



2018/2121(INI)

COMPROMISE AMENDMENTS

on financial crimes, tax evasion and tax avoidance
(2018/2121(INI))

Special Committee on financial crimes, tax evasion and tax avoidance

Co-rapporteurs: Jeppe Kofod, Luděk Niedermayer

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on financial crimes, tax evasion and tax avoidance (2018/2121(INI))

The European Parliament,

COMP on Citations

- having regard to Articles 4 and 13 of the Treaty on European Union (TEU),
- having regard to Articles 107, 108, 113, 115 and 116 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to its decision of 1 March 2018 on setting up a special committee on financial crimes, tax evasion and tax avoidance (TAX3), and defining its responsibilities, numerical strength and term of office¹,
- having regard to its TAXE committee resolution of 25 November 2015² and its TAX2 committee resolution of 6 July 2016³ on tax rulings and other measures similar in nature or effect,
- having regard to its resolution of 16 December 2015 with recommendations to the Commission on bringing transparency, coordination and convergence to corporate tax policies in the Union⁴,
- having regard to *the results of the Committee of Inquiry into Money Laundering, Tax Avoidance and Tax Evasion, which were submitted to the Council and Commission on 13 December 2017*⁵,
- having regard to the Commission's follow-up to each of the above mentioned Parliament resolutions,⁶
- having regard to the *numerous* revelations *by* investigative journalists, *such* as the LuxLeaks, Panama papers, Paradise papers *and more recently the* CumEx scandals *as*

¹ Decision of 1 March 2018 on setting up a special committee on financial crimes, tax evasion and tax avoidance (TAX3), and defining its responsibilities, numerical strength and term of office, [T8-0048/2018](#).

² Resolution of 25 November 2015 on tax rulings and other measures similar in nature or effect, [OJ C 366, 27.10.2017, p. 51](#).

³ Resolution of 6 July 2016 on tax rulings and other measures similar in nature or effect, [OJ C 101, 16.3.2018, p. 79](#).

⁴ Legislative resolution of 16 December 2015 'Bringing transparency, coordination and convergence to corporate tax policies in the Union', [OJ C 399, 24.11.2017, p. 74](#).

⁵ Recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion [OJ C 369, 11.10.2018, p. 132](#).

⁶ The March 2016 [joint follow-up](#) on bringing transparency, coordination and convergence to corporate tax policies in the Union and TAXE 1 resolutions, the November 2016 follow-up to the [TAXE 2](#) resolution and the April 2018 follow-up to the [PANA](#) resolution.

well as the money laundering cases involving in particular banks in Denmark, Estonia, Germany, Latvia, the Netherlands and the United Kingdom,

- *having regard to its resolution of 29 November 2018 on the cum-ex scandal: financial crime and loopholes in the current legal framework¹;*
- *having regard to its resolution of 11 April 2018 on protection of investigative journalists in Europe: the case of Slovak journalist Ján Kuciak and Martina Kušnírová²;*
- having regard to the studies prepared by the European Parliamentary Research Service on ‘Citizenship by investment (CBI) and residency by investment (RBI) schemes in the EU: state of play, issues and impacts’, ‘Money laundering and tax evasion risks in free ports and customs warehouses’ and ‘An overview of shell companies in the European Union’³,
- having regard to the study on ‘VAT fraud: economic impact, challenges and policy issues’⁴, the study on ‘Cryptocurrencies and blockchain - Legal context and implications for financial crime, money laundering and tax evasion’ and the study on the ‘Impact of Digitalisation on International Tax Matters’⁵,
- having regard to the Commission studies on ‘aggressive tax planning indicators’⁶,
- having regard to the evidence collected by the TAX3 Committee in its 26 hearings with experts or exchanges of views with Commissioners and Ministers and during the missions to Washington, Riga, the Isle of Man, Estonia and Denmark,
- having regard to the modernised and more robust corporate tax framework introduced during this legislative term, notably the Anti-Tax Avoidance Directives (ATAD I⁷ and ATAD II⁸) and the reviews of the Directive on Administrative Cooperation in taxation

¹ 2018/2900(RSP)

² 2018/2628(RSP))

³ Scherrer A. and Thirion E., [Citizenship by Investment \(CBI\) and Residency by Investment \(RBI\) schemes in the EU](#), EPRS, European Parliament, October 2018; Korver R., [Money laundering and tax evasion risks in free ports](#), EPRS, European Parliament, October 2018 and Kiendl Kristo I. and Thirion E., [An overview of shell companies in the European Union](#), EPRS, European Parliament, October 2018.

⁴ Lamensch M., [VAT fraud: economic impact, challenges and policy issues](#), Policy Department A, DG IPOL, European Parliament, 2018.

⁵ Study Houben R. and Snyers A., [Cryptocurrencies and blockchain](#) and the study by Hadzhieva E., Impact of Digitalisation on International Tax Matters, Policy Department A, DG IPOL, European Parliament, 2018.

⁶ ‘Study on Structures of Aggressive Tax Planning and Indicators - Final Report’ ([Taxation paper No 61](#), 27 January 2016), ‘The Impact of Tax Planning on Forward-Looking Effective Tax Rates’ ([Taxation paper No 64](#), 25 October 2016) and ‘Aggressive tax planning indicators - Final Report’ ([Taxation paper No 71](#), 7 March 2018).

⁷ Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market, [OJ L193 of 19.7.2016, p. 1](#).

⁸ Council Directive (EU) 2017/952 of 29 May 2017 amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries, [OJ L 144, 7.6.2017, p. 1](#).

(DAC)¹,

- having regard to the Commission proposals pending for adoption, in particular on the CC(C)TB², the digital taxation package³ and public country-by-country reporting (CBCR)⁴, *as well as the Parliament's position on these proposals*, – having regard to the resolution of the Council and the Representatives of the Governments of the Member States of 1 December 1997 on a Code of Conduct Group on Business Taxation (CoC Group), and to this Group's regular reports to the ECOFIN Council,
- having regard to the Council list of non-cooperative jurisdictions for tax purposes adopted on 5 December 2017 and amended on the basis of the ongoing monitoring of third country commitments,
- having regard to the communication from the Commission of 21 March 2018 on new requirements against tax avoidance in EU legislation governing in particular financing and investment operations⁵,
- having regard to the ongoing modernisation of the VAT framework, in particular the VAT definitive regime,
- ***having regard to P8_TA(2016)0453 European Parliament resolution of 24 November 2016 on towards a definitive VAT system and fighting VAT fraud(2016/2033(INI))***
- having regard to the recently adopted new EU anti-money laundering framework, in particular after the adoption of the fourth (AMLD4)⁶ and fifth (AMLD5)⁷ reviews of the Anti-Money Laundering Directive,

¹ Relating respectively to the automatic exchange of tax rulings (Directive (EU) 2015/2376 of 8 December 2015, DAC3), exchange of country-by-country reports between tax authorities (Directive 2016/881 of 25 May 2016, DAC4), access to anti-money-laundering information by tax authorities, beneficial ownership and other customer due diligence (Directive 2016/2258 of 6 December 2016, DAC5), mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements (Directive 2018/822 of 25 May 2018, DAC6).

² Proposal of 25 October 2016 for a Council Directive on a Common Corporate Tax Base (CCTB), [COM\(2016\)0685](#) (2016/0337(CNS)) and on a Common Consolidated Corporate Tax Base (CCCTB), [COM\(2016\)0683](#) (2016/0336(CNS)).

³ The package consists of the 'Time to establish a modern, fair and efficient taxation standard for the digital economy' communication (COM(2018)0146), the proposal for a Council directive laying down rules relating to the corporate taxation of a significant digital presence ([COM\(2018\)0147](#), 2018/0072(CNS)), the proposal for a Council directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services ([COM\(2018\)0148](#), 2018/0073 (CNS)) and the recommendation relating to the corporate taxation of a significant digital presence ([C\(2018\)1650](#)).

⁴ Proposal of 12 April 2016 for a directive amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches, [COM\(2016\)0198](#) (2016/0107(COD)).

⁵ [C\(2018\)1756](#).

⁶ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC; [OJ L 141, 5.6.2015, p. 23](#).

⁷ Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU; [OJ L 156, 19.6.2018, p. 43](#).

- ***having regard to the infringement procedures against 21 Member States for having not or only partially transposed AMLD4 into national law,***
- having regard to the Commission Action Plan on strengthening the fight against terrorist financing¹,
- ***having regard to the Commission Communication on strengthening the Union framework for prudential and anti-money laundering supervision,***
- having regard to the Platform of the Financial Intelligence Units of the European Union (EU FIUs' Platform) mapping exercise and gap analysis of 15 December 2016 on EU FIUs' powers and obstacles in obtaining and exchanging information, and to the Commission Staff Working Document of 26 June 2017 on improving cooperation between EU Financial Intelligence units²,
- ***having regard to the Recommendation of the EBA and the Commission to the Maltese FIAU,***
- ***having regard to the letter sent by the TAX3 Committee Chair to the Permanent Representative of Malta to the EU, HE Daniel Azzopardi, seeking explanations about the company '17 Black',***
- having regard to the state aid investigations and decisions of the Commission³,
- ***having regard to the proposal for a directive of the European Parliament and of the Council on protection of persons reporting on breaches of Union law^{2a};***

2a 2018/0106(COD)

- having regard to the outcomes of the various G7, G8 and G20 summits held on international tax issues,
- having regard to the resolution adopted by the United Nations General Assembly on 27 July 2015 on the Addis Ababa Action Agenda,
- ***having regard to the report by the High Level Panel on Illicit Financial Flows from Africa, jointly commissioned by the AU/ECA Conference of Ministers of Finance, Planning and Economic Development,***
- having regard to the Commission communication on an External Strategy for Effective Taxation in which the Commission also called for the EU to 'lead by example'⁴,

¹ Communication of 2 February 2016 from the Commission to the European Parliament and the Council on an Action Plan for strengthening the fight against terrorist financing, [COM/2016/050 final](#).

² SWD(2017)0275.

³ Relating to Fiat, Starbucks and the Belgian excess-profit ruling, and decisions to open state aid investigations on McDonalds, Apple and Amazon.

⁴ [COM\(2016\)0024](#).

- *having regard to its reports on tax avoidance and tax evasion¹, and on gender equality and taxation policies in the EU²;*
- *Having regard to the obligation under Article 8(2) of the European Convention on Human Rights (ECHR) to observe privacy laws at all times;*
- *having regard to the Commission report on investor citizenship and residence schemes in the EU³;*
- *having regard to Commission’s Communication ‘Towards a more efficient and democratic decision making in EU tax policy’*
- *having regard to the European Economic and Social Committee opinion on “EU development partnerships and the challenge posed by international tax agreements”*

Covers AMs 2, 5, 6-13, 16, 18-29, 51, 52, 585, 1105, 1160

If adopted, AMs 1-29, 51, 52, 585, 1160 fall

- having regard to Rule 52 of its Rules of Procedure,
- having regard to the report of the Special Committee on financial crimes, tax evasion and tax avoidance (A8-0000/2018),

1. General introduction setting the scene

1.1. Changes

COMP 1 and 1a (new)

1. *Asserts that the existing tax rules are often unable to keep up with the increasing speed of the economy;* Recalls that current international and national tax rules were mostly conceived in the early 20th century; asserts that there is an urgent **and continuous** need for reform of the rules, so that international, EU and national tax systems are fit for the new economic, social and technologic challenges of the 21st century; notes the broad understanding that current tax systems **and accounting methods** are not equipped to keep up with these developments and ensure that all market participants pay **their fair share of** taxes;

Covers AM 33, 34, 35, 36, 37, 64

If adopted, AMs 30, 31 fall

¹ *Report on tax avoidance and tax evasion as challenges for governance, social protection and development in developing countries (2015/2058(INI)), European Parliament Committee on Development*

² *Gender equality and taxation policies in the EU (2018/2095(INI))*

[https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=&reference=2018/2095\(INI\)](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=&reference=2018/2095(INI)), *European Parliament Committee on Development.*

³ *COM(2019) 12 final*

AM 44 voted separately

COMP 2

2. Highlights that *the European* Parliament has made a substantial contribution to the fight against financial crimes, tax evasion and tax avoidance as uncovered *inter alia* in the LuxLeaks, Panama Papers, Paradise Papers, *Football Leaks, Bahamas Leaks, and CumEx* cases, notably with the work of the TAXE, TAX2¹ and TAX3 Special Committees, the PANA inquiry committee and the ECON committee;

Covers AM 49 &50

If adopted, AM 48, 1231, 1282 falls

COMP 3, 3a(new), 3b(new) & 3c (new), 3d (new)

3. Welcomes the fact that during its current term the Commission has put forward 26 legislative proposals aimed at closing some of the loopholes, improving the fight against financial crimes and aggressive tax planning, and enhancing tax collection efficiency and tax fairness; *deeply regrets the lack of progress in the Council on major initiatives of the corporate tax reform* that have not yet been finalised *due to the lack of genuine political will*; calls for the swift adoption of *EU* initiatives that have not yet been finalised and for careful monitoring of the implementation to ensure efficiency and proper enforcement, in order to keep pace with the versatility of tax fraud, tax evasion and aggressive tax planning;
 - 3 a. (new) *Recalls that a tax jurisdiction has control only over tax matters related to its territory whereas economic flows and some taxpayers such as multinational enterprises (MNEs) and high net worth-individuals (HNWI) operate globally;*
 - 3 b. (new) *Emphasizes that defining tax bases requires having a full picture of a taxpayer's situation, including those parts that are outside of the tax jurisdiction, and determining which part refers to which jurisdiction; notes that it also requires that such tax bases are allocated between tax jurisdictions to avoid double-taxation and double non-taxation; affirms that priority should be given to eliminating double non-taxation as well as ensuring that the issue of double taxation is tackled;*
 - 3.c (new) *Considers that efforts need to be made by all EU institutions as well as Member States to explain to citizens the work done in the field of taxation and actions taken to remedy existing problems and loopholes; considers that the EU needs to adopt a broad strategy whereby the EU supports, with relevant policies, those Member States to move from their current detrimental tax systems to a tax system compatible with the*

¹ According to EP internal rules, Committee names can be abbreviated by max 4 letters, reason why the former temporary Committees on taxation are TAXE, TAX2, PANA and TAX3. It is however to be noted that the mandate "Setting-up of a special committee on tax rulings and other measures similar in nature or effect" refers to TAXE2

EU legal framework and the spirit of the EU treaties;

3 d. (new) Notes that economic flows¹ and possibilities to change tax residence have substantially increased; warns that some new phenomena² are inherently opaque or facilitate opacity allowing for tax fraud, tax evasion, aggressive tax planning, and money laundering;

Covers AM 39, [42](#), 54, ~~55~~,56, 57 (till ‘political will), 58, 59, 65, 67, 68, 69, 70, 71

If adopted, AMs 53, ~~55~~, fall

COMP 3 e to h) (new) on purpose of taxation/ social dimension
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1.2 Purpose of taxation and impact of tax fraud, tax evasion, harmful tax practices and money laundering on European societies

3e. Considers that fair taxation and the determined fight against tax fraud, tax evasion, aggressive tax planning and money laundering has a central role to play in shaping a fair society and a strong economy while defending the social contract and the rule of law; notes that a fair and efficient taxation system is key to address inequality, not only by financing public spending to support social mobility but also by reducing income inequalities; highlights that tax policy can have a major influence on employment decisions, investment levels and the willingness of companies to expand;

3 f. Underlines that it is of utmost priority to reduce the tax gap due to tax fraud, tax evasion, aggressive tax planning and money laundering and its impact on national and EU budgets to ensure a level-playing field and tax fairness between and among all taxpayers, to fight the rise in inequality and to strengthen trust in democratic policy-making by ensuring that fraudsters do not have a competitive tax advantage over honest taxpayers;

3g Stresses that both joint effort on EU and national level is crucial to defend the EU and national budgets from losses due to unpaid taxes; notes that only with a fully and efficiently collected tax revenues, states can provide, among others, quality public services including affordable education, healthcare and housing, security, crime control and emergency response, social security and care, enforcement of occupational and environmental standards, the fight against climate change, promotion of gender equality, transportation, and essential infrastructures in order to foster and, if necessary, to stabilise socially balanced development, to move towards to the Sustainable Development Goals;

3h. Considers that recent developments in taxation and tax collection, which have shifted the tax incidence from wealth to income, from capital income to labour income and consumption, from MNEs to SMEs and from the financial sector to the real economy has

¹ **such as financialization**

² For example, ~~financialization~~ or the use of software programs to automatically skim cash from electronic cash registers or point of sale systems (“zapping”), the growing usage of third-party payroll processors enabling fraudsters to channel off legitimate taxes ~~or financialization~~.

had a disproportionate impact on women and low-income people, who typically rely more on labour income and spend a higher proportion of their income on consumption¹; notes that higher rates of tax evasion are amongst the wealthiest²; calls on the Commission to consider the impact on social development, including gender equality and other aforementioned policies in its legislative proposals in the tax and anti-money laundering areas;

Covers AMs 41, ~~42~~, 45, 46, 47, 63, 133 (first part), 143, 145, 174 (first part), 488 (second part), ~~491~~, 495, 498, 518, 579, 581, 582, 583, 592, 604, 606, 608, 732, 962, 1064, second part of 1114, 580, 715, 1085, 1143

If adopted, AMs fall

AM 488 first part to be voted separately after COMP 57 as it is not covered by the COMP on letterbox companies: it refers to shell companies and not letterbox companies.

AM 491 to be voted separately after COMP 52

COMP 3i) & 3j (new)- non cash

1.3 Risk and benefits linked to cash transactions

3i. Stresses that cash transactions remain a very high risk regarding money laundering and tax evasion, including VAT fraud, despite its benefits, such as accessibility and velocity; notes that a number of Member States already have in place restrictions on cash payments; notes that while rules on cash controls in the EU external borders are harmonised, rules among Member states concerning cash movements within EU borders vary;

3j. Notes that fragmentation and the divergent nature of these measures have the potential of interfering with the proper functioning of the internal market; thereby calls on the Commission to come up with a proposal on European restrictions on payments in cash, while maintaining cash as a means of payment; notes furthermore that high-denomination euro notes present a higher risk in terms of money laundering; welcomes that the ECB announced in 2016 it would no longer issue new €500 notes (even though the outstanding stock remains legal tender); calls on the ECB to determine the phasing out of the ability to use €500 notes;

Covers AMs 510, 751, 754, 782 and 794

If adopted, AMs fall

¹ Asa Gunnarsson, Margit Schratzenstaller and Ulrike Spangenberg, *Gender equality and taxation in the European Union study*, Directorate-General for Internal Policies, European Parliament, 2018; Caren Grown and Imraan Valodia (editors), *Taxation and Gender Equity: A Comparative Analysis of Direct and Indirect Taxes in Developing and Developed Countries*, Routledge, 2010 pp32 – 74, pp 309 – 310, and p315; Action Aid, *Value-Added Tax (VAT), Progressive tax policy brief*, 2018; and Janet G. Stotsky, *Gender and Its Relevance to Macroeconomic Policy: A Survey*, IMF Working Paper, WP/06/233, p.42

² TAX 3 hearing of 24th of January 2018 on the EU Tax Gap: see Figure 4 of <https://gabriel-zucman.eu/files/AJZ2017.pdf>

1.4. Quantitative assessment

COMP 4 and new paragraph

- 4. Stresses that tax fraud, tax evasion and aggressive tax planning result in lost resources for national and European Union budgets¹; acknowledges that quantification of these losses is not straightforward; notes however that increased transparency requirements would not only provide better data but also would contribute to reducing opacity;**
- 4a. Notes that several assessments exist to attempt to quantify the magnitude of losses from tax fraud, tax evasion and aggressive tax planning; reminds that none of these provide a large enough picture on its own due to the nature of the data or lack of thereof; notes that some of the recent assessments supplement each other based on different complementary methodology;**
- 4b. Deplores again ‘the lack of reliable and unbiased statistics on the magnitude of tax avoidance and tax evasion [and] stresses the importance of developing appropriate and transparent methodologies to quantify the scale of these phenomena, as well as their impact on countries’ public finances, economic activities and public investments’²; points out the importance of the political and financial independence of statistical institutes to ensure the reliability of statistical data; calls for technical assistance to be requested from Eurostat for the collection of comprehensive and accurate statistics, so that they are provided in a comparable, easily coordinated digital format;**

Covers AM 62, 72, 73, 74, 76, 77

If adopted, AM75 falls

- 5. Recalls in particular the empirical assessment of the magnitude of annual revenue losses caused by aggressive corporate tax planning in the EU which was drawn up in 2015; notes that the assessment ranges from EUR 50-70 billion (sum lost to profit-shifting only, equivalent to at least 17 % of corporate income tax (CIT) revenue in 2013) to EUR160-190 billion (adding individualised tax arrangements of major MNEs, and inefficiencies in collection);**

AM 81 voted separately

COMP 6

¹ Par. 49 of the Interim report on the Multiannual Financial Framework 2021-2027 adopted in Plenary.

² See point 59 of Recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion OJ C 369, 11.10.2018, p. 132 of the PANA recommendations.

6. Calls on the Council and Member States to prioritise projects, notably with the support of the Fiscalis programme, aimed at quantifying the magnitude of tax avoidance in order to better address the current tax gap; *stresses that the European Parliament has adopted¹ an increase of the Fiscalis programme; urges Member States under coordination of the Commission to estimate their tax gaps and publish the results annually;*

Covers AM 82, 84, 86, 87

If adopted, AMs 85 fall

COMP 7, 7a (new), 8 and 8a (new)

7. Notes that an IMF working paper² estimates worldwide losses due to base erosion and profit shifting (BEPS) and relating to tax havens to be approximately USD 600 billion per year; notes that the IMF long-run approximate estimates are USD 400 billion for OECD countries (1 % of their GDP) and USD 200 billion for developing countries (1.3 % of their GDP);

7 a. (new) Welcomes the recent estimates of the non-observed economy' (NOE) –often called shadow economy – in the 2017 Survey Tax Policies in the European Union³ which provides a broader indication of tax evasion; stresses that the value of the NOE measures economic activities, which may not be captured in the basic data sources used for compiling national accounts;

8. Highlights that close to 40 % of MNEs' profits are shifted to tax havens globally each year *with some European Union countries appearing to be the prime losers of profit shifting, because 35% of shifted profits come from EU countries, followed by developing countries (30%)⁴ ; points out that about 80% of the profits shifted from many EU Member States are channelled to or through few other EU Member States; points out that MNEs can pay up to 30 % less tax than domestic competitors and that aggressive tax planning distorts competition for domestic firms, in particular SMEs;*

8a. Notes that the MNE's heard by the TAX3 Committee produce their own estimates of ETRs⁵; points out that these estimates are questioned by some experts;

¹ Text adopted by Parliament on 17 January 2019 on the proposal for a regulation of the European Parliament and of the Council establishing the 'Fiscalis' programme for cooperation in the field of taxation ([P8_TA\(2019\)0039](#)).

² Crivelli, De Mooij and Keen, [Base Erosion, Profit Shifting and Developing Countries](#), 2016).

³ Tax Policies in the European Union 2017 Survey, ISBN 978-92-79-72282-0

⁴ Tørsløv, Wier and Zucman 'The missing profits of nations', National Bureau of Economic Research, Working Paper 24701, 2018.

⁵

http://www.europarl.europa.eu/cmsdata/155741/2018%2009%20%2024_TAX3_Mission%20to%20Washington%20DC_Final%20version.pdf

Covers AM 88, 89, 90, 92 & 93

If adopted, AMs fall

AM 78 second part to be voted separately: “Calls for statistics ~~to~~ be collected on large transactions at free ports, customs warehouses and special economic zones, as well as disclosures made by intermediaries and whistle-blowers”.

