

# Taxation: 3 jurisdictions removed, 3 added to EU list of non-cooperative jurisdictions

## Press contacts

### François Head

Press officer

+32 2 281 60 83

+32 475 95 38 07

The EU's list of non-cooperative jurisdictions in taxation matters has been adjusted in the light of:

- commitments made by listed jurisdictions;
- an assessment of jurisdictions for which no listing decision had yet been taken.

Moves have also been made to improve transparency in the listing process.

On 13 March 2018, the Council removed **Bahrain**, the **Marshall Islands** and **Saint Lucia** from the list and added the **Bahamas**, **Saint Kitts and Nevis** and the **US Virgin Islands**.

The EU's list is intended to **promote good governance** in taxation worldwide, maximising efforts to **prevent tax avoidance**, tax fraud and tax evasion. It was prepared during 2017 in parallel with work within the OECD.

"I am glad to see more jurisdictions that we listed in December committing themselves to reforming their tax policies in a manner that will remedy our concerns", said Vladislav Goranov, minister for finance of Bulgaria, which currently holds the Council presidency. "We call on all jurisdictions on the list to do likewise, and on all those that have already made commitments to implement them in a timely manner. Our aim is to achieve optimal tax transparency worldwide", he said.

## Three jurisdictions removed

The EU list is contained in annex I of conclusions issued by the Council on 5 December 2017. Annex II cites a number of other jurisdictions that have undertaken commitments to reform their tax policies and which are subject to close monitoring.

Since the list was first published on 5 December 2017, Bahrain, the Marshall Islands and Saint Lucia have **made commitments** at a high political level to remedy EU concerns. In the light of an expert assessment of those commitments, the Council decided to move the three jurisdictions from annex I

to annex II.

Implementation of their commitments will be **carefully monitored**.

### **Three jurisdictions added**

When it first published the list, the Council agreed to put on hold a screening of the tax systems of Caribbean jurisdictions that were struck by **hurricanes** in September 2017. The process was restarted in January 2018, when letters were sent requesting commitments to remedy EU concerns. The Bahamas, Saint Kitts and Nevis and the US Virgin Islands are added to the list (annex I) as a result of that process. This is because they have failed to make commitments at a high political level in response to all of the EU's concerns.

At the same time, the Council decided to add **Anguilla, Antigua and Barbuda**, the **British Virgin Islands** and **Dominica** to annex II. This was justified by commitments made to address deficiencies identified by the EU. Those commitments were assessed by EU experts, and their implementation will be carefully monitored.

The process continues with regard to an eighth Caribbean jurisdiction, the **Turks and Caicos Islands**, from which a commitment at a high political level is being sought by 31 March 2018 to address EU concerns.

### **Transparency**

Since the list was first published in December 2017, moves have been made to boost transparency.

Public information on the commitments made by third country jurisdictions was initially limited to the contents of annexes I and II. However, in February 2018 the working group responsible for the listing process (the 'code of conduct group') asked for all of its letters seeking commitments to be published on the Council's website. On 6 March, a compilation of those letters was issued as a public document.

Moreover, commitments letters received from third country jurisdictions are being made public as soon as consent for publication is secured. And a specific Council webpage on the EU list is being prepared.

### **Nine jurisdictions remain**

The decisions of 13 March 2018 were taken at a meeting of the Economic and Financial Affairs Council, without discussion.

As a result, 9 jurisdictions remain on the EU list: American Samoa, Bahamas, Guam, Namibia, Palau, Samoa, Saint Kitts and Nevis, Trinidad and Tobago and the US Virgin Islands.

These include 6 of the original 17, plus three of the Caribbean jurisdictions. (Eight of the original 17 were delisted on 23 January 2018.)

Whereas the list is to be **revised at least once a year**, the ‘code of conduct group’ can recommend an update at any time.

Jurisdictions that remain on the list are strongly encouraged to make the changes requested of them. Their tax legislation, policies and administrative practices result or may result in a **loss of revenues** for the EU’s member states. Pending commitments to make such changes, the EU and the member states could apply **defensive measures**. Annex I includes recommendations on steps to take to be delisted.

