



Council of the
European Union

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ADD 1

PV/CONS 39
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DRAFT MINUTES

Subject: **3327th** meeting of the Council of the European Union (**ECONOMIC AND FINANCIAL AFFAIRS**) held in Brussels on 8 July 2014

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¹ Deliberations on Union legislative acts (Article 16(8) of the Treaty on European Union), other deliberations open to the public and public debates (Article 8 of the Council's Rules of Procedure).

LEGISLATIVE DELIBERATIONS

(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

"A" ITEMS

Council Directive amending Directive 2011/96/EU on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (LA + S)

10996/14 FISC 99 ECOFIN 679
+ COR 1 (da)

The Council adopted the Directive by unanimity (Legal basis: Article 115 of the Treaty on the functioning of the European Union).

Statement by the Council

"The Council:

- recalls its willingness to fight aggressive tax planning and Base erosion and profit shifting (BEPS) at EU and international level and stresses that this work should consider the compatibility of ongoing OECD work with the EU legal framework;
- stresses the urgent need to close tax loopholes in the Parent-Subsidiaries Directive generated by exploiting the differences in national tax systems, in order to prevent Member States from losing significant revenues and to ensure fair competition between businesses in the Single Market;
- takes notes that, while direct taxation falls within the competence of Member States, all Member States agree that the tax loophole generated by Hybrid loans arrangements resulting in a double non-taxation should be addressed by the amending Directive;
- acknowledges that a splitting of the amending Proposal is necessary in order to allow for early progress in the field of hybrid loans, while noting that the other proposed part of the amending Directive requires further discussion since so far different views have been expressed by Member States and several Member States have raised concerns on this part of the proposal;
- underlines the need to continue to work on the remaining part of the amending Proposal and notes the intention of the incoming Italian presidency to allow for in depth discussion of further cases of double non taxation in the Council."

Statement by the Commission

"The Commission:

- Stresses that the proposed amendments to Article 4.1 (a) of the Parent subsidiary directive are applicable in situations of double non-taxation deriving from mismatches in the tax treatment of profit distributions between Member States which generate unintended tax benefits;
- Confirms that the proposed amendments to Article 4.1 (a) of the Parent Subsidiary directive are not intended to be applicable if there is no double non-taxation or if their application would lead to double taxation of the profit distributions between parent and subsidiary companies;
- and, in the light of the above, confirms that the adoption of this proposal does not oblige Member States to subscribe to any future legislative proposals in the field of direct taxation."

"B" ITEMS

3. Any other business

- **Level 2 legislation concerning bank contributions under BRRD/SRM**
 - State of play

The Council discussed the state of play of the consultation process regarding the level 2 acts on bank contributions under the Bank Recovery and Resolution Directive (BRRD) and Single Resolution Mechanism (SRM) regulation.

The Commission informed Ministers that work in the Experts Group is progressing and that a number of key issues have been identified, such as the treatment of banking groups and proportionality regarding small banks. Ministers were informed that the online consultation of stakeholders will be finished on 14 July 2014. Ministers were also asked to send the requested bank data if this has not been done already.
