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REPORT

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	Code of Conduct Group (Business Taxation) - Report to the Council = Approval

I. BACKGROUND

1. On 1 December 1997, the Council and the representatives of the Governments of the Member States, meeting within the Council, adopted a resolution on a Code of Conduct for business taxation. This resolution provides for the establishment of a group within the framework of the Council to assess tax measures that may fall within the Code, which was established on 9 March 1998.[1] It also provides that the Code of Conduct Group (hereafter "COCG" or "Group") "*will report regularly on the measures assessed*" and that "*these reports will be forwarded to the Council for deliberation and, if the Council so decides, published*" (paragraph H).

[1] ST 6619/98.

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2. In its conclusions of 8 December 2015,[2] the Council expressed the wish to improve the visibility of the work of the COCG and agreed "*that its results, in particular its 6-monthly reports, are systematically made available to the public*" (paragraph 16).

3. In its conclusions of 8 March 2016,[3] the Council furthermore called "*for having more substantial 6-monthly Group reports to ECOFIN, reflecting the main elements and views, which were discussed under specific items and reporting also on the monitoring concerning (non-) compliance with agreed guidance*" (paragraph 16).

4. This report from the COCG encompasses the work of the Group in the second half of 2021 during the term of the Slovenian Presidency of the Council.

II. GENERAL ASPECTS

1. Organisation of work

5. In the second half of 2021, the COCG, under the chairmanship of Mrs. Lyudmila Petkova, Bulgarian Deputy Minister of Finance, has continued to fulfil its mandate in accordance with the agreed work programme.

6. Due to the continuous sanitary restrictions no physical meetings of the COCG took place. Instead, the COCG held informal video-conferences of the main Group on 5 July, 21 September, 12 October and on 22 November 2021; informal videoconferences of the sub-group on internal/external issues on 13, 18 and 29 October, 12 and 16 November 2021. In addition, fiscal attachés met upon a mandate from the COCG delegates on 8 July, 8, 13, 16, 20 and 24 September and 17 November 2021 to discuss EU-RESTRICTED documents related to the EU list of non-cooperative jurisdictions for tax purposes and to finalise the bi-annual EU list update. Additional meeting of Fiscal Counsellors/Attachés is planned for December in order to prepare discussions for the next update of the list in February 2022.

[2] ST 15148/15.
[3] ST 6900/16.

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7. At the COCG videoconference on 5 July 2021, Ms. Katarina Žnidaršič (Slovenia) and Mr. Alexandre Brodu (France) were confirmed respectively as the first and the second Vice-Chairs for the period up to the end of the Slovenian Presidency.

8. At the same meeting, the Group approved a work programme until the end of the Slovenian Presidency as set out in doc. 10589/21.

III. MANDATE REVISION

9. In the Council conclusions of 18 June 2021[4] Finance Ministers, in light of the good progress made so far, welcomed the ongoing discussion on the reform of the scope of the mandate that should also cover features of tax systems that have general application and that may have harmful effects and invited the Group to pursue the work. The Council also reiterated its readiness to continue to discuss the revision of the scope of the mandate as soon as there are relevant developments at international level but no later than by the beginning of 2022.

10. The informal videoconference of the COCG on 12 October 2021 mandated the sub-group on internal issues to continue the discussion on the revision of the mandate. The sub-group met via video-conference on internal/external issues on 13, 18 and 29 October, 12 November and on 16 November 2021 to prepare a draft text of the revised mandate and reported to the COCG on 22 November 2021.

    [The text of the revised mandate was submitted for approval by the Council and the representatives of the governments of the Member States, meeting within the Council Member States on 7 December].

[4] ST 9896/21

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IV. STANDSTILL AND ROLLBACK REVIEW PROCESSES

11. A call for standstill and rollback notifications of new preferential tax measures enacted by the end of 2020 was launched in mid-November 2020: the results were presented at the COCG meeting of 1 February 2021.

12. The following new regimes were identified[5]:

- Croatia: Reduction of the tax rate for small and mid-sized taxpayers (HR015);
- Croatia: Reduction of withholding tax rate on dividends and profit sharing (HR016);
- Croatia: Determination of tax-deductible expenses of credit institutions for write-offs of receivables from citizens and entrepreneurs (HR017);
- Croatia: Extension of the scope of application related to non-authentic arrangements (HR018);
- Croatia: Newly introduced tax incentive for investment projects in the manufacturing industry (HR019);
- Italy: Introduction of tax credit to the Budget law (IT022);
- Lithuania: New corporate income tax for companies implementing large projects (LT009);
- Romania: Reduction of the corporate income tax due (RO009);
- Romania: Exemption from payment of the tax for the taxpayers carrying out specific activities in the HORECA sector (RO010);
- Romania: Tax measures to support the maintenance/increase of own capitals (RO011).

[5] See updated compilation in doc. 8602/2/20 REV 2.

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1. Standstill review process

13. The following decisions were reached by the Group:

    1. Italy's introduction of tax credit to the Budget law (IT022) does not need to be assessed by the COCG.[6]

    2. Lithuania's new corporate income tax for companies implementing large projects (LT009) does not need to be assessed by the COCG but future application should be monitored.[7]

    3. Romania's tax measures to support the maintenance/increase of own capitals (RO011) does not need to be assessed by the COCG but future application should be monitored.[8]

14. As regards Croatia's newly introduced tax incentive for investment projects in the manufacturing industry (HR019), based on the information provided by Croatia, a draft agreed description is expected to be submitted to the Group as soon as it resumes work in 2022.

15. The standstill review of Romania's profit tax exemption for companies with innovation and R&D activities (RO008) is kept on hold until the relevant national legislation is adopted: this regime is currently not applied because the subsequent administrative acts have so far not been adopted.

[6] See ADD 1.
[7] See ADD 2.
[8] See ADD 3.

