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Proposal for a

COUNCIL DECISION

on the conclusion, on behalf of the Union, of the Amending Protocol to the Agreement between the European Union and the Swiss Confederation on the automatic exchange of financial account information to improve international tax compliance

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The present proposal concerns the conclusion of the Amending Protocol to the Agreement between the European Union and the Swiss Confederation (Switzerland) on the automatic exchange of financial account information to improve international tax compliance[1] (the Agreement).

The Agreement provides the legal basis for the reciprocal automatic exchange of financial account information between the EU Member States and Switzerland, in accordance with the Common Reporting Standard (CRS) developed by the Organisation for Economic Co-operation and Development (OECD). The same standard is implemented within the European Union under Council Directive 2014/107/EU[2] (DAC 2 – the first amendment to Directive 2011/16/EU[3] on administrative cooperation in the field of taxation – DAC)[4].

Important changes to the CRS were approved at international level on 26 August 2022[5] and will apply from 1 January 2026. Council Directive (EU) 2023/2226[6] (DAC8) already implemented these changes within the European Union and will also apply from 1 January 2026.

The changes extend the scope of the CRS to ensure the coverage of electronic money products and central bank digital currencies. They also further improve the due diligence procedures and reporting outcomes, with a view to increasing the usability of CRS information for tax administrations and limiting burdens on financial institutions, where possible.

To ensure that the automatic exchange of financial account information between EU Member States and Switzerland is aligned with, and continues to take place in accordance with, the updated CRS from 1 January 2026, it was necessary to negotiate and agree corresponding amendments to the Agreement.

In May 2018, Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation "GDPR")[7] started to apply.

To ensure that the Agreement reflects these updates, it was necessary to remove the references to the repealed Directive 95/46/EC and replace these references with references to Regulation (EU) 2016/679. Simultaneously, the references to the Swiss national data protection legislation were also updated. Furthermore, these amendments reflect the continued application of the EU Adequacy Decision concerning Switzerland[8] and the Opinion released on 8 July 2015 on the agreement by the European Data Protection Supervisor (EDPS)[9].

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1 OJ L 385, 29.12.2004, p. 30 to 42. OJ L 333, 19.12.2015, p. 12 to 49.
2 OJ L 359 of 16.12.2014, p. 1 to 29.
3 OJ L 64 of 11.3.2011, p. 1 to 12.
4 OJ L 359, 16.12.2014, p.1-29.
5 https://www.oecd.org/en/publications/international-standards-for-automatic-exchange-of-information-in-tax-matters_896d79d1-en.html, pages 62 to 102.
6 Council Directive (EU) 2023/2226 of 17 October 2023 amending Directive 2011/16/EU on administrative cooperation in the field of taxation (OJ L, 24.10.2023)
7 OJ L119 of 5 May 2016, p. 1 to 88.
8 Decision 2000/518/EC of 26 July 2000 pursuant to Directive 95/46/EC on the adequate protection of personal data provided in Switzerland.
9 https://edps.europa.eu/sites/edp/files/publication/15-07-08_eu_switzerland_en.pdf

Finally, in the absence of an existing legal framework that provides for mutual assistance in the collection of direct and indirect taxes between the European Union and Switzerland, the Member States sought the inclusion of such provisions by way of corresponding amendments to the Agreement.

The negotiated provisions ensure the recovery of VAT claims, to avoid non-taxation and combat tax fraud in such a manner that closely aligns with the related provisions of the agreement between the European Union and Norway on administrative cooperation, combatting fraud and recovery of claims in the field of VAT[10] (the EU-Norway agreement). The latter agreement in turn is based on Directive 2010/24/EU[11] for recovery assistance between Member States of the European Union (EU Recovery Directive). Simultaneously, the negotiated agreement contains a commitment to explore mutual assistance in recovering other tax claims within a four-year period following the first day of January after the signature of this Amending Protocol.

A Council decision authorising the opening of negotiations for the amendment of the Agreement concerning the automatic exchange of financial account information to improve international tax compliance between the European Union and the Swiss Confederation was adopted on 21 May 2024[12].

Several rounds of negotiations were held and a provisional agreement was reached in December 2024. Subsequently, the draft text of the Amending Protocol was initialled by the Chief negotiators on 1 April 2025.

The Council has consistently been informed about the progress in the negotiations in the Working Party on Tax Questions and in the High-Level Working Party. In particular, the text of the draft Amending Protocol was shared and discussed with the Member States ahead of its initialling. The initialled text was shared with the European Parliament, together with information about the intended provisional application.

The Commission considers that the objectives set out by the Council in its negotiating directives have been attained and that the negotiated text is acceptable to the Union.

The signing, on behalf of the Union, of the Amending Protocol to the Agreement between the European Union and the Swiss Confederation on the automatic exchange of financial account information and mutual assistance for the recovery of claims to improve international tax compliance took place on xxxx.

- **Consistency with existing policy provisions in the policy area**

The amendment of the Agreement was negotiated in line with the comprehensive negotiating directives adopted by the Council on 21 May 2024.

The negotiated Amending Protocol ensures that the existing agreement between the European Union and Switzerland remains aligned with Union legislation in the same field, notably the DAC as amended by DAC8.

DAC8 includes, among other amendments, the latest changes to the OECD CRS. In the light of the close relationship in this field between the European Union and Switzerland, it is

10 OJ L 195, 1.8.2018, pp. 3-22

11 OJ L 84, 31.3.2010, p. 1–12

12 Council Decision (EU) 2024/1489 of 21 May 2024 authorising the opening of negotiations for the amendment of the Agreements concerning the automatic exchange of financial account information to improve international tax compliance between the European Union and the Swiss Confederation, the Principality of Liechtenstein, the Principality of Andorra, the Principality of Monaco and the Republic of San Marino, respectively

important to strengthen along the same lines the administrative cooperation with their tax authorities in the field of automatic exchange of financial account information. The timely update of the Agreement ensures the smooth and effective continuation of this administrative cooperation beyond 1 January 2026.

The amendments to the Agreement also take account of the Union policies in the field of the fight against money laundering and terrorist financing, because the Customer Due Diligence activities to be performed by Financial Institutions, in view of collecting the financial account information to be exchanged under the Agreement, will be substantially aligned with those that the same Financial Institutions have to apply as obliged entities under the European Union legal framework in the fight against money laundering and terrorist financing.

The negotiated Amending Protocol provides a legislative framework for mutual assistance between the European Union and Switzerland for the recovery of VAT claims. This framework closely aligns with the EU-Norway agreement, which in turn is similar to the EU Recovery Directive. Therefore, this initiative deepens Member States cooperation with Switzerland in line with the EU acquis.

The Amending Protocol also takes account of the Union policies in the field of respect of fundamental rights, notably on protection of personal data in the case of the outflow of this data to non-EU and non-EEA countries.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The present proposal to the Council is submitted pursuant to Articles 113 and 115 of the Treaty on the Functioning of the European Union (TFEU), in conjunction with Article 218(6) TFEU.

Given that the main objectives and components of the Amending Protocol to the Agreement between the European Union and the Swiss Confederation on the automatic exchange of financial account information to improve tax compliance are to improve administrative cooperation in the area of direct and indirect taxation, including the recovery of VAT claims, the substantive legal basis are Articles 113 and 115 TFEU.

Article 3(2) TFEU provides that, in addition to the areas of exclusive Union competence listed in Article 3(1) TFEU, the Union shall "also have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union or is necessary to enable the Union to exercise its internal competence, or in so far as its conclusion may affect common rules or alter their scope".

Under the case law of the Court of Justice, an agreement may affect common rules or alter their scope when it falls within an area which is already largely covered by such rules[13].

As far as the parts concerning the CRS are concerned, the Agreement itself includes, in Article 8, a provision requiring the Contracting Parties to consult each other on each occasion when an important change is adopted at OECD level to any of the elements of the CRS. The Article also provides that following these consultations, the Agreement may be amended by means of a protocol between the Contracting Parties. As important changes to the CRS were approved within the OECD on 26 August 2022, and in accordance with the Union's exclusive competence stemming from the existing Agreement, the Amending Protocol implements all changes that are necessary to reflect the corresponding changes to the CRS. The

[13] Opinion 3/15 of the Court, ECLI:EU:C:2017:114, paragraph 118 and the case law quoted therein

implementation of those changes within the Union has been provided for by means of Council Directive (EU) 2023/2226.

The inclusion of provisions on mutual assistance that ensure the recovery of VAT claims, to avoid non-taxation and combat tax fraud, also falls within the Union's exclusive competence, which is based on the EU Recovery Directive.

