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Subject: The EU list of non-cooperative jurisdictions for tax purposes
– Progress Report - Bahrain

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.



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NOTE

From: Commission Services

To: Code of Conduct Group (Business Taxation)

Subject: The EU list of non-cooperative jurisdictions for tax purposes
– Progress Report - Bahrain

Delegations will find attached a document by the Commission services.

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PROGRESS REPORT - BAHRAIN**Code of Conduct Subgroup – 25 January 2019****Background**

The Code of Conduct Group (the COCG) found that Bahrain's tax system failed to meet listing criteria 1.1, 1.3, 2.2 and 3. Following insufficient commitment, Bahrain was put on Annex I in December 2017 and was then moved to Annex II in March 2018, following commitment of Bahrain to remedy all the deficiencies identified.

This report assesses the overall implementation of the commitments undertaken by Bahrain.

Contacts between TAXUD and Bahrain have taken place on a regular basis. Following numerous exchanges on preliminary draft laws, Bahrain submitted a revised draft legislation for assessment by the November 2018 COCG. This consisted of a draft Ministerial Order covering all non-regulated activities and a draft Central Bank Directive covering regulated financial activities. Technical meetings and/or calls have followed such submissions and comments were taken into consideration.

The CBB Directive No. OG/499/2018 was adopted on 22 November 2018 concerning Economic Substance Requirements for certain Financial Institutions in Bahrain. Bahrain also provided an unofficial translation of the Legislative Decree No. (52) of 2018 concerning the Amendment to Certain Provisions of Legislative Decree No. (27) of 2015 Concerning the Commercial Register.

The MOICT Ministerial Order No. (106) of 2018 concerning Economic Substance Requirements in Bahrain was published in Issue No. 3399 of the Bahrain Official Gazette dated 27th December 2018. An "Unofficial English" translation of Ministerial Order No (106) of 2018 with some minor amendments and formatting changes in order to align the final MO with Bahrain's legal drafting requirements. However, these amendments and changes do not alter the essence of the MO.

Finally, Bahrain's Spontaneous Exchange of Information (SEOI) Procedure was formally approved and shared on 20 January 2019.

The Code Group agreed in September 2018 to recommend removing Bahrain from annex II on criteria 1.1, 1.3 and 3, considering that Bahrain had fulfilled its commitments for these criteria.

Assessment of Bahrain's implementation of commitment under criterion 2.2

Following the November 2018 COCG meeting, it was reported to Bahrain that there were no remaining issues in its draft legislation. There were therefore no pending issues to be addressed and the relevant legislation was adopted by 31 December 2018. The procedure for exchange of information was approved in January but this is an internal procedure and does not delay the entry into force of substance requirements for entities in Bahrain.

We enquired further about the definition of relevant Member States for the purpose of exchange of information and Bahrain clarified that automatic exchange of information would occur with the Member State of immediate parent, ultimate parent or where the beneficial owner of the entity is tax resident.

Conclusion

We propose to conclude that Bahrain has implemented its commitment under criterion 2.2 and to remove Bahrain from Annex II.

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