COMP 9

1.5. Tax fraud, tax evasion, tax avoidance and aggressive tax planning (ATP)

9. Recalls that the fight against tax evasion and fraud tackles illegal acts, whereas the fight against tax avoidance addresses situations that *exploit loopholes in the law or* are a priori within the limits of the law – *unless deemed illegal by the tax or, ultimately, the judiciary authorities*– but against its spirit; *calls therefore on simplification of the tax framework;*

9a. Recalls that improving tax collection in EU countries is likely to reduce crime associated with tax evasion and the money laundering that follows it;

Covers AM 43, 95, 96, 97, 98, 99, 100, 101(linguistic), 106 (second part), 107,~~110~~

AM 110 voted separately

COMP 10 and 10a (new)

10. Recalls that ATP describes the setting of a tax design aimed at reducing tax liability by using the technicalities of a tax system or *arbitrating* between two or more tax systems that go against the spirit of the law;

10 a. (new) Welcomes the Commission’s reply to its calls made in its TAXE, TAX2 and PANA resolutions to better identify aggressive tax planning and harmful tax practices;

Covers AM 103, 104, 106 (first part) 109

If adopted, AM 108 falls

COMP 11

11. Calls on the Commission and the Council to propose and adopt a comprehensive *and specific* definition of aggressive tax planning indicators, building on both the hallmarks

http://www.europarl.europa.eu/cmsdata/158449/TAX3%20Verbatim%2027%20November%202018_OR.pdf

identified in the fifth review of the Directive on administrative cooperation (DAC6)¹ and the Commission's relevant studies and recommendations; ***stresses that these clear indicators may be based, where necessary, on internationally agreed standards***; calls on Member States to use those indicators as a basis to repeal all harmful tax practices deriving from existing tax loopholes; ***calls on the Commission and the Council to regularly update these indicators if new aggressive tax planning arrangements or practices emerge***;

Covers AM 116, 118, 119, 131

If adopted, AMs 112, 113, 114, 115 fall

COMP 12

12. Stresses the similarity between corporate tax payers and high-net-worth individuals (***HWNI***) in the use of corporate structures and similar structures such as trusts and offshore locations for the purpose of ATP; ***points out*** the role of intermediaries² in setting such schemes; recalls, ***in this regard, that most of the income of the HWNI arrives in the form of capital gains rather than earnings***;

Covers AM 123, [124](#), 126

If adopted, AMs 120, ~~124~~-125 fall

COMP 13

13. Welcomes the Commission's assessment and inclusion of ATP indicators in its 2018 European Semester country reports; calls for such assessment to become a regular feature in order to ensure a level playing field in the EU internal market, as well as the greater stability of public revenue in the long run; ***invites the Commission to ensure a clear follow-up to end ATP practices, if appropriate in the form of formal recommendations***;

Covers AM 128 129 130, 254

If adopted, AMs 127 fall

COMP 14

¹ Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements, OJ L 139, 5.6.2018, p. 1.

² ***Also sometimes referred as enablers or promoters of tax evasion.***

14. Reiterates its call on companies, as taxpayers, to fully comply with their tax obligations and refrain from aggressive tax planning leading to BEPS, and to consider fair taxation strategy *as well as abstaining from harmful tax practices* as an important part of their corporate social responsibility, *taking into account the United Nations Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises in order to secure taxpayers' trust in tax frameworks*;

14a.new Urges Member States taking part in the enhanced cooperation procedure to agree as quickly as possible on the adoption of a Financial Transaction Tax (FTT), while acknowledging that a global solution would be the most appropriate;

Covers AM 133 partly (from stresses' to the end), 140, 141, 142, 148

If adopted, AM 139 falls

AM 147 voted separately

2. Corporate taxation

COMP 15 and 15a- (new)

15. Recalls that opportunities for choosing a business or residence location on the basis of the regulatory framework have increased with globalisation and digitalisation;

15a. Recalls that taxes must be paid in the jurisdictions where the actual *substantive and genuine* economic activity and value creation take place or, in case of indirect taxation, where consumption takes place; *highlights that this can be achieved by adopting the common Consolidated Corporate Tax Base (CCCTB) in the EU with an appropriate and fair distribution, incorporating amongst others all tangible and intangible assets in the European Union*;

Covers AM 150, 154, 155 (first part till CCCTB)

If adopted, AMs 151, 152; ~~156~~ fall

AM 156 voted separately

COMP 17 and 17a (new)

17. Notes that an exit tax was adopted by the EU in ATAD I, allowing Member States to tax the economic value of capital gain created in its territory even when that gain has not yet been realised at the time of exit; considers that the principle of taxing profits made in Member States before they leave the Union should be strengthened, for example through coordinated withholding taxes on interests and royalties, *so as to close existing loopholes and avoid profits leaving the EU untaxed*; calls on the Council to resume negotiations on the interest and royalties proposal; *notes that tax treaties often*

reduce the withholding tax rate in view of avoiding double taxation¹;

17 a. (new) Reaffirms that the adaptation of international tax rules needs to answer to avoidance deriving from the possible use of the interplay between national tax provisions, and networks of tax treaties, resulting in an erosion of the tax base and double non-taxation while ensuring that there is no double-taxation;

Covers AM 180, 181, 182, 183, 184, 185, 186

Separate vote: 187

2.1. BEPS action plan and its implementation in the EU: ATAD

COMP 18

18. Acknowledges that the G20/OECD-led BEPS project was meant to tackle in a coordinated manner the causes and circumstances creating BEPS practices, by improving the coherence of tax rules across borders, reinforcing substance requirements and enhancing transparency and certainty; ***states, however, that the willingness and commitment to cooperate on the OECD BEPS Action Plan varies amongst countries and particular actions;***

Covers AM 189, 190, 191, 193, 249

COMP 19

19. Notes that the G20/OECD 15-point BEPS action plan, ***intended to tackle in a coordinated manner the causes and circumstances creating BEPS practices***, is being implemented and monitored and further discussions are taking place, in a broader context than just the initial participating countries, through the Inclusive Framework; calls ***therefore*** on Member States to support a reform of both the mandate and the functioning of the Inclusive Framework to ensure that remaining tax loopholes and unsolved tax questions such as the allocation of taxing rights among countries are covered by the current international framework to combat BEPS practices;

19 a. Takes note that the actions require implementation; notes the Inclusive Framework on BEPS policy note² which aims at drawing possible solutions to the identified challenges, on OECD BEPS action 1 ‘Address the tax challenges of the digital economy’;

¹ Hearson M. (2018) ‘The European Union’s Tax Treaties with Developing Countries– Leading By Example?’, September 2018.

² Policy note of the Inclusive Framework on BEPS ‘Addressing the Tax Challenges of the Digitalisation of the Economy’ as released on January 29 2019.

Covers AM ~~194~~, 195, 196, 197, 199, 201

If adopted, AMs ~~194~~, 200 falls

COMP 20 and 20a (new)

20. Points out that some countries have recently adopted unilateral countermeasures against harmful tax practices (such as the UK's Diverted Profits Tax and the Global Intangible Low-Taxed Income (GILTI) provisions of the US tax reform) to ensure that the foreign income of MNEs is duly taxed at a minimum effective tax rate in the parent's country of residence; calls for an EU assessment of these measures; *notes that, in contrast to these unilateral measures, the EU generally promotes multilateral and consensual solutions to deal with a fair allocation of taxing rights; stresses that, for example, the EU prioritises a global solution for taxing the digital sector but is proposing an EU Digital Services Tax as global discussions were progressing slowly⁴*;
- 20 a. (new) *Recalls that the 2016 EU 'anti-tax-avoidance package' supplements existing provisions so as to implement the 15 BEPS actions in an EU coordinated manner in the Single Market;*

Covers AM 203, 205 and 206

COMP 21

21. Welcomes the adoption by the EU of ATAD I and ATAD II; *notes that these directives provide fairer taxation by establishing a minimum level of protection against corporate tax avoidance throughout the EU and ensuring a fairer and more stable environment for businesses, from both demand and supply perspectives; welcomes the provisions on hybrid mismatches to prevent double non-taxation in order to eliminate existing mismatches and refrain from creating further mismatches, between Member States and with third countries;*

Covers AM 209, 210 (linguistic)

If adopted, AMs 207 208 fall

COMP 22 & 23

22. Welcomes the provisions on Controlled Foreign Corporation (CFC) included in ATAD I to ensure that profits made by related companies parked in low or no-tax countries are effectively taxed; acknowledges that they prevent the absence or diversity of national CFC rules within the Union from distorting the functioning of the internal market beyond situations of wholly artificial arrangements as called for repeatedly by Parliament; deplores the coexistence of two approaches to implement CFC rules in

⁴-bid

ATAD I and calls on Member States to implement only the simpler and most efficient CFC rules as in ATAD I Article 7(2)(a);

23. Welcomes the general anti-abuse rule for the purposes of calculating corporate tax liability included in ATAD I, allowing Member States to ignore arrangements that are not genuine and having regard to all relevant facts and circumstances aimed at obtaining *solely* a tax advantage; reiterates its repeated call for the adoption of a general common *stringent* anti-abuse rule, namely in existing legislation and in particular in the parent-subsidiary directive, the merger directive and the interest and royalties directive;

Para 22: Covers AM 212, 215, 217

If adopted, AM 211, 213, 216 fall

Para 23: Covers AM 219, 220, 221

COMP 24

24. Reiterates its call for a clear definition of permanent establishment *and significant economic presence* so that companies cannot artificially avoid having a taxable presence in a Member State in which they have economic activity;

Covers AM 224, 225, 226, 227, 228, 229; 240

If adopted, AM 222, 223 fall

25. Calls for the finalisation of the work being done within the EU Joint Transfer Pricing Forum (JTPF) on the development of good practices and monitoring of Member States' implementation by the Commission;

Covers AMs 230 and 241

COMP 26

26. Recalls its concerns relating to the use of transfer prices in ATP and consequently recalls the need for adequate action and improvement of the transfer pricing framework to address the issue; stresses the need to ensure that they reflect the economic reality, provide certainty, clarity and fairness for Member States and for companies operating within the Union, and reduce the risk of misuse of the rules for profit-shifting purposes, taking into account the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administration 2010¹; notes *however that, as has been highlighted by experts and publications, the use of the 'independent entity concept' or 'arm's length*

¹ see <http://www.oecd.org/tax/transfer-pricing/oecd-transfer-pricing-guidelines-for-multinational-enterprises-and-tax-administrations-20769717.htm> from July 2017

principle' constitute one of the main reasons enabling harmful tax practices;¹

Covers AM 231, 235

If adopted, AM 232, 233, 234 fall

COMP 27 27a (new) & 27b (new)

27. Emphasises that the EU actions aimed at addressing BEPS and ATP have equipped tax authorities with an updated toolbox to ensure fair tax collection *while maintaining EU businesses' competitiveness*; stresses that tax authorities should be responsible for making effective use of the tools without imposing an additional burden on responsible taxpayers, particularly SMEs;

Covers AM 40, 66 and 237

If adopted, AM 236, 238, 239 fall

COMP 28 & 28a (new)

28. Recognises that the new flow of information to tax authorities following the adoption of ATAD I and DAC4 creates the need for adequate resources to ensure the most efficient use of such information and to effectively reduce the current tax gap; *calls on all Member States to make sure that the tools of the authorities are sufficient and adequate to use this information and to combine and cross-check information from different sources and data sets*;

Covers AM 146, 243, 244, 245

If adopted, AM 242 fall

2.2. Strengthening EU actions to fight against corporate aggressive tax planning (ATP) and supplementing BEPS action plan

2.2.1. Scrutinising Member States' tax systems and overall tax environment – ATP within the EU (European Semester)

COMP 29

29. Welcomes the fact that Member States' tax systems and overall tax environment have

¹ Public hearing 24 January 2019 on the evaluation of the tax gap and 'Addressing the Tax Challenges of the Digitalisation of the Economy' OECD Policy Note, published 29 January 2019

become part of the European Semester in line with Parliament's call to that effect¹; welcomes the studies and data drawn up by the Commission² that allow situations that provide economic ATP indicators to be better addressed, and give a clear indication of the exposure to tax planning as well as furnishing a rich data base for all Member States on the phenomenon; ***points out that Member States in the spirit of loyal cooperation must not facilitate the creation of aggressive tax planning schemes incompatible with the EU legal framework and the spirit of the EU Treaties;***

Covers AM 144, 253 and 255

AM 252 separate vote

COMP 30 & 30a (new)

30. Welcomes the fact that DAC6 sets out the hallmarks of reportable cross-border arrangements that intermediaries must report to tax authorities to allow them to be assessed by the latter; welcomes the fact that these features of ATP schemes can be updated if new arrangements or practices emerge; ***points out that the implementation deadline of the directive has not yet lapsed and that the provisions will need to be monitored to ensure their efficiency;***

30a (new) ***Calls on both the EU institutions and Member States to ensure public procurement contracts do not facilitate tax avoidance by suppliers; Member States should monitor and ensure that companies or other legal entities involved in tenders and procurement contracts do not participate in tax fraud, tax evasion and aggressive tax planning; calls on the Commission to clarify the existing procurement practice under the EU procurement directive, and if necessary, propose an update of the directive ~~that~~ does not prohibit the application of tax related considerations as criteria for exclusion or even as selection criteria in public procurement;***

Covers AM 256, 269 and 270

If adopted, AM 257 falls

COMP 31

31. Calls on the CoC Group report yearly ***to the Council and the Parliament*** on the main arrangements reported in Member States to allow decision makers to keep up with the new tax schemes, which are being elaborated, and to take the ***necessary*** countermeasures that might potentially be needed;

Covers AM 259, 260

¹ European Parliament resolution of 25 November 2015 on tax rulings and other measures similar in nature or effect, OJ C 366, 27.10.2017, p. 51, paragraph 96.

² Referred to above. The studies provide an overview of Member States' exposure to ATP structures affecting their tax base (erosion or increase), although there is no stand-alone indicator of the phenomenon, a set of indicators seen as a 'body of evidence' nevertheless exists.

If adopted, AM 258 falls

COMP 32

32. Calls on the Commission to issue *as soon as possible* a proposal aimed at repealing patent boxes, and calls on Member States to favour non-harmful and, if appropriate, direct support for R&D *on their territory*; *stresses that tax reliefs for companies need to be carefully constructed and implemented only where there is positive impact on jobs and growth and any risk of creating new loopholes in the taxation system is excluded*; reiterates, in the meantime, its call to ensure that current patent boxes establish a genuine link to economic activity, such as expenditure tests, and that they do not distort competition; *notes the growing role of intangible assets in the MNE value chain*; notes the improved definition of R&D costs in the common corporate tax base (CCTB) proposal; *upholds the Parliament's position on tax credit for genuine R&D expenses instead of R&D deduction*;

Covers AM 102, , 111,246, 247, 262, 263, 264, 266, 267 and 268

If adopted, AM 261, 265 fall

COMP 33, 33a (new) 33b (new) 33c (new) & 33d (new)

Subheading 2.2. *Better Cooperation in the Area of Taxation*, including Common consolidated corporate tax base (CCCTB)

33. *Stresses that taxation policy in the European Union should focus both on fighting tax avoidance and aggressive tax planning and on facilitating cross-border economic activity by cooperation between tax authorities and smart tax policy design*;

33a (new) 33 b. *Underlines that there is a multitude of tax-related obstacles that hamper cross-border economic activity; notes in this regard Parliament's report on 20 main concerns of European citizens and business with the functioning of the Single market¹; urges the European Commission to adopt an action plan addressing these obstacles as a matter of priority*;

33 b (new) Welcomes the re-launch of the CCCTB project with the Commission's adoption of interconnected proposals on CCTB and CCCTB; *stresses that once implemented fully, the CCCTB will eliminate loopholes between national tax systems, in particular transfer pricing*;

33c (new) Calls on the Council to swiftly adopt *and implement simultaneously the two proposals side by side* taking into consideration Parliament's opinion that already includes the concept of virtual permanent establishment *and apportionment formula* that would close the remaining loopholes allowing tax avoidance to take place and level the playing field in light of digitalisation; *regrets the continued refusal of certain*

¹ 2012/2044 (INI)

Member States to find a solution and calls on the Member States to bridge their diverging positions;

33d (new) *Recalls that the application of the C(C)CTB should be accompanied by the implementation of common accounting rules and appropriate harmonisation of administrative practices;*

Covers AM57(from points out that such deadlock' till the end), 60, 153, 166, 169, 250, 275, 283,284, 285, 286, 287, 289, 292, 293,294, 295, 296, 297, 298

If adopted, AMs 276, 277, 278, 279, 280, 281, 282, 288, 291 fall,

2.2.3. Corporate digital taxation

COMP 34, 34a (new) 34b (new) and 34c (new)

34. Notes that the phenomenon of digitalisation has created a new situation in the market, whereby digital and digitalised companies are able to take advantage of local markets without having a physical, and therefore taxable, presence in that market, creating a non-level playing field and putting traditional companies at a disadvantage; notes that digital businesses models in the EU face a lower effective average tax burden than traditional business models¹; *points out, in this context, the gradual shift from tangible production to intangible assets in the value chains of MNEs, as reflected in the relative rates of growth over the last five years of royalties and licensing fee receipts (almost 5 per cent annually) compared with trade in goods and FDI (less than 1 per cent annually)*²; *deplores that digital businesses pay almost no taxes in some Member States despite their significant digital presence and large revenues in those Member States;*

34a (new) *Believes that the EU should allow for an attractive business environment in order to achieve a well-functioning Digital Single Market while ensuring fair taxation of the digital economy; reminds that, when it comes to the digitalisation of the whole economy, the location of the value creation should take into account the input from users as well as information collected on consumers' behaviour online;*

34b (new) *Underlines that a lack of a common Union approach on addressing the taxation of the digital economy will and already does lead Member States to adopt unilateral solutions, which will lead to regulatory arbitrage, fracturing of the Single market and might become a burden for companies operating cross-border as well as tax authorities;*

34c (new) *Notes the leading role played by the Commission and some Member States in the global debate on taxation of digitalized economy; encourages the Member States to*

¹ As evidenced in the impact assessment of 21 March 2018 accompanying the digital tax package (SWD(2018)0081), according to which on average, digitalised businesses face an effective tax rate of only 9.5 %, compared to 23.2 % for traditional business models.

² UNCTAD, World Investment Report, 2018.

continue their proactive work at OECD and UN levels especially via the process introduced by the Inclusive Framework on BEPS in its Policy Note¹; recalls, however, that the EU shall not wait for a global solution and shall immediately act;

Covers AM 32, —301, 303 (LINGU), 304, 305, 306 (LINGU), 308 2nd part (starting ‘believes’), 309, 322, 1032

If adopted, ,~~307~~, 310 fall

[AM 307 to be voted separately](#)

COMP 35, 35 a (new), 35b (new), 35c (new)

35. Welcomes the digital tax package adopted by the Commission on 21 March 2018;; *deplores the lack of progress by the Council² and its inability to come to an agreement on the Commission’s package; is concerned that, instead, the Council is considering a proposal that is much less ambitious in scope than the initial proposal and the subsequent Parliament’s report as adopted on 13th December 2018³*; calls on the Council to swiftly adopt these proposals;

35 a (new) Emphasizes that sole agreement on what constitutes digital permanent establishment is a step in the right direction, but does not solve the issue of tax base allocation;

35.(new) Calls on Member States willing to considering introduction of a digital tax to do so within the framework of enhanced cooperation, should the Council not be able to reach agreement on the 'Digital Services Tax';

Covers AM 315 1st part (‘deplores...yet’), 317, 318, **319**, 320, 321 and 323

If adopted, AMs 311, 312, 313, 314 (incompatible with “calls on the Council to swiftly adopt these proposals”), 316, ~~319~~, 324 fall

COMP 36, 36a (new) & 36b (new)

36. Understands that the so-called interim solution is not optimal; believes that it will help speed up the search for a better solution at global level, while levelling the playing field in local markets to some extent; *calls on the EU Member States to discuss, adopt and implement the long-term solution concerning the taxation of the digital economy (on the significant digital presence) as soon as possible in order for the EU to remain a*

¹ Addressing the Tax Challenges of the Digitalisation of the Economy - Policy Note, published 29 January 2019

² Conclusions of the Economic and Financial Affairs Council, 04.12.2018, <https://www.consilium.europa.eu/en/meetings/ecofin/2018/12/04>.

³ European Parliament legislative resolution of 13 December 2018 on the proposal for a Council directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services ([2018/0073\(CNS\)](#)), P8_TA(2018)0523

trendsetter on the global level; stresses that the long-term solution proposed by the Commission should serve as a basis for further work on the international level;

36a (new) *Notes the strong demand for the DST by the EU citizens; recalls that surveys show that 80% of citizens from Germany, France, Austria, the Netherlands, Sweden and Denmark are supportive of a DST and that 80% of the citizens think that the EU should pioneer international efforts; underlines furthermore that a majority of the surveyed citizens wants a broad scope for a digital service tax¹;*

36b (new). *Calls on Member States to ensure that the ‘Digital Services Tax’ remains a temporary measure by including a ‘sunset clause’ to the proposal for a Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services and by speeding up the discussion on a Significant Digital Presence²;*

Covers AM 327, 328, 329, 330, 332, 333, 334, 337 and 338

If adopted, AMs 325, 331 fall

Separate vote: 326

COMP 36 c NEW Effective Taxation

2.2.4 Effective Taxation

- 1. Notes that nominal corporate tax rates have decreased at EU level from an average of 32% in 2000 to 21,9% in 2018³, which represents a decrease of 32% ; is concerned about the implication of this competition on sustainability of tax systems and its potential spill over effects on other countries; notices that first G20/OECD led BEPS project did not touch upon this phenomenon; welcomes the announcement of the Inclusive Framework on BEPS to explore on a “without prejudice” basis taxing rights that would strengthen the ability of jurisdictions to tax profits where the other jurisdiction with taxing rights applies a low effective rate of tax to those profits, –by 2020⁴, which translates into minimum effective taxation; notes that, as stated by the Inclusive Framework on BEPS, the current OECD-led work does not imply changes to the fact that countries or jurisdictions remain free to set their own tax rates or not to have a corporate income tax system at all⁵;*

¹ KiesKompas, Public Perception towards taxing digital companies in six countries <https://policies.kieskompas.nl/digital-tax-report.pdf>, December 2018.

² Proposal for a Council Directive laying down rules relating to the corporate taxation of a significant digital presence COM(2018) 147 final.

³ Taxation trend in the EU, Table 3: Top statutory corporate income tax rates (including surcharges), 1995-2018, European Commission 2018.

⁴ Addressing the Tax Challenges of the Digitalisation of the Economy – Policy Note, As approved by the Inclusive Framework on BEPS on 23 January 2019

⁵ Ibid.

2. Welcomes the new OECD global standard on substantial activities factor to no or only nominal tax jurisdiction¹, largely inspired by the EU work on the EU listing process (Fair criterion 2.2 of the EU list);
3. Notes the discrepancies between estimates of large corporations' effective tax rates - often based on provision for taxes²- and the actual tax paid by large multinationals; notes that traditional sectors pay in average an effective corporate tax rate of 23% while the digital sector pays about 9,5%³;
4. Notes the diverging methodologies in assessing effective tax rates not allowing for reliable comparison of ETRs in the EU and globally; notes that some assessments of effective tax rates in the EU diverge from 2.2% to 30%⁴; calls on the Commission to develop its own methodology and regularly publish the ETRs in the Member States;
5. Calls on the Commission to assess the phenomenon of decreasing nominal tax rates and its impact on ETRs in the EU and to propose remedies within the EU and towards third countries as applicable like strong anti-abuse rules, defensive measures, such as stronger controlled foreign company rules and a recommendation to amend tax treaties; ~~if the assessment proves impairment of the fair competition in the Single market (or some of its sectors);~~
6. Invites Member States to update the mandate of the CoC Group to explore the concept of minimum effective taxation of corporate profits to follow up on OECD work on the Tax Challenges of the Digitalisation of the Economy;
7. Takes note of the statement made by the French Finance Minister at the TAX3 meeting of 23 October 2018 regarding the need to discuss the concept of minimum taxation; welcomes the readiness by France to include the debate on minimum taxation as one of the priorities of its G7 Presidency in 2020;

Covers 94, 157, 159, 170, 172, 173, 177, 178, 179, 202, 214 (first part until "CFC rules"), 300, 336, 982, 984, 1228

If adopted, AMs 160, 161, 162, 163, 164, 165, 167, 168, 299, 302 fall

Separate vote 176, 1115 and 218 (if adopted, AM 214 second part falls)

¹ OECD, "Resumption of Application of Substantial Activities Factor to No or only Nominal Tax Jurisdictions Inclusive Framework on BEPS: Action 5", <http://www.oecd.org/tax/beps/resumption-of-application-of-substantial-activities-factors.pdf>, 2018.