In accordance with the Treaties, the Commission makes a proposal for the conclusion of an agreement on behalf of the Union.

- **Proportionality**

The amending protocol respects the principle of proportionality and does not go beyond what is necessary to meet the objective of updating the Agreement namely to incorporate the changes to the Common Reporting Standard that shall take effect from 1 January 2026. These amendments will enable the Member States to continue the automatic exchange of financial account information with Switzerland in an uninterrupted manner, and in a manner that aligns with the new requirements of the CRS, as already incorporated in the DAC8.

Simultaneously, the amendments of the Agreement do not go beyond what is necessary to meet the objective of providing a common framework for mutual assistance in the recovery of VAT claims between the European Union and Switzerland. These amendments will enable the Member States' authorities responsible for the collection of VAT claims to cooperate with the Swiss tax authorities in a similar manner that they cooperate between themselves in the EU based on the EU acquis.

- **Choice of the instrument**

Article 218(6) TFEU provides that the Commission or the High Representative of the Union for Foreign Affairs and Security Policy shall submit proposals to the Council, which shall adopt a decision on the conclusion of an international agreement. Given the subject matter of the envisaged agreement, it is appropriate for the Commission to submit a proposal to that effect.

3. RESULTS OF IMPACT ASSESSMENTS

- **Impact assessment**

According to tool 7 of the Better Regulation[14], an impact assessment is not needed, inter alia, when the Commission has little or no choice in the matter.

This condition is satisfied in the present case as the amendments to the existing Agreements with respect to the automatic exchange of financial account information fully align with the changes to the CRS that were agreed at the OECD level and already incorporated into EU law by means of the DAC8. As regards the amendments with respect to mutual assistance in the recovery of VAT claims, they align as much as possible with the relevant provisions of the EU-Norway agreement which, in turn, replicates the EU Recovery Directive. Finally, the changes on data protection, are merely aimed at updating references to the EU and Swiss data protection legislation.

[14] https://ec.europa.eu/info/sites/default/files/br_toolbox-nov_2021_en_0.pdf

- **Fundamental rights**

The envisaged amending protocol to the Agreement will respect the key values of the European Union as established in Article 2 of the Treaty on the Functioning of the European Union and the Charter of Fundamental Rights of the European Union.

4. BUDGETARY IMPLICATIONS

The proposal has no implication for the EU budget.

5. OTHER ELEMENTS

- **Detailed explanation of the specific provisions of the proposal**

The envisaged amendments cover the following points:

1. *Amendments to ensure that the automatic exchange of financial account information between Member States and Switzerland under the existing Agreement is aligned with and continues to take place in accordance with the updated CRS from 1 January 2026*

The foreseen amendments expand the scope of reporting to include new digital financial products, such as Specified Electronic Money Products and Central Bank Digital Currencies. Simultaneously and with the aim of improving the reliability and use of the exchanged information, the amendments introduce more detailed reporting requirements and strengthened due diligence procedures.

The amendments also contain provisions to ensure an efficient interaction between the CRS and the separate Crypto-Asset Reporting Framework (CARF) developed by the OECD[15]. These provisions allow to limit instances of duplicative reporting, while maintaining a maximum amount of operational flexibility of Reporting Financial Institutions that are also subject to obligations under the CARF.

Finally, the amendments reflect the new optional category of Non-Reporting Financial Institutions for genuine non-profit Entities operating for the public benefit (Qualified Non-Profit Entity), which is provided in the Commentaries to the update to the CRS. Switzerland has exercised this option and is in the process of setting up the legal and administration mechanisms to ensure that any Entity claiming the status of a Qualified Non-Profit Entity is confirmed to fulfil the relevant conditions laid down in the above-mentioned Commentaries. On the contrary, EU Member States have note exercised this option, in line with Council Directive (EU) 2023/2226.These amended reporting and automatic exchange of information requirements are provided for within Title 1 and Title 4. They will provisionally apply from 1 January 2026.

2. *Amendments to include legal provisions that provide for assistance in the recovery of VAT claims*

The foreseen amendments establish a new legal framework for mutual assistance to ensure the recovery of VAT claims between the Member States and Switzerland. Simultaneously, Article 4s commits the parties to explore the extension of this mutual assistance to other tax claims within a four-year period following the first day of January after the signature of this Amending Protocol.

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15 https://www.oecd.org/en/publications/international-standards-for-automatic-exchange-of-information-in-tax-matters_896d79d1-en.html, pages 8 to 61.

As mentioned, the negotiated framework remains closely aligned to the related provisions of the EU-Norway agreement, which in turn is based on the EU Recovery Directive. It includes, inter alia, provisions on notification of documents, recovery and precautionary measures, exchange of information. Moreover, Article 4p establishes a Joint Committee composed of representatives of the contracting parties, that shall ensure the proper functioning and implementation of the Title dealing with tax recovery. There are only a few deviations from the EU-Norway agreement, notably in Article 4g (conditions governing a request for recovery), Article 4m (limits to the requested authority's obligations) and in Article 4o (costs).

These amendments are provided for within a new Title 2. This inaugural framework between the Member States and Switzerland for the recovery of VAT claims will apply from the first day of January of the first year, after the entry into force of the Amending Protocol with regard to tax claims arising after the first day of January after the signature of the Amending Protocol. The provision concerning the establishment of the Joint Committee (Article 4p) will provisionally apply from 1 January 2026.

3. Update to the legal reference on data protection legislation

All references to Directive 95/46/EC have been replaced with references to the GDPR.

Simultaneously, the legal reference to the national data protection legislation of Switzerland has been updated to the Federal Act on Data Protection of 25 September 2020 and its ordinance of 31 August 2022.

- **Text of the Agreement and notifications**

The text of the Amending Protocol to the Agreement is submitted to the Council together with this proposal.

In accordance with the Treaties, it is for the Commission to proceed, on behalf of the Union, to make the notification provided for in Article 2(1) of the Amending Protocol, in order to express the consent of the Union to be bound by the Agreement.

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COUNCIL DECISION

on the conclusion, on behalf of the Union, of the Amending Protocol to the Agreement between the European Union and the Swiss Confederation on the automatic exchange of financial account information to improve international tax compliance

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 113 and 115, in conjunction with Article 218(6), second subparagraph, point (b) and the second subparagraph of Article 218(8) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament[1],

Whereas:

(1) The Agreement between the European Union and the Swiss Confederation on the automatic exchange of financial account information to improve international tax compliance[2] ('the Agreement') has enhanced mutual assistance in tax matters between the Contracting Parties and improved international tax compliance.

(2) Important changes to the Common Reporting Standard (CRS) were approved at international level on 26 August 2022[3] and have been introduced in Union legislation with the amending of Council Directive 2011/16/EU by Council Directive (EU) 2023/2226[4].

(3) Therefore, the Agreement needs to be amended to ensure that the automatic exchange of financial account information between EU Member States and the Swiss Confederation is aligned with, and continues to take place in accordance with, the updated CRS from 1 January 2026. The Agreement also needs to be amended to provide the Member States with new mutual assistance provisions for the recovery of value added tax claims.

(4) The text of the Amending Protocol of the Agreement between the European Union and the Swiss Confederation on the automatic exchange of financial account information to improve international tax compliance ('the Amending Protocol to the Agreement'), which is the result of the negotiations, duly reflects the negotiating directive issued by the Council.

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1 OJ C , , p. .

2 OJ L 385, 29.12.2004, p. 30 to 42. OJ L 333, 19.12.2015, p. 12 to 49.

3 https://www.oecd.org/en/publications/international-standards-for-automatic-exchange-of-information-in-tax-matters_896d79d1-en.html, pages 62 to 102.

4 Council Directive (EU) 2023/2226 of 17 October 2023 amending Directive 2011/16/EU on administrative cooperation in the field of taxation (OJ L, 24.10.2023 http://data.europa.eu/eli/dir/2023/2226/oj

(5) In accordance with Council Decision (EU) XXXX[5], the Amending Protocol to the Agreement on the automatic exchange of financial account information to improve international tax compliance was signed on XXXX, subject to its conclusion at a later date, and will be partly provisionally applied from 1 January 2026, pending its entry into force.

(6) The Amending Protocol to the Agreement between the European Union and the Swiss Confederation on the automatic exchange of financial account information to improve international tax compliance which is the subject of this decision should be approved.

(7) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EC) No 2018/1725 of the European Parliament and of the Council,

HAS ADOPTED THIS DECISION:

Article 1

The Amending Protocol to the Agreement between the European Union and the Swiss Confederation on the automatic exchange of financial account information to improve international tax compliance is hereby approved[6].

