



Council of the  
European Union

Brussels, 13 June 2018  
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## OUTCOME OF PROCEEDINGS

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From: General Secretariat of the Council

To: Delegations

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

- Compilation of commitment letters received from jurisdictions
- = Bahamas
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No. FIN. 1400.02(2)

Upon reply, please quote this reference.



MINISTRY OF FINANCE

P.O.BOX N-3017  
NASSAU, BAHAMAS

TELEX: [REDACTED]

TEL: [REDACTED]

FAX: [REDACTED]

2nd March, 2018

Via E-Mail & Courier

Mr. Fabrizia Lapecorella  
General Secretariat of the Council  
Chair of the Code of Conduct Group (Business Taxation)  
Rue de la Loi/Wetstraat 175  
B-1048 Bruxelles/Brussels

Dear Mr. Lapecorella,

Re: The EU list of Non-Cooperative Jurisdictions

We acknowledge receipt of e-mail dated 1<sup>st</sup> March, 2018 received from [REDACTED] Secretariat DG G 2B - Support to the Code of Conduct Group, Council of the European Union, General Secretariat, wherein mention was made that our letter dated 8 February, 2018 has been examined by the Fiscal Attachés on behalf of the Code of Conduct Group (business taxation).

We note there are concerns to the extent that the letter is not signed at a high political level and concerns regarding the lack of sufficient commitment with respect to the following matters:

Criterion 1.1

All EU Members States have been included on The Bahamas list of intended exchange partners and The Bahamas intends to activate Competent Authority Agreements with them. Please see attached list of intended exchange partners.

Criterion 1.3

The Bahamas is in the process of completing its formalities to ratify and deposit the MAC. The Bahamas intends to ratify and deposit the MAC by April 2018.

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Mr. Fabrizia Lapecorella  
General Secretariat of the Council  
Chair of the Code of Conduct Group (Business Taxation)  
Rue de la Loi/Wetstraat 175  
B-1048 Bruxelles/Brussels

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**Criterion 2.2**

The Bahamas commits to addressing the concerns regarding criterion 2.2 by 31<sup>st</sup> December 2018 which includes but is not limited to consideration of legislative changes for the imposition of substance requirements as well as additional accounting and tax reporting obligations where appropriate. We are confident that the system being put in place for the AEOI/CRS will accommodate the collection and subsequent exchange of relevant information with EU member states.

We look forward to continued dialogue as we seek to ensure effective implementation of these measures.

Yours sincerely,



Hon. K. Peter Turnquest  
Deputy Prime Minister and Minister of Finance

No. FIN. 1400.02(2)

*In reply please quote this number*



**MINISTRY OF FINANCE**

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9<sup>th</sup> March 2018

Via E-Mail & Courier

Ms. Fabrizia Lapecorella  
General Secretariat of the Council  
Chair of the Code of Conduct Group (Business Taxation)  
Rue de la Loi/Wetstraat 175  
B-1048 Bruxelles/Brussels

Dear Ms. Lapecorella,

Re: The EU list of Non-Cooperative Jurisdictions

With reference to the letter from the General Secretariat of the Council regarding the EU list of non-cooperative jurisdictions for tax purposes and our subsequent teleconference this afternoon with myself, Deputy Prime Minister and Minister of Finance of The Bahamas – K. Peter Turnquest, Consultant - [REDACTED] General Secretariat of the Council - Fabrizia Lapecorella and other members of the EU Commission.

The Bahamas made a commitment in December 2017 to the inclusive Framework for the implementation of the minimum standards for the Base Erosion Profit Shifting (BEPS) initiative by December 2018. We are still strongly committed to this initiative.

We note your concerns stated in the letter that The Bahamas has not made a sufficient commitment to Criterion 2.2 by the use of “specific words”, which as we stated in our teleconference today, we believe was a misunderstanding of our intentions and should not be the basis for the inclusion of The Bahamas on the EU list of non-cooperative jurisdictions for tax purposes - Annex I.

Response to the provisional conclusions

We note the provisional conclusion of the Code of Conduct Group (COCG) experts regarding The Bahamas’ tax regime as being ‘harmful’ due to the concern in relation to a perceived de facto lack of substance, which may be due to the absence of specific legal substance requirements for entities doing business in or through The Bahamas. We also note the main considerations of the COCG experts concerning the analysis of The Bahamas under Criterion 2.2 and the COCG’s

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criteria being applied regarding the absence of a corporate tax system or applying a nominal corporate tax rate equal to zero or almost zero. We welcome the opportunity to engage in substantive dialogue with the COCG on its provisional conclusions.

#### Timeline Commitments

I once again confirm the commitment of The Bahamas to address by the end of December 2018 all concerns around economic substance that have been identified by the experts; and to maintain and further enhance our cooperation and dialogue with the COCG in so doing.

The Bahamas will no longer facilitate offshore structures and arrangements aimed at attracting profits without real economic substance and unequivocally commits to addressing these issues by 31 December 2018.

In order to fulfil this commitment, we recognise that we will need to make changes to our domestic legislation and regulatory requirements. To be clear our said commitments will include specific legislative changes requiring:

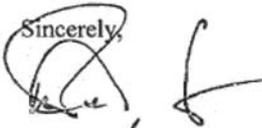
- (i) Investigations on the carrying on of real economic activities within The Bahamas including factual manifestations of the activity that benefits from the non-taxation at issue, and
- (ii) addressing the concerns around economic substance taking into account the Terms of Reference enclosed with your letter.

We recognise our obligations for additional accounting and tax reporting measures, such as appropriate notification regimes for entities that give rise to the risk and concerns raised by the COCG in its provisional conclusions, which we will address in our implementation plan.

We welcome your technical assistance and look forward to further dialogue with the Code of Conduct Group. We believe that an early meeting in April 2018 would be valuable to our ongoing relationship and will help us to better understand the specific concerns of the Group. This dialogue will help ensure there is no further mis-communication in complying with our commitment to address the concerns identified and the exact steps to be taken before December 2018.

We look forward to a good working relationship and to establishing a stronger cooperation in the future that does not inhibit fair access to markets and recognition of international standards.

Sincerely,



K. Peter Turnquest, MP  
Deputy Prime Minister  
Minister of Finance