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COM(2025) 406 final

2025/0224 (NLE)

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 Principality of Andorra 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 Principality of Andorra (Andorra) 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 Andorra, 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 Andorra 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 Andorran national data protection legislation were also updated. Furthermore, these amendments reflect the continued application of the EU Adequacy Decision concerning Andorra[8].

A Council decision authorising the opening of negotiations for the amendment of the Agreement concerning the automatic exchange of financial account information to improve

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1 OJ L 157, 26.06.2003, p. 38. OJ L268 of 01.10.2016, p.38 to.76.
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 4.5.2016, p. 1 to 88.
8 Decision 2010/625/EU of 19 October 2010 pursuant to Directive 95/46/EC on the adequate protection of personal data in Andorra.

international tax compliance between the European Union and Andorra was adopted on 21 May 2024[9].

Several rounds of negotiations were held, and a provisional agreement was reached in April 2025. Subsequently, the draft text of the Amending Protocol was initialled by the Chief negotiators on 18 June 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 also shared with the European Parliament.

The Commission considers that the objectives set out by the Council in its negotiating directive 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 Principality of Andorra on the automatic exchange of financial account information 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 directive adopted by the Council on 21 May 2024.

The negotiated Amending Protocol ensures that the existing agreement between the European Union and Andorra 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 Andorra, it is 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 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.

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

[9] 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

competence stemming from the existing Agreement, the Amending Protocol implements all changes that are necessary to reflect the corresponding changes to the CRS. The implementation of those changes within the Union has been provided for by means of Council Directive (EU) 2023/2226.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

Given that the main objective and components of the Agreement are to improve administrative cooperation in the area of direct taxation, the substantive legal basis is Article 115 of the Treaty on the Functioning of the European Union (TFEU).

Given that Article 115 TFEU is the substantive legal basis, the Council is to adopt the decision concluding the agreement after consulting the European Parliament. Therefore, the procedural legal basis of the decision concluding the agreement is Article 218(6), second subparagraph, point (b), TFEU. As Article 115 TFEU requires unanimity for a Union act, the procedural legal basis for the conclusion of this agreement should include the second subparagraph of Article 218(8) TFEU.

Therefore, the procedural legal basis for the proposed decision on concluding the agreement is Article 218(6), second subparagraph, point (b), TFEU and the second subparagraph of Article 218(8) TFEU.

• Union competence

Under the case law of the Court of Justice, the Union has exclusive competence where an agreement may affect common rules or alter their scope[10]. This jurisprudence has been enshrined in Article 3(2) 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".

• 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 Andorra in an uninterrupted manner, and in a manner that aligns with the new requirements of the CRS, as already incorporated in the DAC8.

• 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.

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

3. RESULTS OF IMPACT ASSESSMENTS

- **Impact assessment**

According to tool 7 of the Better Regulation[11], 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 updates on data protection, these are merely aimed at updating references to the EU and Andorran data protection legislation.

- **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 Andorra 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. These amending reporting and exchange of information requirements are provided for within Article 2, Article 3 and Annex I. They will apply from 1 January 2026.

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[12]. 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. These provisions shall only apply as of the date when the Andorra commences to apply the CARF with all Member States.

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11 https://ec.europa.eu/info/sites/default/files/br_toolbox-nov_2021_en_0.pdf

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

2. 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 Andorra has been updated to the Qualified Law 29/2021 on the protection of personal data (Data Protection Act).

- **Text of the Amending Protocol, joint declarations and notifications**

The text of the Amending Protocol is submitted to the Council together with this proposal. The text of joint declarations is submitted 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 that Amending Protocol.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 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 Principality of Andorra 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 Principality of Andorra is aligned with, and continues to take place in accordance with, the updated CRS from 1 January 2026.

(4) The text of the Amending Protocol to the Agreement between the European Union and the Principality of Andorra 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.

(5) In accordance with Council Decision (EU) XXXX[5], the Amending Protocol to the Agreement was signed on XXXX, subject to its conclusion at a later date.

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1 Opinion of XXXX (not yet published in the Official Journal)

2 OJ L 157, 26.06.2003, p. 38. OJ L268 of 01.10.2016, p.38 to.76.

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 Council Decision (EU) xxxx on the signing, on behalf of the Union, of the Amending Protocol to the Agreement between the European Union and the Principality of Andorra on the automatic exchange of financial account

(6) The Amending Protocol to the Agreement, which is the subject of this decision should be approved.

(7) The joint declarations attached to this Decision should be approved.

(8) 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 Principality of Andorra on the automatic exchange of financial account information to improve international tax compliance is hereby approved[6].

Article 2

The Joint Declaration of the Contracting Parties on the entry into force of the Amending Protocol, the Joint Declaration of the Contracting Parties on the Agreement and the Annexes and the Joint Declaration of the Contracting Parties on Article 5 of the Agreement are hereby approved.

Article 3

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

information and mutual assistance for the recovery of claims to improve international tax compliance (OJ L XXXX).

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

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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 Principality of Andorra on the automatic exchange of financial account information to improve international tax compliance

AMENDING PROTOCOL

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

THE EUROPEAN UNION,

and

THE PRINCIPALITY OF ANDORRA, hereinafter referred to as 'Andorra',

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 Principality of Andorra 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 Principality of Andorra 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,

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

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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 359, 4.12.2004, p. 33.