[Visit the meeting page](#) [Download as pdf](#)

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## [Statement by Commissioner Oettinger at the European Parliament Plenary session on the integrity policy of the European Commission, in particular the appointment of the Secretary-General of the European Commission](#)

[This is a translation of the German version as delivered by Commissioner Oettinger]

### Opening remarks

Mr Tajani,

Honourable Members of the European Parliament,

Ladies and gentlemen,

You have invited me here today to deliver a statement on the Commission’s behalf concerning its integrity policy and its functioning as regards, *inter alia*, the appointment of the official, Martin Selmayr to the post of Commission Secretary-General with effect from 1 March this year.

Let me begin with a few observations as to the context. On 21 February the Commission adopted a package of decisions concerning its senior management. Why do we do it this way?

With the number of Directorates-General at our service and the multitude of senior management posts, we would otherwise be taking a decision almost every week. This, however, would create disruption among our services, so we have

opted for regular packages. This is the only way for us to assure a balanced overall development in the interests of our institution as regards, for instance, different nationalities; we take account of factors such as seniority, age, nearness to retirement and of the priority objective of effectively increasing the proportion of women in senior management.

The last package was prepared by my predecessor; it was discussed by the College in late June 2015 and approved. Incidentally, that package included – along with numerous posts for Commission Directors-General and Deputy Directors-General of both genders – the decision to appoint Alexander Italiener to succeed Catherine Day as Secretary-General. The package adopted at the end of June 2015 was actually comparable in every way to that tabled for decision a few weeks ago.

We have an established procedure for this. I would like to emphasise three points: we adopt these decisions on the basis of the Staff Regulations of the European Union. This is our right and our obligation and we proceeded in exactly the same way in this instance. We took this decision with the agreement and involvement of the Member of the Commission responsible, the coordinating Vice-President, myself and the President, too.

All the College of Commissioners' decisions of 21 February were taken at my proposal and that concerning the Secretary-General at the direct proposal of our President, as provided for in the division of responsibilities within the Commission. All decisions, including the appointment of the new Secretary-General, were unanimously approved by all Members of the Commission. I can refer you to the minutes of the Commission's meeting of 21 February, which – in line with our transparency rules – we have published, as we do after every meeting.

Second, I am absolutely certain – and nobody else has ever suggested otherwise – that the official, Martin Selmayr possesses all the qualities required for the function of Secretary-General of the European Commission. He has years of experience in key posts at the Commission. As an excellent lawyer and a skilled communicator, he is definitely completely suitable for the job. He combines hard work, talent, qualifications and commitment to the European idea with political nous. He also has the trust of our Commission's President, my trust and that of the entire College of Commissioners.

In response to the procedural issues that have been raised, including publicly in recent days, it can be replied that the procedure and its time-limits have been respected fully in the case of this package and Martin Selmayr's appointment under Article 7 of the Staff Regulations to the post of Secretary-General: it began with the Deputy-Secretary-General's publication of a vacancy notice, which was followed by the assessment centre with its external assessment of candidates, an interview with the Commission's Consultative Committee and a final interview with the President and myself the day before the decision. This selection procedure complied with the Staff Regulations: as Commissioner responsible for personnel matters, it was my job to make sure of this and that is what I did.

When selecting a Secretary-General, neither nationality nor membership of a

political party – if any – plays any part; the one and only consideration is fitness for this office, in order to assure the functioning of our institution and to guarantee that it follows the course charted by the President of the Commission. And we consider the candidate, the selected official, Martin Selmayr, wholly suitable for the post.

In short, we can demonstrate that due account was taken of the rules, that the procedure complied with these rules and that the candidate also possesses all the qualifications sought. We would therefore ask you to scrutinise this decision but then also to accept it.

Thank you.

### **Closing remarks**

Ms Grässle,

Dear Colleagues,

Please accept my assurances that I, speaking both for the Commission and also for myself, have the utmost respect for Parliament's importance, that I am appearing before you with humility, that I have no desire to treat you like small children, that I take your questions very seriously and approach your scrutiny with solemnity and equanimity. Let us treat each other with respect.