Article 2

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels,

For the Council
The President

5 Council Decision (EU) xxx on the signing, on behalf of the Union, of the Amending Protocol to the Agreement between the European Union and the Swiss Confederation on the automatic exchange of financial account information and mutual assistance for the recovery of claims to improve international tax compliance (OJ L XXX).

6 The text of the Amending Protocol to the Agreement is published in OJ L, […].

EUROPEAN
COMMISSION

Brussels, 10.7.2025
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ANNEX

ANNEX

to the Proposal for a

Council Decision

on the conclusion, on behalf of the Union, of the Amending Protocol to the Agreement between the European Union and the Swiss Confederation on the automatic exchange of financial account information to improve international tax compliance

AMENDING PROTOCOL

to the Agreement between the European Union and the Swiss Confederation on the automatic exchange of financial account information to improve international tax compliance

THE EUROPEAN UNION

and

THE SWISS CONFEDERATION, hereinafter referred to as 'Switzerland',

both hereinafter referred to, individually, as 'Contracting Party' and, jointly, as 'Contracting Parties',

WHEREAS the Contracting Parties have a longstanding and close relationship with respect to mutual assistance in tax matters, which consisted, initially, in the application of measures equivalent to those laid down in Council Directive 2003/48/EC[1], and which was later developed into the Agreement between the European Union and the Swiss Confederation on the automatic exchange of financial account information to improve international tax compliance[2] ('the Agreement'), as amended by the Amending Protocol to the Agreement between the European Community and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments[3], based upon the reciprocal automatic exchange of information by means of implementing the Organisation for Economic Co-operation and Development (OECD) Standard for Automatic Exchange of Financial Account Information in Tax Matters ('the Global Standard'),

WHEREAS, following the OECD's first comprehensive review of the Global Standard, amendments to the Global Standard were approved by the OECD's Committee on Fiscal Affairs in August 2022 and were adopted by the OECD Council on 8 June 2023 by means of its revised Recommendation on the International Standards for Automatic Exchange of Information in Tax Matters ('the update to the Global Standard'),

WHEREAS the OECD comprehensive review identified the increasing complexity of financial instruments and the emergence and use of new types of digital assets and acknowledged the necessity of adapting the Global Standard to ensure comprehensive and effective tax compliance,

WHEREAS the update to the Global Standard expanded the scope of reporting to include new digital financial products, such as Specified Electronic Money Products and Central Bank Digital Currencies, which offer credible alternatives to traditional Financial Accounts, which are already subject to reporting under the Global Standard,

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1 Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments (OJ EU L 157, 26.6.2003, p. 38).

2 OJ EU L 385, 29.12.2004, p. 30.

3 OJ L 333, 19.12.2015, p. 12

WHEREAS the new OECD Crypto-Asset Reporting Framework ('CARF'), which was introduced in parallel to the update to the Global Standard, serves as a complementary mechanism at the global level and is specifically designed to address the rapid development and growth of the Crypto-Asset market,

WHEREAS it was considered imperative to ensure an efficient interaction between those two frameworks, in particular to limit instances of duplicative reporting, by: (i) excluding Specified Electronic Money Products and Central Bank Digital Currencies from the scope of the CARF, given their coverage under the updated Global Standard; (ii) considering Crypto-Assets within the scope of the updated Global Standard to be Financial Assets for the purpose of reporting Custodial Accounts, Equity or Debt Interests in Investment Entities (except in cases of provision of services effectuating exchange transactions for or on behalf of customers, which are covered under the CARF, indirect investments in Crypto-Assets through other traditional financial products or traditional financial products issued in crypto form; and (iii) providing for an optional provision for Reporting Financial Institutions to switch off gross proceeds reporting for assets that are classified as Crypto-Assets under both frameworks, when such information is reported under the CARF, while continuing to report under the Global Standard all other information, such as account balance,

WHEREAS the CARF has been implemented within the European Union by way of Council Directive (EU) 2023/2226[4], which amended Council Directive 2011/16/EU[5], with those provisions applying from 1 January 2026, and Switzerland is committed to implementing the CARF in its domestic legislation and applying those provisions from the same date,

WHEREAS, with a view to limiting instances of duplicative reporting, the Contracting Parties should apply the delineation between the Agreement, the CARF and Directive (EU) 2023/2226 in a manner consistent with the delineation between the updated Global Standard and the CARF,

WHEREAS, with the aim of improving the reliability and use of the exchanged information, the update to the Global Standard introduces more detailed reporting requirements and strengthened due diligence procedures,

WHEREAS the update to the Global Standard adds a new 'Excluded Account' category for Capital Contribution Accounts and a de minimis threshold for reporting of Depository Accounts holding Specified Electronic Money Products,

WHEREAS the Commentaries to the update to the Global Standard include an optional new 'Non-Reporting Financial Institution' category for genuine Non-profit Entities operating for the public benefit ('Qualified Non-Profit Entity') and mandate that, in order to address concerns of potential circumvention of reporting, the application of that option should be subject to adequate verification procedures for each Entity by an authority of the jurisdiction in which that Entity is otherwise subject to reporting,

WHEREAS Switzerland would like to exercise the option to include the new 'Qualified Non-Profit Entity' category and is in the process of setting up the legal and administration

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4 Council Directive (EU) 2023/2226 of 17 October 2023 amending Directive 2011/16/EU on administrative cooperation in the field of taxation (OJ EU L, 24.10.2023).

5 Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ EU L 64, 11.3.2011, p. 1).

mechanisms to ensure that any Entity claiming the status of a 'Qualified Non-Profit Entity' is confirmed to fulfil the relevant conditions before such Entity is treated as a Non-Reporting Financial Institution in Switzerland,

WHEREAS Member States, in line with Directive (EU) 2023/2226, will not exercise the option to include the new 'Qualified Non-Profit Entity' category, and the status of an Entity as 'Qualified Non-Profit Entity' in Switzerland will not affect the status of such Entities in the Member States, if those Entities are considered to be Reporting Financial Institutions there,

WHEREAS the Member States and Switzerland desire to ensure the collection of value added tax (VAT) and the recovery of VAT claims in order to avoid non-taxation and to combat VAT fraud,

WHEREAS the Contracting Parties will apply their respective data protection laws and practices – in particular, for Switzerland, the Federal Act on Data Protection of 25 September 2020[6] and its ordinance of 31 August 2022[7] and, for the European Union, Regulation (EU) 2016/679 of the European Parliament and of the Council[8] – to the processing of personal data exchanged in accordance with the Agreement and undertake to notify each other without undue delay in the event of any change in the substance of those laws and practices,

WHEREAS Commission Decision 2000/518/EC[9] stated that, for all the activities falling within the scope of Directive 95/46/EC of the European Parliament and of the Council[10], Switzerland is considered as providing an adequate level of protection of personal data transferred from the European Union,

WHEREAS the Commission report of 15 January 2024 to the European Parliament and the Council on the first review of the functioning of the adequacy decisions adopted pursuant to Article 25(6) of Directive 95/46/EC[11] confirms that Switzerland continues to provide an adequate level of protection for personal data transferred from the European Union,

WHEREAS the Member States and Switzerland have in place: (i) appropriate safeguards to ensure that the information received pursuant to the Agreement remains confidential and is used solely for the purposes of, and by the persons or authorities concerned with, the assessment, collection or recovery of, the enforcement or prosecution in respect of, or the determination of appeals in relation to taxes, or the oversight of these, as well as for other authorised purposes; and (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, secure and confidential information exchanges, effective and reliable communications, and capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provisions of Article 4 of the Agreement),

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6 RS 235.1.

7 RS 235.11.

8 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ EU L 119, 4.5.2016, p. 1).

9 Commission Decision 2000/518/EC of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data provided in Switzerland (OJ EU L 215, 25.8.2000, p. 1).

10 Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ EU L 281, 28.11.1995, p. 31).