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2. Rollback review process

16. Regarding the rollback of Poland's Investment Zone (PL013)[9], at the end of 2021, Poland informed the Group that legislative work was completed regarding two out of the three aspects raised in the assessment. With regard to the remaining aspect, the amendment was still pending. The Group will examine the adequacy of the rollback as soon as the notification is completed.

V. MONITORING OF THE ACTUAL EFFECTS OF INDIVIDUAL MEASURES

17. During recent years, some of the measures subject to scrutiny were put under annual monitoring. At its meeting of 22 November 2021, the Group reviewed the actual effects of such measures. For this purpose, Member States concerned by the decisions adopted in 2017 and 2018 were requested to send the relevant data for the year 2019.

18. Based on such data, at its meeting of 22 November 2021, the Group concluded as follows:

    1. Greece's Patent tax incentive (EL015) regime does not seem to have affected in a significant way the business location among the Member States but monitoring should continue.[10]

    2. Italy's Rollback of the old IP regime (IT017) had harmful effects but no further action is needed, since the old patent box regime is no longer in place.[11]

    3. Lithuania's Special economic zones and intra-group services (IP component) (LT005) regime does not seem to have affected in a significant way the business location among the Member States but monitoring should continue.[12]

[9] ST 14114/19 ADD 3.
[10] See ADD 4.
[11] See ADD 5.
[12] See ADD 6.

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4. Lithuania's Extension of CIT incentive for the SEZ (LT006) regime does not seem to have affected in a significant way the business location among the Member States but monitoring should continue.[13]

5. Luxembourg's Intra-Group Financing - safe harbour rule (LU016) regime does not seem to have affected in a significant way the business location among the Member States but monitoring should continue.[14]

5. Portugal's Notional interest deduction regime (NID) (PT018) does not seem to have affected in a significant way the business location among the Member States but monitoring should continue.[15]

V. COCG GUIDANCE NOTES

19. On 29 October 2020 the Group agreed on the questionnaire for monitoring the implementation of the 2017 Guidance on tax privileges related to special economic zones presented at the COCG subgroup on internal issues meeting on 23 October 2020. Responses from the Member States were requested by 31 March 2021[16]. In its meeting of 19 May 2021, the Group decided to follow up on selected horizontal issues and requested further clarifications from the Member States concerned. Subsequently, in-depth technical analysis and work was pursued during the second half of the year. The Group will continue monitoring the implementation of this guidance during 2021 with the aim to conclude it in 2022.

[13] See ADD 7.
[14] See ADD 8.
[15] See ADD 9.
[16] WK 5161/2021 + ADD 1-10.

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VI. THE EU LIST OF NON COOPERATIVE JURISDICTIONS FOR TAX PURPOSES

1. Revision of the EU list of non-cooperative jurisdictions for tax purposes

20. In its conclusions of 18 June 2021,[17] the ECOFIN Council welcomed the progress achieved by the Code of Conduct Group, in particular with regard to the revision of the EU list of non-cooperative jurisdictions in February 2021. The Council invited the Group to continue an effective dialogue with jurisdictions and monitoring, so that jurisdictions fulfil their respective commitments and comply with the EU listing criteria in accordance with the agreed deadlines and invited the Group to request commitments from jurisdictions where appropriate and according to a timeline agreed by the Group.

21. The COCG continued interactions and dialogue with the relevant jurisdictions to assess recent developments and the implementation of their commitments, with a view to the revision of the EU list.

22. Following the meeting of the Group on 5 July, Fiscal Attachés met on 8 July as well as on 8, 13, 16, 20 and 24 September 2021 to consider progress made by jurisdictions and to prepare the revision of the EU list. The revised EU list of non-cooperative jurisdictions was approved by the Council on 5 October 2021 and published in the Official Journal on 12 October 2021.[18]

23. As a result of this revision, no new jurisdictions were added to the EU list of non-cooperative jurisdictions for tax purposes. Anguilla, Dominica and Seychelles were taken off the EU list with regard to criterion 1.2 (exchange of information on request). These jurisdictions were granted a supplementary review by the Global Forum and were therefore moved to Annex II. Seychelles also completed the reform of its Foreign Source Income Exemption (FSIE) regime. Panama did not commit to reform its FSIE regime. Therefore, its entry in Annex I also covers this aspect. Following the revision, nine jurisdictions remain listed (American Samoa, Fiji, Guam, Palau, Panama, Samoa, Trinidad and Tobago, US Virgin Islands and Vanuatu).

[17] ST 6896/21.
[18] OJ C 413I, 12.10.2021, p. 1-4.

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24. Costa Rica, Hong Kong, Malaysia, Qatar and Uruguay were added to Annex II due to issues with a harmful FSIE tax regime which these countries have committed to reform by end of 2022. Jordan, North Macedonia and Qatar committed to reforming harmful regimes[19] that are also under scrutiny by the OECD Forum on Harmful Tax Practices (FHTP).

25. Three jurisdictions were removed from Annex II - Australia, Eswatini and Maldives - after they fully delivered on their commitments and reforms. Australia reformed its preferential tax regime, while Eswatini and Maldives ratified the Mutual Assistance Convention (MAC).

26. Although Botswana and Jordan also ratified the MAC, they will remain in Annex II for the pending request of a supplementary review by the Global Forum and the amendment of a preferential tax regime, respectively.

27. Turkey was kept in Annex II for criterion 1.1 (automatic exchange of information) and it is expected to further engage and work on effective exchange of data under the Common Reporting Standard with all Member States. Turkey is required to meet the agreed international standards and fully comply with the conclusions of the ECOFIN Council of 22 February 2021. Turkey is required to send information for fiscal years 2020 and 2021 and onwards to all Member States according to the OECD calendar and international standards. The Council called on Turkey to urgently begin or continue bilateral technical work with all Member States and solve outstanding technical issues to effectively finalize the exchange of tax data as soon as possible and no later than 31 December 2021.

