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REPORT

From:	General Secretariat of the Council
To:	Delegations
Subject:	Code of Conduct Group (Business Taxation) - Report to the Council

I. BACKGROUND

1. On 1 December 1997, the Council and the representatives of the Governments of the Member States, meeting within the Council, adopted a resolution on a Code of Conduct for business taxation. This resolution provides for the establishment of a group within the framework of the Council to assess tax measures that may fall within the Code, which was established on 9 March 1998[1]. On 8 November 2008 the Council reformed the Code of Conduct. The resolution provides that the Code of Conduct Group (hereafter "COCG" or "Group") "*will report regularly on the measures assessed*" and that *"These reports will be forwarded to the Council for deliberation. They will include the agreed descriptions and final assessments of the tax measures it has examined. Final documents, as approved by the Council, will be made public, as appropriate, in accordance with relevant rules."* (paragraph H).

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

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[1] 6619/98.
[2] 15148/15.

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

4. This report from the COCG encompasses the work of the Group in the second half of 2025 during the term of the Danish Presidency of the Council. The previous reports, guidelines and other documents can be found on the website of the Council of the EU (Code of Conduct Group)[4].

II. GENERAL ASPECTS

A. Organisation of work

5. In the second half of 2025, the COCG, chaired by Ms Maria José Garde Garde, Director-General for Taxation at the Ministry of Finance of Spain, has continued to fulfil her mandate in accordance with the agreed multiannual work package and the work programme and the guidance from the 2025 Ecofin Council, in particular from February[5] and June 2025[6].

6. Meetings of the COCG were held on 22 September and 26 November 2025, and the subgroup meetings were held on 3 July, 9 September, 16 October and 6 November 2025.

7. At the COCG meeting on 22 September 2025, Ms Tatiana König Mortensen (Denmark) and Ms Irini Manti (Cyprus) were appointed as Vice-Chairs.

III. STANDSTILL AND ROLLBACK REVIEW PROCESS

Focus on notifications under the standstill procedure

8. The Group, at the initiative of the Presidency, and on the basis of a note prepared by the Presidency, exchanged views on further improving working methods with regard to the notification procedure for preferential regimes and may consider the topic at the evaluation of the existing guidance.

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[3] 6900/16.
[4] https://www.consilium.europa.eu/en/council-eu/preparatory-bodies/code-conduct-group
[5] 6322/25.
[6] 10627/25.

IV. MONITORING OF THE ACTUAL EFFECTS OF INDIVIDUAL MEASURES

9. During recent years, some of the measures subject to scrutiny were put under annual monitoring. In accordance with past practice, the concerned Member States are expected to communicate to the Group the relevant data by the end of June. In the second semester of 2025, the Group looked into the actual effects of individual measures under the 2025 monitoring cycle (with regard to data available until 2023). Nine measures were put under annual monitoring. The Group looked into seven of them and will consider the remaining two measures as soon as data is provided.[7]

10. The following decisions were reached by the Group:

    a) On Poland's Notional interest deduction regime (PL011)[8], the Group supported the preliminary assessment that the measure does not seem to have affected in a significant way the business location in the EU and that the monitoring should be terminated;

    b) On Poland's Co-operative Compliance Programme for large taxpayers (PL014)[9], the Group supported the preliminary assessment that the measure does not seem to have affected in a significant way the business location in the EU for the years 2021-2024 and that the monitoring should continue for one more tax year;

    c) On Italy's Cooperative Compliance Programme (CCP)[10], the Group supported the preliminary assessment that the measure does not seem to have affected in a significant way the business location in the EU for the years 2023-2024 and that the monitoring should continue;

    d) On Ireland's Digital games relief (tax credit) regime (IE017)[11], a meaningful conclusion regarding the actual effects of the measure and its impact on the location of business activity among Member States could not be reached given the provisional nature of the data and that the monitoring should continue;

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7 See updated overview in doc. 8602/20 REV 11.
8 16028/25 ADD 1.
9 16028/25 ADD 2.
10 16028/25 ADD 3.
11 16028/25 ADD 4.

e) On Cyprus' Notional interest deduction regime (CY020)[12], the Group supported the preliminary assessment that the monitoring should continue and that the Cypriot authorities were invited to improve the data collection and provide the relevant data;

f) On Romania's Reduction of income tax for maintaining/increasing own capital regime (RO011)[13], the Group supported the preliminary assessment that the measure does not seem to have affected in a significant way the business location in the EU for the years 2021-2024 and that the monitoring should be terminated;

g) On Portugal's Madeira Free Trade Zone – IV (PT020)[14], the Group supported the preliminary assessment that the amendment under monitoring does not seem to have affected in a significant way the business location in the EU and that the monitoring should be terminated.

A. <u>Other workstreams</u>

<u>Rollback and grandfathering rules</u>

11. As a follow-up to the European Court of Auditors' special report No 27/2024: Combatting harmful tax regimes and corporate tax avoidance, the Group agreed on the Guidance on Rollback and Grandfathering of Harmful Preferential Regimes (see Annex I).

<u>Way forward in relation to expenditure-based tax incentives (criterion 2)</u>

12. The Group continued the discussion on the application of the nexus requirement to expenditure-based tax incentives in Special Economic Zones (SEZ), with a view to promoting competitiveness in the Union.

13. The Group considered a joint proposal by the Presidency and the Commission for a revised guidance on the use of expenditure-based tax incentives in SEZ and concluded that the discussions at technical level should continue.

[12] 16028/25 ADD 5.
[13] 16028/25 ADD 6.
[14] 16028/25 ADD 7.

Monitoring Highly Mobile Activities in the SEZ in the Member States

14. Following the outcome of the monitoring exercise on the Compliance with 2017 Guidance on tax privileges related to special economic zones ("SEZ"), the Group launched the particular scrutiny regarding the performance of highly mobile activities in the SEZ in five Member States.

15. The following conclusions were reached by the Group: (1) to terminate the particular scrutiny for three Spanish, three Italian, one Polish and one Hungarian SEZ measure; (2) to continue the particular scrutiny for the Polish PIZ regime; and (3) to invite Lithuania to provide the relevant data for the tax years (2022 and 2023) to consider whether the monitoring of their SEZ should be terminated. [15]

A. THE EU LIST OF NON-COOPERATIVE JURISDICTIONS FOR TAX PURPOSES

A. Update of the EU list of non-cooperative jurisdictions for tax purposes

16. In its conclusions of 20 June 2025[16], the Council (ECOFIN) acknowledged the positive impact of the Code of Conduct and the Group's efforts in mitigating harmful tax practices, contributing to the reduction of preferential tax regimes both within the EU and globally. The Council welcomed the progress achieved by the Code of Conduct Group in the revision of the EU list of non-cooperative jurisdictions in February 2025 and encouraged the Group to maintain effective dialogue with jurisdictions, monitoring, and screening, to support their compliance with the EU listing criteria and fulfilment of commitments within the agreed deadline.