² 27-11-2018 - Public hearing on "Alleged aggressive tax planning schemes within the EU"

³ COM(2018) 146 final Communication from the Commission to the European Parliament and the Council Time to establish a modern, fair and efficient taxation standard for the digital economy

⁴ 24-11-2019 – Public hearing on "EU Tax Gap"

2.3. *Administrative cooperation in relation to direct taxes*

37. Stresses that since June 2014 the DAC has been amended four times;

Amendment 342, 343 and 727 voted separately

COMP 38

38. Reiterates its call for a broader scope in relation to the exchange of tax rulings and broader access by the Commission, ***and for more harmonisation of the tax ruling practices of different national tax authorities***; calls on the Commission to swiftly release its first assessment of DAC3 in this regard, looking in particular at the number of rulings exchanged and the number of occasions on which national tax administrations accessed information held by another Member State; asks that the assessment also consider the impact of disclosing key information related to tax rulings (the number of rulings, the names of beneficiaries, the effective tax rate deriving from each ruling); ***invites Member States to publish domestic tax rulings***;

Covers AM 345, 346 and 347

If adopted, AM344 falls

AM 348 separate vote

COMP 39 & 39a (new)

39. Reiterates, furthermore, its call to ensure simultaneous tax audits of persons of common or complementary interests (including parent companies and their subsidiaries), and its call to further enhance tax cooperation between Member States through an obligation to answer group requests on tax matters; ***points out that the right to remain silent in dealings with tax authorities does not apply to a purely administrative investigation and that cooperation is mandatory¹***;

39a (new). Considers that coordinated on-site inspections and joint audits should be part of the European framework of cooperation between tax administrations;

Covers AM 349, 350, 351 728

COMP 40 & 40a (New)

40. Emphasises that not only information exchanges, ***processing of information***, but also the sharing of best practices among tax authorities contribute to more efficient tax

¹ ECtHR, judgment of 16 June 2015 (No 787/14), van Weerelt v Netherlands.

collection; calls on Member States to give priority to the sharing of best practices among tax authorities, *especially regarding the digitalisation of tax administrations*;

40a . Calls on the European Commission and Member States to harmonise procedures for a digital system of filing tax returns in order to facilitate cross-border activities and reduce red tape;

41. Calls on the Commission to swiftly assess the implementation of DAC4 and whether national tax administrations effectively access country-by-country information held by another Member State; asks the Commission to assess how DAC4 relates to Action 13 of the G20/BEPS action plan on exchange of country-by-country information;

42. Welcomes the automatic exchange of financial account information based on the global standard which has been developed by the OECD with Andorra, Liechtenstein, Monaco, San Marino and Switzerland; calls on the Commission and the Member States to upgrade the Treaty provisions so as to match the DAC as amended;

Covers AMs ~~80~~, 158, 352, 353, 354 and 357

If adopted, AMs 355, 356, 358 and 359 falls

COMP 42a

42a. (new) Also stresses the contribution made through the Fiscalis 2020 Programme which aims at enhancing cooperation between participating countries, their tax authorities and their officials; stresses the added value brought by joint actions in this field and the role of the possible programme in developing and operating major trans-European IT systems;

covers AM 361 & 365 (Second part)

COMP 43

43. Reminds Member States of all their obligation under the Treaty¹ in particular to cooperate loyally, sincerely and expeditiously; calls, therefore, in the light of **cross-border** cases, most notably **in the light of** the so-called Cum-Ex files, for the nomination of Single Points of Contact (SPoC) by all Member States' national tax authorities, in line with the SPoC-system of the Joint International Taskforce on Shared Intelligence and Collaboration (JITSIC) in the framework of the OECD², to facilitate and enhance cooperation in combating tax fraud, tax evasion and aggressive tax planning; calls further on the Commission to facilitate and coordinate cooperation between Member States' SPoCs;

¹ Article 4(3) TEU.

² <http://www.oecd.org/tax/forum-on-tax-administration/jitsic/>

Covers AM 362 & 364

If adopted, AMs 363 falls

COMP 44, 44a to 44i (new)

44. Recommends that Member States' authorities which are notified by their counterparts in other Member States of potential breaches of law be required to provide an official notification of receipt and, where appropriate, a substantive response on actions taken following the aforementioned notification in a timely manner;

Subheading 2.3 a (new) *Dividend stripping and coupon washing*

44a. *Notes that cum-ex transactions have been a known global problem since the 1990s including in Europe, yet no coordinated counteraction has been taken; deplores the tax fraud revealed by the so called CumEx Files scandal which has led to publicly reported losses of Member States' tax revenue, amounting to as much as EUR 55,2 billion according to some media estimates; highlights that the consortium of European journalists identifies Germany, Denmark, Spain, Italy and France as allegedly the main target markets for cum-ex trading practices, followed by Belgium, Finland, Poland, the Netherlands, Austria and the Czech Republic;*

44b (new) Stresses that complexity of tax systems can give rise to legal loopholes facilitating tax fraud schemes such as cum-ex;

AM 83, 377 and 380

44c. Notes that the systematic fraud centred around the cum-ex- and cum-cum schemes was made possible in part because relevant Member States' authorities did not perform sufficient checks on applications for reimbursement of taxes and that relevant authorities lack a clear and complete picture of actual ownership of shares; calls on the Member States to access of all relevant authorities to complete and up-to-date information on ownership of shares; calls on the Commission to assess whether an EU action is needed in this regard, and to present a legislative proposal should the assessment demonstrate a need for such action;

AM381

44d. Underlines that the revelations seem to indicate possible shortcomings in national taxation laws and in the current systems of exchange of information and cooperation between Member State authorities; urges the Member States to effectively use all communication channels, national data and data made available by the strengthened framework for exchange of information;

AM 382

44e. *Stresses that the cross-border aspects of the CumEx Files should be addressed multilaterally; warns that introduction of new bilateral treaties on exchanges of information and bilateral cooperation mechanisms between individual Member States would complicate the already complex web of international rules, introduce new loopholes and contribute to lack of transparency;*

AM 384

44f. *Urges all Member States to thoroughly investigate and analyse dividend payment practices in their jurisdictions, to identify the loopholes in their tax laws that generate opportunities for exploitation by tax fraudsters and avoiders, to analyse any potential cross-border dimension of these practices and to put an end to all these harmful tax practices; calls on Member States to exchange best practices in this regard;*

AM385

44g. *Calls upon the Member States and their Financial Supervisory Authorities to assess the need to ban exclusively tax-driven financial practices such as dividend arbitrage or dividend stripping and similar schemes, in absence of the proof to the contrary by the issuer that these financial practices have a substantive economic purpose other than unjustified tax reimbursement and/or tax avoidance; calls on the EU legislators to evaluate the possibility of implementing this measure at EU level;*

AM ~~379~~ & 386

44h. *Calls on the Commission to start working immediately on a proposal for a European financial police within the framework of Europol with its own investigatory capacities, as well as on a European framework for cross-border tax investigations and other cross-border financial crimes;*

AM 387

44i. *Concludes that the CumEx-files demonstrate the urgent need to improve cooperation between EU Member States' tax authorities, especially with regard to information sharing; urges therefore Member States to enhance their cooperation in detecting, stopping, investigating and prosecuting tax fraud and evasion schemes such as cum-ex and where applicable cum-cum including exchange of best practices, and to support EU-level solutions where justified;*

AM375

Covers AM 83, 340, 366, 367, 368, 370, 371, 372, 373, 374, 375, 376, 377, 378, ~~379~~, 380, 381, 382, 383, 384, 385, 386, 387, ~~798~~, 824, 864

[AM 379](#) and [798](#) voted ~~separately~~[separately](#)?

2.4. Transparency in relation to corporate tax

COMP 45 45a(new) & 45b (new)

(new para) Welcomes the adoption of DAC4 providing for a CBCR to tax authorities, in

line with BEPS Action 13 standard

45. ***Recalls that public CBCR is one of the key measures to find greater transparency on tax information of companies***; stresses that the proposal for public CBCR ***by certain undertakings and branches*** was submitted to the co-legislators just after the Panama papers scandal on 12 April 2016, and that Parliament adopted its position on it on 4 July 2017¹; recalls that the latter called for an enlargement of the scope of reporting and protection of commercially sensitive ***information with due regards to competitiveness of the EU enterprises***;

45 a new ***De*** plores the lack of progress and cooperation from the Council since 2016; urges for ***swift*** progress to be made in the Council so that it enters into negotiations with Parliament; ***recalls that public scrutiny is useful for researchers², investigative journalists, investors and other stakeholders to properly assess risks, liabilities and opportunities to stimulate fair entrepreneurship; recalls similar provisions already exist for the banking sector in Directive 2013/36/EU Article 89 (CDR IV)³ and for extractives and lodging industries in Directive 2013/34/EU; notes some private stakeholders are voluntarily developing new reporting tools enhancing tax transparency, such as the Global Reporting Initiative standard “Disclosure on tax and payments to governments”, as part of their Corporate Social Responsibility policy;***

45a (new). Recalls that measures on corporate tax transparency are to be regarded as relating to Article 50, paragraph 1 TFEU on freedom of establishment, hence the above mentioned article is the appropriate legal base of the proposal for public CBCR as found in the impact assessment of the Commission published 12 April 2016;⁴

45b (new). Notes that with regards to the limited capacity of developing countries to meet requirements through existing exchange of information procedures, transparency is particularly important as it would ease access to information for their tax administrations;

Covers AM 79, 388, 389, 392, 394, 395, 396, 397, 398, 399, 400, 403, ~~404~~, 405, 409, 1072 and 1073

If adopted, AMs 390, 391, 393, 401, 402, ~~404~~ fall

AM 407 and 408: separate vote

¹ See also the European Parliament recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion (Texts adopted, P8_TA-(2017)0491).

² Public hearing 24 January 2019 on the evaluation of the tax gap.

³ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.201363).

⁴ EP Legislative Observatory, [Procedure file on directive on disclosure of income tax information by certain undertakings and branches](#), 2016/0107(COD).

2.5. State aid rules

46. Recalls that the area of direct business taxation falls within the scope of State aid¹ when fiscal measures discriminate between taxpayers, contrary to fiscal measures of a general nature that apply to all undertakings without distinction;

COMP 47

47. Calls on the Commission *and, in particular, the Directorate General for Competition* to assess possible measures to discourage Member States from granting such State aid in the form of a tax advantage;
- 47a. *Welcomes the Commission's new proactive and open approach to investigations into illegal state aid during the present term, which has led to a number of high-profile cases being concluded by the Commission;*
48. Welcomes the fact that since 2014, the Commission has been investigating the tax ruling practices of Member States, following up on allegations of the favourable tax treatment of certain companies, and has launched nine formal investigations since 2014, six of which concluded that the tax ruling constituted illegal State aid²; *notes that one investigation* was closed concluding that the double non-taxation of certain profits did not constitute State aid³, while the other two are ongoing⁴;

Covers AMs 414, 415, 416, 417, 418, 422

If adopted AMs 412-418, 422 fall

COMP 49

49. Notes that despite the fact that the Commission found McDonald's benefited from double non-taxation on certain of its profits in the EU, no decision under EU State Aid rules could be issued, as the Commission concluded that the double non-taxation stemmed from a mismatch between Luxembourg and US tax laws and the Luxembourg-United States double taxation treaty⁵; *acknowledges the announcement by*

¹ As the Court of Justice of the European Union stated as early as 1974.

² Decision of 20 June 2018 on State aid implemented by Luxembourg in favour of ENGIE ([SA.44888](#)); decision of 4 October 2017 on State aid granted by Luxembourg to Amazon ([SA.38944](#)); decision of 30 August 2016 on State aid implemented by Ireland to Apple ([SA.38373](#)); decision of 11 January 2016 on 'Excess Profit exemption in Belgium – Art. 185§2 b) CIR92' ([SA.37667](#)); decision of 21 October 2015 on State aid implemented by the Netherlands to Starbucks ([SA.38374](#)); and decision of 21 October 2015 on State aid which Luxembourg granted to Fiat ([SA.38375](#)). There are pending proceedings before the Court of Justice of the European Union and the General Court related to all six decisions.

³ Decision of 19 September 2018 on 'Alleged aid to Mc Donald's – Luxembourg' ([SA.38945](#)).

⁴ 'Possible State aid in favour of Inter IKEA investigation' opened on 18 December 2017 ([SA.46470](#)) and 'UK tax scheme for multinationals (Controlled Foreign Company rules)' opened on 26 October 2018 ([SA.44896](#)).

⁵ http://europa.eu/rapid/press-release_IP-18-5831_en.htm

Luxembourg to revise its double taxation treaties to conform with international tax law;

Covers AMs 423 and addition by co-rapporteurs

If adopted AMs 421, 423 fall

COMP 50

50. Is concerned by the magnitude of tax unpaid for all Member States over long periods¹; recalls that the aim of the recovery of unlawful aid is to restore the position to the status quo, and that calculating the exact amount of aid to be repaid is part of the implementation obligation incumbent on the national authorities; calls on the Commission to assess **and establish viable** countermeasures, including fines, to **help** prevent Member States from offering selective favourable tax treatment which constitutes State aid **that** is non-compliant with EU rules;

Covers AMs 427, 428, 429, 430, 431, 437

If adopted AMs fall

COMP 51

51. Reiterates its calls **to the European Commission** for guidelines clarifying what constitutes tax-related State aid and ‘appropriate’ transfer pricing, **to remove** legal uncertainties for both compliant taxpayers and tax administrations, and **provide a comprehensive** framework for Member States’ tax practices accordingly;

Covers AMs 433, 434

If adopted AMs 432-434 fall

COMP 52, 52a (new), 52b (new), 52c (new) & 53

2.6. Letterbox

52. Notes that there is no single definition of letterbox companies, ***i.e. companies registered in a jurisdiction for tax avoidance or tax evasion purposes only and without any significant economic presence; points out, however, that simple criteria such as actual business activity or the physical presence of staff working for a company could serve to identify letterbox companies and combat their proliferation; reiterates its call for a clear definition;***

52a (new) Stresses that, as proposed by the Parliament’s position for inter-institutional negotiations for the amending directive as regards cross-border conversions, mergers

¹ As in the case of decision of 30 August 2016 ([SA.38373](#)) on State aid implemented by Ireland to Apple. The tax rulings in question were issued by Ireland on 29 January 1991 and 23 May 2007.

and divisions¹, Member States should be required to ensure that cross border conversions correspond to the actual pursuit of a genuine economic activity, including in the digital sector, to avoid the setting up of ‘letterbox’ companies;

52 b (new) *Calls for Member States to request that a set of financial information be exchanged between competent authorities ahead of the execution of cross-border conversions, mergers or divisions;*

52c (new) *Calls for the identities of actual owners to be disclosed to tax authorities;*

53. Points out national measures to specifically ban commercial relationships with letterbox companies; highlights, in particular, the Latvian legislation which defines a letterbox company as an entity having no actual economic activity and holding no documentary proof to the contrary, as being registered in a jurisdiction where companies are not required to submit financial statements, and/or as having no place of business in its country of residence; *notes however that, according to EU law, the banning of letterbox companies in Latvia cannot be used to ban letterbox companies resident in EU Member States, as that would be considered discriminatory²; calls for the European Commission to propose changes in the current EU law that would enable to ban letterbox companies even if resident in EU Member States;*

Covers AMs 441, 442, 443, 444, 445, 446, 447, 449, 450, 451, 452, 453, 454, 483, 490, 492, 493, [494](#)

If adopted AMs fall

[AM 491 to be voted separately](#)

COMP 54, 55 & 56

54. Highlights that the high level of inward and outward foreign direct investment as a percentage of GDP in seven Member States (Belgium, Cyprus, Hungary, Ireland, Luxembourg, Malta, and the Netherlands) can only *to a limited extent* be explained by real economic activities taking place in these Member States³;

55. Underlines *the* high share of foreign direct investment (*FDI*) *in several Member States, particularly in Luxembourg, Malta, Cyprus, the Netherlands and Ireland⁴; notes that such FDI are usually* held by special purpose entities (*SPEs*) *that often serve to exploit loopholes; calls on the European Commission to assess the role of the special purpose entities holding foreign direct investment;*

¹ Directive (EU) 2017/1132.

² TAX3 Delegation to Riga (Latvia), 30-31 August 2018, mission report.

³ Kiendl Kristo I. and Thirion E., [An overview of shell companies in the European Union](#), EPRS, European Parliament, October 2018, p.23.

⁴ Kiendl Kristo I. and Thirion E., [op. cit.](#), p.23. ‘Study on Structures of Aggressive Tax Planning and Indicators - Final Report’ ([Taxation paper No 61](#), 27 January 2016), ‘The Impact of Tax Planning on Forward-Looking Effective Tax Rates’ ([Taxation paper No 64](#), 25 October 2016) and ‘[Aggressive tax planning indicators Final Report](#)’ (Taxation paper No 71, 7 March 2018).

56. Notes that economic indicators such as an unusually high level of foreign direct investment, as well as foreign direct investment held by special purpose entities are *amongst* ATP indicators¹;

Covers AMs 460, 462, 466, 468, 469, 470 (second part), 473, 475

If adopted AMs 455-469, 470 (second part), 471-475 fall

COMP 57, 58, 59, 59a (new) & 59b (new)

57. Notes that the ATAD anti-abuse rules (artificial arrangements) cover letterbox companies, *while* the CCTB and CCCTB would ensure that the income is attributed to where the real economic activity takes place;
58. Urges the Commission and the Member States to establish coordinated, *binding, enforceable and* substantial economic activity requirements as well as expenditure tests;
59. Calls on the Commission to carry out, within two years, fitness checks of the interconnected legislative and policy initiatives aimed at addressing the use of letterbox companies in the context of tax fraud, tax evasion, aggressive tax planning and money laundering;

Covers AMs 486, [494](#)

If adopted AMs 476-482, 484-487, 489, [494](#) fall

[AM 488 first part to be voted separately](#)

3. VAT

COMP 60

60. *Underscores the need for harmonisation of VAT rules at EU level to the extent that it is necessary to ensure the establishment and the functioning of the internal market and to avoid distortion of competition^{1c};*

60a. Stresses that VAT is an important revenue *source of tax* for national budgets; notes that in 2016, VAT revenues in the EU28 Member States amounted to EUR 1 044 billion, which corresponds to 18 % of all tax revenues in the Member States; takes note of the fact that the 2017 annual EU budget amounted EUR 157 billion;

^{1c} *Article 113 of TFEU*

¹ IHS, [Aggressive tax planning indicators](#), prepared for the European Commission, DG TAXUD Taxation papers, Working paper No 71, October 2017.

Covers AMs 496 and 497
If adopted, AMs fall

COMP 61

61. Regrets, however, that every year, large amounts of the expected VAT revenue are lost because of fraud; highlights that according to the Commission's statistics, the VAT gap (*which is the difference between expected VAT revenue and VAT actually collected VAT, thereby providing an estimate of VAT lost due to fraud but also due to bankruptcy, miscalculations and avoidance*) in the EU in 2016 amounted to EUR 147 billion, which represents more than 12 % of the total expected VAT revenue⁴³, *although the situation is much worse in a number of Member States where the gap is close to or even above 20 %, showing a big difference between Member States in handling the VAT gap*; notes that the Commission estimates that around EUR 50 billion – or EUR 100 per EU citizen each year – is lost to cross-border VAT fraud⁴⁴; *while the Europol estimates that around EUR 60 billion of VAT fraud is linked to organised crime and terrorism financing; notes the increased harmonisation and simplification of VAT regimes in the EU while cooperation between Member States is not yet sufficient and effective; calls on the Commission and Member States to reinforce their cooperation to better fight against VAT fraud; calls on the next Commission to prioritise the introduction and implementation of the VAT definitive regime in order to improve it;*

Covers AMs 499, 500, 501, 502, 503, 504, 521, ~~575~~ and 576
If adopted, AMs fall

[AM 575 to be voted separately](#)

COMP 62

62. Calls for *reliable* statistics to estimate the VAT gap *and* stresses *the need for a* common approach to data collection and sharing within the EU; *urges the Commission to ensure that harmonised statistics are collected and published regularly in Member States;*

Covers AMs 505, 506, 507, 508, 509
If adopted, AMs fall

COMP 63

63. Underlines that the feature of the current VAT (transitional) regime of applying an exemption to intracommunity supplies and exports within the EU has been abused by fraudsters, in particular in the VAT carousel fraud *or Missing Trader fraud (MTIC)*;

Covers AMs 570
If adopted, AMs fall

Rest of AM 570 is covered by COMP 70b, COMP 74-76 and COMP 78a

Amendment 510 on cash will be dealt separately.

COMP 64/65

64. Takes note that according to the Commission, businesses trading on a cross-border basis currently suffer from compliance costs which are 11 % higher compared to those incurred by companies that only trade domestically; ***notes that in particular SMEs suffer from disproportionate VAT compliance costs which is one of the reasons why they have remained wary of reaping the advantages of the Single market; calls on the Commission and Member States to develop solutions to reduce VAT compliance costs linked to cross-border trade;***

3.1. Modernisation of the VAT framework

65. Welcomes, therefore, the Commission's VAT action plan of 6 April 2016 to reform the VAT framework and the 13 legislative proposals adopted by the Commission since December 2016 that address the shift towards the definitive VAT regime, remove VAT obstacles to e-commerce, review the VAT regime for SMEs, modernise the VAT rates policy and tackle the VAT tax gap;

65 a new Welcomes that a VAT Mini One Stop Shop (MOSS) on telecommunications, broadcasting and electronic services was introduced in 2015 as a voluntary system for registration, declaration and payment of VAT; welcomes the extension of the MOSS to the other supplies of goods and services to final consumers as of 1 January 2021;

Covers AMs 511, 512, 513, 519

If adopted, AMs fall 515, 516 and 517

66. Notes that the Commission estimates that the reform to modernise VAT is expected to reduce red tape by 95 %, which amounts to an estimated EUR 1 billion;

67. Welcomes in particular the fact that the Council adopted new rules making it easier for online businesses to comply with VAT obligations on 5 December 2017; welcomes in particular the fact that the Council took Parliament's opinion on board in relation to introducing online platforms' liability for collecting VAT on the distance sales that they facilitate; considers that this measure will ensure a level playing field with non-EU businesses, as many goods that are imported for distance sales currently enter the EU VAT-free; calls on the Member States to correctly implement the new rules by 2021;

COMP 68

68. Welcomes the definitive VAT system proposals adopted on 4 October 2017⁴⁵ and 24 May 2018⁴⁶ ; welcomes in particular the Commission's proposal to apply the destination principle to taxation, which means that VAT would be paid ***to the tax authorities of the***

Member State of the final consumer at the rate applicable in that Member State;

Covers AMs 522 to 525

If adopted, AMs -fall

69. Welcomes in particular the progress made by the Council towards the definitive VAT regime by adopting the Quick Fixes¹ on 4 October 2018; expresses its concern, however, that no safeguards in relation to its fraud-sensitive aspects were adopted along the lines of Parliament's position² on the Certified Taxable Person (CTP) proposal³, as expressed in its opinion of 3 October 2018⁴; profoundly regrets that the Council postponed the decision on introduction of CTP status until the adoption of the definitive VAT regime;

COMP 70

70. Welcomes, furthermore, the revision of the special schemes for SMEs⁵ which is key to ensuring a level playing field, ***as VAT exemption schemes are currently only available to domestic entities***, and can contribute to the reduction of VAT ***compliance costs for SMEs***; calls on the Council to take Parliament's opinion of 11 September 2018⁶ into account, particularly when it comes to further administrative simplification for SMEs; calls, therefore, on the Commission to set up an online portal through which SMEs willing to avail themselves of the exemption in another Member State are required to register, and to put in place a one-stop shop through which small enterprises can file VAT returns for the different Member States in which they operate;

Covers AMs 531 and 532

If adopted, AM fall

COMP 70a

70 a. Notes the adoption of the Commission proposal for a General Reverse Charge

¹ Proposal for a Council Directive amending Directive 2006/112/EC as regards harmonising and simplifying certain rules in the value added tax system and introducing the definitive system for the taxation of trade between the Member States (COM(2017)0569).

