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dated: 24 May 2018

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Subject: Future beneficial ownership criterion 1.4 for the EU listing process

Delegations will find attached the partially declassified version of the above-mentioned document.



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NOTE

From: Bulgarian Presidency
To: Delegations
Subject: Future beneficial ownership criterion 1.4 for the EU listing process

Delegations will find attached a document in view of the meeting of the Code of Conduct Group (Business Taxation) of 31 May 2018.

Future beneficial ownership criterion 1.4
for the EU listing process

I/ BACKGROUND

1. The EU listing criteria approved by the ECOFIN Council of 8 November 2016 (doc. 14166/16) included the following reference:

"1.4 Future criterion: in view of the initiative for future global exchange of beneficial ownership information, the aspect of beneficial ownership will be incorporated at a later stage as a fourth transparency criterion for screening"

2. The COCG meeting of 14 February 2018 mandated the subgroup on third countries to prepare a proposal for endorsement by the COCG prior to submission to ECOFIN. This mandate was reiterated at the COCG meeting of 12 April 2018.
3. At the subgroup meeting of 16 March 2018, delegations expressed a preference for the new criterion to be built upon the relevant assessments made according to the 2016 Global Forum's Terms of Reference. In this sense and following the comments from some delegations, the relevant provisions of the Terms of Reference (ToR) identified by the Commission services are those covered by points A1, A3 and B1, including their sub-sections. Furthermore, the Commission services explained that only the combination of these three elements would guarantee that the information is effectively available, collected and exchanged for tax purposes and therefore proposed that a minimum rating should be obtained for these three points.
4. At the subgroup meeting of 4 May 2018, delegations supported the way forward proposed by the Commission services (doc. 8384/18 EU RESTRICTED) but two comments were raised:
 - a. one delegation expressed the view that obtaining a minimum rating for point A3 of the ToR and its sub-sections may not be as relevant;
 - b. several delegations underlined that it would not be fair to list a jurisdiction only because it would be first to be reviewed by the GF and proposed instead to start to apply this new criterion from mid or end 2020.

5. The Presidency notes that in case the new criterion 1.4 would apply as from 2020, the "two out of three" exception would not need to be amended since it anyway expires on 30 June 2019, i.e. jurisdictions would de facto need to comply with all 4 criteria (1.1, 1.2, 1.3 and 1.4).

NOT DECLASSIFIED