17. The Council appreciated the revision of the EU list of non-cooperative jurisdictions in February 2025 and invited the Group to further continue the effective dialogue with jurisdictions, so that they continue to fulfil their respective commitments and comply with the EU listing criteria in accordance with the agreed Annex II deadlines.

[15] 14674/22 ADD 10 REV 1.
[16] 10627/25.

18. The Council recognised the Group's ongoing consideration of the possible impact of the revised Forum on Harmful Tax Practices (FHTP) methodology on regime reviews under criterion 2.1, as well as of the changes to the frequency of the FHTP monitoring for criterion 2.2, recognised the Group's continuous monitoring of no or only nominal tax jurisdictions for the effective implementation of economic substance requirements to companies and other entities that fall within the scope of criterion 2.2. The Council also acknowledged the Group's decision to monitor the presence of resident ultimate parent entities of multinational enterprises (MNEs) above the CbCR reporting threshold in relevant jurisdictions, which were previously exempted or out of scope of criterion 3.2 and which have received general recommendations by the BEPS Inclusive Framework in the latest peer review report on CbCR published on 23 September 2025.

19. The Council called on the Group to continue the work on the appropriate selection indicators for future modifications of the geographical scope of the EU list, and called on the Group to continue the work to incorporate beneficial ownership as a fourth transparency criterion.

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

21. The preparation of the latest revision of the list took place at the subgroup meeting on 3 July and 9 September 2025 and was finalised at the Group's meeting on 22 September 2025. The updated EU list of non-cooperative jurisdictions was approved by the Council on 10 October 2025[17] and published in the Official Journal on 17 October 2025[18].

22. No changes have been made to the EU list of non-cooperative jurisdictions for tax purposes (Annex I) at the update of October 2025. There are 11 jurisdictions on Annex I: American Samoa, Anguilla, Fiji, Guam, Palau, Panama, Russian Federation, Samoa, Trinidad and Tobago, US Virgin Islands and Vanuatu.

- Trinidad and Tobago complied with two criteria (exchange of information on request and country-by-country reporting), leaving outstanding only one listing criterion (on automatic exchange of financial account information).

17 13777/25.
18 OJ C 2025/5613, 17.10.2025, pages 1-5.

- Positive developments have occurred in the state of play of commitments (Annex II of the relevant conclusions). New commitments were added: for Greenland, Jordan and Morocco with regard to criterion 3.2 on country-by-country reporting, for Jordan and Montenegro with respect to criterion 1.1 on automatic exchange of information and for British Virgin Islands and Montenegro with respect to criterion 1.2 on exchange of information on request Viet Nam fulfilled its commitment on criterion 3.2 and was removed from Annex II.

23. Türkiye remains on Annex II for criterion 1.1 (automatic exchange of information) as it is still not fully in line with the commitments as per the conclusions of the Council (ECOFIN) of 22 February 2021, 5 October 2021, 24 February 2022, 4 October 2022, 14 February 2023, 17 October 2023, 20 February 2024, 8 October 2024, 18 February 2025 and 10 October 2025. Türkiye is expected to begin or continue the technical work on the effective exchange of data with all Member States to meet the agreed international standards and fully comply with the requirements mentioned in the conclusions of the Council (ECOFIN) above.

B. Monitoring of the implementation of commitments taken by jurisdictions

General overview

24. As of October 2025, the implementation of a total of 15 commitments[19] taken at a high political level by 15 jurisdictions[20] remains to be monitored by the Group.

These are recorded in Annex II of the Council conclusions:

Criterion	Number of jurisdictions committed
1.1	3
1.2	5
2.1	2
3.2	5

[19] This figure adds up the number of commitments by jurisdictions under each criterion (see table).

[20] Anguilla, Antigua and Barbuda, Belize, British Virgin Islands, Brunei Darussalam, Greenland, Eswatini, Jordan, Montenegro, Morocco, Panama, Seychelles, Türkiye, Vanuatu, Viet Nam.

25. Pending commitments on automatic exchange of information, exchange of information on request and implementation of the CbCR minimum standards are detailed under dedicated sections to criteria 1.1, 1.2, and 3.2 respectively and in the respective entries for jurisdictions listed in Annex I.

26. Moreover, two harmful tax regimes remain to be rolled back by two jurisdictions under criterion 2.1[21]. A detailed overview can be found in the compilation[22] of preferential regimes and measures examined by the COCG under criteria 2.1 and 2.2.

<u>Political and procedural dialogue</u>

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

28. The Chair received a number of letters from jurisdictions and also held in-person meetings and videoconferences at a high political level with a number of them. Delegations were kept informed about these interactions, and response letters signed by the Chair were agreed by the Group.

C. Screening and scoping issues

<u>Criterion 1.1 (peer reviews by the Global Forum with respect to the Automatic Exchange of Information on financial accounts (AEOI)</u>

29. The 2024 Global Forum peer review report on AEOI included for the first time peer reviews of Jordan and Montenegro. Both of the respective peer reviews contain negative legal determinations ("Not in place") on both core requirements regarding the legal framework on AEOI. The Group therefore decided to ask Jordan and Montenegro to make a commitment at a high political level, to addressing the identified deficiencies and to achieving positive legal determinations in the Global Forum peer review report on AEOI in 2026. Montenegro replied in February 2025 with such a commitment at a high political level. In May 2025, the COCG received a commitment at a high political level from Jordan.

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21 "Eswatini's "Special economic zones" and Brunei Darussalam's "harmful foreign-source income exemption regime".

22 6430/23.

30. The commitments taken by jurisdictions were reflected in the update of the EU list of October 2025.

Criterion 1.2 (peer reviews by the Global Forum with respect to the standard on Exchange of Information on Request)

31. In the Global Forum peer review on exchange of information on request (EOIR) that was published on 21 November 2024, Montenegro was rated “Partially Compliant” on EOIR, which is not sufficient to be deemed compliant with criterion 1.2 The Group therefore decided to ask Montenegro to make a commitment at a high political level, to requesting and being granted by the Global Forum an in-depth review on EOIR within 18 months, with the aim of achieving a positive overall rating (“Largely compliant” or ”Compliant”). Montenegro responded in February 2025 with a high-level political commitment.