² [European Parliament legislative resolution of 3 October 2018 on the proposal for a Council directive amending Directive 2006/112/EC as regards harmonising and simplifying certain rules in the value added tax system and introducing the definitive system for the taxation of trade between Member States, texts adopted, P8_TA\(2018\)0366.](#)

³ Proposal for a Council Directive amending Directive 2006/112/EC as certain value added tax obligations for supplies of services and distance sales of goods (COM(2016)0757).

⁴ Texts adopted, P8_TA(2018)0367.

⁵ Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises (COM(2018)0021).

⁶ European Parliament legislative resolution of 11 September 2018 on the proposal for a Council directive amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises, Texts adopted, P8_TA(2018)0319.

Mechanism, proposal that will allow temporary derogations from normal VAT rules in order to better prevent carousel fraud in those member states that are most severely affected by this type of fraud; calls on the Commission to closely monitor the application and the potential risks and benefits of this new legislation; however, insists that the GRCM should by no means delay the swift implementation of a definite VAT system;

Covers AMs 533, 534, 535, 572, 577
If adopted, AM fall

COMP 70 b

70 b. Notes that the expansion of e-commerce often can pose a challenge for tax authorities, e.g. absence of seller's taxable identification in the EU and registration of VAT declarations well below the real value of the declared transactions; welcomes therefore the spirit of the proposed implementing rules adopted 11 December 2018 by the European Commission according to which, notably, from 2021, online platforms will have the responsibility to ensure that VAT is collected on sales of goods by non-EU companies to EU consumers taking place on their platforms;

70c. Calls on the Commission and Member States to monitor the e-commerce transactions involving sellers based outside the EU that would declare no VAT (for example by unduly using the "sample" statute) or would under evaluate the value in order to avoid or diminish the VAT due; considers that such practices endanger the integrity and well-functioning of the EU's internal market; calls the Commission to come with proposals if appropriate and necessary;

Covers AMs 536, 570 (first part) and 571
If adopted, AMs fall

3.2. *The VAT gap, the fight against VAT fraud and administrative cooperation on VAT*

COMP 71 and 72

71 and 72. Welcomes the opening of infringement procedures by the Commission on 8 March 2018 against Cyprus, Greece and Malta, and on 8 November 2018 against Italy and the Isle of Man as regards abusive VAT practices on the acquisition of yachts and aircrafts, to ensure that they stop offering allegedly unlawful favourable tax treatment for yachts and aircrafts which distorts competition in the maritime and aviation sectors;

Covers AMs 540, 549, 550 and 551
If adopted, AMs 538-551 fall

73. Welcomes the amendments to Regulation (EU) No 904/2010 as regards measures to strengthen administrative cooperation in the field of VAT; welcomes the Commission's

monitoring visits to 10 Member States carried out in 2017, notably the subsequent recommendation to improve the reliability of the VAT Information Exchange System (VIES);

COMP 74-76

74. Notes that the Commission has recently proposed additional control tools and an enhanced role for Eurofisc as well as mechanisms for closer cooperation between customs and tax administrations; calls on all Member States to more actively participate in the Transactional Network Analysis (TNA) system in the framework of Eurofisc;

74a. Is of the opinion that the participation of all Member States in Eurofisc shall be mandatory and conditional for receiving EU funds; echoes the preoccupation of the European Court of Auditors on VAT reimbursement in Cohesion spending^{1a} and on the EU Anti-Fraud Programme^{1b};

^{1a} *ECA, Rapid case review, VAT reimbursement in Cohesion - an error-prone and, sub-optimal use of EU funds, November 2018*

^{1b} *ECA Opinion No 9/2018 concerning the proposal for a Regulation of the European Parliament and of the Council establishing the EU Anti-Fraud Programme.*

74 b. Urges the Commission to examine the possibilities of real-time collection and communication of transactional VAT data by the Member States, as this would increase the effectiveness of Eurofisc and would allow further development of new strategies to defeat VAT fraud; calls on all relevant authorities to use various statistical and data-mining technologies to identify anomalies, suspicious relationships and patterns, enabling tax agencies to better address a wide spectrum of noncompliance behaviours in a proactive, targeted and cost-effective way;

74c. Welcomes the adoption of the Protection of Financial Interests (PIF) Directive¹ which clarifies the issues of cross-border cooperation and mutual legal assistance between Member States, Eurojust, *Europol*, the European Public Prosecutor's Office (EPPO), *the European Anti-Fraud Office (OLAF)* and the Commission in tackling VAT fraud; calls on the EPPO, OLAF, Eurofisc, Eurojust and Eurojust to closely cooperate with a view to coordinating their efforts against VAT fraud and to identifying and adapting to new fraudulent practices;

75. Points, however, to the need for better cooperation between the administrative, judicial and law-enforcement authorities within the EU, as highlighted by experts during the hearing held on 28 June 2018 and in a study commissioned by the TAX3 Committee;

76. Welcomes the Commission's communication to extend the competences of the

¹ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law, OJ L 198, 28.7.2017, p. 29, in particular Articles 3 and 15 thereof.

European Public Prosecutor's Office to cross-border terrorist crimes; Calls on the ***Commission and Member States to ensure that the EPPO can*** begin operating as soon as possible and ***no later than 2022, ensuring close cooperation with the already established institutions, bodies agencies and offices of the Union, in charge with the protection of the financial interests of the Union;*** calls for exemplary, ***dissuasive and proportional*** sanctions to be pronounced; considers that anyone engaged in an organised VAT fraud scheme should be severely sanctioned in order to avoid a perception of impunity;

Covers AMs 514, 552, 553,554, 555, 556, 557, 558, 559, 560, 561, 562, 566 and 570 (second part)

If adopted, AMs fall

77. Considers that one of the main issues allowing fraudulent behaviour in relation to VAT to occur is the ‘cash profit’ that a fraudster can make; calls, therefore, on the Commission to analyse the proposal made by experts¹ to place cross-border transactional data on a blockchain, and to use secured digital currencies that can only be used for VAT payments (single purpose) instead of using fiat currency;
78. Welcomes the fact that the fraud linked to imports has been addressed by the Council²; considers that the proper integration of data from customs declarations into the VIES will allow the Member States of destination to cross-check customs and VAT information in order to ensure that VAT is paid at the country of destination; calls on Member States to implement this new legislation in an effective and timely manner by 1 January 2020;

COMP 78 a and b

78 a. Considers that administrative cooperation between tax and customs authorities is suboptimal^{1a}; calls on Member States to mandate Eurofisc to develop new strategies to track goods under Customs procedure 42, the mechanism which allows the importer to obtain a VAT exemption when the imported goods are intended to be eventually transported to a business customer in another Member State than the Member State of importation;

^{1a} Study entitled ‘VAT fraud: Economic impact, challenges and policy issues’, European Parliament, Directorate-General for Internal Policies, Policy Department for Economic, Scientific and Quality of Life Policies, 15 October 2018.

¹ Ainsworth, R. T., Alwohabi, M., Cheetham, M. and Tirand, C.: ‘A VATCoin Solution to MTIC Fraud: Past Efforts, Present Technology, and the EU’s 2017 Proposal’, Boston University School of Law, Law and Economics Series Paper, No 18-08, 26 March 2018. See also: Ainsworth, R. T., Alwohabi, M. and Cheetham, M.: ‘VATCoin: Can a Crypto Tax Currency Prevent VAT Fraud?’, *Tax Notes International*, Vol 84, 14 November 2016.

² Council Regulation (EU) 2017/2454 of 5 December 2017 amending Regulation (EU) No 904/2010 on administrative cooperation and combating fraud in the field of value added tax, OJ L 348, 29.12.2017, p. 1.

78 b. Highlights the importance of the implementation of a register of beneficial owners of corporate entities under AMLD 5 an important tool to tackle VAT fraud; urges Member States to increase competences and qualifications of police, tax services, prosecutors and judges dealing with this type of fraud;

Covers AMs 567, 568 and 569
If adopted, AMs fall

79. Is concerned by the results of the study¹ commissioned by the TAX3 Committee stating that the Commission's proposals will reduce fraud on imports but not eliminate it; takes note that the issue of undervaluation and enforcement of EU rules in general in the case of non-EU taxable persons will not be solved; calls on the Commission to investigate alternative collection methods for these supplies for the longer term; stresses that relying on the good faith of non-EU taxable persons to collect EU VAT is not a sustainable option; considers that such alternative collection models should not only target sales made via electronic platforms, but encompass all sales made by non-EU taxable persons, irrespective of the business model that they use;

COMP 80

80. ***Calls on the Commission to closely monitor the consequences of the introduction of the definitive regime on VAT revenues on Member States;*** Calls on the Commission to investigate seriously the *possibilities* of new fraud risks in the definitive VAT system, notably the potentially missing supplier in cross-border transactions supplanting the missing customer type of carousel fraud; ***stresses in this regard that the custom transit system, among others, can certainly facilitate trade within the EU, however, abuses are possible and criminal organisations, by avoiding the payment of taxes and duties, may cause a huge loss both to Member States and the EU (avoiding VAT); calls therefore on the Commission to monitor the custom transit system and come with proposals building on recommendations notably by OLAF, Europol and Eurofisc;***

80a. Believes that a large majority of European citizens expect clear European and national legislation that enables those who do not pay the tax which they are due to pay to be identified, sanctioned and for the missing tax to be recuperated in a timely manner;

Covers AMs 573, 574 and 578
If adopted, AMs fall

¹ Study entitled '[VAT fraud: Economic impact, challenges and policy issues](#)', European Parliament, Directorate-General for Internal Policies, Policy Department for Economic, Scientific and Quality of Life Policies, 15 October 2018.

4. *Taxation of individuals*

81. Emphasises that natural persons do not generally exercise their freedom of movement for the purposes of tax fraud, tax evasion and aggressive tax planning; underlines, however, that some natural persons have a tax base large enough to span several tax jurisdictions;

581 582 583 will be moved to the chapter on social issues

COMP 82

82. Regrets that high net worth individuals (HNWI) and ultra HNWI (UHNWI), *using complex tax structures, including the setting up of companies*, continue to have the possibility to shift their earnings and funds or their purchases through different tax jurisdictions to obtain substantially reduced or zero liability by using the services of wealth managers and other intermediaries; *deplores that some EU Member States have implemented tax schemes to attract high net worth individuals without creating real economic activity*;

82a. Notes that headline rates for labour income are usually higher than for income from capital throughout the EU; notes that, overall, the contribution of wealth-based taxes to overall tax revenues has remained rather limited, at 4,3 % of overall tax revenues in the EU^{1a};

^{1a} *European Parliament Policy Department C, Gender equality and taxation in the European Union, 2017.*

Covers AM 122, 174 (second part), 587, 588, 589, 594, 607, ~~608~~

If adopted AM 122, 174 (second part), 586-589, 594, 607 ~~and 608 fall~~

COMP 83

83. Notes with regret that corporate tax fraud, tax evasion and aggressive tax planning contribute to shifting the tax *liability* on to honest and fair taxpayers;

83a. Calls on the Member States to impose dissuasive, effective, and proportionate penalties in case of tax fraud, tax evasion and illegal aggressive tax planning and to ensure that these penalties are enforced;

Covers AMs 593 (linguistic) and 600

If adopted, AMs 590, 591, 593, 600 fall

592 will be moved to the chapter on social issues

COMP 84

84. Deplores the fact that some Member States have created *dubious* tax regimes allowing *individuals who become resident for tax purposes* to obtain income tax benefits, thereby undermining other Member States' tax base and fostering harmful policies which discriminate against their own citizens; *notes that these regimes may include benefits not available to national citizens such as non-taxation of foreign possessions and income, lump-sum tax on foreign income, tax-free allowances on a part of incomes earned domestically or, lower tax rate on pensions remitted to the country;*
- 84a. *Reminds that the Commission in its communication of 2001 suggested to include special regimes for highly-qualified expatriate staff in the list of harmful tax practices of the Code of Conduct Group (on Business Taxation)¹ but has not provided any data on the scope of the problem since; calls on the Commission to reassess this issue and to, in particular, assess the risks of double taxation as well as double non taxation of such schemes;*

[1] COM (2001) 260: *Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee Tax policy in the European Union - Priorities for the years ahead* (<https://eur-lex.europa.eu/procedure/EN/164839>)

Covers AMs 601, 603, 605, 609

If adopted, AMs 595, 596, 597, 598, 599, 601, 602, 603, 605, 609 fall

604 and 606 will be moved to the chapter on social issues

4.1. *Citizenship by investment (CBI) and residency by investment (RBI) schemes*

COMPR. 85

85. *Is concerned* that a majority of Member States have adopted citizenship by investment (CBI) or residency by investment (RBI) schemes¹, generally known as “*golden visa and passports*” or investor programmes, by which citizenship or residence is granted to *EU and non-EU citizens* in exchange for financial investment; observes that *the investments made under* these programmes do not necessarily *promote the real economy of the Member State granting citizenship or residency and that they often do not* require applicants to spend *any* time on the territory in which the investment is

¹ 18 Member States have some form of RBI scheme in place, including four Member States that operate CBI schemes in addition to RBI schemes: Bulgaria, Cyprus, Malta, Romania. 10 Member States have no such schemes: Austria, Belgium, Denmark, Finland, Germany, Hungary, Poland, Slovakia, Slovenia and Sweden. Source: study entitled ‘[Citizenship by investment \(CBI\) and residency by investment \(RBI\) schemes in the EU](#)’, EPRS, October 2018, PE: 627.128; ISBN: 978-92-846-3375-3.

made, *and even when such requirement formally exist, its fulfilment is usually not verified; stresses that such schemes jeopardise the attainment of the Union's objectives and are therefore in breach of the principle of sincere cooperation;*

Covers AMs 611, 612 (first bit), 613, 614, 621 (partially), 640, 667

If adopted, AMs 610-614, 615,617, 621, 640, 667 fall

COMPR. 86 and 87

86. Observes that at least 5 000 non-EU citizens have obtained EU citizenship through citizenship by investment schemes¹; *notes that, according to a study² at least 6 000 people have been granted citizenship and almost 100 000 residence permits have been issued; worries that CBI and RBI are awarded without proper security screening of the applicants, including to high-risk third-country nationals, and therefore pose security risks for the Union ; deplors that the opacity surrounding the origin of the money connected to CBI and RBI schemes has significantly increased the political, economic and security risks for European countries;*
87. Stresses that CBI and RBI schemes carry *other* significant risks, including a devaluation of EU *and national* citizenships and the potential for corruption, money laundering and tax evasion; *notes that one Member State's decision to implement CBI and RBI schemes has spill-over effects on other Member States;* reiterates its concern that citizenship or residence could be granted through these schemes without proper or indeed any customer due diligence (CDD) having been carried out *by competent authorities; notes that the obligation laid down by AMLD5, whereby obliged entities should consider CBI and RBI applicants as high-risk in the course of their CDD process, does not absolve Member States from their responsibility to establish and conduct enhanced due diligence themselves;* notes that several formal investigations into corruption and money laundering have been launched at national and EU level directly related to CBI and RBI schemes; underlines that, at the same time, the economic sustainability and viability of the investments provided through these schemes remain uncertain; *highlights that citizenship and the rights associated to it should never be for sale;*

Covers AMs [28](#), 616, 620, 622, 624, 628-634, 664, 671 (partly), 679, 682

If adopted, AMs [28](#), 616, 618, 619, 620, 622, 624, 625, 626, 628-634, 664, 671, 679, 682 fall

¹ See the above-mentioned study. *Other studies provide for higher figures, including also RBI.*

² *"European Getaway: Inside the Murky World of Golden Visas", published by Transparency International and Global Witness, 10 October 2018.*

COMPR. 87a

87a. (new) Notes that the CBI and RBI schemes of some Member States have been profusely used by Russian citizens and by citizens from countries under Russian influence; highlights that these schemes may serve Russian citizens included in the sanctions list adopted after the illegal annexation of Crimea by Russia and the aggression of Russia on Crimea as a means to avoid EU sanctions;

Covering AMs 623, ~~627~~

If adopted, AMs fall

COMPR. 88

88. *Criticises* that these programmes regularly involve tax privileges or special tax regimes for the beneficiaries; is concerned that these privileges *could hamper* the objective of making all citizens contribute fairly to the tax system;

Covers AMs 638

If adopted, AMs 636-638 fall

COMPR. 89

89. Worries *about the lack of* transparency in relation to the number and origin of applicants, the numbers of individuals granted citizenship or residency by these schemes, the amount invested through these schemes *and the origin thereof*; appreciates the fact that some Member States make explicit the name and nationalities of the individuals who are granted citizenship or residency under these schemes; *encourage other Member States to follow this example*;

Covers AMs ~~78~~, 641, 642, 643-645 (notes that only a minority of), 648, 649, 660 (CDD in this context... integrity) If adopted, AMs fall

90. Is concerned that according to the OECD, CBI and RBI schemes could be misused to undermine the common reporting standard (CRS) due diligence procedures, leading to inaccurate or incomplete reporting under the CRS, in particular when not all jurisdictions of tax residence are disclosed to the financial institution; notes that in the OECD's view, the visa schemes which are potentially high-risk for the integrity of the CRS are those that give a taxpayer access to a low personal income tax rate of less than 10 % on offshore financial assets, and do not require a significant physical presence of at least 90 days in the jurisdiction offering the golden visa scheme; is concerned that Malta and Cyprus have schemes¹ among those that potentially pose a high risk to the integrity of CRS;

COMPR. 91 and 91 a

91. Concludes that the potential economic benefits of CBI and RBI schemes do not offset the serious *security*, money laundering and tax evasion risks they present; calls on Member States to phase out all existing CBI or RBI schemes as soon as possible;

- 91a.** Stresses that, in the meantime, Member States should properly ensure that enhanced CDD on applicants for citizenship or residence through these schemes is duly carried out, as required by AMLD5; *stresses that AMLD5 imposes enhanced CDD for politically exposed persons (PEPs); calls on Member States to ensure that governments bear the ultimate responsibility for performing due diligence on applicants for CBI or RBI*; calls on the Commission to monitor rigorously and continuously the proper implementation and application of CDD within the framework of CBI and RBI schemes until they are repealed in each Member State;

Covers AMs 659 (ultimate responsibility), 660 (stresses that AMLD5.... (PEPs)) ,661 (ultimate responsibility), 662 (ultimate responsibility), 663, 668

If adopted, AMs 655-658, 659 (ultimate responsibility), 660 (stresses that AMLD5.... (PEPs)), 661 (ultimate responsibility), 662 (ultimate responsibility), 663, 665, 668 fall

COMPR. 91b

¹ The Cypriot Citizenship by Investment: Scheme for Naturalisation of Investors by Exception, the Cypriot Residence by Investment, the Maltese Individual Investor Programme, and the Maltese Residence and Visa programme.

*

91b. (new) Notes that the acquisition of residence permit or citizenship of a Member State gives the grantee access to a wide range of rights and entitlements in the entire territory of the Union, including the right to move and reside freely in the Schengen area; calls thus on Member States implementing CBI and RBI programmes, until they are finally repealed, to duly verify the character of the applicants and refuse their application if they present security risks, including money laundering; further alerts of the dangers posed by CBI and RBI schemes associated with family reunification, whereby family members of CBI or RBI beneficiaries can acquire citizenship or residence with little or no checks; calls in this context all Member States to compile and publish transparent data related to their CBI and RBI schemes, including the number of refusals and the reasons for denial; calls on the Commission, until the schemes are finally repealed, to issue guidelines and to ensure better data collection and exchange of information among Member States in the context of their CBI and RBI schemes, including on applicants who have had their application denied due to security issues;

Covers AMs [78 \(first part until rejected\)](#), 406, 635, 639, 643 (names, at least PEPs), 644 (transparency), 645 (transparency), 646, 659 (names and nationalities; harmonised standards), , 661 (uniformed standards), 662 (harmonised standards), 666, 671 partly, 673 (information sharing), 674 (information sharing) , 675(information sharing), , 677, 683, 684

If adopted, AMs [78 \(first part until rejected\)](#), 406, 635, 639, 643 (names, at least PEPs), 644 (transparency), 645 (transparency), 646, 647, 659 (names and nationalities; harmonised standards), 661 (uniformed standards), 662 (harmonised standards), 666, 673 (information sharing), 674 (information sharing), 675 (information sharing), 677, 683, 684 fall

[AM 78 second part to be voted separately after COMP 4](#)

COMPR. 92

92. **Considers that until CBI and RBI are finally repealed, Member States should include intermediaries in the trade of CBI and RBI under the same obligations imposed on obliged entities under AML legislation, and to prevent conflicts of interest linked to CBI and RBI schemes, which arise when private firms which assisted the government in the design, management and promotion of these schemes, also advised and supported individuals by screening them for suitability and filing their applications for citizenship or residence;**

Covers AMs 670, **673 (scope obliged entities)**, 674 (scope obliged entities), 675 (scope obliged entities), 776, 865, 866, 867

If adopted, AM 669, **670, 673 (scope obliged entities)**, 674 (scope obliged entities), 675 (scope obliged entities), 776, 865, 866, 867 fall

COMPR. 93

93. *Welcomes the Commission's report of 23 January 2019 on Investor Citizenship and Residence Schemes in the European Union; notes that the report confirms that both types of schemes pose serious risks for the Member States and the Union as a whole, particularly in terms of security, money laundering, corruption, circumvention of EU rules and tax evasion, and that these serious risks are further accentuated by shortcomings in the transparency and governance of the schemes; worries that the Commission has concerns that the risks posed by the schemes are not always sufficiently mitigated by the measures taken by Member States; takes note of the Commission's intention to set up a group of experts to address matters of transparency, governance and security of these schemes; welcomes that the Commission has undertaken to monitor the impact of investor citizenship schemes implemented by visa-free countries as part of the visa-suspension mechanism; calls on the Commission to coordinate information sharing between Member States on rejected applications*

Covers AMs 673 (SRA; visa-waiver), 674 (SRA; visa-waiver); 675 (SRA; visa-waiver; use EU citizens), 676, 678, 680

If adopted, AMs 672, 673 (SRA; visa-waiver), 674 (SRA; visa-waiver); 675 (SRA; visa-waiver; use EU citizens), 676, 678, 680, 681 fall

4.2. Free ports, customs warehouses and other specific economic zones (SEZs)

94. Welcomes the fact that free ports will become obliged entities under AMLD5, and that they will be under an obligation to carry out CDD requirements and report suspicious transactions to the financial intelligence units (FIUs);

95. Notes that free ports within the EU can be established under the 'free zone' procedure; notes that free zones are enclosed areas within the customs territory of the Union where

non-Union goods can be introduced free of import duty, other charges (i.e. taxes) and commercial policy measures;

COMPR. 96

96. Recalls that free ports are warehouses in free zones, which were – originally – intended as spaces to store merchandise in transit; deplores the fact that they have since become popular for the storage of substitute assets, including art, precious stones, antiques, gold and wine collections – often on a permanent basis¹ ***and financed from unknown sources; stresses that free ports or free zones must not be used for the purpose of tax evasion or to achieve the same effects as tax havens;***

Covers AMs 686, 687,689, 692,694, 695

If adopted, AM 686-692, 695 fall

97. Notes that, apart from secure storage, the motivations for the use of free ports include a high degree of secrecy and the deferral of import duties and indirect taxes such as VAT or user tax;

98. Underlines that there are over 80 free zones in the EU² and many thousands of other warehouses under ‘special storage procedures’ in the EU, notably ‘customs warehouses’, which can offer the same degree of secrecy and (indirect) tax advantages;³

COMPR. 99

99. Observes that under the Union Customs Code, customs warehouses are on an almost identical legal footing with free ports; recommends, therefore, they be put on an equal footing with free ports under legal measures aimed at mitigating money laundering and tax evasion risks therein, such as AMLD5; ***considers that warehouses should be equipped with sufficient and qualified staff to be able to undertake the necessary scrutiny of the operations that they host;***

Covers AMs 697

¹ EPRS study entitled ‘[Money Laundering and tax evasion risks in free ports](#)’, October 2018, PE: 627.114; ISBN: 978-92-846-3333-3.

