

# EC/San Marino Agreement: taxation of savings income in the form of interest payments. Protocol

2015/0244(NLE) - 21/10/2015 - Legislative proposal

**PURPOSE:** to conclude, on behalf of the European Union, the Amending Protocol to the Agreement between the European Community and San Marino providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments

**PROPOSED ACT:** Council Decision.

**ROLE OF THE EUROPEAN PARLIAMENT:** the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

**BACKGROUND:** following the adoption of [Council Directive 2003/48/EC](#) (the Savings Directive), and in order to preserve the level playing field of economic operators, the EU signed an Agreement with San Marino providing for measures equivalent to those laid down in the Directive.

The importance of **automatic exchange of information** as a means to combat cross-border tax fraud and tax evasion has also been recognised at the international level. The **Organisation for Economic Cooperation and Development (OECD)** was mandated by the **G20** to develop a single global standard for automatic exchange of financial account information (Global Standard). The OECD Council released the Global Standard in July 2014.

Following the adoption of a proposal to update the Savings Directive, the Commission adopted on 17 June 2011 a recommendation for a mandate to initiate **negotiations with several countries, including San Marino, in order to upgrade the EU's Agreements** with those countries in line with international developments and to ensure that those countries continue to apply measures equivalent to those in the EU. On 14 May 2013, the Council reached an agreement on the Negotiating Mandate.

On the basis of a proposal presented by the Commission in June 2013, the Council adopted [Directive 2014/107/EU](#) amending Directive 2011/16/EU and extending the mandatory automatic exchange of information between EU tax authorities to a full range of financial items in accordance with the Global Standard.

As Directive 2014/107/EU is generally broader in scope than Directive 2003/48/EC and provides that in cases of overlap of scope, Directive 2014/107/EU prevails, the Commission adopted a [proposal](#) to repeal Directive 2003/48/EC.

The Commission considers it crucial to ensure that the amendment of the existing

Savings Agreement with San Marino is in line with EU and international developments. This will be the legal basis for implementing the OCDE Global Standard on automatic exchange of information between San Marino and the EU.

**CONTENT:** with this proposal, the Council is called upon **to approve, on behalf of the EU, the Protocol** amending the Agreement between the European Community and San Marino providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments. The Amending Protocol **implements the OECD Global Standard between EU Member States and San Marino**. It contains a new set of provisions comprising 10 Articles, an Annex I

that reflects the OECD Common Reporting Standard which is part of the Global Standard, an Annex II that reflects important parts of the OECD Commentaries to the Global Standard, an Annex III that reflects the additional data protection safeguards to be put in place as regards data collection and exchanges under the Agreement, and an Annex IV that lists the Competent Authorities of San Marino and of each Member State.

**The new Articles reflect the articles of the OECD Model Competent Authority agreement for the implementation of the Global Standard.** It includes, inter alia:

- a full set of provisions on exchange of information upon request that follows the latest text of the OECD Model Tax Convention;
- a more detailed set of provisions on data protection;
- provisions on amendments to the Agreement, including a quick mechanism for provisional application by one of the Contracting Parties of amendments to the Global Standard, on the condition of consent by the other Party

The Amending Protocol includes provisions on the entry into force and application. First exchanges in **2017 for information collected in 2016** (with the exception of Austria, which will undertake such exchanges one year later).

The Amending Protocol also deals with issues on the transition from the existing Agreement to the amended Agreement, with regard to requests for information, credits available to beneficial owners for withholding tax, final payments of withholding tax by San Marino to Member States and final exchanges of information under the voluntary disclosure mechanism.