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[19] For Jordan Aqaba special economic zone regime; for North Macedonia Technological industrial development zone regime; for Qatar (i) Exemptions and concessionary rate under Qatar financial centre (QFC) regime, (ii) Free zone at Science & Technology park, and (iii) Free zone.

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2. Monitoring the implementation of commitments taken by jurisdictions

General overview

28. As of October 2021, the implementation of a total of 17 commitments[20] taken at a high political level by 15 jurisdictions[21] remains to be monitored by the Group. These are recorded in Annex II of the revised Council conclusions:

Criterion	Number of jurisdictions committed
1.1	1
1.2	6
1.3	1
2.1	9

29. Specifically, a total of 9 harmful tax regimes[22] remain to be rolled back under criterion 2.1, 5 of which are under monitoring by the COCG[23] and 4 by the OECD FHTP[24]. A detailed overview may be found in the compilation[25] of preferential regimes and measures examined by the COCG under criteria 2.1 and 2.2. A number of outcomes of procedure were also published after jurisdictions were deemed compliant under the EU listing.

[20] This figure adds up the number of commitments by jurisdictions under each criterion (see table).
21 Anguilla, Barbados, Botswana, Costa Rica, Dominica, Hong Kong, Jamaica, Jordan, Malaysia, North Macedonia, Qatar, Seychelles, Thailand, Turkey and Uruguay.
22 These figures don't include the harmful tax regimes of the US Virgin Islands (3) and Samoa (1), for which no sufficient high-level commitments to be monitored have been received yet.
23 The FSIE regimes of Costa Rica, Hong Kong, Malaysia, Qatar and Uruguay.
24 Jamaica's "Special economic zone" regime; Jordan's "Aqaba special economic zone" regime; North Macedonia's "Technological industrial development zone" regime; and three tax regimes of Qatar: (i) Exemptions and concessionary rate under Qatar financial centre (QFC) regime, (ii) Free zone at Science & Technology park, and (iii) Free zone.
25 ST 14343/21.

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Procedural and political aspects of the monitoring process

30. The Chair of the COCG continued to conduct political and procedural dialogues with relevant international organisations and jurisdictions, where necessary.

31. The Chair received a number of letters from jurisdictions and also held video-conferences at a political level with a number of them. Delegations were kept informed about these interactions, and response letters signed by the Chair were agreed by the Group.

32. The Chair participated in the virtual FHTP meeting on 15 November 2021 and intervened in order to provide an overview of the recent COCG work.

4. Screening and scoping issues

Future criterion 1.4 (beneficial ownership)

33. The EU listing criteria approved by the ECOFIN Council in 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*".

34. Due to COVID-19 it was not possible to have further discussions on this and the Group will need to come back on this point at a later stage.

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Assessment of regimes under criterion 2.1

35. Information on the follow-up to the OECD meeting of the FHTP (27 April 2021) was provided at the COCG videoconference on 19 May 2021. Member States decided to send commitment letters to Jordan, North Macedonia and Qatar with a request to these jurisdictions to formally commit to the COCG to abolish or amend their respective preferential regimes with the aim to comply with criterion 2.1.

36. All the jurisdictions responded and confirmed their commitment to abolish or amend their regimes.

37. At its meeting of 19 May 2021, the COCG formally endorsed the assessment of the tax regime "International Holding Companies" (Russia, Special Administrative Regions) as overall harmful, inviting the Chair to contact the jurisdiction before proceeding with a request for a commitment from the competent Russian authorities. In October 2021, the Chair had an exchange of views with her counter-part at the Russian Ministry of Finance. This contact was followed by a technical dialogue between the Russian authorities and the Commission Services.

Foreign source income exemption regimes

38. In October 2019, the ECOFIN Council approved guidance on foreign source income exemption (FSIE) regimes in the framework of the EU listing exercise (criterion 2.1). This guidance acknowledges that FSIE regimes are a legitimate approach to prevent double taxation but identifies potentially harmful elements that could be present in such regimes.

39. In December 2019, the COCG Chair wrote to thirteen jurisdictions to inform them that a regime of this kind was identified in their jurisdiction. The Commission services followed up with a questionnaire to nine jurisdictions in February 2020 with a deadline of 20 March 2020 to reply. It was agreed to screen four jurisdictions at a later stage.

40. All the jurisdictions that have been contacted responded to the questionnaire. The Commission services analysed the replies and followed up where necessary. On this basis, the Commission services prepared an overview of the work carried out so far, as well as country-specific progress reports.

41. On 19 May 2021, the COCG agreed to send letters to 6 jurisdictions from which the COCG would seek commitments to repeal or amend their harmful FSIE regimes. 5 jurisdictions responded and confirmed their commitment to abolish or amend their regimes (see Paragraph 28). 1 jurisdiction did not express the requested commitment[26]. The remaining 3 jurisdictions[27] were deemed compliant under the EU listing criteria.

Follow-up scoping issues under criterion 2.2

42. In December 2019, the ECOFIN Council endorsed the activity-based approach for partnerships under criterion 2.2, set out in the annex to the Group's 6-monthly report, as well as a common approach for activating an exchange of information with jurisdictions under criterion 2.2.

43. As requested by the Group, in December 2019, the Commission services wrote to the jurisdictions concerned to inform them of this decision and to share the questionnaire with them. Jurisdictions were asked to reply by 15 February 2020. All jurisdictions replied, and the Commission services sent follow-up questions where needed.

44. On 21 September 2020 the Fiscal Attachés examined a progress report on partnerships under criterion 2.2 and agreed on the way forward.

45. The Member States concluded that Anguilla, Barbados, Bermuda, British Virgin Islands, Cayman Islands, Guernsey, Isle of Man and Jersey should extend their economic substance requirements to all relevant partnerships which were identified to fall out of the scope of the legislation in force at that time.