² European Commission [list of EU free zones](#).

³ EPRS study entitled ‘[Money Laundering and tax evasion risks in free ports](#)’, October 2018, PE: 627.114; ISBN: 978-92-846-3333-3.

If adopted, AM falls

100. Notes that money laundering risks in free ports are directly associated with money laundering risks in the substitute assets market;
101. Notes that under DAC5, as of 1 January 2018, direct tax authorities have ‘access upon request’ to a broad information set with regard to ultimate beneficial ownership (UBO) information collected under the AMLD; notes that EU AML legislation is built on the trust in reliable CDD research and the diligent reporting of suspicious transactions by obliged entities, which will become AML gatekeepers; notes with concern that ‘access upon request’ to information held by free ports may only have very limited effect in specific cases¹;

COMPR. 102

102. *Calls the Commission to assess to what extent free ports and shipping licenses may be misused for purposes of tax evasion^{1a}; calls on the Commission to table a legislative proposal to ensure the automatic exchange of information between the relevant authorities, law enforcement, tax and customs authorities, Europol, on beneficial ownership and transactions taking place in free ports, customs warehouses or SEZs and to include a traceability obligation;*

^{1a} *European Parliament recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion (Texts adopted, P8_TA-(2017)0491).*

Covers AMs 699-708

If adopted, AM fall

COMPR. 103

4.3. Tax amnesties

103. Recalls^{1a} the need to use amnesties with extreme caution *or to refrain from using them as this measure only represents a source of easy and quick tax collection in the short run, often introduced to close loopholes in budget, and might have the effect to encourage residents to evade taxes and wait for the next amnesty, without being subject to dissuasive sanctions or penalties;* calls on the Member States which enact tax

¹ EPRS study entitled ‘Money Laundering and tax evasion risks in free ports’, October 2018, PE: 627.114; ISBN: 978-92-846-3333-3.

amnesties to always require the beneficiary to explain the source of funds previously omitted;

1^a European Parliament recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion (Texts adopted, P8_TA-(2017)0491).

Covers AMs 711-714, 716, 717, 719

If adopted, AM fall

COMPR. 104

104. Calls on the Commission to assess past amnesty programmes enacted by Member States, and, in particular, the public revenues recovered and their impact in the medium and long term on tax base volatility; *urges Member States to ensure that relevant data related to the beneficiaries of previous and future tax amnesties is duly shared with the judiciary, law enforcement, and tax authorities, to ensure compliance with AML/CFT rules and possible prosecution for other financial crimes;*

Covers AM 721, 718

If adopted, AMs 720, 721 fall

105. Takes the view that the CoC Group should mandatorily screen and clear each tax amnesty programme before its implementation by a Member State; takes the view that a taxpayer or ultimate beneficial owner of a company who has already benefited from one or more tax amnesties should never be entitled to benefit from another one; calls for national authorities managing the data on persons who have benefited from tax amnesties to engage in an effective exchange of the data from law enforcement or other competent authorities investigating crimes other than tax fraud or tax evasion;

4.4. Administrative cooperation

COMPR. 106

106. *Acknowledges that administrative cooperation in the field of direct taxes framework covers now both individual and corporate taxpayers;*

106a. Stresses that international standards on administrative cooperation are minimum standards; notes, therefore Member States should go further than merely complying with these minimum standards; calls on the Member States to further remove barriers to administrative and legal cooperation;

106b. Welcomes the fact that, with the adoption of the global standard on the automatic exchange of information (AEOI) implemented by DAC1, and the repeal of the 2003 Savings Directive, a single EU mechanism for the exchange of information has been established;

Covers AMs 724-726

If adopted, AM fall

5. *Anti-Money Laundering (AML)*

COMPR. 107

107. Stresses that money laundering can assume various forms, and that the money laundered can have its origin in various illicit activities, ***such as corruption, weapon and human trafficking, drug dealing***, tax evasion and fraud, and can be used to finance terrorism; notes with concern that the proceeds from criminal activity in the EU are estimated to amount to EUR 110 billion per year¹, corresponding to 1 % of the Union's total GDP; highlights that the Commission estimates that in some Member States up to 70 % of money laundering cases have a cross-border dimension²; further notes that the scale of money laundering is estimated by the UN³ to be the equivalent of between 2 to 5 % of global GDP, or around EUR 715 billion and 1.87 trillion a year;

Covers AM731

If adopted, AM fall

COMPR. 107a

107a. (new) Underlines that various recent cases of money laundering within the Union are

¹ [From illegal markets to legitimate businesses: the portfolio of organised crime in Europe](#), Final report of Project OCP – Organised Crime Portfolio, March 2015.

² <http://www.europarl.europa.eu/news/en/press-room/20171211IPR90024/new-eu-wide-penalties-for-money-laundering>; Commission proposal of 21 December 2016 for a directive of the European Parliament and of the Council on countering money laundering by criminal law (COM(2016)0826).

³ UNODC - <https://www.unodc.org/unodc/en/money-laundering/globalization.html>

linked to capital, ruling elites, and/or citizens coming particularly from Russia and from the Commonwealth of Independent States (CIS); expresses its concern about the threat posed to European security and stability by illicit proceeds coming from Russia and these other countries entering the European financial system in order to be laundered and further used to finance criminal activities; stresses that these endanger the security of Union citizens and creates distortions and unfair competitive disadvantages to law-abiding citizens and companies; considers that, in addition to capital flight, which cannot be curbed without solving the economic and administrative problems of the country of origin, and money laundering for purely criminal reasons, the magnitude of these activities hostile and intended to weaken European democracies, their economies and their institutions, are carried out with a view to destabilising the European continent; calls for better cooperation between Member States regarding the control of capital entering the Union from Russia; reiterates its call¹ for EU-wide sanctions on human rights abuses inspired by the US Global Magnitsky Act, which allows for the imposition of visa bans and targeted sanctions such as blocking property and interests in property within EU jurisdiction on individual public officials, or persons acting in an official capacity, who are responsible for acts of corruption or serious human rights violations; welcomes the adoption by Parliament of its report on the proposal for a regulation of the European Parliament and of the Council establishing a framework for screening of foreign direct investments into the European Union²; calls for increased scrutiny and supervision of banks' non-resident portfolios and the share thereof originating in countries deemed to pose security risks for the Union;

Covers AMs 38, [627](#), 730, 733, 761, 772, 774 (first part), 780, 796, 799, 800, 802, 932, 933

If adopted, AMs fall

COMPR. 108

108. Welcomes the adoption of AMLD4 and of AMLD5; stresses that they represent significant steps in improving the effectiveness of the Union's efforts to combat the laundering of money from criminal activities and to counter the financing of terrorist activities; *notes that the Union's AML framework chiefly relies on a preventive*

¹ European Parliament Report on corruption and human rights in third countries of 26 June 2017, (2017/2028(INI)), para. 35 and 36. See also Outcome of the 3662nd Council Meeting on Foreign Affairs, Brussels, 10 December 2018 (<https://www.consilium.europa.eu/media/37459/st15386-en18.pdf>)

² COM(2017)0487 – C8-0309/2017 – 2017/0224(COD), Rapporteur: Franck Proust

approach to money laundering, with a focus on the detection and the reporting of suspicious transactions;

Covers AM 738

If adopted, AM fall

COMP. 109

109. Deplores the fact that a large number of Member States have failed to fully or partially transpose AMLD4 into their domestic legislation within the set deadline, and that for this reason, infringement procedures have had to be opened by the Commission against them, including referrals before the Court of Justice of the European Union¹; calls on these Member States to swiftly remedy this situation; ***urges*** Member States ***in particular to comply with their*** legal obligation to respect the deadline of 10 January 2020 for the transposition of AMLD5 into their domestic legislation; ***emphasizes and welcomes the Council conclusions of 23 November 2018 inviting Member States to transpose the AMLD5 into their domestic legislation ahead of the 2020 deadline; calls on the Commission to make full use of the instruments at hand to give support and ensure that that Member States duly transpose and implement AMLD5 as soon as possible;***

Covers AMs 736 (first and second bit), 741 (calls on...timely manner), 742, 743, 791

If adopted, AMs 736 (first and second bit), 739, 740, 741 (calls on...timely manner), 742, 743, 791 fall

AM 744 voted separately

¹ On 19 July 2018, the Commission referred Greece and Romania to the Court of Justice of the European Union for failing to transpose the fourth Anti-Money Laundering Directive into their national law. Ireland had transposed only a very limited part of the rules and was also referred to the Court of Justice.

COMP. 110 and COMP. 110a (new)

110. Recalls the crucial importance of CDD as part of the know-your-customer (KYC) obligation which consists of obliged entities having to properly identify their customers and the source of their funds as well as the ultimate beneficial owners of the assets, including the immobilisation of anonymous accounts; *deplores that some financial institutions and their related business models have actively facilitated money laundering; calls on the private sector to take an active role in the combat against terrorism financing and in the prevention of terrorist activities, to the extent of their possibilities; calls on financial institutions to actively review their internal procedures to prevent any risk of money laundering;*

110a. (new) Welcomes the Action Plan adopted by the Council on 4th December 2018, which includes several non-legislative measures to better tackle money laundering and terrorism financing in the Union; calls on the Commission to regularly update Parliament on the progress of the implementation of the Action Plan;

Covers AMs 734, 745, 747

If adopted, AMs 734, 745, 746, 747 fall

111. Condemns the fact that systemic failures in the enforcement of AML requirements, coupled with inefficient supervision, has led to a number of recent high-profile cases of ML in European banks linked to systematic breaches of the most basic KYC and CDD requirements;

COMP. 112, 112a (new) and 112b (new)

112. Recalls that KYC and CDD ***are essential and should*** continue throughout the business relationship, and that customers' transactions ***should*** be ***continuously and carefully*** monitored for suspicious or unusual activities; recalls, in this context, the obligation for obliged entities to promptly inform national FIUs, on their own initiative, of transactions suspected of ML, associate predicate offences or terrorist financing; ***regrets that despite the efforts made by Parliament, AMLD5 continues, as a last resort, to allow for the natural person(s) who holds the position of senior managing official to be registered as beneficial owners while the real beneficial owner of a company or trust is not known or there is a suspicion;***

112a (new) Notes that unexplained wealth control mechanisms tracking proceeds of criminal activities exist in some Member States; stresses that this mechanism often consists of a court order requiring a person who is reasonably suspected of involvement in, or of being connected to a person involved in, serious crime to explain the nature and extent of their interest in particular property, and to explain how the property was obtained, where there are reasonable grounds to suspect that the respondent's known lawfully obtained income would be insufficient to allow the respondent to obtain the property; invites the Commission to assess the effects and feasibility of such a measure at Union level;

112b. (new) Welcomes the decision in some Member States to ban the issuing of bearer shares and to convert the current ones into nominal securities; asks Member States to consider the need to enact similar measures in their jurisdictions, in view of the new provisions of AMLD5 concerning beneficial ownership reporting and risks identified;

Covers AMs 755, 756, 758 (is concerned... of a company or trust is not known)-, 759, 762

If adopted, AMs fall

Separate vote of second and third part of the AM 758: "calls on the Commission... are not known".

COMP. 112 c(new), 112 d (new) and 112e (new)

112c. (new) Stresses the urgent need to create a more efficient system for communication and information exchange among judicial authorities within the Union, replacing the traditional instruments of mutual legal assistance in criminal matters, which provide

for lengthy and burdensome procedures and therefore harm cross border investigations on money laundering and other serious crimes; reiterates its call on the Commission to assess the need for legislative action;

112d. (new) Calls on the Commission to assess and report to Parliament on the role and particular money-laundering risks presented by legal arrangements such as Special Purpose Vehicles (SPVs), Special Purpose Entities (SPEs) and Non Charitable Purpose Trusts (NCPTs), particularly in the UK, its Crown Dependencies and Overseas territories;

112e. (new) Urges Member States to fully comply with AML legislation when issuing sovereign bonds on the financial markets; considers that due diligence in such financial operations is also strictly necessary;

Covers AMs 365 (first part), 763, 764, 765

If adopted, AMs fall

113. Notes that during the mandate of the TAX3 Committee alone, three deplorable cases of money laundering through EU banks have been disclosed: ING Bank N.V. recently admitted serious shortcomings in the application of AML/CFT provisions and agreed to pay EUR 775 million in a settlement with the Netherlands' Public Prosecution Service¹; ABLV Bank in Latvia went into voluntary liquidation after the United States Financial Crimes Enforcement Network (FinCEN) decided to propose a ban on ABLV from having a correspondence account in the United States due to money laundering concerns², and Danske Bank admitted, after an investigation into 15 000 customers and around 9.5 million transactions linked to its Estonian branch had taken place, that major deficiencies in the bank's governance and control systems had made it possible to use its Estonian branch for suspicious transactions³;

¹ Netherlands' Public Prosecution Service, September 4 2018:

<https://www.om.nl/actueel/nieuwsberichten/@103952/ing-pays-775-million/>

² European Parliament, Directorate-General for Internal Policies, Economic Governance Support Unit, in-depth analysis entitled 'Money laundering - Recent cases from a EU banking supervisory perspective', April 2018, PE 614.496.

³ Bruun & Hjejle: [Report on the Non-Resident Portfolio at Danske Bank's Estonian Branch](#), Copenhagen, 19 September 2018.

114. Notes that in the case of Danske Bank, transactions worth upwards of EUR 200 billion flowed in and out of its Estonian branch¹ without the bank having put in place adequate internal AML and KYC procedures, as subsequently admitted by the bank itself and confirmed by both the Estonian and Danish Financial Supervisory Authorities; considers that this failure shows a complete lack of responsibility on the part of both the bank and the competent national authorities; calls on the competent authorities to carry out urgent evaluations of the adequacy of AML and KYC procedures in all European banks to ensure proper enforcement of the Union's AML legislation;

COMP. 115 and 116

115. Further notes that 6 200 customers of the Estonian branch of Danske Bank have been found to have engaged in suspicious transactions, that around 500 customers have been linked to publicly reported money laundering schemes, that 177 have been linked with the 'Russian Laundromat' scandal, and 75 to the 'Azerbaijani Laundromat' scandal, and that 53 customers were companies found to share addresses and directors²; ***calls on the relevant national authorities to track the destinations of the transactions deemed suspicious by the 6 200 customers of the Estonian branch of Danske Bank to confirm that the money laundered has not been used for further criminal activities; calls on the relevant national authorities to duly cooperate in this matter as the chains of suspicious transactions are clearly cross-border;***
116. Highlights that the European Central Bank (ECB) has withdrawn the banking licence of Malta's Pilatus Bank following the arrest in the United States of Ali Sadr Hashemi Nejad, Chairman of Pilatus Bank and its sole shareholder, on, among other things, charges of money laundering; stresses that the European banking Authority (EBA) concluded that the Maltese Financial Intelligence Analysis Unit had breached EU law because it had failed to conduct an effective supervision of Pilatus Bank due to, among other things, procedural deficiencies and lack of supervisory actions; ***notes that on 8 November 2018, the Commission addressed a formal opinion to the Financial Intelligence Analysis Unit of Malta (FIAU) calling on the FIAU to take additional measures to comply with its legal obligations³; calls on the FIAU to take steps to comply with the respective recommendations;***

¹ Ibid.

² Ibid.

³ *Commission Opinion of 8.11.2018 addressed to the Financial Intelligence Analysis Unit of Malta, based on Article 17(4) of Regulation (EU) No 1093/2010, on the action necessary to comply with Union law*

Covers AMs 774, 817 ([1 part- notes the recommendation... enforce the Union law](#))

If adopted, AMs 774, 775, [817 \(notes the recommendation... enforce the Union law\)](#)

fall

COMP. 116a (new)

116a. (new) Takes note of the letter to the TAX3 Committee from the Permanent Representative of Malta to the EU in reply to concerns expressed by the committee regarding the alleged involvement of some Maltese politically exposed persons (PEPs) in a possible new episode of money laundering and tax evasion connected to a company called “17 Black”¹; regrets that the answers received lacked sufficient precision; is concerned about the apparent political inaction by the Maltese authorities; is particularly concerned that according to the 17 Black revelations PEPs at the highest levels of the Maltese government seem to be implicated; calls on the Maltese authorities to request evidence from the UAE by letters of legal assistance; calls on the UAE to cooperate with Maltese and European authorities and to ensure that funds frozen in 17 Black’s bank accounts remain frozen until a thorough investigation has been conducted; highlights in particular the seemingly lack of independence of both the Maltese FIAU and the Maltese Commissioner of Police; regrets that so far there have not been any measure taken against the PEPs involved in allegedly corruption cases; underlines that the Maltese investigation would benefit from the establishment of a Joint Investigation Team (JIT) based on an ad hoc agreement [footnote] in order to address the serious doubts about the independence and quality of the ongoing national investigations with the support of EUROPOL and EUROJUST.

Footnote: based on the model JIT agreement as appended to Council Resolution (2017/C 18/01)

Covers AMs 777, 783, 784, 785, 786, 787, 788

If adopted, AMs fall

¹ Letter from the Permanent Representative of Malta to the EU of 20.12.2018 in reply to letter of the Chair of the TAX3 Committee of 7.12.2018

116b. (new) Is concerned about the increase of money laundering in the context of other forms of business activities, in particular the phenomenon of the so-called 'flying money' and 'notorious streets'; stresses that a stronger coordination and cooperation between local and regional administrative and law enforcement authorities is necessary to address these issues in European cities;

Covers AM 781

If adopted, AM fall

117. Is aware that the current AML legal framework has so far consisted of directives and is based on minimum harmonisation, which has led to different national supervisory and enforcement practices in the Member States; calls on the Commission to assess, in the context of a future revision of the AML legislation, in the required impact assessment, whether a regulation would be a more appropriate legal act than a directive; calls, in this context, for a swift transformation into a regulation of the AML legislation if the impact assessment so advises;

AM 741 (second bit) is already in the text (first part covered by COMP 109)

5.1. Cooperation between anti-money laundering and prudential supervisors in the European Union

118. Welcomes the fact that, following recent cases of breaches or alleged breaches of AML rules, supplementary action was announced by the President of the Commission in his State of the Union address of 12 September 2018;

119. Calls for *a necessary* increased scrutiny and continuous supervision of the members of management boards and shareholders of credit institutions, investment firms *and insurers* in the *Union*, and stresses in particular the difficulty of revoking banking licences or equivalent specific authorisations;

120. Supports the work undertaken by the Joint Working Group comprising representatives of the Commission's Directorate-General for Justice and Consumers and its Directorate-General for Financial Stability, Financial Services and Capital Markets Union, the ECB, the European Supervisory Authorities (ESAs) and the Chair of the ESAs Joint Committee Anti-money Laundering Sub-committee, with a view to detecting current shortcomings and proposing measures to enable effective *cooperation and* coordination and exchange of information among supervisory and enforcement agencies;

Covers AMs 803, 804, 811

If adopted, AMs 801, 803, 804,811 fall

121. Concludes that the current level of coordination of anti-money laundering and combating the financing of terrorism (AML/CFT) supervision of financial institutions, particularly in AML/CFT situations with cross-border effects, is not sufficient to address current challenges in this sector and that the Union's ability to enforce coordinated AML rules and practices is currently inadequate;

COMP. 122

122. Calls for an assessment of long-term objectives leading to an enhanced AML/CFT framework as mentioned in the 'Reflection Paper on possible elements of a Roadmap for seamless cooperation between Anti Money Laundering and Prudential Supervisors

in the European Union', such as the establishment at EU level of a mechanism to better coordinate the activities of AML/CFT supervisors of financial sector entities, notably in situations where AML/CFT concerns are likely to have cross-border effects, and a possible centralisation of AML supervision via an existing or new Union body empowered to enforce harmonised rules and practices *across Member States*; ***considers that if that mechanism at EU level is established, it should be allocated sufficient human and financial resources in order to carry out its functions efficiently;***

Covers AMs 795, 805 (first bit), 808, 809, 810, 857

If adopted, AMs fall

COMP. 123

123. Recalls that the ECB has the competence and responsibility for withdrawing authorisation from credit institutions for serious breaches of AML/CFT rules; ***notes, however, that the ECB is fully dependent on national AML supervisors for information relating to such breaches detected by national authorities; calls thus on national AML authorities to make quality information available to the ECB in a timely manner so the ECB can properly perform its function; welcomes in this regard the Multilateral Agreement on the practical modalities for exchange of information between the European Central Bank (ECB) and all competent authorities (CAs) responsible for supervising compliance of credit and financial institutions with anti-money laundering and countering the financing of terrorism (AML/CFT) obligations under the fourth Anti-Money Laundering Directive (AMLD4).***

Covers AM 812

If adopted, AM 812, 813 fall

124. *Considers that prudential and anti-money laundering supervision cannot be treated separately; highlights that ESAs have limited capability to take a more substantial role in the fight against money laundering owing to their decision making structures, a lack of powers and limited resources; stresses that EBA should take a leading role in this fight, while coordinating closely with ESMA and EIOPA, and should therefore **urgently** be provided with sufficient **human and material** resource capacity to effectively contribute to the consistent, efficient and effective prevention of the use of the financial system for the purposes of money-laundering including by conducting **risk assessments of competent authorities and reviews within the EBA framework; calls for greater publicity for those reviews and, in particular, for relevant information to be systematically provided to the Parliament and the Council in the event of serious shortcomings identified at national or EU level¹;***

124a. Notes the increased importance of national financial supervisors; urges the Commission, following consultation with EBA, to propose mechanisms to facilitate increased cooperation and coordination between financial supervisory authorities; calls, in the long term, for increased harmonisation of the supervisory procedures of the different national AML authorities;

Covers AMs 797, 806, 814, 815, 816 (first bit), 818, 819, 820

If adopted, AMs fall

125. Welcomes the Commission communication of 12 September 2018 on strengthening the Union framework for prudential and anti-money laundering supervision for financial institutions (COM(2018)0645) and the proposal it contains on the ESAs' review to strengthen supervisory convergence; *considers that EBA should take a leading, coordinating and monitoring role at Union level to effectively protect the financial system from money-laundering and terrorism financing risks, having regard the*

¹ *At the time of the TAX3 committee vote on 27 February 2019, interinstitutional negotiations on this point were on-going*

undesirable systemic consequences for the Union's financial stability which may stem from abuses of the financial sector for money-laundering or terrorism-financing purposes and the experience already gained by EBA in the protection of the banking sector from such abuses as an authority with oversight powers over all Member States;