Second: some speakers have spoken of fraud, corruption, scandals, intrigue, personal benefit. This is already more than reason enough for us – for me – to have every interest in objective scrutiny in and by the Committee on Budgetary Control. We will answer all questions in that forum. Questions we received in writing with the postmark of 5 March will be promptly answered by 14 March, regardless of the tight deadline.

Why am I here? Because the Conference of Presidents decided I should be. This House, its President and the chairs of its political groups – with the exception of the ECR and EUL – decided by a large majority that it is Oettinger's portfolio, so Oettinger has to come here. That is why I am here. If the Conference of Presidents had wanted my President to speak, I am sure that he would be here today. In short, I am here because the Conference of Presidents, your conference, said during the preparations that this was what it expected of the Commission. We are meeting your expectations.

Secretary-General Martin Selmayr has been spoken of – and I quote – as an 'éminence grise'; 'this German, Selmayr'; 'nobody knows him'. I would hope that discrimination is not accepted in Europe. We should not discriminate against civil servants in any way either. For the press to use the term 'monster' is a matter of the freedom of the press. But I believe that every civil servant, whatever their rank, has done enough to warrant due consideration and respect from all of us.

You hear people say that the Germans are ruling Europe again with this appointment. Well, I often hear people in Germany ask why every Member State is represented by a Commissioner, why the biggest and the smallest Member States all have just one Commissioner. It seems right to me. I believe every

Member State can and should be represented on an equal footing in the Court of Justice, the Court of Auditors, the Commission. But, believe me, in the big Member States, people ask why it is just one in 28. Or, taking the example of this House, they wonder why the small Member States have one Member per 90 000 inhabitants while the big Member States have one per 900 000: one man, one vote. I nevertheless consider it right that Malta and Luxembourg should be represented by six Members. But I want to address the question of the fair representation of our Member States [*Interruption from the audience*] The question of nationality is completely secondary for me.

I consider myself a European citizen who is one of 28 making up the Commission. I therefore believe that where you were born and the date on your passport should not really be that important.

It has been said that the Commission is not elected; I flatly disagree. Would-be Commissioners are proposed by their democratically elected governments. They are grilled by a specialised committee representing this House. They are elected by this House. They are elected by the European Council.

I know of many Member States where ministers can be appointed without involving the national parliament at all. If, for instance, the Chancellor is elected in Germany in two days, the ministers will be decided by the parties and confirmed by the President: no election, no hearing, nothing at all in [the Bundestag]. That is why I believe that the Commission satisfies democratic principles better than many other bodies at national level.

I can also tell you that this Commission has never had the intention of laying on official cars, drivers and offices for all Commissioners after they leave office. I consider this fake news; we have proved this a number of times. And I can assure you that there is no proposal for which I am responsible to make any such changes whatsoever in respect of all Commissioners after they leave office.

It has been said that some colleagues may be respecting the letter of the rules. I consider the letter fundamental to complying with the rules. That is why I view the checks with interest. We have followed all the rules to the letter. Some doubt this. Have us checked; I am only too happy to answer your questions.

But the Staff Regulations governing promotions and appointments at the Commission are not the President's Staff Regulations. The Staff Regulations under which Martin Selmayr was appointed Secretary-General were adopted by this House – and the Council. They are your Staff Regulations, the letter of your laws, your rules. If you want to change them, we will have to discuss it. I am sorry, but the Staff Regulations and what was decided by the Council were the work of the democratic bodies of the Council and Parliament. All this can be changed, but these appointments are not made arbitrarily by the Commission but on the basis, –according to the letter and – I maintain – the spirit of what has been decided by Europe's democratic bodies.

We have three possibilities when deciding on posts and appointments: an

internal vacancy notice, an external vacancy notice and an internal transfer. All three – internal vacancy notice, external vacancy notice and internal transfer – are covered by our Staff Regulations. The official, Martin Selmayr was our President's chief of staff for three years. And this post – chief of staff – is equivalent to that of a director-general, while a Commissioner's chief of staff is equivalent to a director. And, as you know, he has in the last three years held and performed a function that has equipped him for the office of secretary-general.