[26] Panama.
[27] Maldives, Nauru and Singapore.

46. It was also agreed that this was already covered by the commitment of the jurisdictions concerned to comply with the scoping paper for criterion 2.2. and a new commitment was not required. The following timeline should apply to the eight relevant jurisdictions to adopt and put into effect the necessary amendments to their legal framework, so that this could be taken into account in the October 2021 listing update:

(a) by 30 June 2021 for the adoption of necessary amendments;

(b) by 1 July 2021 for the entry into force with a maximum 6-month transition period for existing entities.

47. On 19 May, 8 July and 8 September 2021, the COCG examined the legislative amendments adopted by the jurisdictions in order to extend economic substance requirements to all relevant partnerships. The COCG agreed that all 8 jurisdictions concerned had introduced and put into effect appropriate amending legislation in a timely fashion and therefore addressed the relevant deficiencies as requested by the COCG.

Implementation of the new criterion 3.2

48. In 2019, the COCG agreed on a general approach for assessing compliance with criterion 3.2 on country-by-country reporting (CbCR), in particular for jurisdictions that joined the Inclusive Framework before the end of 2017. The assessment would comprise two main elements:

- Jurisdictions should have arrangements (multilateral or bilateral qualifying competent authority agreement) in place to exchange CbCR reports with all Member States with whom they already have an international agreement in effect (MAC or bilateral Double Tax Convention / Tax Information Exchange Agreement that provides for the automatic exchange of tax information) by the end of 2019.

- Jurisdictions should be assessed positively in the Inclusive Framework's Phase 3 peer reviews, due in the second half of 2020.

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49. In January and February 2021, the COCG discussed the findings of the Phase 3 peer review reports by the Inclusive Framework and agreed to inform the jurisdictions which received general recommendations on the implementation of the CbCR minimum standard that the COCG would seek commitments later in 2021 if these jurisdictions receive general recommendations as part of the peer review reports by the Inclusive Framework in 2021.

50. In April, May and July 2021, the COCG further discussed and agreed the framework for the assessment of the effectiveness of CbCR exchanges with third-country jurisdictions in relation to jurisdictions that received general recommendations that may not constitute a material shortcoming in the sense of the Guidance on criterion 3.2 for the implementation of the CbCR minimum standard.

51. In October and November 2021, the Code of Conduct Group discussed and agreed on the assessment of the relevant jurisdictions for compliance with criterion 3.2 in view of the update of the EU list in February 2022.

Review of the economic data used for selecting jurisdictions

52. In March 2019 the ECOFIN Council recalled *"the extensions of the geographical scope of the EU screening exercise to other jurisdictions agreed in 2018"*[28] and invited *"the Code of Conduct Group to review the economic data used for selecting jurisdictions in 2020, for application as from 2021"*. This invitation was reiterated in February 2020 with a view *"to focus on the most relevant jurisdictions, having regard to the agreed work on the extended geographical scope as identified in 2018"*.

53. An exchange of views on this issue was organized at the COCG meeting of 2 March 2020. On this occasion, the Commission Services confirmed that they would present an update of the 2016 Scoreboard to assist this discussion in the second half of 2020.

[28] ST 14364/21.

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54. At the informal videoconference of 23 March 2021, the COCG discussed the prioritization table prepared by the Commission Services. At the meeting of 20 April 2021, the Fiscal Attachés had an exchange on a possible revision of the geographical scope of the EU list, taking into account the prioritization table prepared by the Commission Services and a note by the Chair and the Presidency. Further work will be necessary on this issue, in order to decide the approach to be used for selecting jurisdictions for the geographical scope of the EU screening exercise.

<u>Defensive measures vis-à-vis third country jurisdictions</u>

55. In line with the Guidance on defensive measures agreed in December 2019, the COCG resumed its work on defensive measures. On 1 February 2021 the COGC agreed that Member States should update the COCG on the state of play as regards defensive measures that they apply towards non-cooperative jurisdictions for tax purposes.

56. At the informal videoconference of the COCG on 12 October the Commission Services presented an overview of possible actions to improve the effectiveness of the defensive measures vis-à-vis third-country jurisdictions. Delegations supported the intention to continue work in the area of defensive measures, in accordance with the agreed Guidance, [and that an overview of the measures on the currently applied measures is attached to this report (ANNEX I).]

<u>Interaction between EU and Member States' lists of jurisdictions and new Global Forum ratings</u>

57. On 23 March 2021, the COCG discussed a note prepared by the Commission Services regarding the interaction between EU and Member States' lists of non-cooperative jurisdictions and how to enhance the EU listing process based on Member States' experience at a national level.

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58. The discussion on the consistency between the EU and Member States lists of jurisdictions, regarding in particular the transparency criteria, continued at the COCG videoconferences on 7 July, 21 September, 12 October 2021, also with regard to possible approaches to streamline the procedure on the application of the EU list transparency criteria taking into account new Global Forum ratings on exchange of information on request and to the upcoming Global Forum determinations on automatic exchange of information. The discussion remains ongoing.

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Revised state of play of the implementation of the 2019 Guidance on Defensive Measures by EU Member States

Introduction

At the 12th October COCG meeting, Member States expressed support to publish an overview of the defensive measures introduced so far. This note follows up on the Chair's conclusion at that meeting that the COCG should report to the Council on the implementation on defensive measures by Member States. It includes a revised draft Annex on defensive measures to the forthcoming six months COCG report to the Council after taking into account comments from Member States.

Member States are invited to agree on the content of the Annex and to confirm that the measures it contains are up to date and enacted.

Administrative measures

Currently, twenty-four Member States apply at least one administrative measure agreed upon in the 2019 Guidance. Among them, eleven apply at least two measures. In some cases, Member States had already started applying at least one of these defensive measures before 2021. It is noted that some Member States have implemented a phased approach, whereby information collected from the monitoring of transactions involving NCJs is used to identify risk areas and contribute tax authorities' programmes of tax audits.