125a. (new) Notes the concerns expressed by the EBA with regards to the implementation of the Capital Requirements Directive Directive-2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms¹; welcomes the suggestions made by the EBA to tackle the deficiencies caused by the current Union legal framework; calls on Member States to swiftly transpose the recently adopted changes to the Capital Requirements Directive into national law

Covers AMs 817 (2nd part), 822, 823, 825

If adopted, AMs 822, 823, 825 fall

5.2. Cooperation between financial intelligence units (FIUs)

COMP. 126 and 126a (new)

126. Recalls that pursuant to AMLD5 Member States are obliged to set up automated centralised mechanisms enabling swift identification of holders of bank and payment accounts, and to ensure that any FIU is able to provide information held in those centralised mechanisms to any other FIU in a timely manner; *stresses the importance of having access to information in a timely manner in order to prevent financial crimes and discontinuation of investigations*; calls on the Member States to speed up the establishment of these mechanisms so that Member States' FIUs are able to cooperate effectively with each other in order to detect and counteract money-laundering activities; *strongly encourages Member States' FIUs to use the FIU.net system; notes the importance of data protection also in this field*;

¹<https://www.eba.europa.eu/documents/10180/2101654/Letter+to+Tiina+Astola+on+the+request+to+investigate+a+possible+BUL+under+Article+17+of+Regulation+%28EU%29%20No+10932010+-+24092018.pdf>

126a. (new) Considers that in order to help fight effectively against money laundering activities, it is crucial that national FIUs should be provided with adequate resources and capacities;

Covering AMs [80](#), 807, 828 (recalls... FIU.net system), 829, 830, 831 - 832 - 834 - 835 (recalls... FIU.net system), 845, 860

If adopted, AMs fall

COMP. 127

127. Highlights that in order to fight effectively against money laundering activities, cooperation is essential not only between Member States' FIUs but also between Member States' FIUs and the FIUs of third countries; ***notes the political agreements on the interinstitutional negotiations leading to the adoption of Directive of the European Parliament and of the Council laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences and repealing Council Decision 2000/642/JHA¹; calls on the Commission to develop specialised training courses for FIUs, having particular regard to the more reduced capacities in Member States; notes that the Egmont Group, which brings together 159 FIUs, aims to strengthen their operational cooperation by encouraging the continuation and implementation of numerous projects; awaits the Commission's assessment of the framework for FIUs' cooperation with third countries and obstacles and opportunities to enhance cooperation between FIUs in the Union, including the possibility of establishing a coordination and support mechanism; recalls that this assessment should be ready by 1 June 2019; calls on the Commission to engage actively with Member States to find mechanisms to improve and enhance the cooperation of Member States' FIUs with the FIUs of third countries; calls on the Commission to take opportune action in this regard at the relevant international forums, such as the OECD and the Financial Action Task Force (FATF); considers that in any resulting agreement proper consideration should be given to the protection of personal data;***

Covers AMs 805, 840, 841, 842, 858, 859

If adopted, AMs fall

¹ [COM\(2018\)0213 – C8 0152/2018 – 2018/0105\(COD\)](#)

127a. (new) Calls on the Commission to draw up a report addressed to the European Parliament and the Council assessing to whether the differences in status and organisation between Member States' FIUs are hampering cooperation in the fight against serious crimes with a cross-border dimension;

Covers AM 863

If adopted, AMs 839, 843, 863 fall

128. Points out that the non-standardisation of suspicious transaction report formats ***and non-standardisation of suspicious transaction report thresholds*** among Member States and with respect to the different obliged entities leads to difficulties in the processing and exchange of information between FIUs; calls on the Commission to explore, ***with support from the European Banking Authority (EBA)***, mechanisms to set up ***as soon as possible*** standardised reporting formats for obliged entities in order to facilitate ***and enhance the processing and exchanging*** of information between FIUs in cases with a cross-border dimension ***and to consider the standardisation of suspicious transactions thresholds;***

128a. (new) Calls on the Commission to explore the possibility to set up automated retrieval systems of suspicious transactions reports that would allow Member States' FIUs to look up transactions and their initiators and receivers repeatedly reported as suspicious in different Member States;

Covers AMs 846, 847, 848, 849, 850, 851, 852, 853, 854

If adopted, AMs fall

COMP. 129 and 129a (new),

129. Encourages the competent authorities and FIUs to engage with financial institutions and other obliged entities to enhance suspicious activity reporting **and reduce defensive reporting, thus helping to ensure** that FIUs receive more useful, focused and complete information to properly perform their duties, while at the same time ensuring compliance with the General Data Protection Regulation;

Covers AMs 856

129a (new) Recalls the importance of developing enhanced channels of dialogue, communication and exchange of information between public authorities and specific private sectors stakeholders, generally known as Public and Private Partnerships (PPPs), particularly obliged entities under the AMLD, and highlights the existence and positive results of the only transnational PPP, the Europol Financial Intelligence Public Private Partnership, which promotes strategic information sharing between banks, FIUs, law enforcement agencies (LEAs) and national regulators across Member States; supports continuous improvement of information sharing between FIUs and LEAs, including Europol; considers that such partnership should be established in the field of new technologies, including virtual assets, to formalise already existing operations in the Member States; calls on the European Data Protection Board (EDPB) to provide further clarification to market operators processing personal data as part of their due diligence obligations to enable them to comply with the relevant provisions on data protection;

Covers AMs 729, 749, 752, 753, 757, 828 (second bit), 831 (second bit), 832 (second bit), 836, 837, 838, 844, 855, 856, 870, 899, 915

If adopted, AM 729, 749, 750, 752, 753, 757, 828 (second bit), 831 (second bit), 832 (second bit), 836, 837, 838, 844, 855, 856, 870, 899, 915 fall

129b (new) and 129 c (new)

129b. (new) Highlights that increasing and improving the cooperation between national supervisory authorities and FIUs is crucial to fight money laundering and tax evasion

effectively; further highlights that the fight against money laundering and tax evasion also requires a good cooperation between FIUs and customs authorities;

129c. (new) Calls on the Commission to report on the status quo and improvements in Member States' FIUs regarding dissemination, exchange and processing of information, following the PANA Recommendations and the mapping report carried out by the Member States' FIUs Platform¹;

Covers AMs 821, 833, 861

If adopted, AMs fall

5.3. Obligated entities (scope)

130. Welcomes the fact that AMLD5 has broadened the list of obliged entities to include providers engaged in exchange services between virtual currencies and fiat currencies, custodian wallet providers, art traders and free ports;

COMP. 131

131. Calls on the Commission to take action to improve the enforcement of CDD, in particular to better clarify that the responsibility for correct application of CDD always falls on the obliged entity, even when outsourced, and for provision to be made for penalties in the event of negligence or conflicts of interest in cases of outsourcing; ***underlines the legal obligation under the AMLD5 for obliged entities to conduct enhanced checks and systematic reporting, when performing CDD relating to business relationships or transactions involving countries identified by the Commission as high-risk third countries for money-laundering purposes;***

Covers AMs 871 (last part covered by original text)

¹ **European Parliament recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion (Texts adopted, P8_TA-(2017)0491).**

5.4. Registers

132. Welcomes the access to beneficial ownership and other CDD information granted to tax authorities in DAC5; recalls that this access is necessary for tax authorities to properly carry out their duties;

COMP. 133

133. Notes that the Union's AML legislation obliges Member States to establish central registers containing complete beneficial ownership data for companies and trusts, and that it also provides for their interconnection; welcomes the fact that AMLD5 obliges Member States to ensure that the information on beneficial ownership is accessible in all cases to any member of the general public; ***notes, however, that in respect of trusts, national registers will only be accessible in principle to those demonstrating a legitimate interest to access; stresses that Member States remain free to open beneficial ownership registers for trusts to the public, as already recommended by Parliament; invites Member States to establish freely accessible and open data registers; recalls, in any case, that the fee they may decide to impose should not exceed the administrative costs of making the information available, including costs of maintenance and developments of the register;*** stresses that the interconnection of registers should be ensured by the Commission; considers that the Commission should closely monitor the functioning of this interconnected system and assess within a reasonable time whether it is working properly and whether it should be supplemented by the establishment of an EU public register of beneficial ownership ***or other instruments that could effectively put remedy to any eventual shortcoming; calls on the Commission, in the meantime, to develop and issue technical guidelines to promote convergence of format, interoperability and interconnection of Member States' registers; takes the view that beneficial ownership of trusts should have the same level of transparency as companies under AMLD5 while ensuring appropriate safeguards;***

Covers AM 874, 875, 876, 877, 878, 880, 886

If adopted AMs 873, 874, 875, 876, 877, 878, 879, 880, 886 falls

COMP. 133a (new)

133a. (new) Is concerned that the information in the registers of beneficial owners is not always sufficient and/or accurate; calls thus on Member States to ensure that registers of beneficial owners contain verification mechanisms to ensure the accuracy of the data; calls on the Commission to assess their verification mechanisms and reliability of the data in its reviews;

Covers AMs 881, 883

If adopted, AMs fall

134. Calls for a more stringent and precise definition of beneficial ownership to ensure that all natural persons who ultimately own or control a legal entity are identified;
135. Recalls the need for clear rules facilitating straightforward identification of beneficial owners, including an obligation for trusts and similar arrangements to exist in written form and to be registered in the Member State where the trust is created, administered or operated;
136. Underscores the problem of money laundering through investment in real estate in European cities through foreign shell companies; recalls that the Commission should assess the necessity and proportionality of harmonising the information in the land and real estate registers and assess the need for the interconnection of those registers; calls on the Commission, if appropriate, to accompany the report with a legislative proposal;

COMP. 136a (new)

136a. (new) Reiterates Parliament's position for the inter-institutional negotiations on the AMLD5 on the creation of beneficial ownership registers for life insurance contracts; calls for the Commission's assessment of the feasibility and of the need for rendering beneficial ownership information on life insurance contracts and financial instruments accessible to the relevant authorities;

Covers AM 889

If adopted, AM fall

137. Notes that under AMLD5 the Commission must carry out an analysis of the feasibility of specific measures and mechanisms at Union and Member State level making it possible to collect and access the beneficial ownership information of corporate and other legal entities incorporated outside of the Union; calls on the Commission to present a legislative proposal for such a mechanism should the feasibility analysis be favourable;

COMP. HEADING 5.5

5.5. Technology risks and virtual assets including virtual and crypto-currencies

COMP. 138, 138a (new), 138b (new), 138c (new)

138. Underlines the positive potential of new distributed ledger technologies, such as blockchain technology; notes at the same time the increasing abuse of new payment and transfer methods based on these technologies to launder criminal proceeds or to commit other financial crimes; acknowledges the need to monitor ***fast-changing*** technological developments to ensure that legislation addresses in an effective manner the abuse of new technologies and anonymity, which facilitates criminal activity, ***without curtailing***

its positive aspects; urges the Commission to closely examine relevant crypto players not yet covered by the Union's AML legislation, and to expand the list of obliged entities if required, particularly service providers in the field of transactions involving exchanges of one or more virtual currencies; calls on the Member States in the meantime to transpose as soon as possible the provisions of AMLD5 imposing an obligation on virtual currency wallet and exchange services to identify their customers, which would make the anonymous use of virtual currencies very difficult;

138a. (new) Calls on the Commission to closely monitor technological developments, including the swift expansion of innovative Fintech business models and the adoption of emerging technologies such as AI, distributed ledger technologies (DLT), cognitive computing and machine learning, in order to assess technological risks and potential loopholes, support resilience to a cyberattack or a system breakdown, namely by promoting data protection,; encourages competent authorities and the Commission to do a thorough assessment of possible systemic risks involving DLT applications;

138b. (new) Stresses that the development and use of virtual assets is a long-term trend that is expected to continue and increase in the coming years, in particular through the use of coins for various purposes, such as corporate financing; calls on the Commission to develop an appropriate framework at European level to manage these developments, drawing inspiration from work at international level and from European bodies such as the European Securities and Markets Authority (ESMA); considers that this framework should provide the necessary safeguards against the specific risks posed by virtual assets without hindering innovation;

138c. (new) Notes in particular that the opacity of virtual assets could be used to facilitate money laundering and tax evasion; urges in this context the Commission to provide clear guidance about under which conditions virtual assets could be classified as an existing or new financial instrument in MiFID2 and under which circumstances Union's legislation is applicable to initial coin offerings; calls on the Commission to assess the banning of certain anonymity measures on specific virtual assets, and, if deemed necessary, to consider regulating virtual assets as financial instruments; considers that FIUs should be able to associate virtual and crypto-currency addresses to the identity of the owner of virtual assets; considers that mandatory registration of users of virtual assets should be assessed by the Commission; recalls that some Member States have already adopted various types of measures for specific segments

of this sector, such as initial coin offerings, which could be a source of inspiration for future EU actions;

Covering AMs 868, 869, 893, 894, 895, 896, 898, 900, 901, 903, 904, 905, 906, 913, 914, 919, 920, 921

If adopted, AMs 868, 869, 892, 893, 894, 895, 896, 897, 898, 900, 901, 903, 904, 905, 906, 913, 914, 919, 920, 921 fall

COMP. 139 and 139a

139. Stresses that the FATF has recently highlighted the urgent need for all countries to take coordinated action to prevent the use of virtual assets for crime and terrorism, urging all jurisdictions to take legal and practical steps to prevent the misuse of virtual assets¹; ***calls on the Commission to seek ways of incorporating into the European legal framework the recommendations and standards developed by the FATF on virtual assets; stresses that the Union should continue advocating for a coherent and coordinated international regulatory framework around virtual assets, building on efforts it has undertaken at the G20;***

139a. Reiterates its call for an urgent assessment by the Commission of the implications for money laundering and tax crimes involving e-gaming activities; ***considers such an assessment to be a priority; notes the rise of the e-gaming sector in some jurisdictions, including certain UK Crown Dependencies such as the Isle of Man, where e-gaming already accounts for 18 per cent of national income;***

Covers AMs 736 (third and fourth bits), 872, 907, 908, 911, 912

If adopted, AMs 736 (third and fourth bits), 872, 907, 908, 909, 910, 911, 912

fall

¹ FATF, Regulation of virtual assets, 19 October 2018

<http://www.fatf-gafi.org/publications/fatfrecommendations/documents/regulation-virtual-assets.html>

COMP. 140

140. Takes note of the expert-level work on electronic identification and remote KYC processes, which explores issues such as the possibility of financial institutions using electronic identification (e-ID) and of KYC portability to identify customers digitally; ***calls on the Commission in this regard to assess the potential advantages of introducing a European system of e-ID; recalls the importance of maintaining a proper balance between data and privacy protection and the need for the competent authorities to have access to information for the purpose of criminal investigations;***

Covers AMs 902, 916, 917, 918

If adopted, AMs fall

5.6. Sanctions

COMP. 141 and 141a (new)

141. ***Stresses*** that EU AML legislation requires Member States to lay down sanctions for breaches of anti-money laundering rules; stresses that these sanctions must be effective, proportionate and dissuasive; ***calls for the introduction of simplified procedures in Member States for the enforcement of financial sanctions imposed for breaches of AML legislation; urges Member States to as soon as possible and always publish, in addition to the type and nature of the breach and the identity of the person responsible, the nature and value of the sanctions imposed; calls on Member States to also apply sanctions and measures to the members of the management body and to other natural persons who under national law are responsible for breaches of anti-money laundering rules;***¹

141a. (new) Calls on the Commission to report every two years to the European Parliament

¹ Mission report of TAX 3 – Mission to Denmark and Estonia

on the national legislations and practices with regard sanctions for breaches of AML legislation;

Covers AMs 922, 924, 925, 926, , 928, , 930

If adopted, AMs 922, 923, 924, 925, 926, 927, 928, 930 fall

142. Welcomes the adoption of the Regulation on the mutual recognition of freezing and confiscation orders to facilitate the cross-border recovery of criminal assets¹, which will help strengthen the Union's capacity to fight organised crime and terrorism and to cut off the sources of financing for criminals and terrorists across the Union;

COMP. 143

143. Welcomes the adoption of the Directive on countering money laundering by criminal law², ***which introduces new criminal law provisions and facilitates more efficient and faster cross-border cooperation between competent authorities in order more effectively to prevent money laundering and the related financing of terrorism and organised crime***; notes that Member States should have to take the necessary measures to ensure, as appropriate, that their competent authorities freeze or confiscate, in accordance with [Directive 2014/42/EU](#), the proceeds derived from and instrumentalities used or intended to be used in the commission or contributing to the commission of those offences;

Covers AM 735

If adopted, AM fall

¹ Not yet published.

² Not yet published.

5.7. *International dimension*

COMP. 144

144. *Notes that under AMLD4 the Commission shall identify high-risk third countries presenting strategic deficiencies in their regime on anti-money laundering and counter-terrorism financing*; considers that, even if the work undertaken at international level to identify high-risk third countries for the purposes of fighting against money laundering and terrorist financing should be taken into consideration, particularly that of the FATF, it is essential that the Union have an autonomous list of high-risk third countries; welcomes, in this regard, the Commission Delegated Regulation ... /... of 31.1.2019 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council with regard to regulatory technical standards for the minimum action and the type of additional measures credit and financial institutions must take to mitigate money laundering and terrorist financing risk in certain third countries;

Covers AM 137 (first bit)

If adopted, AM falls

COMP. 145 and 145a (new)

145. *Welcomes the adoption by the Commission of the Methodology for identifying high-risk third countries under Directive (EU) 2015/849 published on 22 June 2018 (SWD(2018)0362); welcomes the Commission's assessment published on the 31.1.2019 regarding "Priority 1" countries*;

145a. (new) Believes that consistency and complementarity of the anti-money laundering list of high-risk third countries with the European list of non-cooperative jurisdictions need to be ensured; reiterates its call to entrust the Commission with a central role for

the management of both lists; calls on the Commission to ensure the transparency of the screening process of jurisdictions;

Covers AM 737 (welcomes... as soon as possible), 935, 936

If adopted, AM 737, 935, 936 fall

COMP. 145b (new) and 145c (new)

145b. (new) Is concerned with allegations that the competent authorities in Switzerland are not properly performing their AML/CFT functions¹; calls on the Commission to take these elements into consideration when updating the list of high-risk third countries and in future bilateral relations between Switzerland and the Union;

145c. (new) Calls on the Commission to provide technical assistance to third countries with the aim of developing effective systems for combating money laundering and the continuous improvement thereof;

Covers AMs 938, 942

If adopted, AMs fall

COMP 146 and 146a (new)

146. Calls on the Commission and ~~the~~ Member States ~~to~~ ensure that the EU speaks with one voice at the FATF *and ~~to~~ that they actively contribute to the ongoing reflection on the reform of this intergovernmental body with a view to strengthening its resources and its legitimacy*; calls on the Commission to include European Parliament staff as observers in the Commission delegation to the FATF;

¹ ~~As stated by p~~ *Panelists in the an h* ~~earing on 1.10.2018 stated that,~~ *Switzerland does not comply with FATF Recommendations 9 and 40.*

146a. (new) Calls on the Commission to lead a global initiative for the establishment of public central registers of beneficial ownership in all jurisdictions ; stresses in this regard the vital role of international organisations such as the OECD and the UN;

Covering AMs 793, ~~862~~, 882

If adopted, AMs 793, ~~862~~, 882, 939, 940, 941 fall

[AM 862 to be voted separately](#)

6. International dimension of taxation

147. Is worried about the accelerating corporate tax race to the bottom worldwide in terms of nominal tax rate¹²;

COMP 148

148. Notes the effort made by some third countries to act decisively against BEPS; stresses, however, that such reforms should remain in line with existing WTO rules; considers the information gathered during the committee visit to Washington DC about the US tax reforms and their possible impact on international cooperation to be of particular importance; finds that some of the provisions of the US Tax Cuts and Jobs Act of 2017 would be incompatible with existing WTO rules according to some experts; ***notes that certain provisions of the US tax reform seek, unilaterally and without any reciprocity, to revitalise transnational benefits attributable to US territory (presuming that these are generated, at least 50%, in US territory)***; welcomes the fact that the Commission is currently in the process of assessing the potential regulatory and commercial

¹ The average corporate income tax rate across the OECD dropped from 32.5 % in 2000 to 23.9 % in 2018. Overall, 22 of the 38 countries surveyed in the latest tax policy reform 2018 report from the OECD now have combined statutory corporate income tax rates equal to or below 25 %, compared with only six in 2000. Source: [OECD and Selected Partner Economies, Tax Policy Reforms 2018](#).

² It is also worth noting that the EU 28 are already well below this level, with an average corporate income tax rate in 2018 of 21.9 %, down from 32 % in 2000, according to the Commission: [Taxation Trends in the European Union - Data for the EU Member States, Iceland and Norway, 2018 Edition](#) (page 36) and [Taxation Trends in the European Union - Data for the EU Member States, Iceland and Norway, 2015 Edition](#) (page 147).

implications of, in particular, the BEAT, GILTI and FDII¹ provisions of the new US tax reform; asks the Commission to inform Parliament of the results of the assessment;

Covers AMs 204, 949 and 950
If adopted, AMs fall

COMP 149

149. *Notes that two types of FATCA Intergovernmental Agreements (IGAs) were developed to help FATCA fit with international laws²; notes that only one of the IGA Models is reciprocal ; deplors that reciprocity is highly unbalanced in these agreements, as the US typically receives far more information from foreign governments than it provides; calls on the Commission to conduct a mapping exercise to analyse the extent of reciprocity in the exchange of information between the US and Member States;*

149a. *Calls on the Council to give a mandate to the Commission to negotiate an agreement with the US to ensure reciprocity in the Foreign Account Tax Compliance Act (FATCA);*

149b. *Reiterates the proposals contained in its Resolution of 5 July 2018 “on the adverse effects of the US Foreign Account Tax Compliance Act (FATCA) on EU citizens and in particular ‘accidental Americans’” which calls on the Commission to take action to ensure that the fundamental rights of all citizens, in particular those of ‘accidental Americans’, are guaranteed; calls on the Commission and the Council to present a joint EU approach to FATCA in order to adequately protect the rights of European citizens (in particular ‘accidental Americans’) and ensure reciprocity in the automatic exchange of information by the US, with the Common Reporting Standard (CRS) being the preferred standard; in the meantime, calls on the Commission and Council to consider countermeasures, such as a withholding tax, where appropriate, to ensure a level playing field if the US does not ensure reciprocity in the framework of FATCA*

149 c. *Calls on the Commission and Member States to monitor new corporate tax provisions of countries which cooperate with the EU on the basis of an international agreement^{1d};*

^{1d} As mentioned in the public hearing held by TAX 3 committee on 1st of October: <http://www.europarl.europa.eu/committees/en/tax3/publications.html?id=20181018CPU21161>

Covers AMs 951, 952,953, 954, 955
If adopted AMs 951 952, 953, 954, 955 fall

¹ Respectively ‘Base Erosion and Anti-Abuse Tax’ (BEAT), ‘Global Intangible Low Tax Income’ (GILTI) and ‘Foreign-Derived Intangible Income’ (FDII).