11 COM(2024) 7 final.

WHEREAS the processing of information under the Agreement is necessary for and proportionate to the purpose of enabling Member States' and Switzerland's tax administrations to correctly and unequivocally identify the taxpayers concerned, to administer and enforce their tax laws in cross-border situations, to assess the likelihood of tax evasion being perpetrated and to avoid unnecessary further investigations,

HAVE AGREED AS FOLLOWS:

Article 1

The Agreement is amended as follows:

(1) the title is replaced by the following:

'Agreement between the European Union and the Swiss Confederation on the automatic exchange of financial account information and mutual assistance for the recovery of claims to improve international tax compliance';

(2) the introductory wording between the title and the wording "HAVE AGREED TO CONCLUDE THE FOLLOWING AGREEMENT:" is replaced by the following:

'THE EUROPEAN UNION,

and

THE SWISS CONFEDERATION, hereinafter referred to as "Switzerland",

both hereinafter referred to, individually, as "Contracting Party" and, jointly, as "Contracting Parties",';

(3) the following preamble is inserted before the wording 'HAVE AGREED TO CONCLUDE THE FOLLOWING AGREEMENT:':

'WITH A VIEW to implementing the OECD Standard for Automatic Exchange of Financial Account Information ("the Global Standard"), within a framework of cooperation which takes account of the legitimate interests of both Contracting Parties,

WHEREAS the Contracting Parties have a longstanding and close relationship with respect to mutual assistance in tax matters, which consisted, initially, in the Agreement between the European Community and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments, done at Luxembourg on 26 October 2004* ("the Savings Agreement"),

WHEREAS the Contracting Parties built further on that relationship by concluding the Amending Protocol to the Agreement between the European Community and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments, done at Brussels on 27 May 2015** ("the Amending Protocol of 27 May 2015"), which created the Agreement between the European Union and the Swiss Confederation on the automatic exchange of financial account information to improve international tax compliance ("the Global Standard Agreement"), based on reciprocal automatic exchange of information subject to certain confidentiality and other protections, including provisions limiting the use of the information exchanged,

WHEREAS the Amending Protocol of 27 May 2015 replaced the provisions of the Savings Agreement while retaining the provisions of Article 15 thereof on dividends, interest and royalty payments between companies, renumbering them as Article 9 of the Global Standard Agreement,

WHEREAS, following the OECD's first comprehensive review of the Global Standard, the latter has been updated by the revised Recommendation of the OECD Council on the International Standards for Automatic Exchange of Information in Tax Matters of 8 June 2023 ("the update to the Global Standard") by, inter alia, integrating certain e-money products and central bank digital currencies into the scope of reporting under the Global Standard, considering crypto-assets to be financial assets, while avoiding duplicate reporting with the Crypto-Asset Reporting Framework, and introducing more detailed reporting requirements and strengthened due diligence procedures,

WHEREAS, following the update to the Global Standard, the Global Standard Agreement was amended by way of the Amending Protocol to the Agreement between the European Union and the Swiss Confederation on the automatic exchange of financial account information to improve international tax compliance, done at … [*place of signing*] on … [*date of signing*] ("the Amending Protocol of … [*date of signing*]"), certain provisions of which applied provisionally as of 1 January 2026 and which changed the title of the Global Standard Agreement to "Agreement between the European Union and the Swiss Confederation on the automatic exchange of financial account information and mutual assistance for the recovery of claims to improve international tax compliance" ("the Agreement"),

WHEREAS the European Union and Switzerland, by way of the Amending Protocol of … [*date of signing*], desired to reinforce their collaboration in the field of the collection of value added tax (VAT) and the recovery of VAT claims in order to avoid non-taxation and to combat VAT fraud,

WHEREAS the Contracting Parties will apply their respective data protection laws and practices – in particular, for Switzerland, the Federal Act on Data Protection of 25 September 2020*** and its ordinance of 31 August 2022**** and, for the European Union, Regulation (EU) 2016/679 of the European Parliament and of the Council***** – to the processing of personal data exchanged in accordance with the Agreement and undertake to notify each other without undue delay in the event of any change in the substance of those laws and practices,

WHEREAS Commission Decision 2000/518/EC****** stated that, for all the activities falling within the scope of Directive 95/46/EC of the European Parliament and of the Council*******, Switzerland is considered as providing an adequate level of protection of personal data transferred from the European Union,

WHEREAS the Commission report of 15 January 2024 to the European Parliament and the Council on the first review of the functioning of the adequacy decisions adopted pursuant to Article 25(6) of Directive 95/46/EC******** confirms that Switzerland continues to provide an adequate level of protection for personal data transferred from the European Union,

WHEREAS the Member States and Switzerland have in place: (i) appropriate safeguards to ensure that the information received pursuant to the Agreement remains confidential and is used solely for the purposes of, and by the persons or

authorities concerned with, the assessment, collection or recovery of, the enforcement or prosecution in respect of, or the determination of appeals in relation to taxes, or the oversight of these, as well as for other authorised purposes; and (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, secure and confidential information exchanges, effective and reliable communications, and capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provisions of Article 4 of the Agreement),

WHEREAS the categories of Reporting Financial Institution and Reportable Account covered by the Agreement are designed to limit the opportunities for taxpayers to avoid being reported by shifting assets to Financial Institutions or investing in financial products that are outside the scope of the Agreement,

WHEREAS certain Financial Institutions and accounts that present a low risk of being used to evade tax should be excluded from the scope of the categories of Reporting Financial Institution and Reportable Account covered by the Agreement,

WHEREAS the financial information which is required to be reported and exchanged should concern not only all relevant income (interests, dividends and similar types of income) but also account balances and sale proceeds from Financial Assets, in order to address situations where a taxpayer seeks to hide capital that in itself represents income or assets with regard to which tax has been evaded,

WHEREAS the processing of information under the Agreement is therefore necessary for and proportionate to the purpose of enabling Member States' and Switzerland's tax administrations to correctly and unequivocally identify the taxpayers concerned, to administer and enforce their tax laws in cross-border situations, to assess the likelihood of tax evasion being perpetrated and to avoid unnecessary further investigations,

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* OJ EU L 385, 29.12.2004, p. 30.

** OJ EU L 333, 19.12.2015, p. 12.

*** RS 235.1.

**** RS 235.11.

***** Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ EU L 119, 04.05.2016, p. 1).

****** Commission Decision 2000/518/EC of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data provided in Switzerland (OJ EU L 215, 25.8.2000, p. 1).

******* Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ EU L 281, 28.11.1995, p. 31).

******* COM(2024) 7 final.';

(4) in Article 1(1), the following subparagraphs are added:

'(m) the term "Crypto-Asset Reporting Framework" means the international framework for the automatic exchange of information with respect to Crypto-Assets (which includes the Commentaries) developed by the OECD with G20 countries and approved by the OECD on 26 August 2022.

(n) "VAT" means, for the European Union, value added tax within the meaning of Council Directive 2006/112/EC* or, for Switzerland, value added tax within the meaning of the Federal Act of 12 June 2009 on Value Added Tax**.

(o) "State" means a Member State or Switzerland.

(p) "States" means Member States and Switzerland.

(q) "central liaison office" means the office designated pursuant to Article 4c(1) with the responsibility for contacts for the application of Title 2.

(r) "applicant authority" means the central liaison office of a State which makes a request under Title 2.

(s) "requested authority" means the central liaison office which receives a request under Title 2.

(t) "person", for the purposes of the application of Title 2, means:

(i) a natural person;
(ii) a legal person;
(iii) where the legislation in force so provides, an association of persons recognised as having the capacity to perform legal acts but lacking the legal status of a legal person; or

(iv) any other legal arrangement, of whatever nature and form, which has legal personality or not, subject to VAT or liable for the payment of the claims referred to in Article 4b;

(u) "Joint Committee" means the committee responsible for ensuring the proper functioning and implementation of Title 2 pursuant to Article 4p;

(v) "by electronic means" means using electronic equipment for the processing (including digital compression) and storage of data, and employing wires, radio transmission, optical technologies or other electromagnetic means.

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* Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ EU L 347 11.12.2006, p. 1).';

** RS 641.20.

(5) the following heading is inserted after Article 1:

‘TITLE 1

AUTOMATIC EXCHANGE OF INFORMATION’;

(6) Article 2 is amended as follows:

(a) paragraph 2 is amended as follows:

(i) subparagraphs (a) and (b) are replaced by the following:

‘(a) the following:

(i) the name, address, TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder of the account and whether the Account Holder has provided a valid self-certification;

(ii) in the case of any Entity that is an Account Holder and that, after application of due diligence procedures consistent with Annexes I and II, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, and TIN(s) of the Entity and the name, address, TIN(s) and date and place of birth of each Reportable Person, as well as the role(s) by virtue of which each Reportable Person is a Controlling Person of the Entity and whether a valid self-certification has been provided for each Reportable Person; and

(iii) whether the account is a joint account, including the number of joint Account Holders.