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Overview of administrative measures enacted as of 30 November 2021

Applicable measures	**Number of Member States applying the measure**	**Number of Member States that apply the measure in combination with at least one other measure**
Reinforced monitoring of certain transactions	16	11
Increased auditing	17	12

Administrative measures enacted by each Member State vis-à-vis listed jurisdictions.

Member State	**Administrative Measure**
AT – Austria	Increased audit risks The measure applies to taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.
BE – Belgium	Reinforced monitoring of certain transactions The measure applies to Belgian resident companies or legal entities, as well as Belgian based permanent establishments of non-resident companies, have to report payments above EUR 100,000 (on a yearly basis) made to persons established in: - a non-cooperative jurisdiction for tax purposes according to the EU list criteria or the Belgian national list or - a low or not tax jurisdiction or - a jurisdiction which has not substantially implemented the international standards on exchange of information on request.

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BG – Bulgaria	<u>Reinforced monitoring of certain transactions</u> The measure applies to corporate taxpayers benefiting from preferential tax regimes deemed harmful under criterion 2.1 of EU list. A taxpayer has to include in their annual tax return the following information: • Total amount of accounting revenues from transactions with persons resident in jurisdictions with a harmful preferential tax regime; • Total amount of accounting expenses from transactions with persons resident in jurisdictions with a harmful preferential tax regime; • Receivables from persons resident in jurisdictions with a harmful preferential tax regime. • Liabilities to persons resident in jurisdictions with a harmful preferential tax regime.
HR – Croatia	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative. <u>Reinforced monitoring of certain transactions</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.

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CY – Cyprus	None
CZ – Czechia	Increased audit risks The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative Reinforced monitoring of certain transactions The measure applies to corporate taxpayers benefiting from preferential tax regimes deemed harmful under criterion 2.1 of EU list.
DK – Denmark	Reinforced monitoring of certain transactions The measure applies to all kind of taxpayers that conduct transactions with enterprises etc. in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative. Increased audit risks The measure applies to all kind of taxpayers that conduct transactions with enterprises etc. in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.

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EE – Estonia	Reinforced monitoring of certain transactions The measure applies to all kind of taxpayers that conduct transactions with enterprises etc. in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.
FI – Finland	Increased audit risks The measure applies to corporate taxpayers benefiting from preferential tax regimes deemed harmful under criterion 2.1 of EU list and/or are resident in a low or not tax jurisdictions that is not in compliance with criterion 2.2 of the EU list. Reinforced monitoring of certain transactions
FR – France	Reinforced monitoring of certain transactions The measure applies to corporate taxpayers that conduct transactions with enterprises in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.
DE – Germany	Increased audit risks The measure applies to corporate taxpayers that conduct transactions with enterprises in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.
EL – Greece	Increased audit risks The measure applies to corporate taxpayers that conduct transactions with enterprises in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.

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HU – Hungary	None
IE – Ireland	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative. In particular, corporate taxpayers have to declare Interest, Royalties or Dividends with persons in a non-cooperative jurisdiction for tax purposes. <u>Reinforced monitoring of certain transactions</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.
IT – Italy	None
LV – Latvia	<u>Reinforced monitoring of certain transactions</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.
LT – Lithuania	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.[29]

[29] This measure does not apply specifically to jurisdiction listed as non-cooperative according to the EU listing criteria but have broader application according to Lithuania's domestic tax policy.

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LU – Luxembourg	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative. <u>Reinforced monitoring of certain transactions</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.
MT – Malta	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions or have a link with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative. <u>Reinforced monitoring of certain transactions</u> The measure applies to corporate taxpayers that conduct transactions or have a link with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.

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NL – Netherlands	Increased audit risks The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.
PL – Poland	Increased audit risks The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.
PT – Portugal	Increased audit risks The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.[30]
RO – Romania	Increased audit risks The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.

[30] This measure does not apply specifically to jurisdiction listed as non-cooperative according to the EU listing criteria but have broader application according to Portugal's domestic tax policy.

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SK – Slovak Republic	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative. <u>Reinforced monitoring of certain transactions</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.
SI – Slovenia	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative. <u>Reinforced monitoring of certain transactions</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.[31]

[31] This measure does not apply specifically to jurisdiction listed as non-cooperative according to the EU listing criteria but have broader application according to Slovenia's domestic tax policy.

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ES – Spain	Increased audit risks The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative. Reinforced monitoring of certain transactions The measure applies to transactions or securities for which the where the issuing entity is resident, established or the securities are negotiated in a non-cooperative jurisdiction, regardless the criterion for which jurisdictions are deemed non-cooperative.
SE – Sweden	Increased audit risks The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative and jurisdictions in Annex II. Reinforced monitoring of certain transactions The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative and jurisdictions in Annex II.

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Defensive measures of legislative nature from the Guidance

Currently, twenty-six Member states apply or have taken steps to apply at least one of the four defensive measures agreed upon in the 2019 Guidance. Among these twenty-six Member States, sixteen apply at least two of the four measures. Twenty-one Member States operate to date defensive measures of both administrative and legislative nature to jurisdictions listed in the EU list, while three Member States apply defensive measures in accordance with their domestic listing process, which currently includes all or almost all jurisdictions mentioned in Annex I of the Council Conclusion establishing the EU list of non-cooperative jurisdictions for tax purposes. In detail:

- 17 MS have chosen to implement Controlled Foreign Companies (CFC) rules;
- 16 have chosen to implement a non-deductibility of costs;
- 11 have chosen to implement a withholding tax;
- 11 have chosen to implement a limitation to the participation exemption.

With regard to the other DM mentioned in the 2019 Guidance, three Member State apply reversal of the burden of proof and one of them does it in combination with special documentation requirements.