We should not create a caricature of Mr Selmayr either. He is not a party hack, a monster or an incompetent. So, by all means watch him like a hawk, but please give him a chance to show what he can do over the next few months. I am sure that he will do an excellent job and do so as a servant of the President Juncker and the Commission. I do not think caricatures of any shape or form are called for here. If you do not like him, if you do not trust him, say so. But nobody in this House has criticised his qualifications, his professional competence or his performance in various posts over the past few years.

We are glad to answer the Committee on Budgetary Control's questions. We will also answer written questions. I myself am always ready to appear before your bodies – before meetings of your groups, including for bilateral discussions. I will be happy to respond – to the satisfaction, I believe, of all with questions – to your concerns and questions over the next few weeks with clear answers and with an eye to the European Staff Regulations, rules and statutes.

Thanks for now.

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## [Corporate tax avoidance: Agreement reached on tax intermediaries](#)

### **Press contacts**

#### [François Head](#)

Press officer

+32 2 281 60 83

+32 475 95 38 07

On 13 March 2018, the Council reached agreement on a proposal aimed at boosting transparency in order to tackle aggressive cross-border **tax planning**.

The draft directive is the latest of a number of measures designed to prevent

corporate tax avoidance.

It will require intermediaries such as **tax advisors, accountants and lawyers** that design and/or promote tax planning schemes to report schemes that are considered potentially aggressive.

The member states will be required to automatically exchange the information they receive through a **centralised database**. This will enable new risks of tax avoidance to be determined earlier and measures to be taken to block harmful arrangements.

Member states will be obliged to impose **penalties** on intermediaries that do not comply with the transparency measures.

“Enhancing transparency is key to our strategy to combat tax avoidance and tax evasion”, said Vladislav Goranov, minister for finance of Bulgaria, which currently holds the Council presidency. “If the authorities receive information about aggressive tax planning schemes before they are implemented, they will be able to **close down loopholes** before revenue is lost.”

Member states find it increasingly difficult to protect their tax bases from erosion, as cross-border tax planning structures become ever more sophisticated. The draft directive is aimed at preventing aggressive tax planning by enabling increased scrutiny of the activities of tax intermediaries.

The draft directive establishes ‘hallmarks’ to identify the types of schemes to be reported to the tax authorities. The requirement to report a scheme won’t imply that it is harmful, only that it may be of interest to tax authorities for further scrutiny. Whilst many schemes have entirely legitimate purposes, the aim is to identify those that do not.

The proposal broadly reflects action 12 of the **OECD’s** 2013 action plan to prevent tax base erosion and profit shifting.

Agreement was reached at a meeting of the Economic and Financial Affairs Council. The Council will adopt the directive without further discussion once the text has been finalised in all official languages.

Member States will have until 31 December 2019 to transpose it into national laws and regulations.

The new reporting requirements will apply **from 1 July 2020**. Member states will be obliged to exchange information every three months, within one month from the end of the quarter in which the information was filed. The first automatic exchange of information will thus be completed by 31 October 2020.

The directive requires unanimity within the Council, after consulting the European Parliament. The Parliament voted its opinion on 1 March 2018. (Legal basis: articles 113 and 115 of the Treaty on the Functioning of the European Union.)



## [Construction firm fined over safety and welfare failings](#)

A construction firm has been fined after failing to safeguard the public and workers from an unsafe excavation and lifting operation, and not providing adequate welfare facilities for workers on site.

Greater Manchester Magistrates' Court heard how, on 23 June 2016, Toft Construction Limited were undertaking the refurbishment of a domestic property in Salford. A Health and Safety Executive (HSE) inspector issued two prohibition notices (PNs) to the company when he found an unsupported, deep excavation in the front garden with insufficient controls to prevent members of the public accessing the hazard. The inspector also found that a steel beam was being lifted unsafely.

The investigation also found that there were no toilet and washing facilities for workers on the site. The company also failed to comply with an improvement notice that was issued after the inspector's visit, after failing to provide suitable and sufficient welfare facilities.

