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European Union

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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
- = British Virgin Islands
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Mrs Fabrizia Lapecorella
Chair of the Code of Conduct Group (Business Taxation)
Rue de la Loi 175
B-1048 Brussels
Belgium

6 March 2018

EU list of non-cooperative jurisdictions for tax purposes

Dear Mrs. Lapecorella,

Thank you for your letter of 26 January 2018 to Mr. [REDACTED].

Following today's helpful meeting to discuss the EU List – Monitoring Phase, which provided very useful clarifications in regards criterion 2.2, I am writing to clarify the British Virgin Islands Government's commitment to meeting the terms of the EU's process.

On behalf of the people of the British Virgin Islands (BVI), I should first like to express our gratitude for the sympathy and support expressed by the Council and the Code of Conduct Group following the devastation inflicted by hurricanes Irma and Maria last September.

The Government of the BVI was grateful for the recognition of the scale of the impact of the hurricanes, reflected in the Council's acceptance of the Code of Conduct Group's recommendation to put the listing process on hold. Four lives were lost and 125 persons were injured by the hurricanes, which also caused widespread damage to the housing stock, electrical infrastructure, telecommunications, roads, ports, schools, health facilities and government offices.

Since the hurricanes struck, the Government has been fully engaged on managing the short-term recovery effort and consultations continue on a long-term plan to recover from the physical, social and economic damage caused.

The Government had constructive discussions with representatives of the Code of Conduct Group prior to the hurricanes and BVI is committed to continuing dialogue to improve understanding and address concerns in the area of taxation. This commitment is reflected in the full and cooperative part BVI has played in the development and implementation of international standards to improve tax transparency, and in BVI's membership of the Inclusive Framework on BEPS.

33 Admin Drive, Road Town, TORTOLA VG1110
British Virgin Islands

Tel: (284) [REDACTED] • Fax: (284) [REDACTED] 9 • Email: [REDACTED]

The Government notes that the Code of Conduct Group has assessed BVI's legal and regulatory framework with reference to criterion 2.2, with the assessment guided by the Terms of Reference for the application of this criterion.

The Government notes that, following this assessment, Code Group experts have provisionally considered BVI's tax system as provisionally harmful. The Government understands that the Group's main concerns relate to *de facto* lack of substance requirements for entities doing business in and through BVI, and the risk that profits registered in BVI may not be commensurate with economic activities and substantial presence.

I should stress that it has never been BVI's intention to operate a potentially harmful tax regime.

On behalf of the Government of the BVI therefore, I commit to addressing the concerns around economic substance and to making necessary changes (including implementing legislative reforms) by the end of 2018, in line with the terms of reference attached to your letter of 26 January 2018. These changes will include steps to ensure that BVI businesses have sufficient economic substance.

Annex I to this letter sets out the implementation steps and an indicative timeline. Further discussions with the Code of Conduct Group will be a valuable part of the process, and we look forward to these discussions commencing at the earliest opportunity in order to facilitate timely progress.

If the Code of Conduct Group requires any further clarification we would be happy to engage at the earliest opportunity with the Group to discuss wording that would satisfactorily demonstrate the BVI's commitment.



Dr. Hon. D. Orlando Smith, OBE
Premier and Minister of Finance
Government of the Virgin Islands

33 Admin Drive, Road Town, TORTOLA VG1110
British Virgin Islands

Tel: (284) [REDACTED] · Fax: (284) [REDACTED] · Email [REDACTED]

Economic substance requirements: implementation steps and indicative timeline for 2018

Develop policy options	February - March
Hold discussions with Code of Conduct Group. (Further discussions to be agreed, as appropriate.)	April
Consultation with interested parties	May - June
Review consultation responses	July
Determine next steps, including processing of legislation	August - December

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Tel: (284) [REDACTED] • Fax: (284) [REDACTED] • Email: [REDACTED]