Overview of legislative defensive measures enacted as of 30 November 2021

Applicable measures	**Number of Member States**
Controlled Foreign Companies (CFC) rules	17
Withholding taxes	12
Limitation of participation exemption on profit distribution	11
Non-deductibility of costs	16
Other measures listed in the guidance	3

Legislative defensive measures enacted by each Member State

Member State	**Measure(s)**
AT – Austria	CFC rules apply to jurisdictions listed in Annex I. The Austrian CFC rules apply by presuming that the threshold of Article 7(1) of ATAD on the level of corporate income tax abroad is met if a company is established in listed jurisdictions. The assessment takes place on a financial-year-base, i.e. if the foreign corporation's jurisdiction of residence is listed on the financial year's balance sheet day, the foreign entity will be deemed being low taxed for that particular financial year with respect to the Austrian CFC.
BE – Belgium	Non-deductibility of costs, CFC rules and limitation of participation exemption on profit distribution apply to jurisdictions in Annex I. The non-deductibility of certain payments (Article 198, 10° BITC 92) is linked to the obligation to report certain foreign payments (Article 307, §1/2 BITC 92). Costs that are in principle deductible for the taxpayer will be refused if the Belgian taxpayer fails to report the payments or if the payments are reported but the taxpayer fails to prove that the payments were done in the framework of actual and sincere transactions carried out with a person other than (an) artificial construction(s). In those cases, the payment will not be tax deductible. The possibility of counter-evidence by the taxpayer can be proven by all legal means. The Belgian CFC rules apply by presuming that the threshold of Article 7(1) of ATAD on the ownership control, level of corporate income tax abroad are met in all cases for companies established in listed jurisdictions. The Belgian participation exemption rules do not apply to dividends from companies in listed jurisdictions. No counter-evidence possible for the taxpayer.

BG – Bulgaria	<u>Non-deductibility of cost and withholding taxes apply to jurisdictions listed in Annex I</u> The non-deductibility of costs apply to any expenses on interest payments charged (unless the conditions of the loan are agreed in conformity with requirements provided for in a statutory instrument) where at least three of the following conditions are fulfilled: - the loan exceeds the owners' equity of the payer of the income at the 31st day of December of the last preceding year; - the repayment of the loan or the payment of interest thereon is not limited by a fixed period; - the repayment of the loan or the payment of interest thereon depends on the existence or on the amount of profits accruing to the payer of the income; - the repayment of the loan depends on satisfaction of the claims of other creditors or on the payment of dividends. A withholding tax applies at the rate of 5% applies to dividends and boni to companies in listed jurisdictions. A withholding tax at the rate of 10% applies to all other payments.
HR - Croatia	<u>CFC rules and a withholding tax apply to jurisdictions listed in Annex I.</u> The Croatian CFC rules apply by denying the waivers in Article 7 (4) of ATAD in relation to turnover threshold and non-trading income threshold. A withholding tax measure applies to all services and fees (listed in the article 31 of the Profit tax act) paid to persons having their headquarters or place of effective management, or supervision of business in listed jurisdictions. The measure does not apply if a double taxation treaty is in force. The withholding tax rate is 20%

CY – Cyprus	A withholding tax applies to jurisdictions listed in Annex I. A withholding tax applies to dividends (17%), interests (30%) and royalties (10%) paid to companies resident in listed jurisdictions.
CZ – Czechia	CFC rules apply to jurisdictions listed in Annex I. The Czech CFC rules apply by denying eligibility for the economic substance safeguard and presuming presume that the thresholds of Article 7(1) of ATAD on the level of corporate income tax abroad is met for companies established in listed jurisdictions.
DK – Denmark	Non-deductibility of costs and withholding tax measures apply to jurisdictions listed in Annex I Non-deductibility of costs applies to all payments to related parties established in listed jurisdictions. Withholding tax measures applies to all dividend payments where the shareholder is tax resident or registered in a listed jurisdiction and the shares qualify as "main shareholder shares", "subsidiary shares" or "group shares". The tax rate is 44%.
EE – Estonia	Non-deductibility of costs, a withholding tax and Limitation of participation exemption of profit distributions apply to jurisdictions listed in Annex I. The non-deductibility of costs applies to the following costs linked to listed jurisdictions:

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	- acquisition of securities issued by a legal person located in a listed jurisdiction unless such securities meet the requirements provided for in subsection 107 (1) of the Investment Funds Act; - acquisition of a holding in a legal person located in a listed jurisdiction; payment of a fine for delay or a contractual penalty, or extra-judicial compensation for damage, to a legal person located in a listed jurisdiction; - grant of a loan or making of an advance payment to a legal person located in a listed jurisdiction or acquisition of a right of claim against a legal person located in a listed jurisdiction in any other manner; - in case of resident credit institutions, losses sustained by a credit institution when it transfers a right of claim or waives the collection of a right of claim (including loans granted and advance payments made) acquired against a legal person located in a listed jurisdictions. A withholding tax applies to payments to legal persons located in listed jurisdictions in relation to services provided to an Estonian resident. The withholding tax rate is 20%. The participation exemption of profit distributions under Estonian law does not apply if a legal person distributing profits is located in a listed jurisdiction.
FI – Finland	CFC rules apply to jurisdictions listed in Annex I. The Finnish CFC rules apply by denying eligibility for the economic substance safeguard if a company is established in listed jurisdictions.