The HSE investigation found that Toft Construction Ltd did not properly plan the lifting operations or carry it out safely. The company failed to take suitable and sufficient measures to prevent falls into the excavation and to fence it off to prevent risks to the public.

Toft Construction Limited, of Three Acres Lane, Cheadle Hume, Cheshire, pleaded guilty to breaching Sections 2(1), 3(1) and Section 33(1) (g) of the Health and Safety at Work etc. Act 1974. The company also pleaded guilty to breaching Regulations 15(11) and Regulation 2 of the Construction (Design and Management) Regulations 2015.

The company was fined £20,000 with £5,176.90 costs.

HSE inspector David Argument said after the hearing: "These risks could so easily have been avoided by simply carrying out correct control measures and safe working practices. Companies should be aware that HSE will not hesitate to take appropriate enforcement action against those that fall below the required standards".

### **Notes to Editors:**

1. The Health and Safety Executive (HSE) is Britain's national regulator for workplace health and safety. We prevent work-related death, injury and ill health through regulatory actions that range from influencing

behaviours across whole industry sectors through to targeted interventions on individual businesses. These activities are supported by globally recognised scientific expertise. [www.hse.gov.uk](http://www.hse.gov.uk)

2. More about the legislation referred to in this case can be found at: [www.legislation.gov.uk/](http://www.legislation.gov.uk/)
3. HSE news releases are available at <http://press.hse.gov.uk>

Journalists should approach HSE press office with any queries on regional press releases.

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## [Grant of new franchise to Star Ferry](#)

The Chief Executive in Council has decided to grant a new franchise to The “Star” Ferry Company, Limited (Star Ferry) for continued operation of the two franchised ferry routes, “Central – Tsim Sha Tsui” and “Wan Chai – Tsim Sha Tsui”, for a period of 15 years from April 1, 2018 to March 31, 2033.

“Star Ferry has undertaken to provide ferry services plying across Victoria Harbour at economical fares for citizens and tourists. It will also continue to provide ferry fare concessions for elderly, children and disabled persons according to the existing mechanism,” a spokesman for the Transport and Housing Bureau said.

The key factor that the Government takes into account in considering the award of a ferry franchise to an operator is its capability of providing a proper and efficient ferry service. Since the grant of the current franchise, Star Ferry has been providing proper and efficient ferry services to the public. During the discussion of the new franchise, the Government has requested Star Ferry to proactively follow up on the concerns raised by the public, as well as on various cross-bureaux and cross-departmental policy objectives. Star Ferry has launched new measures in response to the Government’s requests, including improving service quality, further enhancing the environmental performance of the fleet, consolidating pier management and enhancing the harbourfront.

For service quality improvement, Star Ferry will provide a free wi-fi service in the passenger waiting areas at the piers starting from April this year and has agreed to open up information including the fare tables and ferry schedule to the Government and public through an application programming interface, which will facilitate third-party development of other mobile applications. Besides, Star Ferry has undertaken to strengthen staff training starting from early 2018, including further improving service attitudes and proficiency in English and Putonghua, as well as continuing to explore how its services can be further diversified to attract more inbound tourists.

For enhancing the environmental performance of its fleet, Star Ferry

plans to retrofit the diesel engines of two ferries using a green diesel-electric propulsion system this year and to retrofit one ferry per year thereafter. Star Ferry has also expressed willingness in exploring the opportunity of introducing electric ferries in the future.

For harbourfront enhancement, the management of various Star Ferry piers will be consolidated under the new franchise. Star Ferry will take up overall management responsibilities for Central Pier No. 7 and the Central Terminal Building, Wan Chai Ferry Pier and Tsim Sha Tsui Ferry Pier. Star Ferry has also undertaken to enhance the harbourfront by bringing in vibrancy. Star Ferry is working out concrete proposals for further deliberation with the Government and will solicit views from stakeholders (including the Harbourfront Commission) in a timely manner, as well as seeking necessary approval from the relevant authorities. Any additional non-fare box revenue generated from the enhancement proposals will be used to cross-subsidise the franchised ferry operations as per the established practice.