3 OJ EU L 268, 1.10.2016, p. 40.

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,

WHEREAS Andorra has not been identified as a jurisdiction of relevance for the implementation of the CARF by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes ('the Global Forum') at this stage, but remains ready to take all steps necessary to implement and apply the CARF in an expedited manner when the Global Forum deems it to be such a jurisdiction,

WHEREAS, with a view to limiting instances of duplicative reporting, where Andorra implements the CARF with regard to Member States, 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 Contracting Parties will apply their respective data protection laws and practices – in particular, for Andorra, the Qualified Law 29/2021 on the protection of personal data (Data Protection Act)[6] and, for the European Union, Regulation (EU) 2016/679 of the European Parliament and of the Council[7] – 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 2010/625/EU[8] stated that, for all the activities falling within the scope of Directive 95/46/EC of the European Parliament and of the Council[9], Andorra is

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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, ELI: http://data.europa.eu/eli/dir/2023/2226/oj)

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).

6 Qualified Law 29/2021, of 28 October, on the Protection of Personal Data (BOPA No. 119 year 2021 (17 November 2021)), as amended by Qualified Law 12/2024, of 15 July, amending Qualified Law 29/2021, of 28 October, on the Protection of Personal Data (BOPA No. 87 year 2024 (7 August 2024)).

7 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).

8 Commission Decision 2010/625/EU of 19 October 2010 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data provided in Andorra (OJ EU L 277, 21.10.2010, p. 27)

9 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).

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[10] confirms that Andorra continues to provide an adequate level of protection for personal data transferred from the European Union,

WHEREAS the Member States and Andorra 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 Reporting Financial Institutions, sending Competent Authorities and receiving Competent Authorities, as data controllers, should retain information processed in accordance with the Agreement for no longer than necessary to achieve the purposes thereof and whereas, given the differences in Member States' and Andorra's legislation, the maximum retention period should be set for each Contracting Party by reference to the statute of limitations provided by each data controller's domestic tax legislation,

WHEREAS the processing of information under the Agreement is necessary for and proportionate to the purpose of enabling Member States' and Andorra'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 introductory wording between the title and Article 1 is replaced by the following

'THE EUROPEAN UNION,

and

THE PRINCIPALITY OF ANDORRA, hereinafter referred to as "Andorra",

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

HAVE AGREED TO CONCLUDE THE FOLLOWING AGREEMENT:';

(2) in Article 1(1), the following subparagraph is added:

'(m) the term "Crypto-Asset Reporting Framework" means the international framework for the automatic exchange of information with respect to Crypto-

[10] 52024 D C0007- COM/2024/7 final

Assets (which includes the Commentaries) developed by the OECD, with G20 countries and approved by the OECD on 26 August 2022.';

(3) 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 Andorra with the Competent Authority of a Member State or by the Competent Authority of a Member State with the Competent Authority of Andorra under the Crypto-Asset Reporting Framework.';

(4) Article 3 is amended as follows:

(a) in paragraph 3, the following subparagraphs are added:

'Notwithstanding the first subparagraph, 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 entry into force of that Amending Protocol and all subsequent years.

Notwithstanding the first and second subparagraphs, with respect to each Reportable Account that is maintained by a Reporting Financial Institution as of 31 December preceding the entry into force 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;

(5) 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 Andorra) 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 Andorra), 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, Andorra or other jurisdiction) of residence and TIN(s) of the Entity and the name, address, jurisdiction(s) (being a Member State or Andorra) 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, 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.';

(j) 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 signed on 12 February 2016 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 entry into force of the latter Amending Protocol.';

(k) 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 signed on 12 February 2016, 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 entry into force of the latter Amending Protocol, unless it is treated as a Preexisting Account under the extended definition of Preexisting Account in subparagraph C(9).';

(l) 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.';

(m) 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 Andorra at any day during the calendar year or other appropriate reporting period.';

(n) 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.';

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

‘(c) any other jurisdiction (i) with which the relevant Member State or Andorra, 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 Andorra;’

(p) 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.’;

(q) 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 entry into force 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.’;

(6) in Annex III, subparagraph (ac) is deleted.

Article 2

Entry into force and application

1. This Amending Protocol requires ratification or approval by the Contracting Parties in accordance with their own procedures. The Contracting Parties shall notify each other of the completion of these procedures. The Amending Protocol shall enter into force on the first day of January following the last notification.

2. Notwithstanding paragraph 1 of this Article, Article 1(2), (3)(b) and (5)(c) of this Amending Protocol shall apply as of the date on which the Principality of Andorra begins to apply the CARF with all Member States.

Article 3

Languages

This Amending Protocol shall be 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, Swedish and Catalan languages, each text being equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have hereunto set their hands.

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

For the European Union

For the Principality of Andorra

DECLARATIONS OF THE CONTRACTING PARTIES

JOINT DECLARATION OF THE CONTRACTING PARTIES ON THE ENTRY INTO FORCE OF THE AMENDING PROTOCOL

The Contracting Parties declare that they expect that the constitutional requirements of Andorra and the requirements of European Union law concerning entering into international agreements will be fulfilled in time to enable the Amending Protocol to enter into force on the first day of January 2026. They will take all the measures in their power to achieve that goal.

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.

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.