



Brussels, 27 November 2015
(OR. en)

14207/15

Interinstitutional File:
2015/0068 (CNS)

FISC 152
ECOFIN 858

"I/A" ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	12802/15 FISC 124 ECOFIN 755
No. Cion doc.:	7374/15 FISC 25 - COM(2015) 135 final
Subject:	Proposal for a Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation - Adoption

1. The Commission presented the abovementioned legislative proposal¹ on 18 March 2015, together with a proposal to repeal the Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, as well as a Commission communication outlining a number of other initiatives to advance tax transparency.
2. The purpose of this legislative proposal is to strengthen tax transparency by building into the existing Directive 2011/16/EU on administrative cooperation in the field of taxation² (DAC) new rules on automatic exchange between tax administrations of information regarding advance cross-border rulings and advance pricing arrangements (a particular type of ruling used in the area of transfer pricing).³

¹ Doc. 7374/15 FISC 25 + ADD 1.

² OJ L 64, 11.3.2011, p. 1., as amended by Council Directive 2014/107/EU of 9 December 2014 (OJ L 359, 16.11.2014, p. 1.)

³ See doc. 12526/15 FISC 120 ECOFIN 738.

3. The European Parliament has delivered its opinion on 27 October 2015⁴. The European Economic and Social Committee has delivered its opinion on this proposal on 27 May 2015⁵. The Committee of the Regions has delivered its opinion on 14 October 2015.⁶
4. On 6 October 2015, the Council reached a political agreement on the Presidency compromise text.⁷
5. The Permanent Representatives Committee is therefore asked to suggest that the Council:
 - adopt, as an "A" item on the agenda of a forthcoming meeting, the **Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation**, as finalised by the legal/linguistic experts in doc. 12802/15 FISC 124 ECOFIN 755;
 - enter into the minutes of its meeting the statements set out in the Annex to this note.

⁴ Not yet published in the Official Journal.

⁵ OJ C 332, 8.10.2015, p. 64.

⁶ See doc. 13499/15 FISC 141.

⁷ See doc. 12774/15 FISC 122 ECOFIN 752.

STATEMENT BY THE CZECH REPUBLIC

"The Czech Republic shares the view that timely solutions to base erosion and profit shifting are necessary. The Czech Republic nevertheless urges the Commission to put equal emphasis on the fight against VAT frauds in near future. VAT frauds affect Member States' budgets even more than aggressive planning in corporate tax area. While working towards VAT definitive regime in the EU, the Commission shall proceed with equal vigour towards various options including wider application of reverse charge mechanism. The Czech Republic, as of now, volunteers to test this respective option through a pilot project similar to that outlined by the Commission in 2008. The Czech Republic expects the Commission to set the parameters to frame the pilot project. Ideally, the Commission should come up with the respective legislative proposal by the time the Communication on various options of definitive VAT regime is published."

STATEMENT BY THE EUROPEAN COMMISSION:

"The Commission reiterates that the fight against tax fraud, including VAT fraud, is one of its main priorities. Against this background, it will present next year new initiatives on a fraud-proof VAT system. The Commission is currently examining different options, including a wider use of the reverse charge mechanism. This analysis should be carried out and discussed with all Member States in this framework."