

Mr Pierre Moscovici
Commissioner for Economic and Financial Affairs, Taxation and Customs European Commission
Rue de la Loi, 200
B-1049 Brussels

4.05.2015, Brussels

Dear Commissioner Moscovici,

We generally welcome your attempt to streamline the reporting requirements of financial actors as proposed as part of the Transparency Package (Proposal for a Council Directive repealing Council Directive 2003/48/EC).

As the proposal clearly states, "there is significant overlap" between the Savings Directive (Council Directive 2003/48/EC) and the Directive on Administrative Cooperation (Council Directive 2014/107/EC). Nevertheless, the proposal also indicates that there would be "a few cases where the revised Savings Directive would still apply".

While we fully agree with your intention to avoid double reporting through two directives, we are concerned that repealing the Savings Directive (EUSTD) might have unintended consequences.

Firstly, we highly doubt that it is feasible that only a few countries can continue applying the EUSTD by themselves during the gap period where the Directive on Administrative Cooperation (DAC) enters into force for Austria, Switzerland and Andorra at least one year later than in the other EU member states. In this gap period, for example, it might become impossible for Austrian and Swiss paying agents to determine the interest portion of collective investments as soon as EU member states and countries like the Cayman Islands no longer bound by the EUSTD stop providing interest calculations on collective investments. As a consequence, Austria and Switzerland would not be able to continue applying the EUSTD.

We therefore would like to know how the Commission will ensure the proper application of the EUSTD during the gap period, especially in countries that rely on economic operators in other countries to calculate the interest according to EUSTD rules.

Secondly, repealing the EUSTD might potentially cause new loopholes for tax evasion. The assessment of the proposal repealing the EUSTD mentions, inter alia, that the paying agent on receipt approach in Article 4(2) of the EUSTD covers also interest paid by a non-participating jurisdiction through a Member State's paying agent on receipt. As a consequence, entities and legal arrangements managed by individuals (known as non financial entities) placing assets in non-participating jurisdictions (such as USA or a country that does not have an automatic exchange of information with the EU) would be reportable under EUSTD but not under the DAC. Although currently this is not a major loophole, if it



remains and becomes understood by such entities, we are concerned that it might become major escape route to circumvent the DAC. We fear that good intentions might well lead to harmful results.

We therefore would like to know how the Commission intends to close loopholes resulting from a repeal of the EUSTD and whether it has already undertaken a quantitative impact assessment or is planning to do so.

Kind regards,

A handwritten signature in black ink that reads "Sven Giegold". The signature is written in a cursive, flowing style.

Sven Giegold
MEP

P.S.: In order to ensure public transparency and translation in several languages we have also drafted two written questions with the same content.