

Brussels, 4 June 2025  
(OR. en)

9651/25  
ADD 9

LIMITE

FISC 127  
ECOFIN 644

## REPORT

---

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

---

### **Annex 7: Cyprus - 2013 Guidance on intermediate companies - use of safe-harbour rule [2019 CoCG decision]**

#### **I. Background**

1. We recall that in 2017, Cyprus published a Circular<sup>1</sup> which, amongst other TP issues, also provided for a simplification measure, the so called safe-harbour rule. It applied in the case of a purely intermediary entity providing financing (i.e. where an entity provides loans to a related entity and these loans are funded by loans received from other related entities). The Circular allowed that the intermediary financing entity may receive a minimum return of 2% net profit on assets<sup>2</sup>. The use of the simplification measure was to be notified by the entity to the tax authority in its tax return<sup>3</sup>.

---

<sup>1</sup> Circular dated 30 June 2017 with title "Tax treatment of intra group back-to-back financing transactions"

<sup>2</sup> This percentage is regularly reviewed by the Tax Department based on relevant market analyses.

<sup>3</sup> The taxpayer is not allowed to derogate from the minimum percentage, unless this is properly justified in transfer pricing analysis.

2. In the context of the monitoring of compliance with Guidance on intermediate companies, the Cypriot safe-harbour rules were put under monitoring.<sup>4</sup>
3. In the context of the 2022 *Annual monitoring exercise of the actual effects of certain measures*, Cyprus was invited to submit the relevant data for tax years 2019 and 2020. Following the initial request and subsequent clarifications, Cyprus provided incomplete data. The data provided for 2019 showed that 1 167 (updated data by Cyprus) companies performing intra-group financing used the safe harbour. Such data was compiled from the tax returns filed by the relevant taxpayers. This represents 5% of the total number of companies having performed intra-group financing activities in 2019 in Cyprus. On the other hand, there is no information provided on the actual loan amounts involved and covered by the safe harbour. For tax year 2020, the data covering first three questions was not provided.
4. Cyprus informed that the safe harbour<sup>5</sup> is no longer applicable as of 1 January 2022<sup>6</sup>. Accordingly, as of 1 January 2022, the intra-group «back-to-back» financing transactions must be performed at arm's length pricing and conditions. Furthermore, subject to conditions, there may be an obligation to prepare a transfer pricing documentation file to document the said transactions, like all other related party transactions which fall under the provisions of the relevant legislation.
5. The data was incomplete, but in light of the abolition of the simplification measure as of 1 January 2022 the Code of Conduct Group concluded in its meeting of 26 April 2023 that the monitoring should be discontinued once Cyprus has provided complete data for years 2019, 2020 and 2021.

---

<sup>4</sup> In 2019 during the Monitoring of the Guidance on intermediate companies, the Cypriot authorities confirmed that spontaneous exchange of information takes place when the taxpayer makes use of the safe harbour rule.

<sup>5</sup> The recognition of the net profit margin of 2% based on the provisions of interpretative circular 3 mentioned above.

<sup>6</sup> <https://www.mof.gov.cy/mof/tax/taxdep.nsf/All/C23F42DD0F0316E3C2258952003343ED?OpenDocument>  
On 5 January 2023, the Tax Department issued circular 1/2023, which states that interpretative circular 3 (dated 30 June 2017) and circular 5 (dated 2 January 2019) will not be applicable as of 1 January 2022. Hence, the last date of their application was 31 December 2021.

## **II. Preliminary remarks**

6. In December 2024, Cyprus provided additional data for tax year 2019 and partial data for years 2020 and 2021.
7. The data only consists of the numbers of taxpayers performing intra-group loans and having made use of the safe harbour. The overall amount (of the loans) involved is not communicated, nor is there information about whether any of the concerned taxpayers made a downward adjustment.
8. However, according to the supplied data<sup>7</sup>, the number of companies performing intra-group financing and having used the safe harbour decreased in 2020 and 2021 compared to 2019, both in nominal terms (from 1 167 taxpayers to 934 and then 741) and as ratio from 5% to 4.2% and to 3.7% of the overall number of taxpayers performing intra-group financing.
9. Regarding the tax residence of the counterparties to such loan transactions/ intra-group financing arrangements, the data collection is more burdensome and relies on each individual taxpayer to submit information on each counterparty to the transaction. So far, only around 200-250 companies reported intra-group financing arrangements with a counterparty that is tax resident in an EU Member State although one should consider that the communicated data is not yet complete. Yet, it is our understanding that such cases, if they concern transactions with related parties in another EU Member State, are covered and reported under DAC6, as raised previously in 2019 during the monitoring of the Guidance, although this may not be reported directly to the actual Member State concerned.