32. On 18 March 2025, the Global Forum published its Supplementary Review[3] of the British Virgin Islands concluding that the British Virgin Islands remain overall “Partially Compliant” with the EOIR standard. To comply with criterion 1.2, jurisdictions need a positive overall rating on EOIR (“Largely compliant” or ”Compliant”) by the Global Forum. With a view to ensuring a level playing field for jurisdictions which have not previously been asked to make a commitment, and considering tangible progress made by the British Virgin Islands, the Group decided to ask the British Virgin Islands to commit to undertaking to fulfil the necessary steps to request and be granted, within 18 months of the commitment, an “In-depth review” by the Global Forum to upgrade its overall rating on EOIR to at least ”Largely compliant” in due time. In August 2025, the British Virgin Islands made such a commitment at a high political level.

33. The commitments taken by jurisdictions were reflected at the update of the EU list of October 2025.

New criterion 1.4 on beneficial ownership information

34. In its conclusions of 20 June 2025, the Council (ECOFIN) called on the Group to continue the work to incorporate beneficial ownership as a fourth transparency criterion. At the meeting on 22 September 2025, the Group considered the way forward on the work related to the future criterion on the basis of the note prepared by the Chair. The Group acknowledged the importance of beneficial ownership transparency. However, no viable solutions have been identified at this stage. It was agreed that the Group would periodically review international developments and revisit the matter at a later stage. It was also agreed that the Commission will conduct a mapping exercise of jurisdictions in scope of the EU list regarding existence of beneficial ownership registers and access to these registers. The Commission presented its findings at the Group's meeting on 26 November 2025 and it was agreed that the Commission services should keep track of new developments in jurisdictions in scope of the EU list in due course.

Implementation of criterion 3.2

35. In 2019, the COCG agreed on a general approach for assessing compliance with criterion 3.2 on country-by-country reporting (CbCR), in particular for early adopters of the minimum standard on CbCR, i.e. jurisdictions that joined the Inclusive Framework before the end of 2017.

36. In October and November 2021, the Code of Conduct Group discussed and agreed on the assessment of the relevant jurisdictions for compliance with criterion 3.2, based on the 2021 Peer Review Report by the BEPS Inclusive Framework (IF) on CbCR and additional assessments of bilateral exchange relations for CbCR with EU Member States. Eleven jurisdictions with identified deficiencies on CbCR were asked to undertake commitments to address these deficiencies in time to be reflected in the 2023 IF peer review report on CbCR. These commitments were recorded at the update of the EU list in February 2022.

37. Following the release of the IF peer review report on CbCR on 4 October 2022, the Code of Conduct Group decided at its meeting on 24 October 2022 to remove Barbados, the British Virgin Islands and Tunisia from Annex II for criterion 3.2 and to delete the reference to criterion 3.2 in the entry of the Bahamas in Annex I, at the update of the EU list in February 2023.

38. On 25 September 2023, the IF published its 2023 peer review report on CbCR. At its meeting on 3 October 2023, the Code of Conduct Group assessed the results of the IF peer reviews for the remaining jurisdictions with pending commitments on criterion 3.2. In 2023, the IF no longer addressed any general recommendations to Belize, Israel, Montserrat, Panama and Thailand. These jurisdictions had also taken the necessary steps to be able to exchange effectively CbCR reports with all EU Member States. As a result, the COCG deemed their commitments on criterion 3.2 fulfilled and recommended to remove the references to these jurisdictions with regard to criterion 3.2 from the relevant Annexes. Trinidad and Tobago did not fulfil its commitment on CbCR within the agreed deadline. Accordingly, the Group recommended to update the entry on Trinidad and Tobago in Annex I to include a reference to criterion 3.2 at the update in October 2023.

39. At its meetings on 23 November 2022, 3 October 2023 and 22 November 2023 the Code of Conduct Group considered the implementation of the CbCR standard by other jurisdictions within the scope of criterion 3.2, which were not deemed deficient in 2021, as well as the state of play in relation to relevant jurisdictions to which criterion 3.2 has not been applied so far, as they have joined the BEPS IF on or after 1 January 2018. The COCG agreed to extend the scope of criterion 3.2 to relevant jurisdictions in this group.

40. At its meeting on 22 November 2023, the COCG decided to start the process by asking jurisdictions within the scope of the EU list that have joined the BEPS Inclusive Framework since 1 January 2018, except those who have fully implemented the global standard on CbCR or opted out in 2023 from the BEPS Action 13 Peer Review Process, for information about resident UPEs of multinational enterprise groups with a consolidated group revenue above the CbCR reporting threshold.

41. On 24 April 2024 the subgroup was informed about the replies provided by the 18 jurisdictions, which received information letters regarding the future application of criterion 3.2.

42. After the publication of the IF peer reviews on CbCR in September 2024, the Group took stock of the peer review outcomes for jurisdictions which have joined the BEPS IF on or after 1 January 2018. The Group also assessed the state of bilateral exchange relations for CbCR of these jurisdictions with EU Member States and the presence of resident UPEs of MNE groups above the reporting threshold of 750 million EUR in their respective territories.

43. On this basis, the COCG decided on 20 November 2024 to request commitments on criterion 3.2 from jurisdictions with one or more outstanding general recommendations in the 2024 Inclusive Framework report and one or more resident UPE in 2022 or 2023. Jurisdictions in this category which have not yet activated relationships for CbCR exchanges with all EU Member States were asked to commit to address this issue as well. Commitments were recorded in Annex II at the update of the EU list in October 2025. The deficiencies should be addressed in time to be reflected in the 2026 Inclusive Framework peer review report on CbCR.

44. In addition, the COCG decided to start monitoring, as of 2025, on an annual basis, all Inclusive Framework jurisdictions which have not yet been asked for commitments on criterion 3.2 by the COCG due to non-relevance or opt-outs from the peer review process in either 2024 or preceding years, in order to check if exemptions previously granted remain justified.

45. At its meeting on 30 April 2025, the Group supported the monitoring of the existence of in-scope ultimate parent entities in BEPS IF member jurisdictions previously exempted from criterion 3.2 by the COCG and agreed to send information letters to those jurisdictions in this group which have received recommendations in the course of the IF Action 13 peer review process. Seventeen jurisdictions with one or more general recommendations by the BEPS IF in 2024 and missing activations for CbCR exchanges with EU Member States were asked for information about resident UPEs of MNEs captured by the CbCR reporting threshold in 2024.

46. At the meeting on 16 October 2025, the subgroup considered the current state of play regarding BEPS IF member jurisdictions and agreed to send without delay a letter to Viet Nam requesting a commitment on criterion 3.2, to be recorded at the update of the EU list in February 2026, taking into account the general recommendations addressed to Viet Nam in the latest BEPS Inclusive Framework peer review on CbCR published on 23 September 2025 and the presence of resident UPEs of MNEs above the CbCR reporting threshold in Viet Nam in 2024. The subgroup also decided to send letters to Fiji and Kuwait in due time requesting information about the presence of resident UPEs of MNEs above the CbCR reporting threshold in these jurisdictions in 2025.