² An IGA Model 1 by which foreign financial institutions report relevant information to their home authorities, which then passes this on to the US IRS, and an IGA Model 2 by which foreign financial institutions do not report to their home governments but directly to the IRS

COMP 150

6.1. Tax havens *and jurisdictions facilitating aggressive tax planning inside and outside the EU.*

150. Recalls the importance of a common EU list of non-cooperative jurisdictions for tax purposes (hereinafter ‘EU list’) based on comprehensive, transparent, robust, objectively verifiable and commonly accepted criteria that is regularly updated;

150a . (new) Regrets that the initial EU listing process only considered third countries; [notes] the fact that the European Commission within the framework of the European Semester has identified shortcomings in some Member States’ tax systems facilitating aggressive tax planning ; welcomes, however, the statement made by the Chair of the Code of Conduct Group on Business Taxation during The TAX3 committee hearing of 10 October 2018 about the possibility of screening Member States against the same criteria set for the EU list in the context of the revision of the mandate of the Code of Conduct Group;¹

151. Welcomes the adoption by the Council of the first EU list on 5 December 2017 and the ongoing monitoring of the commitments made by third countries; notes that the list has been updated several times on the basis of the assessment of those commitments *and as a consequence various countries have been removed; notes that on 9 November 2018 the list was composed of only five tax jurisdictions: American Samoa, Guam, Samoa, Trinidad and Tobago, and the US Virgin Islands; underlines that the screening and monitoring processes are opaque and it is unclear whether real progress has been achieved with regards to countries taken off the list;*

151a. Underlines that the assessment by the Council and its Code of Conduct Group on Business Taxation is based on criteria deriving from a technical scoreboard by the Commission and that Parliament had no legal involvement in this process; calls in this context on the Commission and the Council to inform the Parliament in detail ahead of any proposed change to the list; calls on the Council to publish a regular progress report regarding black- and grey-listed jurisdictions as part of the regular update from the CoC Group to the Council; calls on the European Commission and the Council to work on an ambitious and objective methodology, which does not rely on commitments but rather on an assessment of the effects of effectively implemented legislation in those countries;

Covers AMs 136, 271, 956, 957, 958, 959, 960, 961, 963,964, 965, 966, 967, 968, 970, 971, 972, 974, 975, 976, 991, 994, 995, 999, 1004, 1223, 1224

If adopted AMs 136, 271, 956-961, 963-968, 970-[972](#), [974](#)-976, 991, 994, 995, 999, 1004, 1223, 1224 fall

¹ TAX3 Exchange of views with Fabrizia Lapecorella, Chair of the Code of Conduct Group on Business Taxation, held on October 10,2018.

COMP 152

152. Deeply regrets the lack of transparency during the initial listing process and deplores the non- ***objective application of the listing criteria laid down by ECOFIN; insists the process shall be free from any political interference***; welcomes, however, the improvement in transparency made by the disclosure of letters sent to jurisdictions screened by the CoC Group, as well as the set of commitment letters received; calls for all remaining undisclosed letters to be made publicly available to ensure scrutiny and proper implementation of commitments; ***takes the view that those jurisdictions refusing to consent disclosure of their commitments create public suspicion of not being cooperative in tax matters***;

Covers AMs 977 and 978
If adopted AMs 977 and 978 fall

COMP 153

153. Welcomes the recent clarifications from the CoC Group on fair taxation criteria, especially regarding the lack of economic substance for jurisdictions having no corporate income tax rate or a rate close to 0 %; calls on the Member States to work towards the gradual improvement of the EU listing criteria to cover all harmful tax practices¹; ***welcomes the new OECD global standard on application of substantial activities factor to no or only nominal tax jurisdictions****, largely inspired by the EU's work on the EU listing process^{**}; ***calls on Member States to push the G20 to reform the OECD blacklist criteria to go beyond pure tax transparency and tackle tax evasion and aggressive tax planning***;

Covers AM 985,
If adopted AMs 981, 983, 985, fall

* ***OECD, "Resumption of Application of Substantial Activities Factor to No or only Nominal Tax Jurisdictions Inclusive Framework on BEPS: Action 5"***,
<http://www.oecd.org/tax/beps/resumption-of-application-of-substantial-activities-factors.pdf>, 2018

** ***Fair taxation criterion 2.2 of the EU List***

154. Calls, in the specific case of Switzerland, for which no precise deadline is envisaged

¹ Work on fair taxation criteria 2.1 and 2.2 of [Council conclusions 14166/16](#) of 8 November 2016.

due to a previous agreement between Switzerland and the EU, for the country to be put on Annex I by the end of 2019, provided that, following the proper escalation process, Switzerland does not repeal its non-compliant tax regimes, which allow unequal treatment of foreign and domestic income as well as tax benefits for certain types of companies, by then;

COMP 154 a

154 a. Notes with concern that third countries may repeal non-compliant tax regimes while substituting them by new ones potentially harmful for the EU; stresses that this could particularly be the case of –Switzerland; calls on the Council to properly re-assess Switzerland and any other third country¹ that introduce similar legislative changes^{1b};

154 b. Notes that the negotiations between the EU and Switzerland on the revision of the bilateral approach to reciprocal market access are still ongoing; calls on the Commission to ensure that the final agreement between the EU and Switzerland contains a tax good governance clause including specific rules on state aid under the form of a tax advantage, automatic exchange of information on taxation, public access to beneficial ownership information, where appropriate, and anti-money laundering provisions; requests the EU negotiators to finalise an agreement including the elimination of shortcomings^{1cb} in the Swiss supervisory system, and the protection of whistle-blowers;

1b TAX3 Public Hearing “Relations with Switzerland in tax matters and the fight against money laundering” held on October 1, 2018; and TAX3 Exchange of views with Fabrizia Lapecorella, Chair of the Code of Conduct Group on Business Taxation, held on October 10, 2018.

1b Ibid.

Covers AMs 360, 989, 990, 993, 996 and 1005
If adopted AMs 360, 987, 988, 989, 990, 993, 996 and 1005 fall

AM 992, 998, 1003 voted separately

COMP 154 d

154 d. Notes that, according to OECD data on foreign direct investment (FDI), for example Luxembourg and the Netherlands combined have more inward investment than the US, ~~the vast majority~~ a substantial part of which ~~is~~ has been in special-purpose entities with no evident substantial economic activity, and Ireland has more inward investment

¹ including , Andorra, Liechtenstein, San Marino

than either Germany or France; points out that, according to its National Statistics Office, foreign investment in Malta amounts to 1474% of the size of its economy;

154 e. Recalls a research study showing that tax avoidance via six EU Member States results in a loss of 42.8 billion in tax revenue in the other 22 Member States^{1a}, which means that the net payment position of these countries can be offset against the losses they inflict on the tax base of other Member States;

154 f. Reminds that, in order to improve the Union and Member States fight against tax fraud, tax avoidance, and money laundering, all available data, including macroeconomic ones, must be used effectively^{1e};

154 g. Recalls that the European Commission has criticised seven member states^{1b} - Belgium, Cyprus, Hungary, Ireland, Luxembourg, Malta and The Netherlands - for shortcomings in their tax systems facilitating aggressive tax planning, arguing that the latter undermine the integrity of the European single market; takes the view that those jurisdictions can be considered as jurisdictions facilitating aggressive tax planning globally;

154 h. Welcomes the expected review of the EU list in the first quarter of 2019; asks the Council to release a detailed assessment of commitments from jurisdictions which voluntarily committed to reform and were listed on Annex II when the first EU list was released on December 5th 2017; demands that jurisdictions listed on Annex II thanks to commitments made in 2017 are listed on Annex I, if the due reforms have not been implemented by the end of 2018 or the agreed timeline;

^{1a} “The missing profits of nations” by T. Torslov, L. Wier and G. Zucman indicates in its first part that using modern macroeconomic models and data from published Balance of Payments, the tax revenue globally per year amounts to around 200 billion \$ and Foreign Direct Investment (FDI) channelled through a tax haven jurisdiction amounts to a range between 10 to 30% of total FDI. These figures are quite higher than the estimations so far using other methods.

^{1b} <https://ec.europa.eu/info/sites/info/files/2018-european-semester-country-report-belgium-en.pdf>;

<https://ec.europa.eu/info/sites/info/files/2018-european-semester-country-report-cyprus-en.pdf>

<https://ec.europa.eu/info/sites/info/files/2018-european-semester-country-report-hungary-en.pdf>

https://ec.europa.eu/info/sites/info/files/2018-european-semester-country-report-ireland-en_1.pdf

<https://ec.europa.eu/info/sites/info/files/2018-european-semester-country-report-luxembourg-en.pdf>

<https://ec.europa.eu/info/sites/info/files/2018-european-semester-country-report-malta-en.pdf>

<https://ec.europa.eu/info/sites/info/files/2018-european-semester-country-report-netherlands-en.pdf>

Covers AMs 91, 105, [132](#), [134](#)-[135](#), [137](#), [138](#), 986, 997, 1001, 1002,

If adopted AMs 91, 105, [132](#), ~~[134](#)~~-~~[135](#)~~, ~~[137](#)~~, ~~[138](#)~~, 986, 990,997, 1001, 1002, fall

[13424](#), [135](#), [137](#) and [138](#) voted separately en bloc

6.2. Countermeasures

COMP 155

155. Renews its call on the *EU and Member States* for *effective and dissuasive countermeasures against non-cooperative jurisdictions* aimed at incentivising *good cooperation in tax matters* and compliance by the countries listed in Annex I of the EU list; ; *deplores* that most countermeasures proposed by the Council are left to national discretion; *notes with concern that some experts during the TAX3 committee hearing held on 15 May 2018^{1a} highlighted that countermeasures might not sufficiently incentivise non-cooperative jurisdictions to comply since “the EU list omits some of the most notorious tax havens” ; believes that this undermines the credibility of the listing process as highlighted by some experts*

^{1a} *Contributions by Alex Cobham (Tax Justice Network) and Johan Langerock (Oxfam), TAX3 committee hearing on the fight against harmful tax practices within the EU and abroad, 15 May 2018.*

Covers AMs 1006, 1007, 1008, 1009

If adopted AMs 1006, 1007, 1008, 1009 fall

COMP 156

156. Calls on the Member States to adopt a single set of strong countermeasures, *such as withholding taxes, exclusion from public procurements calls and increased audit requirements and automatic CFC rules for companies present in listed non-cooperative jurisdictions* unless the taxpayers convey genuine economic activities there; invites both tax administrations and taxpayers to cooperate to gather the relevant facts in case the controlled foreign company carries out substantive real economic activity and has substantial economic presence supported by staff, equipment, assets and premises, as evidenced by relevant facts and circumstances;

156 a. Notes that developing countries might not possess the resources to implement newly agreed international or European tax standards; subsequently calls on the Council to exclude counter measures such as cuts in development aid;

156 b. Notes that countermeasures are essential to fight tax evasion, aggressive tax planning and money laundering ; notes further that the economic weight of the

European Union can have a deterrent effect on non-cooperative jurisdictions and tax payers over exploiting tax loopholes and harmful tax practices offered by those jurisdictions;

Covers AMs 1000, -1011, 1012, 1014, 973 “deplores the threat... until the end”

If adopted AMs 1000, -1011, 1012, 1014 fall

COMP 157

157. Calls on the European financial institutions¹ to consider applying reinforced and enhanced due diligence on a project-by-project basis to jurisdictions listed in Annex II of the EU list in order to avoid EU funds being invested in or channelled through entities in third countries which do not comply with EU tax standards; *notes the announcement of the new non-complying jurisdictions (NCJ) policy of the EIB calls for a regular update of this policy which should include increased transparency requirements in line with EU standards;*

Covers AM 1074 and original text of paragraph 157

If adopted AM 1074 falls

6.3. Position of the EU as a global leader

COMP 158

158. Reiterates its call for the EU *and Member States* to have, *following ex ante coordination*, a leading role in the global fight against tax evasion, aggressive tax planning and money laundering, in particular through Commission initiatives in all related international forums, *including the UN, G20 and OECD, who played a central role in tax matters in particular after the international financial crisis; recalls that multilateral policies and international cooperation between countries, including developing countries, remains the preferred mean to reach concrete results while respecting the principle of reciprocity; regrets that some legislative proposals that go beyond the OECD BEPS recommendations and could serve as a basis for further fruitful work on the international level, are stalled in the Council;*

Covers AMs 308 (first part till global solution), 1017, 1019, 1020, 1021, 1022, 1023, 1024, 1025, , 1086

If adopted, AMs 308 (first part till global solution), 1017, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1086 fall

¹ Namely the European Investment Bank and the European Bank for Reconstruction and Development.

159. *Believes that the creation of an intergovernmental tax body within the UN framework, which should be well equipped and have sufficient resources **and, where appropriate, enforcement powers**, –would ensure that all countries can participate on an equal footing in the formulation and reform of global *tax agenda*^{1a}– to effectively *fight against harmful tax practices and for an appropriate allocation of taxing rights*; *takes notes on recent calls for the UN Committee of Experts on International Cooperation in Tax Matters to be upgraded to an intergovernmental UN Global Tax Body*^{1b}; *stresses that the UN Model Tax Convention ensures a fairer distribution of taxing rights between source and residence countries*;*

1a European Parliament resolution of 6 July 2016 on tax rulings and other measures similar in nature or effect (Texts adopted, P8_TA(2016)0310); and European Parliament recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion (Texts adopted, P8_TA-(2017)0491).

1b G 77 called for such a body in 2017

Covers AMs 155 (second part from advocates), 192, 198, 341, 1026, 1027, ~~1028~~, 1030, 1031, 1034, [1035](#), 1042, 1047,

If adopted AMs 155 (second part from advocates), 192, 198, 341 1026, 1027, 1028, 1029, 1030, 1031, 1034, ~~1035~~, 1042, 1047 fall

COMP 160/160a

160. Calls for an intergovernmental summit on remaining necessary global tax reforms in order to enhance international cooperation and put pressure on all countries, in particular their financial centres, to comply with transparency and fair taxation standards; calls for the Commission to take the initiative for such a summit and for the summit to *launch a second set of international tax reforms to follow-up to the BEPS action plan and to allow for the establishment of the abovementioned intergovernmental tax body*;

160 a. (new) Takes note of the Commission action and contribution in the OECD Global Forum on transparency and exchange of information, Inclusive Framework on BEPS, - to promote higher levels of tax good governance globally, while insuring that the international tax good governance standards continue to be fully respected within the EU;

Covers AM 1038,1040,1_041

If adopted AMs 1036, 1037, ~~1039~~, 1040 and 1041 fall

6.4. Developing countries

COMP 161

161. Believes that supporting developing countries in combating tax evasion and aggressive tax planning, as well as corruption and secrecy that facilitate illicit financial flows, is of the utmost importance for strengthening policy coherence for development in the EU and improving developing countries' tax capacities and ***mobilise their own resources for sustainable economic development; stresses the need to increase the share of financial and technical assistance to the tax administrations of developing countries to create stable and modern legal taxation frameworks;***

Covers AMs 1043, 1044, 1045, 1046,

If adopted AMs 1043, 1044, 1045, 1046, fall

COMP 161 a

161 a. Welcomes the cooperation of the EU with the African Union (AU) within the Addis Tax Initiative (ATI) and the Extractive Industries Transparency Initiative (EITI) and the Kimberley process and encourage national and regional authorities to exchange information automatically; calls on the Commission and Member States to support AU countries in the implementation of transparency policies; encourages, in this regard, national and regional tax authorities to exchange information automatically; recalls the convenience of a close reinforced cooperation between Interpol and Afripol;

161 b. (new) Recalls the need for Member States, in close cooperation with the Commission, for regular spill over analyses of the material impact of the tax policies and bilateral tax treaties on other Member States and developing countries, while acknowledging that some work has taken place in this regard in the framework of the Platform on Tax Good Governance; calls on all Member States to conduct such spill over analysis under the supervision of the Commission;

Covers AMs 1108, 1048, 1049, 1051, 1052, 1053, 1057, 1070, 1076

If adopted AMs 1108, 1048, 1049, 1051, 1052, 1053, 1057, 1070, 1076 fall

162. Recalls the need to take into account the specific legal features and vulnerabilities of developing countries, in particular in the context of automatic exchange of information, namely in terms of the transition period and their need for support in their capacity-building;
163. Notes that closer work with regional organisations is needed, in particular with the African Union (AU) in order to combat illegal financial flows and corruption in the private and public sectors;

COMP 163a

163 a (new) Welcomes the cooperation with the AU within the Addis Tax Initiative (ATI) and the Extractive Industries Transparency Initiative (EITI) and the Kimberly process, and encourage national and regional authorities to exchange information automatically;

Covers AMs 1051, 1053, 1057, 1063

If adopted AMs 1051, 1053, 1057, 1063 fall

COMP 164

164. Welcomes the participation on an equal footing of all countries involved in the Inclusive Framework, which brings together over 115 countries and jurisdictions to collaborate on the implementation of the OECD/G20 BEPS Package; calls on the Member States to support a reform of both the mandate and functioning of the Inclusive Framework to ensure that developing countries' interests are taken into consideration; ***recalls, however, the exclusion of over 100 developing countries of the negotiations of the BEPS actions; acknowledges that tax haven regimes also exist in developing countries; welcomes the Commission's proposal for enhanced cooperation with third countries in fighting against the financing of terrorism and in particular the creation of an import license for antiques;***

Covers AMs 973 ***(the exclusion of over 100 developing countries of the negotiations of the BEPS actions)***, 1054, 1055, 1056, 1059, 1060, ~~1035,~~ 1114 (first part)

If adopted AMs 973 ***(the exclusion of over 100 developing countries of the negotiations of the BEPS actions)***, 1054, 1055, 1056, 1058, 1059, 1060, ~~1035,~~ 1114 (first part) fall

AM 973 (except "over 100 developing countries were excluded from the negotiations from the oecd beps action plan" and "deplores the threat... until the end") voted separately

COMP 165

165. Recalls that public development aid ***aiming at poverty reduction*** should be directed to a greater extent towards the implementation of an appropriate regulatory framework and the bolstering of tax administrations and institutions responsible for fighting illicit financial flows; calls for this aid to be provided in the form of technical expertise in relation to resource management, financial information and anti-corruption rules; calls for this aid to also favour regional cooperation against tax fraud, tax evasion, aggressive tax planning and money laundering; stresses that this aid should include support to civil society and media in developing countries to ensure public scrutiny over domestic tax policies;
166. Expects the Commission to come up with adequate resources to implement the ‘Collect More – Spend Better’ approach, notably through its flagships programmes¹; ***166 a. Calls for a concerted external action of the EU and Member States at all levels of the policy to provide third countries and in particular developing ones to bolsters a balanced economic development and avoid dependence on one single sector, in particular the financial one;***

Covers AM 1063 and 1066

If adopted AMs 1061, 1062, 1063, 1066 fall

AM 1065 voted separately

COMP 167

167. Recalls the need for fair treatment of developing countries when negotiating tax treaties, taking into account their particular situation and ensuring a fair allocation of tax rights according to genuine economic activity and value creation; calls, in this regard, for adherence to the UN model tax convention ***to be considered as a minimum standard*** and for transparency around treaty negotiations to be ensured; ***acknowledges that the OECD model tax treaty grants more rights to the country of residence;***

Covers AMs 1068 ,1069, 1106, 1107

If adopted AMs 1067, 1068 and 1069, 1106, 1107 fall

AMs1072 and 1073 to be covered in CHAP 2

¹ European Commission discussion paper: [A Contribution to the Third Financing for Development Conference in Addis Ababa.](#)

167. a Invites the Commission to include provisions against financial crimes, tax evasion and aggressive tax planning in the treaty to be negotiated with ACP countries at the end of the current Cotonou Agreement in February 2020; notes the particular importance of transparency in tax matters for such provisions to be effectively implemented;

Covers AMs 1071, and 1075

If adopted AMs 1071, and 1075 fall

6.5. EU agreements with third countries

168. Recalls that tax good governance is a global challenge which requires, above all, global solutions; recalls its position therefore that a ‘tax good governance’ clause should be included *systematically* in new relevant EU agreements with third countries in order to ensure that these agreements cannot be misused by companies or intermediaries to avoid or evade taxes or launder illicit proceeds, without hampering the EU’s exclusive competences; takes the view that this clause should include specific rules on State aid under the form of a tax advantage, transparency requirements and anti-money laundering provisions; *encourages on the Member States to use their bilateral relations in a coordinated manner, if appropriate with the support of the Commission, with the respective third countries to establish further bilateral cooperation between FIUs, tax authorities, competent authorities to fight financial crime;*

Covers 1078, 1081, 1082, 1084, 1087

If adopted AMs 1077, 1078, 1081, 1082 and 1084, 1087 fall

AM 1079 voted separately

169. Notes that, in parallel to the political agreements containing this tax good governance clause, the EU’s free trade agreements (FTAs) include tax exceptions that provide policy space for implementing the EU’s approach to fight tax evasion and money laundering, for example by insisting on tax good governance and via effective use of the EU list of non-cooperating tax jurisdictions; further notes that FTAs also aim to

promote relevant international standards and their enforcement in third countries;

170. Considers that the EU should not conclude agreements with non-cooperative tax jurisdictions as appearing in Annex I of the EU list until the jurisdiction is compliant with EU tax good governance standards; calls on the Commission to investigate whether non-compliance with EU tax good governance standards affects the proper functioning of FTAs or of political agreements in cases where an agreement has already been signed;

COMP 170a

- 170 a. Recalls that good tax governance and transparency clauses as well as exchange of information should be included in all new relevant EU agreements with third countries, and negotiated in the existing ones at the time of revision, with a view to the fact that these are core instruments of the EU external policy yet, depending on the specific policy field involve different levels of competence;*

Covers AM 1080, 1083, 1089,

If adopted AMs 1080, 1083 and 1089 fall

170 a new : AM on BREXIT to be drafted at a later stage and should cover AMs 1088, 1090-1096, 1098, 1099

Co-rapporteurs will propose ~~to discuss the way to proceed with a~~ written declaration shadows

AM 1097 voted separately

6.6. Bilateral tax treaties concluded by Member States

COMP 171/171a

171. Notes that some experts consider that many tax treaties concluded by EU Member States currently in force restrict the tax rights of low and lower-middle income countries¹; *requests that when negotiating tax treaties, the European Union and its Member States should comply with the principle of policy coherence for development established in Article 208 TFEU; underlines that it is the prerogative of Member States to conclude tax treaties;*

171 a (new) Notes that the intensity of losses due to tax avoidance is substantially greater in low and middle-income countries, especially in sub-Saharan Africa, Latin America

¹ Action Aid, [Mistreated Tax Treaties Report](#), February 2016:

and the Caribbean, and in South Asia compared to other region1; subsequently asks Member States to renegotiate their bilateral tax treaties with third countries with the aim of introducing anti-abuse clauses, preventing ‘treaty shopping’ and a race to the bottom among developing countries;

[1] Cobham, A and Petr Janský (2017) *Global Distribution of Revenue Loss from Tax Avoidance* <https://www.wider.unu.edu/sites/default/files/wp2017-55.pdf>

Covers AMs 424,1033,1050, 1100,1102,1103, 1104, , 1110

If adopted AMs 424, 1033,1050, 1100,1102,1103, 1104, , 1110 fall

Amendment 1101 voted separately

COMP 172

172. Calls on the Commission to review all tax treaties in force and signed by Member States with third countries to ensure that they are all compliant with new global standards such as the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (‘MLI’); *notes that the MLI represents OECD-based standards which were not established with consideration to the needs or challenges of developing countries*; asks the Commission to release recommendations to Member States regarding their existing bilateral tax treaties to ensure that they include general anti-abuse rules, looking at genuine economic activity and value creation;

172 a. Is aware that bilateral tax treaties do not reflect the current reality of digitalized economies; calls on Member States to update their bilateral tax treaties based on the Commission recommendation on taxation of digitalized economy^{1f};

^{1f} C (2018)-1650 final

Covers AMs 149, 1109,1111, 1112, 1113, 1116

If adopted AMs 149, 1109,1111, 1112, 1113,1116 fall

6.7. Double taxation

COMP 172a

172 a (new). Welcomes the strengthened framework avoiding double non-taxation; emphasizes that elimination of double taxation is of great importance in order to ensure that honest taxpayers are treated fairly and their trust is not undermined; calls on Member States to abide by their double-taxation treaties and cooperate sincerely

and swiftly in cases of reported double taxation;

Covers AM 1117

If adopted AM 1117 falls

173. Welcomes the adoption of Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the EU, implementing the standard set out in BEPS action 14; points out that the implementation deadline of the directive (30 June 2019) has not yet lapsed and that the provisions will need to be monitored in order to ensure that they are efficient and effective;

