692) [REDACTED] RMI: Website <http://www.rmiembassyus.org/>

international policy and political issues, the Republic of the Marshall Islands wants to be open to further and future continued engagement on all matters and issues. I hope that this letter, and our prior communication, serve as honest evidence of our commitment as a responsible member of the international community, and I hope that we can continue our mutual engagement with the European Union and its member states on this and all other key issues.

Sincerely,



John M. Silk  
Minister of Foreign Affairs & Trade  
Republic of the Marshall Islands