

Commission welcomes adoption of far-reaching new transparency rules for tax advisers in the EU

The decision was taken by EU Economic and Financial Affairs ministers at their meeting in Brussels this morning. First proposed by the Commission in June 2017, the new measures build on a multitude of ambitious rules to fight tax avoidance and to boost tax transparency already agreed at EU level under the Juncker Commission.

Once in force, tax intermediaries who provide their clients with complex cross-border financial schemes that could help avoid tax will be obliged to report these structures to their tax authorities. In turn, EU Member States will exchange this information with each other, further increasing scrutiny around the activities of tax planners and advisers.

Following the agreement, Pierre **Moscovici**, Commissioner for Economic and Financial Affairs, Taxation and Customs, said: *“The new rules agreed today confirm the EU as the world leader in tax transparency. In future, intermediaries will have to share with tax administrations the schemes they sell to their clients. Tax administrations will then have access to the information they need to put an end to the aggressive tax planning schemes eroding their tax bases. This agreement is a further step towards more openness and better cooperation, facilitating fairer and more effective taxation throughout the EU.”*

Recent media leaks such as the Panama and Paradise Papers have exposed how some intermediaries actively assist companies and individuals to escape taxation, usually through complex cross-border schemes.

Cross-border tax planning schemes can bear certain characteristics – or ‘hallmarks’ – that indicate a risk of tax avoidance or evasion. Such hallmarks can include the use of cross-border losses to reduce tax liability, the use of special preferential tax regimes, or arrangements through countries that do not meet international good governance standards. Intermediaries that design or provide schemes bearing any one of these key hallmarks will now have to report these schemes to the tax authorities before they are used.

Member States will automatically exchange the information that they receive on the tax planning schemes through a centralised database, giving them early warning on new risks of avoidance and enabling them to take measures to block harmful arrangements and carry out audits more effectively. The requirement to report a scheme does not necessarily imply that it is harmful, only that it merits scrutiny by the tax authorities. But Member States have also agreed to implement effective and dissuasive penalties for those companies that do not comply with the transparency measures, creating a powerful new deterrent for those that encourage or facilitate tax abuse.

Next Steps

The new reporting requirements will enter into force on 1 July 2020, with EU Member States obliged to exchange information every 3 months after that. The first exchange will take place by 31st October 2020.

For More Information

[Q&A on new transparency rules for intermediaries](#)

[Factsheet](#)

[DG TAXUD webpage on the new rules for tax intermediaries](#)

[Video on new rules for tax intermediaries](#)

[Speech by President Juncker at the Plenary Session of the European Parliament ahead of the European Council meeting of 22 and 23 March 2018](#)

Monsieur le Président, re-bonjour.

Mesdames et Messieurs les députés,

Just under two weeks ago I returned from a tour around the Western Balkans. It was a memorable trip for many reasons.

What struck me the most was the passion and conviction in the European Union. This gave me a renewed sense of belief and hope: that if a region, a dramatic region like the Western Balkans is so determined to reform from top to bottom in order to join our Union, then we must be a Union worth being part of. The Western Balkans clearly see much more in us than we ourselves see in our Union. I want to see this same belief in our Union across all 27 Member States.

Of course there is a great deal of work to be done. All bilateral conflicts must be resolved and more unity is needed. Each of the Western Balkan partners must continue their reform path, especially when it comes to the rule of law and fundamental freedoms and values.

As I said to all leaders in the region, there will be no fast-tracking. We will put substance over speed. Each case will be taken on its own merits with

no fixed dates or firm deadlines.

But I came back from the trip more convinced than ever that this is our shared future. It is about reconciling our history and geography.

But it is also a reason more to focus on building a stronger, more democratic and united Union.

This is what the March European Council is about.

I would like to thank this House and the Bulgarian Presidency for leading the way in recent weeks. The breakthrough on posted workers will ensure that fairness comes first in our labour market. As we collectively agreed: equal pay for equal work in the same place. The agreement on 5G shows we are serious about our digital leadership and equipping ourselves with the tools we need to thrive in the society of tomorrow.

Mr President,

Europe believes in open and fair trade, based on a global rulebook. Our economy depends on it, our consumers expect it. But as I have said all along: we are not naïve free traders.

So we will not sit idly by if our industry is hit with unfair trade measures that put European jobs at risk. We will defend our workers, we will defend our industry, and we will do so respecting the rules that the world agreed to under WTO.

The United States has regrettably decided to impose restrictions on steel and aluminium which will impact a significant amount of EU trade. We believe in win-win trade, but going it alone on tariffs is a lose-lose for all.

Yes, the global steel industry has an over-capacity problem. This is why since December, along with Japan and the U.S., we have been looking at how to address this issue globally.

Commissioner Malmström met with both of her counterparts this weekend to deepen that cooperation further. And she also expressed our concerns to the United States on the tariffs they imposed on national security grounds.