(b) the account number (or functional equivalent in the absence of an account number), the type of account and whether the account is a Preexisting Account or a New Account;’;

(ii) the term ‘and’ at the end of subparagraph (f) is deleted;

(iii) the following subparagraph is inserted after subparagraph (f):

‘(fa) in the case of any Equity Interest held in an Investment Entity that is a legal arrangement, the role(s) by virtue of which the Reportable Person is an Equity Interest holder; and’;

(b) the following paragraph is added:

‘3. Notwithstanding paragraph 2, subparagraph (e), point (ii), and unless the Reporting Financial Institution has elected otherwise under Section I(F) of Annex I with respect to any clearly identified group of accounts, the gross proceeds from the sale or redemption of a Financial Asset are not required to be exchanged to the extent such gross proceeds from the sale or redemption of such Financial Asset are exchanged by the Competent Authority of Switzerland with the Competent Authority of a Member

State or by the Competent Authority of a Member State with the Competent Authority of Switzerland under the Crypto-Asset Reporting Framework.';

(7) Article 3 is amended as follows:

(a) the following paragraphs are inserted:

'3a. Notwithstanding paragraph 3, for accounts that are treated as a Reportable Account solely by virtue of the amendments to this Agreement made by the Amending Protocol of … [*date of signing*], and, with regard to all Reportable Accounts, for the additional information to be exchanged pursuant to the changes made to Article 2(2) under that latter Amending Protocol, information is to be exchanged with respect to the first year as from the date of provisional application of that Amending Protocol and all subsequent years.

3b. Notwithstanding paragraphs 3 and 3a, with respect to each Reportable Account that is maintained by a Reporting Financial Institution as of 31 December preceding the date of provisional application of the Amending Protocol of … [*date of signing*] and for reporting periods ending by the second calendar year following such date, information with respect to the role(s) by virtue of which each Reportable Person is a Controlling Person or Equity Interest holder of the Entity is to be exchanged where reported by the Reporting Financial Institution in accordance with Section I, subparagraphs A(1)(b) and A(6a), of Annex I.';

(b) paragraph 4 is replaced by the following:

'4. The Competent Authorities will automatically exchange the information described in Article 2 in a common reporting standard schema in Extensible Markup Language using the Common Transmission System approved by the OECD or any other appropriate system for data transmission that may be agreed in the future.';

(c) paragraph 5 is deleted;

(8) the following title is inserted after Article 4:

'TITLE 2

RECOVERY ASSISTANCE

Chapter 1

General provisions

Article 4a

Objective

The objective of this Title is to establish a framework for recovery assistance between the Member States and Switzerland, in order to enable the authorities responsible for

the application of VAT legislation to assist each other in ensuring compliance with that legislation and in protecting VAT revenue.

Article 4b

Scope

1. This Title lays down rules and procedures for cooperation for the recovery of the following claims:

   (a) claims relating to VAT;

   (b) administrative penalties, including fines, fees and surcharges, relating to the claims referred to in subparagraph (a) imposed by the administrative authorities that are competent to levy the VAT or carry out administrative enquiries with regard to it, or confirmed by administrative or judicial bodies at the request of those administrative authorities; and

   (c) interest and costs relating to the claims referred to in subparagraphs (a) and (b).

2. This Title shall not affect the application of the rules on assistance for the recovery of claims in the field of VAT between Member States.

Article 4c

Organisation

1. Each State shall designate one central liaison office with the responsibility for the application of this Title of the Agreement. Until further notice, the central liaison offices for the Member States are the central liaison offices designated for recovery assistance between the Member States. Switzerland shall communicate its central liaison office to the Joint Committee.

2. Each State shall inform the Joint Committee of any relevant changes concerning the designated central liaison office. The Joint Committee shall communicate the information received to the Member States and Switzerland.

Chapter 2

Exchange of information

Article 4d

Request for information

1. Article 5(1), (2), (3) and (4) applies *mutatis mutandis* for the purposes of this Title.

2. A request for information shall be made using the Common Transmission System approved by the OECD or any other appropriate system for data transmission that may be agreed in the future.

Chapter 3

Notification of documents

Article 4e

Means of notification

A competent authority established in a State may notify any document, related to a claim referred to in Article 4b or to its recovery, directly by mail, registered mail or electronic means to a person in another State in whose territory this Title applies.

Chapter 4

Recovery or precautionary measures

Article 4f

Request for recovery

1. At the request of the applicant authority, the requested authority shall recover claims referred to in Article 4b which are the subject of an instrument permitting enforcement in the State of the applicant authority. A request for recovery shall be made using the Common Transmission System approved by the OECD or any other appropriate system for data transmission that may be agreed in the future.

2. As soon as any relevant information relating to the matter which gave rise to the request for recovery comes to the knowledge of the applicant authority, it shall forward it to the requested authority.

Article 4g

Conditions governing a request for recovery

1. The applicant authority may not make a request for recovery if and as long as the claim or the instrument permitting its enforcement is contested in the State of the applicant authority, except in cases where Article 4j(4), third subparagraph, applies.

2. Before the applicant authority makes a request for recovery,

   (a) appropriate recovery procedures available in the State of the applicant authority shall be applied, except where it is obvious that there are no assets for recovery in that State or that such procedures will not result in

the payment in full of the claim, and the applicant authority has information indicating that the person concerned has assets in the State of the requested authority; and

(b) appropriate recovery assistance available in the State of the applicant authority shall be sought from jurisdictions that are obliged to provide recovery assistance similar to this Title, if there is a clear indication for assets available in that jurisdiction and recovery assistance will likely result in the payment in full of the claim.

Recourse to such recovery procedures and assistance available in the State of the applicant authority is not needed as far as it would give rise to disproportionate difficulty.

Article 4h

Instrument permitting enforcement in the State of the requested authority and other accompanying documents

1. Any request for recovery shall be accompanied by a uniform instrument permitting enforcement in the State of the requested authority. This shall constitute the sole basis for recovery measures in the State of the requested authority, and no act of recognition, supplementing or replacement shall be required in that State.

   The Joint Committee shall determine the information to be provided in the uniform instrument permitting enforcement in the State of the requested authority.

2. The request for recovery of a claim shall be accompanied by a scan or a copy of the initial instrument permitting enforcement in the applicant State. It may be accompanied by other documents.

Article 4i

Execution of the request for recovery

1. For the purposes of the recovery in the State of the requested authority, any claim in respect of which a request for recovery has been made shall be treated as if it was a claim of that State, except where otherwise provided for in this Title. The requested authority shall make use of the powers and procedures provided under the laws, regulations or administrative provisions of that State, except where otherwise provided for in this Title.

2. The State of the requested authority shall not be obliged to grant to claims whose recovery is requested preferences accorded to similar claims arising in the State of the requested authority, except where otherwise agreed or provided under the law of that State. A State which, in the execution of this Title, grants preferences to claims arising in another State may not refuse to grant the same

preferences to the same or similar claims of other Member States on the same conditions.

3. The State of the requested authority shall recover the claim in its own currency.

Article 4j

Disputes

1. Disputes concerning the claim, the initial instrument permitting enforcement in the State of the applicant authority or the uniform instrument permitting enforcement in the State of the requested authority and disputes concerning the validity of a notification made by an applicant authority shall fall within the competence of the competent bodies of the State of the applicant authority. If, in the course of the recovery procedure, the claim, the initial instrument permitting enforcement in the State of the applicant authority or the uniform instrument permitting enforcement in the State of the requested authority is contested by an interested party, the requested authority shall inform that party that such an action must be brought by the latter before the competent body of the State of the applicant authority in accordance with the laws in force there.

2. Disputes concerning enforcement measures taken in the State of the requested authority, including on the fulfilment of the conditions for sending a request for recovery under this Agreement, shall be brought before the competent body of that State in accordance with its laws and regulations.

3. Where an action as referred to in paragraph 1 has been brought, the applicant authority shall inform the requested authority thereof and shall indicate the extent to which the claim is not contested.

4. As soon as the requested authority has received the information referred to in paragraph 3, either from the applicant authority or from the interested party, it shall suspend the enforcement procedure, as far as the contested part of the claim is concerned, pending the decision of the body competent in the matter, unless the applicant authority requests otherwise in accordance with the third subparagraph of this paragraph.

   At the request of the applicant authority, or where otherwise deemed to be necessary by the requested authority, and without prejudice to Article 4l, the requested authority may take precautionary measures to guarantee recovery in so far as the applicable laws or regulations allow.