Tax defensive measures vis-à-vis third country jurisdictions

47. In accordance with the Council conclusions of 5 December 2017[23], Member States should apply defensive measures vis-à-vis non-cooperative jurisdictions (NCJs) included in the EU list, including defensive measures in the tax area. On 5 December 2019, the Council endorsed a Guidance on defensive measures in the tax area towards NCJs[24].

48. The first state of play of Member States' legislation on tax defensive measures was included in the report to the ECOFIN adopted by the Council on 7 December 2021[25], a revised state of play was adopted and published on 2 June 2023[26].

49. The Council (ECOFIN) on 21 June 2024 recognised the work of the Group on the past and future evaluation of the application by the Member States of defensive measures in the tax area towards non-cooperative jurisdictions and endorsed the Guidance for monitoring the implementation of tax defensive measures and the relevant questionnaire.

50. The first monitoring exercise took place in 2025. Member States were expected to provide answers to the monitoring questionnaire by 30 June 2025.

51. The Group at its meetings of 22 September and 26 November 2025 and the subgroup at its meetings on 9 September and 16 October and considered findings from Member States' replies to the monitoring questionnaire and a proposal for a revised state of play on the implementation of the 2019 Guidance on tax defensive measures. The state of play, as of 30 September 2025, is attached to this report (ANNEX II).

52. The Group, also exchanged views on the expected and measured effects of the EU list and its tax defensive measures based on a note prepared by the Presidency. The Group acknowledged the relevance of the topic in the discussions on evaluating the effectiveness of defensive measures towards jurisdictions on the EU list of non-cooperative jurisdictions.

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23 See document 15429/17.
24 See Annex 4 to document 14114/19.
25 See document 14230/21 + COR 1 and ADD 1-9.
26 See document 9875/12.

PROCEDURAL ISSUES: GUIDANCE ON ROLLBACK AND GRANDFATHERING OF HARMFUL PREFERENTIAL MEASURES[27]

1. Purpose of the Guidance

1. The purpose of this guidance is to assist Member States and the Code of Conduct Group ('the group') by setting out principles for the rollback and the grandfathering of preferential measures which the group has found to be harmful under the provisions of the *Code of Conduct on business taxation*, as contained in the *Council conclusions on the reform of the Code of Conduct for Business Taxation, approved by the Council at its meeting held on 8 November 2022 ("*the code*")*.

2. The code sets out the criteria agreed by ECOFIN for determining whether a measure is harmful and, consequently, whether it should be rolled back. The final evaluation of whether the rollback conditions in the code are satisfied must therefore be made against the criteria in the code itself.

3. Paragraph D *(Rollback)* of the code does not provide for detailed rules on either the rollback or grandfathering process. It emphasizes however that the rollback should take place *as soon as possible.*[28]

4. In the absence of detailed provisions in the code framing the rollback and grandfathering process, the group agrees that the guiding principles set out in this document could be used by the Member States concerned and the group itself, when harmful preferential regimes need to be rolled-back and closed-off or grandfathered (summarized also in the Table).

5. It is thus the purpose of such principles to provide guidance on the application of the criteria and other rules related to the *Rollback process* set in the code but it does not go beyond those criteria or rules, nor does it limit them.

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[27] This Guidance does not apply to tax features of general application.

[28] *Member States commit themselves to re-examining their existing laws and established practices, having regard to the principles underlying the code and to the review process outlined in paragraphs E to I. Member States will amend such laws and practices as necessary with a view to eliminating any harmful tax measures, or to adopting appropriate anti-abuse provisions or other adequate safeguards in relation to harmful tax measures, as soon as possible taking into account the Council's discussions following the review process.*

6. Furthermore, the purpose of the guidance is not to confine the group to applying pre-determined general criteria; rather it should continue to consider each particular rollback and grandfathering process on a case-by-case basis and with an individual examination against the code criteria in the light of the group's guiding principles on evaluation of measures[29], and the group's guiding principles on roll-back and grandfathering as set out in this document.

Relationship with past assessments (of rollback and/or grandfathering)

7. Past assessments and regimes for which the group has agreed previously that they were adequately rolled back or grandfathered, will not be affected by the guidance. Regimes (rollback or grandfathering) that have not been considered by the group can be reviewed on the basis of this guidance, once it is approved by ECOFIN. The current procedure for reopening past assessments remains in place.

Review of the Guidance

8. The countering of harmful tax measures is an ongoing process; therefore, the guidance notes could be periodically reviewed by the group to ensure that they reflect future developments.

2. Guiding Principles regarding Rollback

Rollback

9. The rollback of a preferential measure that the group has found to be harmful may take the form either of:

   - the abolition of the measure; or
   - the removal of the harmful features of the measure.

[29] Document 16410/08 FISC 174 General guiding principles concerning evaluation of measures' agreed by the Group in November 2008

Rollback deadline

10. To swiftly remedy the distortion of competition in the internal market, a rollback process should start *as soon as possible* and, to the extent possible, along the following principles.

***Mobile activities*[30]**

11. Preferential measures assessed harmful which involve mobile activities are expected to be rolled back, in principle, within 12 months after the publication of the group's decision in the ECOFIN report, or where necessary because of the legislative process, by 31 December of the year following the cut-off date.

***Non-mobile activities*[31]**

12. Preferential measures assessed harmful which involve non-mobile activities are expected to be rolled back, in principle, within 24 months after the publication date of the group’s decision in the ECOFIN report.

Firm commitment to rollback

13. In view of the different legislative processes and timelines of Member States for the adoption of a (legislative) act, the group could take into consideration a firm commitment to rollback. The commitment should be given within 12 months from the publication of the group’s decision in the ECOFIN report, by way of a formal engagement to rollback, accompanied by a draft law and a realistic timeline for its adoption. If a draft law is not available, the commitment should comprise a text explaining the envisaged rollback amendments.

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30 Geographically mobile activities, such as financial and other service activities, including the provision of intangibles.

31 All other activities that do not qualify as geographically mobile activities, including distribution and manufacturing activities and activities that generate employment, assets and investments.

Monitoring of the Rollback

14. The Monitoring of the Rollback and the Assessment of its adequacy and sufficient nature will follow the code and the guidance[32] on *Standstill and Rollback notification* exercise.

3. Guiding Principles regarding Grandfathering

Involving mobile and non-mobile activities

15. Grandfathering is a not an obligation, but a prerogative of the Member States, aiming to preserve legitimate expectations and legal certainty. It should be applied only when needed.

16. Where grandfathering is applied, it should only be allowed to those taxpayers that entered the regime in good faith before the cut-off date, i.e. before the publication of the harmful decision in the ECOFIN report. New entrants (both new taxpayers and new assets and/or activities of existing taxpayers) coming into the regime after the cut-off date should not benefit from grandfathering after the close-off date (the date the regime is amended or abolished).