174. Calls on the Commission to collect and release the number of tax disputes submitted and resolved, sorted by type of dispute per year and by countries involved, so as to monitor the mechanism and ensure that it is efficient and effective;

Amendments 1118 and 1119 voted separately

6.8. *Outermost regions*

175. Calls on the Commission and the Member States to ensure that the EU's outermost regions implement the BEPS minimum standards, as well as ATAD;

AMs 1120 and 1121 voted separately

176. Notes that the Commission has opened an in-depth investigation to examine whether Portugal has applied the Madeira Free Zone regional aid scheme in conformity with its 2007 and 2013 decisions approving it, namely by verifying whether tax exemptions granted by Portugal to companies established in the Madeira Free Zone are in line with the Commission decisions and EU State aid rules; highlights that the Commission is verifying whether Portugal complied with the requirements of the schemes, i.e. whether the company profits benefiting from the income tax reductions originated exclusively from activities carried out in Madeira and whether the beneficiary companies actually created and maintained jobs in Madeira;

AMs 1122-1125 voted separately

7. *Intermediaries*

COMP 177, 177a (new) and 177b (new)

177. Welcomes the broad definition of both ‘intermediary’¹ and ‘reportable cross-border arrangement’ in the recently adopted DAC6²; ***calls for the update of the hallmarks under DAC6 in order to cover, amongst others, dividend arbitrage schemes, including the granting of dividend and capital gains tax refunds; calls on to the Commission to reassess the extension of DAC6 reporting obligation to domestic cases; recalls the obligation of intermediaries under DAC6 to report schemes based on structural loopholes in tax legislation to tax authorities, in particular in view of the increasing number of cross-border tax avoidance strategies ; considers that schemes found harmful by the relevant domestic authorities should be addressed and made public in an anonymised manner;***

177a. Reiterates that intermediaries play a crucial role in facilitating money laundering and the financing of terrorism and should be held accountable for these actions;

177 b. Reiterates the need for enhanced cooperation between tax administrations and financial supervisors for a joint and effective surveillance of the role of financial intermediaries and in the light that some tax-driven financial instruments may pose a risk to financial market stability and market integrity;

Covers AMs 117, 121, 369, 1127, 1128, 1129, 1130, 1131, 1132, 1133, 1134, 1135, 1152,1154

If adopted, AMs fall

COMP 178

178. ***Considers that the Union should lead by example, and calls on the Commission to ensure that intermediaries promoting aggressive tax planning and tax evasion should not have a role in guiding or advising the Union’s policy-making institutions on these matters, calls on the European Commission and Member States to recognise and to address risks of conflicts of interest stemming from the provision of legal advice, tax advice and auditing services when advising both corporate clients and public authorities; notes that a conflict of interest can take several forms, such as public procurement contracts that require the provision of paid advice on these services, the provision of informal or unpaid advice, official advisory and expert groups, or the revolving doors; stresses, therefore, the importance of transparent indication of what services are provided to a particular client and clear separation between these services;***

¹ Also ***referred to as enablers, promoters or facilitators in some legislations***

² Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements ([OJ L 139, 5.6.2018, p. 1](#)).

reiterates its calls concerning this issue in previous reports¹;

178 a. (new) Welcomes the monitoring of the enforcement of Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts^{1g} and of Regulation (EU) 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC^{1h}, in particular the provision on statutory auditors or audit firms carrying out statutory audits of public-interest entities; points out the need to ensure that the rules are properly applied;

^{1g} OJ L 158, 27.5.2014, p. 196

^{1h} OJ L 158, 27.5.2014, p. 77

178b. Calls on Member States to consider the introduction of mandatory tax reporting for all tax and financial intermediaries referred to in Action 12 of the BEPS plan who, in the course of their professional activities, become aware of the existence of abusive or aggressive transactions, devices or structures;

Covers AMs 1018, 1136, 1138, 1139, 1140, 1142, 1145, 1146, 1147, 1148, 1150, 1151, 1153, 1212, 1213, 1214

If adopted, AM 1018, 1136, 1138, 1139, 1140, 1142, 1144, 1145, 1146, 1147, 1148, 1150, 1151, 1153, 1212, 1213, 1214 fall

AMs 1137, 1141, 1149 to be voted separately

COMP 179

179. Reiterates that financial institutions, advisors and other intermediaries that knowingly, systematically and repeatedly facilitate, engage or participate in money laundering or *tax evasion activities, or have offices, branches or subsidiaries in 'EU list' jurisdictions for offering their clients aggressive tax planning schemes* should face effective, proportional and dissuasive penalties; *calls for serious review of their business licences to operate, in case these intermediaries are convicted for participation in and knowledge of fraudulent behaviour of clients, and, where applicable for restriction* from operating in the single market;

Covers AMs 931, 1010, 1013, 1015, 1016, 1156 (first bit), 1159

¹ Text adopted, P8_TA-PROV(2017)0491, European Parliament recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion (2016/3044(RSP)), par. 143.

If adopted, AMs 931, 1010, 1013, 1015, 1016, 1155, 1156 (first bit), 1157, 1159 fall

COMP 179a (new)

179a. (new) Points out that professional secrecy cannot be used for the purposes of protecting or covering up illegal practices or violating the spirit of the law; urges that the client-attorney privilege should not impede adequate STRs or the reporting of other potentially illegal activities, without prejudice to the rights guaranteed by the Charter of Fundamental Rights of the European Union and the general principles of criminal law; calls on the Commission to issue guidance on the interpretation and application of the legal privilege principle for professionals and to introduce a clear demarcation line between traditional judicial advice and lawyers acting as financial operators, in line with the case-law of European courts;

Covers AMs 1156 (second bit), 1158

If adopted, AM fall

8. Protection of whistle-blowers and journalists

COMP 180, COMP 180a and COMP 180b
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180. Believes that the protection of whistle-blowers *in both private and public sectors* is of major importance to ensure that unlawful activities and abuse of law are prevented or do not prosper; *recognises that whistle-blowers play a crucial role in strengthening democracy in societies in the fight against corruption and other serious crimes or illegal activities, and in the protection of the Union's financial interests*; stresses that whistle-blowers are often a crucial source for investigative journalism and should therefore be protected against any form of harassment and retaliation; *notes the importance of all reporting channels to be made available*;

180a. Believes that it is necessary to protect the confidentiality of investigative journalism's sources, including whistle-blowers, if the role of investigative journalism as a watchdog in democratic society is to be safeguarded; *considers that the duty of confidentiality should, therefore, only be waived in exceptional circumstances in which disclosure of information relating to the reporting person's personal data is a necessary and proportionate obligation required under Union or national law in the context of subsequent investigations or judicial proceedings or to safeguard the freedoms of others including the right of defence of the concerned person, and in each case subject to appropriate safeguards under such laws, considers that appropriate*

sanctions should be provided for in the event of breaches of the duty of confidentiality concerning the reporting person's identity;^{1a}

180 b.(new) *Notes that the US False Claims Act provides a solid framework for rewarding of whistle-blowers in cases where the government recovers funds lost to fraud as presented during the 21 November TAX3 hearing; underlines that according to the US Justice Department report, whistle-blowers were directly responsible for detection and reporting of 3.4 out of 3.7 billion USD recovered; calls on Member States to establish safe confidential communication channels for whistle-blowers' reporting within relevant authorities and in private entities; calls on the Commission to study best practices around the world¹ to protect and provide incentives for whistle-blowers, and, if appropriate and necessary, to consider reviewing existing legislation in order to make similar schemes in the EU even more effective;*

^{1a} *A8-0398/2018. Report on the proposal for a directive of the European Parliament and of the Council on the protection of persons reporting on breaches of Union law (COM(2018)0218 – C8 0159/2018 – 2018/0106(COD))*

Covers AMs 1161, 1162, 1163, 1164, 1165, 1166, 1176, 1181, 1183

If adopted, AMs fall

AM 1167 to be voted separately

COMP 181

181. *Worries that whistle-blowers are often discouraged from reporting their concerns for fear of retaliation and that if retaliation is not discouraged and remains unpunished, potential whistle-blowers may be dissuaded from reporting their concerns; considers that the recognition in AMLD5 of the right of whistle-blowers to present a complaint in a safe manner to the respective competent authorities, i.e via a Single Point of Contact in complex international cases, when exposed to a threat or retaliation and of their right to an effective remedy constitutes a significant improvement of the situation of individuals reporting suspicions of money laundering or terrorist financing internally within the company or to a FIU; urges Member States to timely transpose and duly enforce the provisions on whistle-blower protection laid down in AMLD5;*

Covers AMs 1170, 1171, 1211

If adopted, AM fall

¹ in particular the respective US legislation

COMP 181a (new)

181a. (new) Welcomes the proposal for a Directive of the European Parliament and of the Council on the protection of persons reporting on breaches of Union law, and calls for the swift conclusion of the inter-institutional negotiations; calls for the final text to be balanced and to avoid excessive administrative burden for SMEs; recalls that EU officials enjoy whistle-blower protection under the Staff Regulations and the Conditions of Employment of Other Servants of the European Union¹ and invites Member States to introduce comparable standards for their civil servants;

Covers AMs 1168, 1169, 1172, 1173, 1175, 1178, 1206,

If adopted, AM fall

COMP 181b (new)

181b. (new) Considers that non-disclosure agreements included in employment contracts and dismissal agreements should by no means prevent employees from reporting suspect cases of violation of law and human rights² to the competent authorities; calls on the Commission to assess the possibility of proposing legislation prohibiting abusive non-disclosure agreements;

Covers AMs 1174, 1179, , 1207

If adopted, AM fall

182. Deplores the fact that the Danish Financial Supervisory Authority failed to make contact with the whistle-blower who reported massive money-laundering activities in Danske Bank; is of the opinion that this omission constitutes gross negligence on the part of the Danish Financial Supervisory Authority of its duty to conduct proper investigations following serious allegations of large-scale and systematic money laundering through a bank; calls on the relevant EU and Member State authorities to

¹ Council Regulation (EC, Euratom) No 723/2004 of 22 March 2004 amending the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities, OJ L 124, 27.4.2004, p. 1. See, in particular, Article 22a, Article 22b and Article 22c thereof.

² As suggested by the Council of Europe in its recommendation on the protection of whistleblowers, adopted on 30 April 2014, (CM/Rec(2014)7) available on https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805c5ea5

make full use of the information provided by whistle-blowers and to act swiftly and decisively on the information obtained from them;

COMP 183

183. Notes that the TAX3 Committee invited the whistle-blowers in the cases of Julius Bär and Danske Bank to testify at public parliamentary hearings¹; ***is concerned that whistle-blowers protection in financial institutions is not fully satisfactory and that fears of retaliation from both employers and authorities may prevent whistle-blowers from coming forward with information on breaches of law; deeply regrets that the Danske Bank whistle-blower could not freely and fully share his insight into the Danske Bank case due to legal restraints;***

183 a. (new) Calls on the Member States to closely work within the Council of Europe in the promotion and implementation in their domestic law by all States belonging to the Council of Europe of the Recommendation CM/Rec(2014)7 of the Committee of Ministers to Member States on the protection of whistle-blowers; calls on the Commission and Member States to take the lead in other international fora to promote the adoption of international binding standards for the protection of whistle-blowers;

Covers AMs 1177, 1180, 1182

If adopted, AM fall

AM 1184 to be voted separately

COMP 184

184. Acknowledges the difficulties faced by journalists when investigating or reporting on cases of money laundering, tax fraud, tax evasion and aggressive tax planning; worries that investigative journalists are often subject to ~~physical~~ threats and intimidation, ***including legal intimidation by strategic lawsuits against public participation (SLAPPs); calls on Member States to improve protection for journalists particularly those involved in investigations on financial crime;***

Covers AMs 1185, 1186

If adopted, AM fall

COMP 185

185. Strongly condemns acts of violence against journalists; recalls with dismay that in recent years journalists involved in the investigation of dubious activities with a money

¹ Mr Rudolf Elmer, hearing on 1.10.2018; Mr Howard Wilkinson, hearing on 21.11.2018.

laundering component have been murdered in Malta and Slovakia¹; *underlines that according to the Council of Europe, abuses and crimes committed against journalists have a deeply chilling effect on freedom of expression and amplify the phenomenon of self-censorship;*

Covers AM 1187, 1188

If adopted, AM 1187, 1188, 1189 fall

COMP 186

186. Urges the Maltese authorities to *deploy all available resources to* make progress in identifying the *instigators behind* the murder of *investigative journalist* Daphne Caruana Galizia; *welcomes the initiative of 26 international media freedom and journalists' organisations pushing for an independent public inquiry on the murder of Daphne Caruana Galizia and to assess whether her murder could have been avoided; urges the Maltese Government to initiate this independent public inquiry without delay; notes that the Maltese Government has engaged with international organisations such as Europol, FBI, and the Dutch Forensic Institute, to strengthen its expertise;*

Covers AMs 1190, 1191, 1192, 1193, 1195

If adopted, AM fall

AM 1194 to be voted separately

COMP 187

187. Encourages the Slovak authorities to continue their investigation into the murders of Ján Kuciak and Martina Kušnírová *and identify– the real instigators behind the murder; calls on the Slovak authorities to fully investigate the cases of large-scale tax evasion, VAT fraud and money laundering brought to light by Jan Kuciak's investigations;*

Covers AMs 1196, 1197

If adopted, AM fall

AM 1198 and 1199 to be voted separately

¹ Daphne Caruana Galizia, killed in Malta on 16.10.2017; Ján Kuciak, killed together with his partner Martina Kušnírová, in Slovakia on 21.2.2018.

188. Deplores the fact that investigative journalists, *such as Daphne Caruana Galizia*, are often victims of abusive lawsuits intended to censor, intimidate and silence them by burdening them with the costs of legal defence until they are forced to abandon their criticism or opposition; recalls that these abusive lawsuits constitute a threat to fundamental democratic rights, such as to freedom of expression, freedom of the press and freedom to disseminate and receive information; calls on the Member States to put in place mechanisms to prevent SLAPPs; considers that these mechanisms should take duly into consideration the right to a good name and reputation; calls on the Commission to assess the possibility *and the nature of the concrete actions to take* in this area;

188a. Deplores that Swiss libel laws are used to silence critics in Switzerland and worldwide because the burden of proof lays on the defendant not the plaintiff; highlights that this not only affects journalists and whistle-blowers, but also reporting entities in the European Union and obliged persons under the beneficial ownership register, since in case there arise the obligation of reporting a Swiss beneficial owner, the reporting person may end up being prosecuted in Switzerland for libel and slander, which are criminal offences; 1a

1a Hearing on 1.10.2018.

Covers AMs 1201, 1202, 1203, 1204, 1205

If adopted, AM 1200-1205 fall

AM 1208, 1209 to be voted separately

9. Institutional aspects

9.1. Transparency

189. Welcomes the work done by the Platform for Tax Good Governance; notes that the mandate of the Platform applies until 16 June 2019; calls for it to be extended or renewed to ensure that civil society concerns and expertise are heard by Member States and the Commission; encourages the Commission to broaden the scope of the experts invited to the Expert Group on Money Laundering and Terrorist Financing (EGMLTF) to include experts from the private sector (business and NGOs);

1215 voted separately

190. Stresses that the European Ombudsman has the mandate to look into the EU institutions' application of EU rules on public access to documents, including into the working methods of the Council or the CoC Group in the area of taxation;

191. Recalls the results of the Ombudsman's own-initiative inquiry into the Council's working methods and its recommendation of 9 February 2018 concluding that the Council's practice of not making legislative documents widely accessible, its disproportionate use of the 'LIMITE' status and its systematic failure to record the identities of Member States that take a position in a legislative procedure constitute maladministration¹;

COMP 192, 192a (new), 192b(new), 192c(new)

192. *Recalls that taxation remains Member States' competence and that the European Parliament has limited powers in these matters;*

192a (new). Points out however that issues of tax fraud, tax evasion and aggressive tax planning cannot be effectively tackled by Member States individually; deplores therefore that, despite requests to the Council, no relevant documents have been made available to the TAX3 Committee; is greatly concerned about the lack of political will of the Member States in the Council to take substantial steps in the fight against money laundering, tax fraud, tax evasion and aggressive tax planning or to comply with the TEU and the principle of sincere cooperation² by ensuring sufficient transparency and cooperation with the other EU institutions;

192 b. (new) Regrets that the current rules for accessing classified and other confidential information made available by Council, Commission or Member States to the European Parliament do not provide full legal clarity but are generally interpreted as excluding accredited parliamentary assistants (APAs) from consulting and analysing non-classified 'other confidential information' in a secure reading room; calls therefore for the introduction of a clearly worded provision guaranteeing the right of access to documents for APAs on the basis of the 'need to know' principle, in their support role for Members, in are negotiated inter-institutional agreement;

192 c (new). Regrets that despite repeated invitations the representatives of Council Presidency refused to appear before the TAX3 Committee to report on progress in implementing the recommendations of TAXE, TAX2 and PANA committees; emphasises that working contacts between the Council Presidency and special and inquiry committees of the European Parliament should be a standard practice;

Covers AMs 1210, 1216, 1217, 1218, 1219, 1220, 1221, 1222

If adopted, AMs fall

¹ [Recommendation](#) of the European Ombudsman in case OI/2/2017/TE on the Transparency of the Council legislative process.

² [Article 4 para 3 TEU](#)

9.2. Code of Conduct Group on Business Taxation

193. Notes the increased communication from the CoC Group and welcomes in particular the biannual publication of its report to the Council, as well as the letters sent to jurisdictions and commitments received in the context of the EU listing process;
194. Regrets, however, the opaque nature of the negotiations regarding the EU listing process, and calls on the Member States to ensure transparency in the coming update of the lists;

COMP 195, 196 and 196a (new)

195. Welcomes the fact that the Chair of the CoC Group appeared before the TAX3 Committee, in a reversal of the CoC Group's previous position; also notes that since the start of the work of the TAX3 Committee, compilations of the CoC Group's work have been made available¹; regrets, however, that those documents were not published sooner **and that important parts of them have been redacted**;
196. Stresses that the *above-mentioned* Ombudsman recommendations also apply to the CoC Group, which should provide the necessary information, relating in particular to harmful tax practices of Member States and the EU listing process;
- 196 a. Calls on the CoC Group to take further measures to ensure transparency of its meetings particularly by making public the positions of the different Member States on the discussed agenda at least 6 months after the meeting;**
- 196b. Calls on the Commission to report on the implementation of the Code and on the application of fiscal State aid, as laid down in Article N. of the Code of conduct for business taxation^{1j};**

1j The Code is in annex 1 to the (p.2-5) Council conclusions 1 December 1997 establishing the group (OJ C2/1,6.1.1998), point N being review and monitoring provision.

Covers AMs 1225, 1226 (linguistic), 1227, 1229 (second part), 1230

If adopted, AMs fall

1233, 1232 will be voted separately

¹ In particular as recalled in the CoC Group report to the Council of June 2018: the Procedural Guidelines for carrying out the process of monitoring commitments concerning the EU list of non-cooperative jurisdictions for tax purposes (doc. 6213/18); a compilation of all the agreed guidance since the creation of the Group in 1998 (doc. 5814/18 REV1); a compilation of all the letters signed by the COCG Chair seeking commitments by jurisdictions (doc. 6671/18); a compilation of the commitment letters received in return, when consent was given by the jurisdiction concerned (doc. 6972/18 and addenda); and an overview of the individual measures assessed by the Group since 1998 (doc. 9639/18).

197. Believes that the mandate of the CoC Group needs to be updated, since it addresses matters beyond the assessment of harmful EU tax practices, which is more than simply providing technical input to the decisions made by the Council; calls, based on the nature of the work undertaken by the Group which is also of a political nature, for such tasks to be brought back under a framework which enables democratic control or supervision, starting by applying transparency;
198. Calls in this context for the opaque nature of the composition of CoC Group to be remedied by publishing a list of its members;

9.3. Enforcement of EU legislation

199. Calls for the newly elected Parliament to initiate an overall assessment on progress as regards access to documents requested by the TAXE, TAX2, PANA and TAX3 committees, comparing the requests made with those granted by the Council and other EU institutions, and to initiate, if needed, the necessary procedural and/or legal measures;

9.4. Cooperation of non-institutional participants

COMP 200-201- 202

- 200- 201. Welcomes the participation and input of stakeholders as referred to in Annex XX on TAX3 committee hearings; ***Deplores that other stakeholders referred to in Annex XX refused to participate in TAX3 committee hearings; notes that no dissuasive sanctions could be found for cases where no reason was given for this refusal;***
202. Calls on the Council and the Commission to agree on the establishment of a publicly accessible and regularly updated list of non-cooperative non-institutional parties in the interinstitutional agreement on a mandatory transparency register for lobbyists; considers, in the meantime, that a record should be kept of those ***professionals and organisations who without justifiable reason refused to attend the TAXE, TAX2, PANA and TAX3 committee hearings; invites the EU institutions to bear this attitude in mind during any future dealings with the stakeholders concerned and to withdraw their access badges to the their premises;***

Covers AMs 1234, 1236, 1237, 1238, 1239, 1240-1241

If adopted, AMs 1234, 1235 1236, 1237, 1238, 1239, 1240 -1241 fall

9.5. Parliament's right of inquiry/investigative right

203. Considers that it is vital for the exercise of democratic control over the executive that Parliament be empowered with investigative and inquiry powers that match those of Member States' national parliaments; believes that in order to exercise this role

Parliament must have the power to summon and compel witnesses to appear and to compel the production of documents; believes that in order for these rights to be exercised Member States must agree to implement sanctions against individuals for failure to appear or produce documents in line with national law governing national parliamentary inquiries and investigations; urges the Council and the Commission to engage in the timely conclusion of the negotiations on the proposal for a regulation of the European Parliament on the detailed provisions governing the exercise of Parliament's right of inquiry;

AM 1242 voted separately

9.6. Unanimity vs qualified majority voting

204. Reiterates its call on the Commission to use the procedure laid down in Article 116 TFEU which makes it possible to change the unanimity requirement in cases where the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the internal market;

AM 335 voted separately

COMP 205-206

205. Welcomes the Commission's *contribution through its 'Communication ' Towards a more efficient and democratic decision making in EU tax policy' proposing a roadmap to a vote with* qualified majority for specific and pressing tax policy issues where vital legislative files and initiatives aimed at combating tax fraud, tax evasion, aggressive tax planning have been blocked in the Council to the detriment of *a large majority of* Member States; *welcomes the support expressed by some Member States towards such proposal;*¹

¹ *TAX 3 Hearing with the Spanish Secretary of State, 19/02/2019*

206. Stresses that all scenarios should *remain* envisaged and not only shifting from unanimity to qualified majority voting through a *passerelle* clause; *calls on the European Council to add this point to a Summit agenda before the end of 2019 in order to engage in a fruitful debate on how to facilitate decision making in tax issues in the interest of the Single Market functioning;*

[Covers AMs 1263, 1275, 1277](#)

[If adopted, AMs 1256 to 1277 fall](#)

COMP 207

9.7. Follow-up

207. Takes the view that the work of the TAXE, TAX2, PANA and TAX3 committees should be continued, in the forthcoming parliamentary term, in a permanent structure

within Parliament such as a subcommittee to the Committee on Economic and Monetary Affairs (ECON) ***allowing for cross-committee participation;***

Covers AMs 1279, 1280, 1281

If adopted AM 1278 falls

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COMP 208

208. Instructs its President to forward this resolution to the European Council, the Council ***of Finance Ministers***, the Commission, ***the European External Action Service***, the ***ESAs***, ***EPPO***, ***the ECB***, ***Moneyval***, ***the*** Member States, the national parliaments, the UN, the G20, ***the FATF*** and the OECD.

Covers AMs 1283 and 1284

If adopted, AMs fall