   The applicant authority may, in accordance with the laws, regulations and administrative practices in force in its State, ask the requested authority to recover a contested claim or the contested part of a claim, in so far as the laws, regulations and administrative practices in force in the State of the requested authority allow. Any such request shall be reasoned. If the result of the contestation is subsequently favourable to the debtor, the applicant authority shall be liable for reimbursing any sums recovered, together with any

compensation due, in accordance with the laws in force in the State of the requested authority.

If a mutual agreement procedure has been initiated between the States of the applicant and requested authorities, and the outcome of the procedure may affect the claim in respect of which assistance has been requested, the recovery measures shall be suspended or stopped until that procedure has been terminated, unless it concerns a case of immediate urgency because of fraud or insolvency. If the recovery measures are suspended or stopped, the second subparagraph shall apply.

Article 4k

Amendment or withdrawal of the request for recovery assistance

1. The applicant authority shall inform the requested authority immediately of any subsequent amendment to its request for recovery or of the withdrawal of its request, indicating the reasons for the amendment or withdrawal.

2. If the amendment of the request is caused by a decision of the competent body referred to in Article 4j(1), the applicant authority shall communicate this decision together with a revised uniform instrument permitting enforcement in the State of the requested authority. The requested authority shall then proceed with further recovery measures on the basis of the revised uniform instrument.

   Recovery or precautionary measures already taken on the basis of the original uniform instrument permitting enforcement in the State of the requested authority may be continued on the basis of the revised uniform instrument, unless the amendment of the request is due to invalidity of the initial instrument permitting enforcement in the State of the applicant authority or the original uniform instrument permitting enforcement in the State of the requested authority.

   Articles 4h and 4j shall apply in relation to the revised uniform instrument.

Article 4l

Request for precautionary measures

At the request of the applicant authority, the requested authority shall take precautionary measures, if allowed by its national law and in accordance with its administrative practices, to ensure recovery where a claim or the initial instrument permitting enforcement in the State of the applicant authority is contested at the time when the request is made, or where the claim is not yet the subject of an instrument permitting enforcement in the State of the applicant authority, in so far as precautionary measures are possible in a similar situation under the law and administrative practices of the State of the applicant authority.

In order to give effect to this Article, Article 4f(2) and Articles 4i, 4j, and 4k shall apply *mutatis mutandis*.

Article 4m

Limits to the requested authority's obligations

1. The requested authority shall not be obliged to grant the assistance provided for in Articles 4f to 4l if the initial request for assistance pursuant to Articles 4d, 4f or 4l is made in respect of claims which are more than five years old, from the date the claim concerned may no longer be contested in the State of the applicant authority. For contested claims, this period shall be calculated from the date the dispute is decided by the final decision.

   Moreover, in cases where a postponement of the payment or instalment plan has been granted by the State of the applicant authority, the five year period shall be deemed not to begin before the moment when the entire payment period has come to its end. However, in those cases the requested authority shall not be obliged to grant assistance in respect of claims which are more than 10 years old, from the date referred to in the first subparagraph of this paragraph.

2. A State shall not be obliged to grant assistance if the total amount of the claims covered by this Title, for which recovery assistance is requested, is less than an amount to be determined in EUR by the Joint Committee.

3. As long as the Joint Committee has not adopted or amended any such threshold, the amount referred to in paragraph 2 shall be set at:

   (a) EUR 10 000, starting from the date of the entry into effect of this Title;

   (b) EUR 5 000, provided that, on a yearly average of a five-year period starting on 1 January of each calendar year, no State has received more than 200 requests for recovery pursuant to Article 4f(1); otherwise, the threshold remains at EUR 10 000.

   The threshold of EUR 5 000 will be set back to EUR 10 000 if on a yearly average of a five-year period starting on 1 January of each calendar year, a State has received more than 250 requests for recovery pursuant to Article 4f(1). Subparagraph (b) of this paragraph can be applied anew thereafter.

   The Joint Committee shall inform the Member States and Switzerland of any changes in the yearly applicable threshold.

4. The requested authority shall inform the applicant authority of the grounds for refusing a request for assistance.

Article 4n

Questions on limitation

1. Questions concerning periods of limitation shall be governed solely by the laws in force in the applicant State.

2. Any request for recovery or precautionary measures pursuant to this Title shall have the effect of suspending the period of limitation for the claims concerned until the requested authority has executed the request.

The suspension referred to in the first subparagraph shall not exceed five years from the date the request for recovery or precautionary measures is sent.

3. Paragraph 2 does not affect the right of the State of the applicant authority to take measures which have the effect of suspending, interrupting or prolonging the period of limitation in accordance with the laws in force in that State.

Article 4o

Costs

1. The requested authority shall seek to recover from the person concerned and retain the costs linked to the recovery that it incurred in accordance with the laws and regulation of its State.

In addition, the requested authority may retain 5 % of the recovered amount, but not less than EUR 500 and not more than EUR 5 000.

2. The States shall renounce further claims on each other for the reimbursement of costs arising from any mutual assistance they grant each other pursuant to this Title.

However, where recovery creates a specific problem, concerns a very large amount in costs or relates to organised crime, the applicant and requested authorities may agree on reimbursement arrangements specific to the cases in question.

3. Notwithstanding paragraphs 1 and 2, the State of the applicant authority shall be liable to the State of the requested authority for any costs and any losses incurred as a result of actions held to be unfounded, as far as either the substance of the claim or the validity of the instrument permitting enforcement and/or precautionary measures issued by the applicant authority are concerned.

Chapter 5

Implementation and application

Article 4p

Joint Committee

1. The Contracting Parties hereby establish a Joint Committee, composed of representatives of the Contracting Parties. The Joint Committee shall ensure the proper functioning and implementation of this Title.

2. The Joint Committee shall make recommendations for promoting the aims of this Title and adopt decisions:

(a) for the adoption of standard forms for the communication concerning requests under this Title and for the uniform instruments referred to in Article 4h(1) and Article 4k(2);
(b) on the use of languages in the requests, the uniform instruments and in other standard forms used for assistance under this Title and in other accompanying documents referred to in Articles 4h and 4k(2);
(c) establishing the means of transmission for requests and communication, if the Joint Committee considers that the Common Transmission System approved by the OECD should no longer be used for the communication concerning requests under this Title;
(d) adopting implementing rules on the practical arrangements and administrative procedures with regard to the organisation of the contacts referred to in Article 4c;
(e) adopting rules regarding the conversion of the sums to be recovered and the transfer of the sums recovered;
(f) to amend the references to legal acts of the European Union and Switzerland included in this Title;
(g) to determine and adopt implementing rules on the amount for which a State is not to be obliged to grant assistance as referred to in Article 4m(2);
(h) to determine and adopt rules on the statistical data to be collected by the States regarding the application of this Title and on the date by which the Contracting Parties are to communicate by electronic means to the Joint Committee a list of such statistical data;
(i) to determine and adopt implementing rules on the practical arrangements and administrative procedures regarding the execution of the request for recovery including provisions on interest charges for late payment and instalment arrangements for debtors;
(j) to determine and adopt implementing rules on the practical arrangements and administrative procedures for disputes referred to in Article 4j;
(k) to determine and adopt implementing rules on the practical arrangements and administrative procedures regarding amendments or withdrawals of requests for recovery assistance;
(l) to establish a procedure for concluding a service level agreement, ensuring the technical quality and quantity of the services for the functioning of the communication and information exchange systems, and to conclude a service level agreement if necessary.

3. The Joint Committee shall operate by unanimity of the Contracting Parties. Decisions of the Joint Committee shall be binding on the Contracting Parties. The Joint Committee shall adopt its rules of procedure.

The Contracting Parties undertake to have the decisions referred to in paragraph 2 adopted by the Joint Committee within a period of 12 months from the entry into force of this Title.

Where the Contracting Parties fail to reach an agreement to adopt the decisions referred to in paragraph 2, each Party shall nominate a representative and enter into bilateral discussions to resolve amicably the outstanding matters within 12 months.

4. The Joint Committee shall meet at least once a year and review the operation and effectiveness of this Title every five years. Either Contracting Party may request that a meeting be convened. The Joint Committee shall be chaired alternately by each of the Contracting Parties. The date and place of each meeting, as well as the agenda, shall be determined by agreement between the Contracting Parties.

5. If a Contracting Party wishes to have this Title revised, it shall inform the Joint Committee. Amendments to this Title shall enter into force after the respective internal procedures have been completed.