17. When grandfathering is considered needed, only harmful preferential regimes that fail any of criteria 1) ring-fencing, 2) substance requirement or 3) internationally accepted principles for determining profits, should be allowed to be grandfathered. Preferential regimes that fail criterion 4) transparency should not be allowed to be grandfathered with respect to the harmful aspect of that regime.

Grandfathering period

18. Preferential measures assessed harmful should only be allowed to be grandfathered until 31 December of the year, 3 years[33] after the publication of the group's decision in the ECOFIN report.

19. In exceptional circumstances, the group could authorise longer grandfathering periods if the situation justifies it, on a case-by-case basis.

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32 Guidance on The Provision of Information in the Review Process; Agreed in November 2016 (doc. 14750/16)

33 For example, if a Member State's regime was reported harmful in the June 2025 report to ECOFIN, the end of grandfathering would be no later than 31 December 2028.

Monitoring of the Grandfathering

20. The Monitoring of Grandfathering would require a specific reporting from the Member State concerned.

21. Where grandfathering is implemented, the Member State concerned is expected to communicate to the group the data regarding the actual effects, i.e. the number of taxpayers benefitting from the regime at the moment of the cut-off date (publication date of the group's decision in the ECOFIN report) and at the moment of the closing down (the date the regime is amended or abolished). The data has to be provided in the *Standstill and Rollback notification exercise* in the following year or as soon as it is available. The data required would allow the group to evaluate the real uptake of the regime, but also the number of 'new entrants"[34] between the two moments (see also paragraph 16).

22. Subsequently, the data would be provided on a three-year basis, to account for the administrative burden, while a yearly reporting and monitoring could be decided in exceptional circumstances.

[34] For which grandfathering should not be allowed.

ANNEX – Table summarizing Guiding principles for Rollback and Grandfathering process

Event	Explanation	**Code of Conduct – guiding Principles for rollback and grandfathering** **Mobile and non-mobile activities**
Cut-off date for **new entrants**[35] to be eligible for grandfathering	When a jurisdiction provides grandfathering, new entrants coming into the regime after the cut-off date should not benefit from grandfathering after the close-off date.	Publication date of the group's decision in the ECOFIN report
Close-off date (the date the regime is amended or abolished)	Closing-off the regime means that no new entrants are allowed to use the regime. New entrants include both new taxpayers, but also new assets (e.g. IP assets) and/or new activities of existing taxpayers.	**Rollback deadline**[36]**:** - no later than 12 months after the publication date of the group's decision in the ECOFIN report, or where necessary because of the legislative process, by 31 December of the year following the cut-off date (harmful preferential measures involving mobile activities); - no later than 24 months after the publication date of the group's decision in the ECOFIN report (harmful preferential measures involving non-mobile activities).
Grandfathering period	This is the maximum transition period granted to entrants that are already benefiting from the regime as at the cut-off date. Jurisdictions are generally permitted, but not required, to provide grandfathering. [37]	**Grandfathering period by:** 31 December of the year which is three years after the publication date of the group's decision in the ECOFIN report[38]

35 both new taxpayers and new assets and/or activities of existing taxpayers.

36 Possibility to make a firm commitment within a 12-month deadline.

37 Only regimes failing criterion 1) (ring-fencing), criterion 2) (lacking substance requirement) or criterion 3) (internationally accepted principles for determining profits) should be allowed to be grandfathered. Regimes failing criterion 4) – transparency should not be allowed to be grandfathered with respect to the harmful aspect of that regime.

38 In exceptional circumstances, the group could authorise longer grandfathering periods, if the situation justifies it, on a case-by-case basis.

Event	**Code of Conduct - guiding Principles** for rollback and grandfathering
Monitoring of Rollback and Assessment of adequacy and sufficiency	Yearly Standstill and Rollback notification exercise.
Monitoring of grandfathering	Provide data regarding the actual effects: the number of taxpayers benefitting from the regime at the moment of the cut-off date, and the number of new entrants, assets, value etc (data may depend on the specificities of the regime) between the cut-off date and the close-off date. *When:* At the moment of the cut-off date and of the closing down.[39] Subsequently, the data should be provided on a three-year basis, to take into account the administrative burden that collection of data may entail; yearly reporting/ monitoring could be decided in exceptional circumstances if the elements of the regime justify it.

[39] In the *Standstill and Rollback notification exercise* of the following year or as soon as the data is available.

ANNEX II

Revised state of play of implementation of the 2019 Guidance on defensive measures by EU Member States

Administrative measures

Currently, twenty-six Member States apply at least one administrative measure agreed upon in the 2019 Guidance. Among them, twelve apply at least two measures. It is noted that some Member States have implemented a phased approach, whereby information collected from the monitoring of transactions involving non-cooperative jurisdictions is used to identify risk areas and contribute to tax authorities' programmes of tax audits.

Overview of administrative measures (cut-off date: 30 September 2025)

Defensive measures	**Number of Member States applying the measure**	**Number of Member States that apply the measure in combination with at least one other measure**
Reinforced monitoring of certain transactions	18	13
Increased auditing	20	13

Administrative measures enacted by each Member State

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

	- a jurisdiction which has not substantially implemented the international standards on exchange of information on request.
BG – Bulgaria	<u>Reinforced monitoring of certain transactions</u> The measure applies to corporate taxpayers benefiting from preferential tax regimes deemed harmful under criterion 2.1 of EU list. Taxpayers have to include in their annual tax return the following information: • Total amount of accounting revenues from transactions with persons resident in jurisdictions with a harmful preferential tax regime; • Total amount of accounting expenses from transactions with persons resident in jurisdictions with a harmful preferential tax regime; • Receivables from persons resident in jurisdictions with a harmful preferential tax regime. • Liabilities to persons resident in jurisdictions with a harmful preferential tax regime.
HR – Croatia	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative. <u>Reinforced monitoring of certain transactions</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.
CY – Cyprus	None.
CZ – Czechia	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative <u>Reinforced monitoring of certain transactions</u>

	The measure applies to corporate taxpayers benefiting from preferential tax regimes deemed harmful under criterion 2.1 of EU list.
DK – Denmark	Reinforced monitoring of certain transactions The measure applies to all kind of taxpayers that conduct transactions with enterprises etc. in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative. Increased audit risks The measure applies to all kind of taxpayers that conduct transactions with enterprises etc. in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.
EE – Estonia	Reinforced monitoring of certain transactions The measure applies to all kind of taxpayers that conduct transactions with enterprises etc. in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.
FI – Finland	Increased audit risks The measure applies to corporate taxpayers that conduct transactions with enterprises in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative. Reinforced monitoring of certain transactions The measure applies to corporate taxpayers that conduct transactions with enterprises in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.
FR – France	Reinforced monitoring of certain transactions The measure applies to corporate taxpayers that conduct transactions with enterprises in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.

