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9653/19

FISC 275
ECOFIN 516

'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Code of Conduct Group (Business Taxation)
– Council conclusions
= Adoption

1. At its meeting on 20 May 2019, the Code of Conduct Group agreed a progress report to the Council (doc. 9652/19 + ADDs 1 to 10) and the draft conclusions accompanying this report on 'the progress achieved by the Code of Conduct (Business Taxation) Group during the Romanian Presidency' set out below:

"With regard to the Code of Conduct (Business Taxation), the Council:

1. WELCOMES the progress achieved by the Code of Conduct Group during the Romanian Presidency as set out in its report (doc. 9652/19 + ADDs 1 to 10), in particular the revision of the EU list of non-cooperative jurisdictions in March 2019;
2. INVITES the Group to continue its work under its multiannual work package 2018 (doc. 10420/18);

3. WELCOMES the review undertaken by the Group of its subgroups' mandates and ENDORSES their reorganisation as proposed in the report;
4. ENDORSES the standstill and rollback assessments agreed by the Group and ASKS the Group to continue monitoring standstill and the implementation of the rollback;
5. NOTES WITH SATISFACTION the completion of the alignment of Member States' patent box regimes with the agreed nexus approach;
6. WELCOMES the ongoing monitoring by the Group of the implementation of its past guidance notes, thereby demonstrating the impact of the Code of conduct on Member States' practices;
7. INVITES the Group to continue its work on the elaboration of a draft guidance on notional interest deduction regimes for Member States that would wish to implement such a regime;
8. WELCOMES that the Group has taken stock of the state of play on transfer pricing issues following the Council conclusions of 8 December 2015 and 6 December 2016, and ENDORSES the conclusions reached by the Group in this area;
9. WELCOMES the effective interactions conducted by the Chair of the Group with jurisdictions in preparation of the relevant Group/Council decisions;
10. ENDORSES the way the Group has resolved the procedural and political issues that arose in the process of monitoring the implementation of commitments taken by jurisdictions;

11. ENDORSES in particular the technical guidance on collective investment funds (CIVs) in the context of criterion 2.2;
12. UNDERLINES that no grandfathering, further delays or replacement by measures of a similar effect will be accepted regarding the jurisdictions that have introduced harmful measures in replacement of their old harmful preferential regimes;
13. WELCOMES the publication of outcomes of proceedings on all the measures examined under EU listing criteria 2.1 and 2.2 for which the rollback had been endorsed by the Council, as well as the Group's broader efforts to increase the visibility and transparency of the EU listing process;
14. ENCOURAGES the Group to seek coherence with the OECD in respect of international tax good governance standards and listing criteria;
15. INVITES the Group to continue monitoring that jurisdictions fulfil their respective commitments and comply with new EU listing criterion 3.2 in accordance with the agreed deadlines;
16. INVITES the Group to resume discussions on further coordinated defensive measures in the tax area against non-cooperative jurisdictions, without prejudice to Member States' obligations under EU and international law;
17. INVITES the Group to report back to the Council on its work during the Finnish Presidency."

2. The Permanent Representatives Committee is invited:

- to forward to the Council the report (doc. 9652/19 FISC 274 ECOFIN 515 + ADDs 1-10), together with the conclusions as set out above;
- to suggest that it endorses the report and adopts the conclusions, both as "A" items on its agenda.