Article 4q

Use of the standard forms for recovery assistance under other agreements

The standard forms for requests under this Title and for the accompanying documents referred to in Article 4h and Article 4k(2), adopted by the Joint Committee, may also be used for recovery assistance between a Member State and Switzerland regarding other claims for which recovery assistance is possible under the Cooperation Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other part, to combat fraud and any other illegal activity to the detriment of their financial interests, done at Luxembourg on 26 October 2004*, and for recovery assistance between a Member State and Switzerland concerning other claims than the claims referred to in Article 4b if such recovery assistance is possible under other legally binding instruments on recovery assistance. The use and the acceptance of such standard forms for recovery assistance concerning other claims, as specified in this paragraph, does not depend on a confirmation of this possibility in the other agreements concerned.

Article 4r
Exchange of information without prior request

Where a refund of taxes or duties relates to a person established or resident in another State in whose territory this Title applies, the State from which the refund is to be made may inform the State of establishment or residence of the pending refund.

Article 4s
Cooperation on other matters

The Contracting Parties shall explore mutual assistance in recovering other tax claims within a four-year period following the first day of January after the signature of the Amending Protocol of … [*date of signing*].

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* OJ EU L 46, 17.2.2009, p. 8';

(9) the following heading is inserted before Article 5:

'**TITLE 3**

PROVISIONS APPLICABLE TO TITLE 1 AND TITLE 2';

(10) the following heading is inserted after Article 6:

'**TITLE 4**

OTHER PROVISIONS';

(11) Annex I is amended as follows:

(a) in Section I, paragraph A is amended as follows:

(i) the introductory wording and subparagraphs 1 and 2 are replaced by the following:

'Subject to paragraphs C to F, each Reporting Financial Institution must report to the Competent Authority of its jurisdiction (being a Member State or Switzerland) with respect to each Reportable Account of such Reporting Financial Institution:

1. the following information:

(a) the name, address, jurisdiction(s) of residence (being a Member State or Switzerland), TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder of the account and whether the Account Holder has provided a valid self-certification;

(b) in the case of any Entity that is an Account Holder and that, after application of the due diligence procedures consistent with Sections V, VI and VII, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, jurisdiction(s) (being a Member State, Switzerland or other jurisdiction) of residence and TIN(s) of the Entity and the name, address, jurisdiction(s) (being a Member State or Switzerland) of residence, TIN(s) and date

and place of birth of each Reportable Person, as well as the role(s) by virtue of which each Reportable Person is a Controlling Person of the Entity and whether a valid self-certification has been provided for each Reportable Person; and

(c) whether the account is a joint account, including the number of joint Account Holders;

2. the account number (or functional equivalent in the absence of an account number), the type of account and whether the account is a Preexisting Account or a New Account;'

(ii) the term 'and' at the end of subparagraph 6 is deleted;

(iii) the following subparagraph is inserted after subparagraph 6:

'6a. in the case of any Equity Interest held in an Investment Entity that is a legal arrangement, the role(s) by virtue of which the Reportable Person is an Equity Interest holder; and';

(b) in Section I, paragraph C is replaced by the following:

'C. Notwithstanding subparagraph A(1), with respect to each Reportable Account that is a Preexisting Account, the TIN(s) or date of birth is not required to be reported if such TIN(s) or date of birth is not in the records of the Reporting Financial Institution and is not otherwise required to be collected by such Reporting Financial Institution under domestic law or any European Union legal instrument (if applicable). However, a Reporting Financial Institution is required to use reasonable efforts to obtain the TIN(s) and date of birth with respect to Preexisting Accounts by the end of the second calendar year following the year in which Preexisting Accounts were identified as Reportable Accounts and whenever it is required to update the information relating to the Preexisting Account pursuant to domestic AML/KYC Procedures.';

(c) in Section I, the following paragraph is added:

'F. Notwithstanding subparagraph A(5)(b), and unless the Reporting Financial Institution elects otherwise with respect to any clearly identified group of accounts, the gross proceeds from the sale or redemption of a Financial Asset are not required to be reported to the extent such gross proceeds from the sale or redemption of such Financial Asset are reported by the Reporting Financial Institution under the Crypto-Asset Reporting Framework.';

(d) in Section VI, subparagraph A(2)(b) is replaced by the following:

'(b) Determining the Controlling Persons of an Account Holder. For the purposes of determining the Controlling Persons of an Account Holder, a Reporting Financial Institution may rely on information collected and maintained pursuant to AML/KYC Procedures**,** provided that such

procedures are consistent with the 2012 FATF Recommendations. If the Reporting Financial Institution is not legally required to apply AML/KYC Procedures that are consistent with the 2012 FATF Recommendations, it must apply substantially similar procedures for the purpose of determining the Controlling Persons.';

(e) in Section VII, the following paragraph is inserted after paragraph A:

'Aa. Temporary lack of self-certification. In exceptional circumstances where a self-certification cannot be obtained by a Reporting Financial Institution in respect of a New Account in time to meet its due diligence and reporting obligations with respect to the reporting period during which the account was opened, the Reporting Financial Institution must apply the due diligence procedures for Preexisting Accounts, until such self-certification is obtained and validated.';

(f) in Section VIII, subparagraphs A(5) to (7) are replaced by the following:

'5. The term "Depository Institution" means any Entity that:

(a) accepts deposits in the ordinary course of a banking or similar business; or

(b) holds Specified Electronic Money Products or Central Bank Digital Currencies for the benefit of customers.

6. The term "Investment Entity" means any Entity:

(a) which primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:

(i) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;

(ii) individual and collective portfolio management; or

(iii) otherwise investing, administering, or managing Financial Assets, money, or Relevant Crypto-Assets on behalf of other persons; or

(b) the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets or Relevant Crypto-Assets, if the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in subparagraph A(6)(a).

An Entity is treated as primarily conducting as a business one or more of the activities described in subparagraph A(6)(a), or an Entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets or Relevant Crypto-Assets for the purposes of

subparagraph A(6)(b), if the Entity's gross income attributable to the relevant activities equals or exceeds 50 % of the Entity's gross income during the shorter of: (i) the three-year period ending on 31 December of the year preceding the year in which the determination is made; or (ii) the period during which the Entity has been in existence. For the purposes of subparagraph A(6)(a)(iii), the term "otherwise investing, administering, or managing Financial Assets, money, or Relevant Crypto-Assets on behalf of other persons" does not include the provision of services effectuating Exchange Transactions for or on behalf of customers. The term "Investment Entity" does not include an Entity that is an Active NFE because that Entity meets any of the criteria in subparagraphs D(9)(d) to (g).

This paragraph shall be interpreted in a manner consistent with similar language set forth in the definition of "financial institution" in the Financial Action Task Force Recommendations.

7. The term "Financial Asset" includes a security (for example, a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; note, bond, debenture, or other evidence of indebtedness), partnership interest, commodity, swap (for example, interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements), Insurance Contract or Annuity Contract, or any interest (including a futures or forward contract or option) in a security, Relevant Crypto-Asset, partnership interest, commodity, swap, Insurance Contract, or Annuity Contract. The term "Financial Asset" does not include a non-debt, direct interest in real property.';

(g) in Section VIII, the following subparagraphs are added after subparagraph A(8):

'9. The term "Specified Electronic Money Product" means any product that is:

(a) a digital representation of a single Fiat Currency;

(b) issued on receipt of funds for the purpose of making payment transactions;

(c) represented by a claim on the issuer denominated in the same Fiat Currency;

(d) accepted in payment by a natural or legal person other than the issuer; and

(e) by virtue of regulatory requirements to which the issuer is subject, redeemable at any time and at par value for the same Fiat Currency upon request of the holder of the product.

The term "Specified Electronic Money Product" does not include a product created for the sole purpose of facilitating the transfer of funds from a customer to another person pursuant to instructions of the customer. A product is not created for the sole purpose of facilitating the transfer of funds if, in the ordinary course of business of the transferring Entity, either the funds connected with such product are held longer than 60 days after receipt of instructions to facilitate the transfer, or, if no instructions are received, the funds connected with such product are held longer than 60 days after receipt of the funds.

10. The term "Central Bank Digital Currency" means any digital Fiat Currency issued by a Central Bank, or other monetary authority.

11. The term "Fiat Currency" means the official currency of a jurisdiction, issued by a jurisdiction or by a jurisdiction's designated Central Bank or monetary authority, as represented by physical banknotes or coins or by money in different digital forms, including bank reserves and Central Bank Digital Currencies. The term also includes commercial bank money and electronic money products (including Specified Electronic Money Products).

12. The term "Crypto-Asset" means a digital representation of value that relies on a cryptographically secured distributed ledger or a similar technology to validate and secure transactions.