## **III. Conclusions**

10. Based on the received information, and in particular given the lack of data about the actual loan amounts which benefit from the safe harbour, the Commission Services cannot yet draw a conclusion on the actual effect (in nominal terms) of these safe-harbour rules.

---

<sup>7</sup> Figures compiled from the tax returns filed by the relevant taxpayers.

11. The measure was abolished as of 1.1.2022. In light of the relatively low number of taxpayers having used the safe-harbour in comparison to the overall number of taxpayers performing intra-group financing and their constant reduction, the Commission Services hold the view that no further data should be requested and that the Group should consider the monitoring fully terminated.

#### **IV. Follow-up**

The Group supported the preliminary assessment that the monitoring for years 2019, 2020 and 2021 can be terminated, in particular considering that the measure in question was abolished on 1 January 2022.

## Annex 7: Cyprus - 2013 Guidance intermediate companies - use of safe harbour rule [2019 CoCG decision]

Cyprus	2019 ( <i>numbers are updated as a result of new submissions of tax returns</i> )	2020 (data provided for the first time)	2021 (data provided for the first time)
Overall number of companies performing Intra-Group financing	23 249 (as per the tax returns submitted)	21 863 ( <i>as per the tax returns submitted</i> )	19 901 ( <i>as per the tax returns submitted</i> )
Number of companies having used the safe harbour provisions (2% net return)	1 167 (as per the tax returns submitted)	934 ( <i>as per the tax returns submitted</i> )	741 ( <i>as per the tax returns submitted</i> )
The total values of the financial assets of the companies having used the safe harbour	The total values according to the tax returns is available, however the value of assets for which the safe harbour rule was applied cannot be extracted.	The total values according to the tax returns is available, however the value of assets for which the safe harbour rule was applied cannot be extracted.	<i>The total values according to the tax returns is available, however the value of assets for which the safe harbour rule was applied cannot be extracted.</i>
Number of companies having applied the safe harbour provisions (2% net return) and afterwards made a downward adjustment	Such information cannot be extracted from our database	Such information cannot be extracted from our database	Such information cannot be extracted from our database
Overall number of information exchanges sent  <i>-regarding the use of safe harbour :</i>	<i>Information on the tax residence states of the counterparties in the intra-group financing arrangements is not available on our database. As a result, we have requested from the companies performing</i>	<i>Information on the tax residence states of the counterparties in the intra-group financing arrangements is not available on our database. As a result, we have requested from the companies performing intra-group</i>	<i>Information on the tax residence states of the counterparties in the intra-group financing arrangements is not available on our database. As a result, we have requested from the companies performing intra-group</i>

<i>-regarding use of safe harbour and downward adjustment:</i>	<i>intra-group financing to submit the relevant information. The collection of data is still ongoing, however, from the information collected to date, only 255 companies reported intra-group financing arrangements with a counterparty that is tax resident in an EU MS.</i>	<i>financing to submit the relevant information. The collection of data is still ongoing, however, from the information collected to date, only 250 companies reported intra-group financing arrangements with a counterparty that is tax resident in an EU MS.</i>	<i>financing to submit the relevant information. The collection of data is still ongoing, however, from the information collected to date, only 206 companies reported intra-group financing arrangements with a counterparty that is tax resident in an EU MS.</i>
The name of the MSs to which the relevant information was sent	<i>From the information collected to date, the tax residency of the counterparties to intra-group financing arrangements is not concentrated in particular MS, but it is instead spread across a number of MS. The collection of data is still ongoing.</i>	<i>From the information collected to date, the tax residency of the counterparties to intra-group financing arrangements is not concentrated in particular MS, but it is instead spread across a number of MS. The collection of data is still ongoing.</i>	<i>From the information collected to date, the tax residency of the counterparties to intra-group financing arrangements is not concentrated in particular MS, but it is instead spread across a number of MS. The collection of data is still ongoing.</i>