FR – France	CFC rules, non-deductibility of costs, limitation of participation exemption and a withholding tax applies to jurisdictions listed in Annex I. The non-deductibility of costs applies to payments such as interests, deposits, guarantees, debts, royalties for the transfer or concession of operating licenses, patents, trademarks, remuneration for services of any kind (salaries, fees, commissions, etc.) as well as any payment made to an account held in a financial institution established in listed jurisdictions. A withholding tax applies to payments such as dividends, royalties, capital gains, income distributed to non-resident individuals or legal entities (in particular income from shares and directors' fees) when these payments are made to jurisdictions listed in Annex I in relation to criterion 2.2. The withholding tax rate is 75%. The French participation exemption rules do not apply for income received from listed jurisdictions, such as dividends, interests and royalties.
DE – Germany	Non-deductibility of costs, CFC rules, withholding taxes, and limitation of participation exemption on profit distribution apply to jurisdictions listed in Annex I based on a number of conditions. Non-deductibility applies to the all costs in relations to companies resident in listed jurisdictions. The German CFC rules apply by denying the waivers and safeguards introduced according to the ATAD directive.

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	A withholding tax applies to income from financing relationships, insurance and reinsurance services, from the provision of other services or from trading of goods, if such income is not taxable under the existing German rules of non-residents companies in so far as the remunerations constituting the income are deductible as business expenditure or income-related expenses by a resident taxpayer. The withholding tax rate is 15% The German participation exemption rules do not apply to income deriving from dividends and sale of shared from companies resident in listed jurisdictions. These measures do not apply cumulatively. CFC rules apply only to the extent that the rules on limitation of profit distributions do not apply. The limitation on participation exemption does not apply if a company resident in listed jurisdiction provides evidence that it has been subject to a withholding tax in that jurisdiction. The non-deductibility of costs applies only if the withholding tax does not apply The non-deductibility of costs and the limitation of profit distribution apply only after a jurisdiction features on Annex I for three or two years, respectively.
EL – Greece	Non-deductibility of costs applies to jurisdiction listed in Annex I. The non-deductibility of costs applies to all expenses paid to an individual or legal entity which is tax resident in a listed jurisdiction. The taxpayer can demonstrate that these expenses concern real and ordinary transactions and do not result to the transfer of profits or income or capital for the purpose of tax avoidance or tax evasion. The expenditures reformation will take place at the very time the jurisdiction is listed or delisted (i.e. amending the tax return).

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HU – Hungary	CFC rules apply to jurisdictions listed in Annex I. The Hungarian CFC rules apply by denying the waivers in Article 7(3) and (4) of ATAD in relation to low profit margin and the turnover threshold if a company is established in listed jurisdictions.
IE – Ireland	CFC rules apply to jurisdictions listed in Annex I. The Irish CFC rules apply by denying the exemptions on corporate income tax level and the waivers in Article 7(3) of ATAD in relation to low profit margin, low accounting profit when a subsidiary of an Irish group is resident in listed jurisdictions.
IT – Italy	No measures have been introduced to date
LV – Latvia	CFC rules, non-deductibility of costs, withholding taxes and limitation of participation exemption apply to jurisdictions listed in Annex I. The Latvian CFC rules apply by denying the waiver in Article 7(3) of ATAD on in relation to the companies turnover. The non-deductibility of costs applies to income obtained from the alienation of stocks of a person who is located, set up or established in a listed jurisdiction. A withholding tax applies to payments and dividends paid to a company located in listed countries. The withholding tax rate is 10%. The limitation of participation exemption applies by including income from dividends in the tax base of the Latvia-resident companies, if the payment is made by a company located in a listed jurisdiction.

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LT – Lithuania	Non-deductibility of costs, CFC rules, withholding tax measures and limitation of participation exemption apply to companies registered or otherwise organized in the target jurisdictions according to the definition provided in the Lithuanian legislation. The target jurisdictions correspond to the jurisdictions currently listed in Annex I. Non-deductibility of cost applies to payments made to foreign entities registered or otherwise organized in target territories, unless the taxpayer provides evidence that such payments are related to the usual activities of both parties or the receiving foreign entity controls the assets needed to perform such usual activities, or there is a link between the payment and an genuine economic operation. The measures applies to costs included in allowable deductions 18 months before the goods actually received from or the services actually provided by entities registered or otherwise organized in target territories. The Lithuanian CFC rules apply by presuming that the threshold of Article 7(1) of ATAD in relation to the level of corporate income tax abroad is met, denying the waiver IN Article 7(4) in relation to non-trading income and denying eligibility for the economic substance safeguard. Withholding taxes apply to interests, dividends and royalties paid to foreign entities registered or otherwise organized in target territories. The withholding CIT rate for dividends is 15%; on interest and royalties is 10%. The Lithuanian participation exemption does not apply to dividends paid by a Lithuanian entity to a foreign entity registered or otherwise organized in target territories.

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LU – Luxembourg	Non-deductibility of costs applies to jurisdictions listed in Annex I. The non-deductibility of costs relates to interests and royalties paid from companies established in Luxembourg to associated companies established in listed jurisdictions.
MT – Malta	Limitation of participation exemption on profit distribution applies to jurisdictions listed in Annex I The Maltese participation exemption does not apply to dividends received by a Maltese entity from entities in listed jurisdictions.
NL – Netherlands	CFC rules and a withholding tax apply to jurisdictions listed in Annex I. The CFC rules apply according to Model A as set forth by the EU Anti-Tax avoidance directive apply, as opposed to the Dutch general CFC rules, which follow model B. A withholding tax on royalties and interest on payments to listed jurisdictions applies. The withholding tax rate is 25%.
PL – Poland	CFC rules apply to jurisdictions listed in Annex I. The Polish CFC rules apply by denying eligibility for the economic substance safeguard, the threshold on control requirement and the waivers in Article 7(3) and (4) in relation to low profit margin, low accounting profit, turnover threshold and non-trading income threshold.