Exports from the European Union are clearly not a threat to the United States' national security. We are long-standing and trusted security partners and we work together to keep each other safe and secure. And as their own figures show, the U.S. only needs 3% of its annual steel production to serve the Pentagon's needs.

We will keep making this point in the run-up to the European Council next week. We are expecting more clarity from the American side in the coming days and we will continue to work with our partners to push for an exemption to these measures.

But as always we will – and we have to – prepare for all eventualities.

Should the need arise, the European Union will respond in three ways.

First, under WTO rules we have the right to rebalance these measures, and we stand ready to do so.

Secondly, we will be ready with safeguard measures if there is a surge in imports into the European Union as a result of the U.S. closing its market.

Thirdly, we will seek dispute settlement consultations in the WTO, in conjunction with other affected countries.

Herr Präsident, meine sehr verehrten Damen und Herren,

wenn wir unserer Union mehr Stärke, mehr Handlungsfähigkeit verleihen wollen, müssen wir auch in die Architektur unserer Wirtschafts- und Währungsunion investieren und sie zukunftsfester machen. Die Umstände dafür sind so günstig wie selten zuvor.

Die europäische Wirtschaft wächst über Erwarten, in den vergangenen zwei Jahren mit mehr als 2 Prozent, und sie wächst schneller als die US-amerikanische Wirtschaft. Gleichzeitig haben wir in Europa mehr Menschen in Arbeit als jemals zuvor: 236.3 Millionen – ein neuer Rekord.

Das sollte uns Bestätigung und Ansporn zugleich sein, unseren Reformkurs konsequent fortzusetzen, und genau das tun wir. So legt die Kommission heute, am frühen Nachmittag, ein Paket zur Bankenunion vor. Es geht darum, die Finanzstabilität zu sichern, indem wir uns noch stärker mit notleidenden Krediten beschäftigen. Dort haben wir schon einige Erfolge erzielt.

Seit 2014 ist der durchschnittliche Anteil notleidender Kredite in der EU schon um ein Drittel gesunken. Dabei wollen wir es nicht belassen. Das ist umso wichtiger, weil bei der Vollendung der Bankenunion Risiko-Minderung und Risikoteilung Hand in Hand gehen.

Eine vollendete Bankenunion wäre ein wichtiger Schritt, um unsere Wirtschafts- und Währungsunion zu stärken. Genau darum geht es beim Gipfel. Über die Vorschläge, die die Kommission im Dezember vorgelegt hat, haben wir hier im Hause und bei einem früheren Eurogipfel schon diskutiert. Wir wollen den Europäischen Stabilitätsmechanismus schrittweise zu einem Europäischen Währungsfonds ausbauen. Außerdem wollen wir die Mitgliedsländer und solche, die es werden wollen, bei den Reformen unterstützen sowie mit einer Stabilisierungsfunktion sicherstellen, dass selbst im Falle von schweren Schocks Investitionen in Bildung und Infrastruktur weiterhin gewährleistet bleiben.

Monsieur le Président, Mesdames et Messieurs, chers collègues,

Compléter l'Union économique et monétaire n'est pas une fin en soi. C'est un moyen de créer les conditions d'une vie meilleure, d'une vie plus prospère et plus équitable pour tous nos concitoyens.

Egalité des chances, conditions de travail équitables, protection et insertion sociales doivent devenir une réalité pour tous. C'est pour cela que

nous nous sommes engagés à mettre en œuvre le Socle européen des droits sociaux.

16 millions de nos concitoyens, par exemple, vivent et travaillent dans un autre Etat membre que le leur. C'est deux fois plus qu'il y a dix ans et ce phénomène ne fera que s'amplifier. Ces personnes ont, comme tout à chacun, des droits qui doivent être respectés et effectivement mis en œuvre dans un marché européen du travail.

C'est la raison pour laquelle la Commission va présenter aujourd'hui sa proposition de création d'une Autorité européenne du travail qui ne viendra pas se substituer aux autorités nationales mais qui renforcera la coopération et la coordination entre elles.

Ceux qui travaillent à temps partiel, ceux qui relèvent du statut des travailleurs intérimaires, ont eux aussi droit à une protection sociale convenable. C'est une responsabilité commune, celle de mettre en œuvre le Socle des droits sociaux.

Il faut évidemment continuer à parfaire le marché intérieur, notamment les marchés de l'électricité qui, en Europe, s'ils étaient totalement interconnectés, les Européens permettraient aux Européens de réaliser des économies de 40 milliards d'euros par année. Si l'Europe numérique fonctionnait, cela nous apporterait 415 milliards d'euros de croissance nouvelle chaque année. Donc rien que sur l'interconnectivité de l'électricité et de la mise en place totale de l'Europe numérique, nous réaliserions un bénéfice – si je peux m'exprimer de la sorte – de 450 milliards d'euros.

Nous avons tous, je crois, conscience qu'il serait essentiel, souhaitable, bienvenu que nous puissions mettre en œuvre tous les éléments dont je viens de vous parler d'ici les élections européennes de l'année prochaine.

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.

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

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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.

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

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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.)

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