DE – Germany	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.
EL – Greece	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative. The measure also applies to case selection of audits via the implementation of the annual prioritisation process of the Greek Tax Authority (Independent Authority for Public Revenue /IAPR).
HU – Hungary	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative. <u>Reinforced monitoring of certain transactions</u> Since 2022, any connection to entities or permanent establishments situated in a non-cooperative jurisdiction or any profits gained by a Hungarian taxpayer from such a jurisdiction falls within the scope of enhanced supervision of the Hungarian tax authority. This approach is included in the annual tax audit plan that is made publicly available in each year.
IE – Ireland	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative. Corporate taxpayers must declare Interest, Royalties or Dividends with persons in a non-cooperative jurisdiction for tax purposes. <u>Reinforced monitoring of certain transactions</u>

	The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.
IT – Italy	<u>Increased tax audit risks</u> The measure applies to multinational enterprises that put in place transactions with non-cooperative jurisdictions for tax purposes.
LV – Latvia	<u>Reinforced monitoring of certain transactions</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.
LT – Lithuania	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.[40] <u>Reinforced monitoring of certain transactions</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.[41]
LU – Luxembourg	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative. <u>Reinforced monitoring of certain transactions</u>

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

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

	The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.
MT – Malta	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions or have a link with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative. <u>Reinforced monitoring of certain transactions</u> The measure applies to corporate taxpayers that conduct transactions or have a link with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.
NL – Netherlands	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.
PL – Poland	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.
PT – Portugal	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.[42]

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

RO – Romania	Increased audit risks The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.
SK – Slovak Republic	Increased audit risks The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative. Reinforced monitoring of certain transactions The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.
SI – Slovenia	Increased audit risks The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative. Reinforced monitoring of certain transactions The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.[43]
ES – Spain	Increased audit risks The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative. Reinforced monitoring of certain transactions

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

	The measure applies to transactions of securities for which the issuing entity is resident, established or the securities are negotiated in a non-cooperative jurisdiction, regardless the criterion for which jurisdictions are deemed non-cooperative. Additionally, taxpayers must identify the transactions carried out during each year with non-cooperative jurisdictions through an informative tax return called Form 232.
SE – Sweden	<u>Increased audit risks</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative and jurisdictions in Annex II. <u>Reinforced monitoring of certain transactions</u> The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative and jurisdictions in Annex II.

Defensive measures of legislative nature from the Guidance

Currently, all Member states apply at least one of the four defensive measures agreed in the 2019 Guidance. Eighteen apply at least two of the four measures. In detail:

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

Regarding the other defensive measures mentioned in the 2019 Guidance, three Member States apply a reversal of the burden of proof and one of them does it in combination with special documentation requirements.

Overview of legislative defensive measures enacted by each Member State (reflecting the situation as at 30 September 2025)

Member State	Defensive Measures
AT – Austria	CFC rules apply to jurisdictions listed in Annex I. The Austrian CFC rules apply by presuming that the threshold of Article 7(1) of ATAD on the level of corporate income tax abroad is met if a company is established in listed jurisdictions. The assessment takes place on a financial-year-base, i.e. if the foreign corporation's jurisdiction of residence is listed on the financial year's balance sheet day, the foreign entity will be deemed being low taxed for that particular financial year with respect to the Austrian CFC.
BE – Belgium	Non-deductibility of costs, CFC rules and limitation of participation exemption on profit distribution apply to jurisdictions in Annex I. The non-deductibility of certain payments (Article 198, 10° BITC 92) is linked to the obligation to report certain foreign payments (Article 307, §1/2 BITC 92). Costs that are in principle deductible for the taxpayer will be refused if the Belgian taxpayer fails to report the payments or if the payments are reported but the taxpayer fails to prove that the payments were done in the framework of actual and sincere transactions carried out with a person other than (an) artificial construction(s). In those cases, the payment will not be tax deductible. The possibility of counterevidence by the taxpayer can be proven by all legal means. The Belgian CFC rules apply by presuming that the threshold of Article 7(1) of ATAD on the ownership control, level of corporate income tax abroad are met in all cases for companies established in listed jurisdictions. From the 2024 tax year, CFC rules will apply automatically towards any CFC established in a listed jurisdiction, as the taxation condition (absence of minimum level of taxation) is presumed to be met. This presumption is rebuttable. The Belgian participation exemption rules do not apply to dividends from companies in listed jurisdictions. No counter-evidence possible for the taxpayer.
BG – Bulgaria	Non-deductibility of cost and withholding taxes apply to jurisdictions listed in Annex I The non-deductibility of costs applies to any expenses on interest payments charged (unless the conditions of the loan are agreed in

	conformity with requirements provided for in a statutory instrument) where at least three of the following conditions are fulfilled: - the loan exceeds the owners' equity of the payer of the income at the 31st day of December of the last preceding year; - the repayment of the loan or the payment of interest thereon is not limited by a fixed period; - the repayment of the loan or the payment of interest thereon depends on the existence or on the amount of profits accruing to the payer of the income; - the repayment of the loan depends on satisfaction of the claims of other creditors or on the payment of dividends. A withholding tax applies at the rate of 5% applies to dividends and boni to companies in listed jurisdictions. A withholding tax at the rate of 10% applies to all other payments.
HR – Croatia	<u>CFC rules and a withholding tax apply to jurisdictions listed in Annex I.</u> The Croatian CFC rules apply by denying the waivers in Article 7(3) of ATAD in relation to turnover threshold and non-trading income threshold. A withholding tax measure applies to all services and fees (listed in the article 31 of the Profit tax act) paid to persons having their headquarters or place of effective management, or supervision of business in listed jurisdictions. The measure does not apply if a double taxation treaty is in force. The withholding tax rate is 20%.
CY – Cyprus	<u>A withholding tax applies to jurisdictions listed in Annex I.</u> A withholding tax applies to dividends (17%), interests (17%) and royalties (10%) paid to companies resident in listed jurisdictions. The legal framework on defensive measures has been amended in 2025 and entered into force on 16 April 2025. Amendments touch upon the below areas: a) withholding tax (WHT) is applicable to payments made in controlled transactions b) an anti-abuse rule is triggered in cases of circumvention c) renegotiation of the relevant Double Taxation Treaty may be triggered if a treaty partner is listed in Annex I of the EU list of non-cooperative jurisdictions for three consecutive years,