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PT – Portugal	Non-deductibility of costs, CFC rules, withholding tax measures and limitation of participation exemption on profit distribution apply to jurisdiction in the Portuguese national list. These jurisdictions include the jurisdictions currently listed in Annex I. Non-deductibility of costs applies to all the amounts paid, or due, to non-resident individuals or companies that are resident or established in a jurisdiction listed in the Portuguese national list or paid, as well as to amounts whose payment is made to accounts opened with financial institutions resident or domiciled in a listed jurisdiction. The taxpayer can demonstrate that such charges correspond to transactions actually carried out and that they are not abnormal in character or have an exaggerated amount. A withholding tax applies at the rate of 25% to income paid to non-residents without a permanent establishment in Portugal. A higher rate (35%) applies to investment income. Investment income comprises, inter alia, dividends, interest, income from investment fund units, income from interest-rate swaps, royalties (whenever the beneficial owner is not the author or the original holder), income from the use or concession of the use of agricultural and industrial, commercial or scientific equipment.
RO – Romania	Non-deductibility of costs applies to jurisdictions listed in Annex I. The non-deductibility of costs applies to all cost otherwise deductible according to Romanian legislation from the date in which a jurisdiction is listed. Specific rules apply if the expenses are incurred as a result of transactions that are deemed not to have an economic purpose.

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SK – Slovak Republic	<u>Non-deductibility of costs, a withholding tax and limitation of participation exemption on profit distribution apply to jurisdictions listed in Annex I.</u> The non-deductibility of costs (in force) applies to any payments to a taxpayer from listed jurisdictions that would be otherwise deductible under Slovak legislation. The costs may be deductible only after the payment has been made. A withholding tax applies to any payment made to companies in listed jurisdictions. The withholding tax rate is 35%. The Slovak participation exemption rules do not apply to dividends derived from companies in listed jurisdictions. The dividends are taxed by applying a higher tax rate (35 %).
SI - Slovenia	<u>CFC rules, non deductibility of costs and limitation of participation exemption on profit distribution apply to jurisdictions listed in Annex I.</u> The Slovenian CFC rules apply by denying eligibility for the economic substance safeguard and the waiver in Article 7(3) of ATAD in relation to low accounting profit in connection to certain categories of income.

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ES – Spain	Non-deductibility of costs, CFC rules, withholding taxes and limitation of participation exemption to profit distributions apply to jurisdictions included in the Spanish national list. These jurisdictions include almost all jurisdictions the jurisdictions currently listed in Annex I. The non-deductibility of costs relates to operations carried out directly or indirectly with natural persons or companies or through natural persons or entities resident in listed jurisdictions. The Spanish CFC rules apply to listed jurisdictions. Withholding taxes apply to the following income: - interests obtained through listed jurisdictions. - capital gains obtained through listed jurisdictions. - income derived from alienation or reimbursement of shares in investment funds, provided they are obtained through listed jurisdictions. The withholding taxes apply by disallowing the exemptions foreseen under the Non-Resident Income Tax Act. The withholding tax rates are 19%. The Spanish participation exemption rules on profit distribution is denied for Spanish resident and non-resident companies in case profits are distributed by entities which are tax resident in listed jurisdictions.

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SE – Sweden	Non-deductibility of costs applies to jurisdictions listed in Annex I. In specific situations, the CFC rules apply as a backstop. Non-deductibility of costs applies to interest on both intra-group and external loans in listed jurisdictions. When a double tax treaty is in force with listed jurisdictions, the general Swedish CFC rules apply.

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Synthetic overview of the measures in place

Member States	Adm. in Place	Leg. in Place	Non-Deduct. of Costs	CFC rules	Participation Exemption	WHT	Others
Austria	X	X		X			
Belgium	X	X	X	X	X		X
Bulgaria	X	X	X		X	X	
Croatia	X	X		X		X	
Cyprus		X****				X	
Czech Rep	X	X		X			
Denmark	X	X	X			X	
Estonia	X	X	X		X	X	
Finland	X	X		X			
France	X	X	X	X	X	X	X
Germany	X	X*	X	X	X	X	
Greece	X	X	X				X
Hungary		X		X			
Ireland	X	X		X			
Italy							
Latvia	X	X	X	X	X	X	
Lithuania	X**	X**	X	X	X	X	
Luxembourg	X	X	X				
Malta	X	X			X		
Netherlands	X	X		X		X	
Poland	X	X		X			
Portugal	X**	X**	X	X	X	X	
Romania	X	X	X				
Slovak Rep	X	X	X		X	X	
Slovenia	X	X*	X		X		
Spain	X	X***	X	X		X	
Sweden	X	X	X	X			

*Legislation enters into force on 1 January 2022

** Legislation is in place vis-à-vis jurisdictions defined according to the national listing process, which currently correspond to jurisdictions listed in Annex I

*** Legislation is in place vis-à-vis jurisdictions defined according to the national listing process, which includes almost all jurisdictions listed in Annex I. A revised national list is due to be adopted in 2022 taking into account, inter alia, the EU list criteria.

**** Legislation enters into force within December 2021 and will be enacted on 31 December 2022

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Synthetic overview of the measures applied by Member States that are not mentioned in the Guidance

Member States	**CIT**	**PIT**	**Sectorial restrictions**
Austria	X	_	_
Belgium		X	_
Bulgaria	X		X
Croatia		_	_
Cyprus	_	_	_
Czech Rep		_	
Denmark	_	_	
Estonia	_	_	_
Finland		_	_
France	X	X	X
Germany	_	_	_
Greece	_	_	X
Hungary		_	
Ireland		_	
Italy	_	_	_
Latvia	X	X	
Lithuania	_	_	_
Luxembourg	_	_	_
Malta	_		_
Netherlands	X	_	
Poland	X	_	
Portugal	_	_	
Romania	_	_	_
Slovak Rep	_	X	
Slovenia	_	_	_
Spain	X	X	X
Sweden		_	_
Total	7	5	4

"CIT" means Member States, which apply at least one defensive measure not listed in the Guidance in the corporate tax area vis-à-vis listed jurisdictions

"PIT" means Member States, which apply at least one defensive measure not listed in the Guidance in the personal tax area, vis-à-vis listed jurisdictions

"Sectorial prohibitions" means Member States, which have adopted sectorial prohibitions against NCJs.

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