

EC/Liechtenstein Agreement: taxation of savings income in the form of interest payments. Protocol

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PURPOSE: to conclude, on behalf of the European Union, the Amending Protocol to the Agreement between the European Community and the Principality of Liechtenstein providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: following the adoption of [Council Directive 2003/48/EC](#), the Savings Directive, and in order to preserve the level playing field of economic operators, the EU signed Agreements with Liechtenstein providing for measures equivalent to those laid down in the Directive.

The importance of **automatic exchange of information** as a means to combat cross-border tax fraud and tax evasion by ensuring full tax transparency and cooperation between tax administrations worldwide has also been recognised at the international level. In this regard, the Organisation for Economic Cooperation and Development (OECD) was mandated by the G20 to develop a **single global standard for automatic exchange of financial account information**. The Global Standard was released by the OECD Council in July 2014.

Following the adoption of a [proposal](#) to update the Savings Directive, the Commission adopted on 17 June 2011 a recommendation for a **mandate to initiate negotiations with Liechtenstein** in order to upgrade the EU's Agreements with those countries in line with international developments and to ensure that those countries continue to apply measures equivalent to those in the EU.

On 14 May 2013, the Council reached an agreement on the Negotiating Mandate.

On the basis of a proposal presented by the Commission in June 2013, the Council on 9 December 2014 adopted [Directive 2014/107/EU](#) amending Directive 2011/16/EU and extending the mandatory automatic exchange of information between EU tax authorities to a full range of financial items in accordance with the Global Standard.

As Directive 2014/107/EU is generally broader in scope than Directive 2003/48/EC and provides that in cases of overlap of scope, Directive 2014/107/EU prevails, the Commission adopted a [proposal](#) to repeal Directive 2003/48/EC.

The Commission considered it crucial to ensure that the amendment of the existing Savings Agreement with Liechtenstein is in line with EU and international developments. This will increase tax transparency in Europe and will be the legal basis for implementing the OECD Global Standard on automatic exchange of information between Liechtenstein and the EU.

CONTENT: under this proposal, the Council is called upon to **approve, on behalf of the European Union, the Amending Protocol** to the Agreement between the European Community and the Principality of Liechtenstein providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments.

The Amending Protocol implements the Global Standard between EU Member States and Liechtenstein.

It also replaces the existing articles and Annexes with a new set of provisions comprising 10 Articles, an Annex I that reflects the OECD Common Reporting Standard which is part of the Global Standard, an Annex II that reflects important parts of the OECD Commentaries to the Global Standard and an Annex III that lists the Competent Authorities of Liechtenstein and of each Member State.

The new Articles reflect the articles of the OECD Model Competent Authority agreement for the implementation of the Global Standard. They include, *inter alia*:

- a full set of provisions on exchange of information upon request that follows the latest text of the OECD Model Tax Convention;
- a more detailed set of provisions on data protection;
- provisions on amendments to the Agreement, including a quick mechanism for provisional application by one of the Contracting Parties of amendments to the Global Standard, on the condition of consent by the other Party.

The Amending Protocol includes provisions on the entry into force and application. It deals with issues on the transition from the existing Agreement to the amended Agreement, with regard to requests for information, credits available to beneficial owners for withholding tax, final payments of withholding tax by Liechtenstein to Member States and final exchange of information under the voluntary disclosure mechanism.

The revised Agreement is supplemented by two Joint Declarations of the contracting parties.