	provided that Cyprus does not have taxing rights over the relevant income
CZ – Czechia	CFC rules apply to jurisdictions listed in Annex I. The Czech CFC rules apply by denying eligibility for the economic substance safeguard and presuming presume that the thresholds of Article 7(1) of ATAD on the level of corporate income tax abroad is met for companies established in listed jurisdictions.
DK – Denmark	Non-deductibility of costs and withholding tax measures apply to jurisdictions listed in Annex I Non-deductibility of costs applies to all payments to related parties established in listed jurisdictions. Withholding tax measures applies to all dividend payments where the shareholder is tax resident or registered in a listed jurisdiction and the shares qualify as “main shareholder shares”, “subsidiary shares” or “group shares”. The tax rate is 44%.
EE – Estonia	Non-deductibility of costs, a withholding tax and Limitation of participation exemption of profit distributions apply to jurisdictions listed in Annex I. The non-deductibility of costs applies to the following costs linked to listed jurisdictions: - acquisition of securities issued by a legal person located in a listed jurisdiction unless such securities meet the requirements provided for in subsection 107 (1) of the Investment Funds Act; - acquisition of a holding in a legal person located in a listed jurisdiction; payment of a fine for delay or a contractual penalty, or extra-judicial compensation for damage, to a legal person located in a listed jurisdiction; - grant of a loan or making of an advance payment to a legal person located in a listed jurisdiction or acquisition of a right of claim against a legal person located in a listed jurisdiction in any other manner; - in case of resident credit institutions, losses sustained by a credit institution when it transfers a right of claim or waives the collection of a right of claim (including loans granted and advance payments made) acquired against a legal person located in a listed jurisdiction.

	A withholding tax applies to payments to legal persons located in listed jurisdictions in relation to services provided to an Estonian resident. The withholding tax rate is 20%. The participation exemption of profit distributions under Estonian law does not apply if a legal person distributing profits is located in a listed jurisdiction.
FI – Finland	<u>CFC rules apply to jurisdictions listed in Annex I.</u> The Finnish CFC rules apply by denying eligibility for the economic substance safeguard if a company is established in listed jurisdictions.
FR – France	<u>CFC rules, non-deductibility of costs, limitation of participation exemption and a withholding tax applies to jurisdictions listed in Annex I.</u> The non-deductibility of costs applies to payments such as interests, deposits, guarantees, debts, royalties for the transfer or concession of operating licenses, patents, trademarks, remuneration for services of any kind (salaries, fees, commissions, etc.) as well as any payment made to an account held in a financial institution established in listed jurisdictions. A withholding tax applies to payments such as dividends, royalties, capital gains, income distributed to non-resident individuals or legal entities (in particular income from shares and directors' fees) when these payments are made to jurisdictions listed in Annex I in relation to criterion 2.2. The withholding tax rate is 75%. The French participation exemption rules do not apply for income received from listed jurisdictions, such as dividends, interests and royalties.
DE – Germany	<u>Non-deductibility of costs, CFC rules, withholding taxes, and limitation of participation exemption on profit distribution apply to jurisdictions listed in Annex I based on a number of conditions.</u> Non-deductibility applies to all costs in relations to companies resident in listed jurisdictions. The German CFC rules apply by denying the waivers and safeguards introduced according to the ATAD directive. A withholding tax applies to income from financing relationships, insurance and reinsurance services, from the provision of other services

	or from trading of goods, if such income is not taxable under the existing German rules of non-residents companies in so far as the remunerations constituting the income are deductible as business expenditure or income-related expenses by a resident taxpayer. The withholding tax rate is 15% The German participation exemption rules do not apply to income deriving from dividends and sale of shared from companies resident in listed jurisdictions. These measures do not apply cumulatively. CFC rules apply only to the extent that the rules on limitation of profit distributions do not apply. The limitation on participation exemption does not apply if a company resident in listed jurisdiction provides evidence that it has been subject to a withholding tax in that jurisdiction. The non-deductibility of costs applies only if the withholding tax does not apply The non-deductibility of costs and the limitation of profit distribution apply only after a jurisdiction features on Annex I for three or two years, respectively.
EL – Greece	<u>Non-deductibility of costs and limitation of participation on profit distributions applies to jurisdiction listed in Annex I.</u> The non-deductibility of costs applies to all expenses paid to an individual or legal entity which is tax resident in a listed jurisdiction. The taxpayer can demonstrate that these expenses concern real and ordinary transactions and do not result to the transfer of profits or income or capital for the purpose of tax avoidance or tax evasion. The expenditures reformation will take place at the very time the jurisdiction is listed or delisted (i.e. amending the tax return). In addition, new provisions, which will enter into force from the 2025 tax year, expand the scope of the dividends and capital gains participation exemption, to non-EU legal entities subject to certain conditions. These extensions are subject to specific requirements such as a minimum holding percentage of 10% for a duration of at least 24 months, with the non-EU subsidiary having the legal form of a capital company subject to corporate income tax. However, an additional condition is provided for both dividends and capital gains exemptions: the distributing legal entity, or the entity

	whose shares are being transferred, must not be established in a non-cooperative jurisdiction.
HU – Hungary	<u>CFC rules and non-deductibility of costs apply to jurisdictions listed in Annex I.</u> The Hungarian CFC rules apply by denying the waivers in Article 7(3) and (4) of ATAD in relation to low profit margin and the turnover threshold if a company is established in listed jurisdictions. As of 2024, any interest or royalty payments made by a Hungarian corporate taxpayer to an entity or permanent establishment situated in a non-cooperative jurisdiction qualify as non-deductible expense to the extent that corresponding income tax has not been paid by the recipient provided that there is no valid commercial rationale underlying the transaction. The latter must be demonstrated by the taxpayer.
IE – Ireland	<u>CFC rules, withholding taxes and limitation of participation exemption apply to jurisdictions listed in Annex I.</u> The Irish CFC rules apply by denying the exemption based on the corporate income tax level of the CFC and the waivers in Article 7(4) of ATAD in relation to low profit margin and low accounting profit when a subsidiary of an Irish group is in a listed jurisdiction. Finance (No. 2) Act 2023 introduced outbound payments defensive measures as of 1 April 2024. The measure disapplies exemptions and exclusions that may otherwise apply, so that withholding taxes apply to outbound payments of interest and royalties (at a rate of 20%), and on the making of distributions (at a rate of 25%) by Irish resident companies to associated entities located in a listed jurisdiction. Finance Act 2024 introduced a participation exemption for certain foreign distributions. To qualify, the foreign subsidiary must be tax resident in an EU/EEA state or in a jurisdiction with which Ireland has a double tax agreement. The exemption is available for qualifying distributions received on or after 1 January 2025. However, the exemption is not available for distributions from listed jurisdictions.

