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DECLASSIFICATION

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Subject:	(5th draft) Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes

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

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



Council of the
European Union

Brussels, 28 February 2019
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ADD 1

RESTREINT UE/EU RESTRICTED

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NOTE

From:	Chair of the Code of Conduct Group (Business Taxation)
To:	Code of Conduct Group (Business Taxation)
Subject:	(5th draft) Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes

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Compromise text in relation to the 5th draft Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes

(set out in doc. 6743/19 EU RESTRICTED)

The following amendments are proposed:

PARAGRAPHS 9-10:

1. ACKNOWLEDGES that further work will be needed to define acceptable economic substance requirements for collective investment funds under criterion 2.2 and INVITES the Group to provide **further technical** guidance to the jurisdictions concerned **by mid 2019** and ~~seek in due time the necessary commitments from these jurisdictions, as appropriate;~~
2. NOTES WITH CONCERN the replacement of harmful preferential tax regimes by measures of similar effect in certain jurisdictions, [REGRETS that ~~all/some/~~one of these jurisdiction(s) ~~have/~~has not taken a sufficient commitment to amend or abolish these measures by the end of 2019] and STRESSES that no further replacement with measures of similar effect or delays will be accepted when assessing at the beginning of 2020 whether the requested commitments will have been implemented;

PARAGRAPHS 16-17:

16. CONFIRMS that the Code of Conduct Group can recommend to the Council at any time to update, at least once a year but as from 2020 no more than twice a year, the EU list set out in Annex I, as well as the state of play set out in Annex II on the basis of any new commitment taken or of the implementation thereof;
17. CONSIDERS that these modifications could take effect **on 1st January of the year following the update or** within a period of six months following their publication in the Official Journal of the EU in respect of existing national and possible future co-ordinated defensive measures in the tax area against listed jurisdictions;

ANNEX II (section 2.2):

The following jurisdictions, which committed to addressing the concerns relating to economic substance in the area collective investment funds, have engaged in a positive dialogue with the Group and have remained cooperative, but require further technical guidance, were granted until end 2019 (*) to adapt their legislation:

Bahamas, Bermuda, British Virgin Islands, Cayman Islands.

(*) This deadline may be reviewed depending on the technical guidance to be agreed by the Group and ongoing dialogue with the jurisdictions concerned.

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