Brussels,
Ares(2015)

Dear Honourable Member,

Thank you for your letter of 4 May concerning the automatic exchange of financial account information.

As you point out, there are certain differences in the approach to reporting introduced by the amended Directive on Administrative Cooperation, as compared to the approach previously set out in the Savings Directive. The approach of the Directive on Administrative Cooperation is universally acknowledged as more comprehensive, based on the OECD Global Standard, to which the EU contributed significantly. Its key features are the wide scope of reporting, which goes well beyond the scope of the Savings Directive, and the fact that its implementation will be truly global, meaning that financial institutions from diverse parts of the globe will all report on the same basis. As you rightly acknowledge, streamlining the reporting requirements of financial actors is extremely important.

Notwithstanding your support for streamlining the reporting requirements of financial actors, you still have two areas of concern. The first is a suggestion that jurisdictions operating a Savings regime for one additional year may no longer receive sufficient information from other jurisdictions to facilitate full reporting. I am assured that this situation has been catered for by Article 6(2)-(3) of the Savings Directive, which provides direction for paying agents that may not have made comprehensive arrangements to receive information:

*"2. As regards paragraph 1(c) and (d), when a paying agent has no information concerning the proportion of the income which derives from interest payments, the total amount of the income shall be considered an interest payment.*

*3. As regards paragraph 1(d), when a paying agent has no information concerning the percentage of the assets invested in debt claims or in shares or units as defined in that paragraph, that percentage shall be considered to be above 40 %. Where he cannot determine the amount of income realised by the beneficial owner, the income shall be deemed to correspond to the proceeds of the sale, refund or redemption of the shares or units."*

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Your second concern centres around non-participating jurisdictions. I agree that a problem could, potentially, develop if the existence of non-participating jurisdictions, with significant financial sectors, were not properly tackled. However, the EU and the international community are working together to ensure that the coverage of the Global Standard will be thorough and genuinely global. I believe this to be the best approach, rather than trying to impose additional reporting obligations within the EU, which could still be circumvented if non-reporting jurisdictions were not actively challenged. In particular, in the example that you put forward, instead of using intermediary entities in the EU to channel offshore funds, those funds could still potentially be channelled through intermediary entities outside the EU. I would therefore still claim that the best approach is comprehensive geographical coverage of the Global Standard in the major financial centres and offshore jurisdictions.

Member States have expressed a clear preference for having only one standard for the automatic exchange of information on financial income. That standard has now been fully implemented through the Amending Directive on Administrative Cooperation. Repealing the Savings Directive will have little or no negative effect on the effectiveness of automatic exchange of information. By amending the Directive on Administrative Cooperation, we have taken one big step towards better regulation. The follow-up step of phasing out the Savings Directive will complete the transition.

Yours sincerely,

Pierre MOSCOVICI