IT – Italy	Non-deductibility of costs applies to jurisdiction listed in Annex I. The measure applies to all expenses paid to an individual or legal entity which is tax resident in a listed jurisdiction. Taxpayers may rebut the presumption by provide evidence that these transactions have been actually carried out and that there is an underlying reasonable economic rationale.
LV – Latvia	CFC rules, non-reduction of tax base, withholding taxes, and limitation of participation exemption apply to jurisdictions listed in Annex I. The Latvian CFC rules apply by denying the waiver in Article 7(4)(a) of ATAD on in relation to the companies' turnover. Limitation to reduce an amount of dividends that are included in taxpayers tax base by the amount of income obtained from the alienation of stocks of a person who is located, set up or established in a listed jurisdiction. In addition, any transaction with a person located or established in jurisdictions listed in Annex I shall be considered as a transaction with a related party. A withholding tax applies to payments and dividends paid to a company located in listed countries. The withholding tax rate is 20%. The limitation of participation exemption applies by including income from dividends in the tax base of the Latvia-resident companies, if the payment is made by a company located in a listed jurisdiction.
LT – Lithuania	Non-deductibility of costs, CFC rules, withholding tax measures and limitation of participation exemption apply to companies registered or otherwise organized in the target jurisdictions according to the definition provided in the Lithuanian legislation. The target jurisdictions include the jurisdictions currently listed in Annex I. Non-deductibility of cost applies to payments made to foreign entities registered or otherwise organized in target territories, unless the taxpayer provides evidence that such payments are related to the usual activities of both parties or the receiving foreign entity controls the assets needed to perform such usual activities, or there is a link between the payment and a genuine economic operation. The measures apply to costs included in allowable deductions 18 months before the goods actually received from or the services actually provided by entities registered or otherwise organized in target territories.

	The Lithuanian CFC rules apply by presuming that the threshold of Article 7(1) of ATAD in relation to the level of corporate income tax abroad is met, denying the waiver IN Article 7(4) in relation to non-trading income and denying eligibility for the economic substance safeguard. Withholding taxes apply to interests, dividends and royalties paid to foreign entities registered or otherwise organized in target territories. The withholding CIT rate for dividends is 16% (17% as of 2026); on interest and royalties is 10%. The Lithuanian participation exemption does not apply to dividends paid by a Lithuanian entity to a foreign entity registered or otherwise organized in target territories.
LU – Luxembourg	<u>Non-deductibility of costs applies to jurisdictions listed in Annex I.</u> The non-deductibility of costs relates to interests and royalties paid from companies established in Luxembourg to associated companies established in listed jurisdictions.
MT – Malta	<u>Limitation of participation exemption on profit distribution applies to jurisdictions listed in Annex I</u> The Maltese participation exemption does not apply to dividends received by a Maltese entity from entities in listed jurisdictions.
NL – Netherlands	<u>CFC rules and a withholding tax apply to jurisdictions listed in Annex I.</u> The CFC rules apply according to Model A as set forth by the EU Anti-Tax avoidance directive apply, as opposed to the Dutch general CFC rules, which follow model B. A withholding tax on royalties and interest on payments to listed jurisdictions applies. The withholding tax rate is 25%. As of 1 January 2024, a conditional withholding tax (25.8%) on dividend payments also applies.
PL – Poland	<u>CFC rules apply to jurisdictions listed in Annex I.</u> The Polish CFC rules apply by denying eligibility for the economic substance safeguard, the threshold on control requirement and the waivers in Article 7(3) and (4) in relation to low profit margin, low accounting profit, turnover threshold and non-trading income threshold.

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

SI – Slovenia	<u>CFC rules, non-deductibility of costs, withholding tax and limitation of participation exemption on profit distribution apply to jurisdictions listed in Annex I.</u> The Slovenian CFC rules apply by denying eligibility for the economic substance safeguard and the waiver in Article 7(3) of ATAD in relation to low accounting profit in connection to certain categories of income. A 15% withholding tax also applies on interest payments by banks and on payments for certain services.
ES – Spain	<u>Non-deductibility of costs, CFC rules, withholding taxes and limitation of participation exemption to profit distributions apply to jurisdictions included in the Spanish national list. These jurisdictions include almost all jurisdictions currently listed in Annex I.</u> The non-deductibility of costs relates to operations carried out directly or indirectly with natural persons or companies or through natural persons or entities resident in listed jurisdictions. The Spanish CFC rules apply to listed jurisdictions. Withholding taxes apply to the following income: - interests obtained through listed jurisdictions. - capital gains obtained through listed jurisdictions. - income derived from alienation or reimbursement of shares in investment funds, provided they are obtained through listed jurisdictions. The withholding taxes apply by disallowing the exemptions foreseen under the Non-Resident Income Tax Act. The withholding tax rates are 19%. The Spanish participation exemption rules on profit distribution is denied for Spanish resident and non-resident companies in case profits are distributed by entities which are tax resident in listed jurisdictions.
SE – Sweden	<u>Non-deductibility of costs applies to jurisdictions listed in Annex I. In specific situations, the CFC rules apply as a backstop.</u> Non-deductibility of costs applies to interest on both intra-group and external loans in listed jurisdictions. When a double tax treaty is in force with listed jurisdictions, the general Swedish CFC rules apply.

Synthetic overview of the measures in place

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

Portugal	X*	X*	X	X	X	X	
Romania	X	X	X				
Slovak Rep	X	X	X		X	X	
Slovenia	X	X	X	X	X	X	
Spain	X	X**	X	X	X	X	X
Sweden	X	X	X	X			
Total	**26**	**27**	**17**	**17**	**13**	**15**	**4**

** Legislation is in place vis-à-vis jurisdictions defined according to the national listing process, which includes almost all jurisdictions listed in Annex I.*

*** Legislation is in place vis-à-vis jurisdictions defined according to the national listing process, which includes almost all jurisdictions listed in Annex I. A revised national list was adopted in 2023 taking into account, inter alia, the EU list criteria.*

<u>Synthetic overview of the measures applied by Member States that are not mentioned in the Guidance</u>

Member States	**CIT**	**PIT**	**Sectoral restrictions**
Austria	X		
Belgium		X	
Bulgaria	X		X
Croatia			
Cyprus			
Czech Rep			
Denmark			
Estonia			
Finland			
France	X	X	X
Germany			

Greece			X
Hungary			
Ireland			
Italy			
Latvia	X	X	X
Lithuania			
Luxembourg			
Malta			
Netherlands	X		
Poland	X		
Portugal			
Romania			
Slovak Rep		X	
Slovenia			
Spain	X	X	X
Sweden			
Total	7	5	5

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

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

“Sectoral prohibitions” means Member States, which have adopted sectoral prohibitions against NCJs.