13. The term "Relevant Crypto-Asset" means any Crypto-Asset that is not a Central Bank Digital Currency, a Specified Electronic Money Product or any Crypto-Asset for which the Reporting Crypto-Asset Service Provider has adequately determined that it cannot be used for payment or investment purposes.

14. The term "Exchange Transaction" means any:

    (a) exchange between Relevant Crypto-Assets and Fiat Currencies; and

    (b) exchange between one or more forms of Relevant Crypto-Assets.';

(h) in Section VIII, subparagraph B(1)(a) is replaced by the following:

'(a) a Governmental Entity, International Organisation or Central Bank, other than:

    (i) with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution**;** or

    (ii) with respect to the activity of maintaining Central Bank Digital Currencies for Account Holders which are not Financial Institutions, Governmental Entities, International Organisations or Central Banks.';

(i) in Section VIII, the term ‘or’ at the end of subparagraph B(1)(d) is deleted;

(j) in Section VIII, the full stop at the end of subparagraph B(1)(e) is replaced by a semicolon, and the term ‘or’ is added thereafter;

(k) in Section VIII, the following subparagraph is added after subparagraph B(1)(e):

‘(f) a Swiss Qualified Non-Profit Entity.’;

(l) in Section VIII, the following subparagraph is added after subparagraph B(9):

‘10. The term “Swiss Qualified Non-Profit Entity” means an Entity resident in Switzerland that has obtained confirmation by a Swiss competent authority that such Entity meets all of the following conditions:

(a) it is established and operated in Switzerland exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in Switzerland and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;

(b) it is exempt from income tax in Switzerland;

(c) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;

(d) the applicable laws of Switzerland or the Entity’s formation documents do not permit any income or assets of the Entity to be distributed to, or applied for the benefit of, a private person or a noncharitable Entity other than pursuant to the conduct of the Entity’s charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the Entity has purchased; and

(e) the applicable laws of Switzerland or the Entity’s formation documents require that, upon the Entity’s liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other Entity that meets the conditions set out in i) to v), or escheat to the government of Switzerland or any political subdivision thereof.’;

(m) in Section VIII, subparagraph C(2) is replaced by the following:

‘2. The term “Depository Account” includes any commercial, checking, savings, time, or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument maintained by a Depository Institution. A Depository Account also includes:

(a) an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon;

(b) an account or notional account that represents all Specified Electronic Money Products held for the benefit of a customer; and

(c) an account that holds one or more Central Bank Digital Currencies for the benefit of a customer.';

(n) in Section VIII, subparagraph C(9)(a) is replaced by the following:

'(a) a Financial Account maintained by a Reporting Financial Institution as of 31 December preceding the entry into force of the Amending Protocol of 27 May 2015 or, if the account is treated as a Financial Account solely by virtue of the amendments to this Agreement made by the Amending Protocol of … [*date of signing*] as of 31 December preceding the date of provisional application of the latter Amending Protocol.';

(o) in Section VIII, subparagraph C(10) is replaced by the following:

'10. The term "New Account" means a Financial Account maintained by a Reporting Financial Institution opened on or after the entry into force of the Amending Protocol of 27 May 2015, or, if the account is treated as a Financial Account solely by virtue of the amendments to this Agreement made by the Amending Protocol of … [*date of signing*], on or after the date of provisional application of the latter Amending Protocol, unless it is treated as a Preexisting Account under the extended definition of Preexisting Account in subparagraph C(9).';

(p) in Section VIII, the following subparagraph is inserted after subparagraph C(17)(e)(iv):

'(v) a foundation or capital increase of a company provided that the account satisfies the following requirements:

– the account is used exclusively to deposit capital that is to be used for the purpose of the foundation or capital increase of a company, as prescribed by law;

– any amounts held in the account are blocked until the Reporting Financial Institution obtains an independent confirmation regarding the foundation or capital increase;

– the account is closed or transformed into an account in the name of the company after the foundation or capital increase;

– any repayments resulting from a failed foundation or capital increase, net of service provider and similar fees, are made solely to the persons who contributed the amounts; and

– the account has not been established more than 12 months ago.';

(q) in Section VIII, the following subparagraph is inserted after subparagraph C(17)(e):

‘(ea) A Depository Account that represents all Specified Electronic Money Products held for the benefit of a customer, if the rolling average 90 day end-of-day aggregate account balance or value during any period of 90 consecutive days did not exceed USD 10 000 or an equivalent amount denominated in the domestic currency of each Member State or Switzerland at any day during the calendar year or other appropriate reporting period.’;

(r) in Section VIII, subparagraph D(2) is replaced by the following:

‘2. The term “Reportable Person” means a Reportable Jurisdiction Person other than: (i) an Entity the stock of which is regularly traded on one or more established securities markets; (ii) any Entity that is a Related Entity of an Entity described in clause (i); (iii) a Governmental Entity; (iv) an International Organisation; (v) a Central Bank; or (vi) a Financial Institution.’;

(s) in Section VIII, subparagraph D(5)(c) is replaced by the following:

‘(c) any other jurisdiction: (i) with which the relevant Member State or Switzerland, as the context requires, has an agreement in place pursuant to which that other jurisdiction will provide the information specified in Section I; and (ii) which is identified in a list published by that Member State or Switzerland.’;

(t) in Section VIII, the following subparagraph is added after subparagraph E(6):

‘7. The term “Government Verification Service” is an electronic process made available by a Reportable Jurisdiction to a Reporting Financial Institution for the purposes of ascertaining the identity and tax residence of an Account Holder or Controlling Person.’;

(u) the following section is added after Section IX:

‘Section X

TRANSITIONAL MEASURES

Notwithstanding subparagraph A(1)(b) and A(6a) of Section I, with respect to each Reportable Account that is maintained by a Reporting Financial Institution as of 31 December preceding the date of provisional application of the Amending Protocol of … [*date of signing*] and for reporting periods ending by the second calendar year following such date, information with respect to the role(s) by virtue of which each Reportable Person is a Controlling Person or Equity Interest holder of the Entity is only required to be reported if such information is available in the electronically searchable data maintained by the Reporting Financial Institution.’;

(12) in Annex III, subparagraph (ac) is deleted;

(13) the Joint Declaration of the Contracting Parties on the Agreement and the Annexes is replaced by the following:

'JOINT DECLARATION OF THE CONTRACTING PARTIES ON THE AGREEMENT AND THE ANNEXES

The Contracting Parties agree, regarding the implementation of the Agreement and the Annexes as amended by the Amending Protocol of … [*date of signing*], that the Commentaries to the OECD Model Competent Authority Agreement and Common Reporting Standard as well as the Commentaries to the 2023 Addendum to the OECD Model Competent Authority Agreement and to the 2023 update to the Common Reporting Standard, should be a source of illustration or interpretation in order to ensure consistency in application.';

(14) the Joint Declaration of the Contracting Parties on Article 5 of the Agreement is replaced by the following:

'JOINT DECLARATION OF THE CONTRACTING PARTIES ON ARTICLE 5 OF THE AGREEMENT

The Contracting Parties agree that Article 5 of the Agreement is aligned to the latest OECD standard on transparency and exchange of information in tax matters enshrined in Article 26 of the OECD Model Tax Convention. Therefore, the Contracting Parties agree, regarding the implementation of Article 5, that the commentary to Article 26 of the OECD Model Tax Convention on Income and on Capital should be a source of interpretation.'.

Article 2

Entry into force and application

1. This Amending Protocol shall enter into force on the first day of the first month following notification by the Contracting Parties of the completion of their respective procedures.

2. Notwithstanding paragraph 1, the Contracting Parties shall provisionally apply from 1 January 2026, subject to notification by each of the Contracting Parties to the other by 31 December 2025 of the completion of its respective internal procedures necessary for such provisional application, the amendments set out in Article 1 of this Amending Protocol concerning the following articles of the Agreement, annexes to the Agreement and declarations, pending the entry into force of this Amending Protocol:

– Article 1(1), subparagraphs (m) and (u);
– Article 2;
– Article 3;
– Article 4p;
– Annex I;
– Annex III;
– the Joint Declarations of the Contracting Parties.

3. Notwithstanding paragraph 1, Title 2, except Article 4p, of the Agreement as amended by this Amending Protocol shall apply from the first day of January of the first year after the entry into force of this Amending Protocol with regard to tax claims arising after the first day of January after the signature of this Amending Protocol.

Article 3

Languages

This Amending Protocol is drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each text being equally authentic.

IN WITNESS WHEREOF, the undersigned, duly authorised to this effect, have signed this Amending Protocol.

Done at … in the year two thousand and twenty-five.

For the European Union

For the Swiss Confederation