



Brussels, 3 December 2021  
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**NOTE**

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From: General Secretariat of the Council  
To: Council

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Subject: Code of Conduct Group (Business Taxation)  
- Council conclusions  
= Approval

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1. Draft Council conclusions on the progress achieved by the Code of Conduct Group (COCG) during the Slovenian Presidency were examined within the COCG and at the informal videoconference of the Working Party on Tax Questions (High level) on 25 November 2021.
2. The bracketed text of para 7 was agreed in principle, pending the overall agreement on updating the mandate of the Code. One delegation suggested in Coreper on 1 December to further improve the wording on transparency of that paragraph. Paragraph 7 will remain in the text only if there is an agreement on the revised Code of Conduct.
3. The rest of the text of the Council conclusions is acceptable to all delegations. The wording of paragraph 1 reflects the agreement reached in Coreper to approve the COCG report under A-items.

4. The Council (ECOFIN) on 7 December 2021 is invited to approve the text of the conclusions in the light of the discussion on the revised Code of Conduct.
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**Draft Council conclusions**  
**on the progress achieved by the Code of Conduct (Business Taxation) Group**  
**during the Slovenian Presidency**

The Council:

1. WELCOMES the progress achieved by the Code of Conduct Group during the Slovenian Presidency, in particular with regard to the revision of the EU list of non-cooperative jurisdictions in October 2021 and the reform of the Code of Conduct; **WELCOMES** the Group's report as set out in document 14230/21 + COR 1 + ADD 1-9;
2. INVITES the Group to continue an effective dialogue with jurisdictions and monitoring, so that jurisdictions continue to fulfil their respective commitments and comply with the EU listing criteria in accordance with the agreed deadlines; SUPPORTS the preparatory work done with a view to assessment of relevant jurisdictions for compliance with criterion 3.2 on country-by-country reporting (CbCR) in view of the update of the EU list in the first quarter of 2022; INVITES the Group to request commitments from jurisdictions where appropriate and according to a timeline agreed by the Group;
3. WELCOMES the positive effect of the Code of Conduct and the work of the Group on reducing harmful tax practices and the decrease of preferential tax regimes both at the EU level and globally; INVITES the Group to reflect on possible ways forward to enhance the current criteria and processes for third country jurisdictions, where appropriate;

4. ENDORSES the progress reached in the assessment of standstill and rollback notifications by the Group and ASKS the Group to continue monitoring standstill and the implementation of the rollback; WELCOMES the ongoing monitoring of actual effects of individual measures;
5. WELCOMES the ongoing monitoring by the Group of the implementation of its past guidance notes and the progress achieved with regard to the monitoring of the implementation of the 2017 Guidelines on tax privileges related to special economic zones;
6. APPRECIATES the report on the implementation by the Member States of defensive measures in the tax area towards non-cooperative jurisdictions; CALLS on the Group to keep on working in this area, in accordance with the agreed Guidance, and report to the Council on further progress in these matters;
7. [WELCOMES the reform of the Code of Conduct; in this regard NOTES that the works of the Group are framed by its mandate as reflected in the Code of Conduct; RECALLS that the Code of Conduct is a political commitment and does not affect the Member States rights and obligations or the respective spheres of competence of the Member States and the Union resulting from the Treaties and INVITES the Group to continue its work on developing or, where appropriate, revising the agreed guidance to enhance clarity and present its outcomes to the Council; NOTES that the revised Code of Conduct also includes provisions enhancing the transparency of the Group and INVITES the Group to explore further steps and propose guidance in this direction by the end of June 2022;]

8. TAKES NOTE of the discussion on the interaction between the EU list of non-cooperative jurisdictions for tax purposes and Member States' national lists, as well as the work of the Global Forum, including new ratings and determinations by the Global Forum; INVITES the Group to take this work forward by further exploring how to enhance the EU listing process based on progress at the international level;
  9. INVITES the Group to report back to the Council on its work during the French Presidency.
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