

**BEPS Monitoring Group feels that the most important priorities are:**

- (i) the global minimum tax, and plans for its implementation in the EU either
  - (a) if international agreement is reached, or
  - (b) if there is no international agreement in October
  
- (ii) a review of the approach to listing of ‘non-cooperative jurisdictions’, in view of the evidence that
  - (a) tax evasion/avoidance is often linked to money-laundering, and to financial fraud, and
  - (b) these occur as much or more in some EU member states as third countries.

**Potential topics for discussion from BEPS Monitoring Group**

**Money laundering**

There are several references in the ‘Communication from the Commission to the European parliament’ to initiatives to reduce money laundering (p. 1) and in developing a list of non-cooperative with a particular aim ‘to identify high-risk third countries for anti-money laundering’ (p.6). The problem with this emphasis is that it ignores the very large sums have been laundered through banks located in Member States. These flows are likely to be as large if not larger than those in countries on the EU list.

Newspaper reports state that between \$20 and \$80 billion of illegal obtained funds was moved outside Russia between 2010 and 2014, via a network of fraudulent banking transactions (Guardian newspaper, 20th March 2017). Another scheme sent about \$10 billion outside Russia via ‘mirror trades’ with Deutsche Bank (Ed. Caesar, New Yorker, Aug. 29, 2016). The links between Banks in Cyprus and Russia and money laundering has been the frequent subject of media reports (Guardian Newspaper, 29th November 2017). More recently the Estonian branch of Danske Bank is suspected of being involved in laundering \$8.3 billion (Financial Times July 5<sup>th</sup> 2018). Banks in Latvia have also been involved in money laundering (Financial Times 18<sup>th</sup> March, 2018). Banks in Sweden (Swedbank, SEB Bank), The Netherlands (ABN and ING) and other Member States have also been involved in money laundering cases.

The problem however does not end there. Money laundering from a particular country is likely to re-enter the same country as foreign investment. These flows are often described as ‘round tripping’.

Three Member States have been particularly active in facilitating round tripping. These are The Netherlands, Ireland and Luxembourg as shown on the table below.

Country	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
Ire.	44	46	718	2,270	5,053	9,824	10,272	-555	624	-1,858	895	27,333
Lux.	66	-177	6,018	2,737	3,501	9,912	11,178	-1,073	-6,113	-1,080	3,081	28,050
Neth.	268	951	652	2,341	4,666	7,152	4,360	-2,349	-1,709	-1,954	-2830	11,548
Total inflow	6,213	5,941	13,422	14,484	5,092	27,078	36,861	-1,068	-3,806	-3,176	1,956	10,2997

flows to  
7-2017

Note: CBR data define debt inflows as FDI and that “the geographical allocation of direct investment positions is made according to the immediate investing country principle”  
Source: Russian Central Bank Statistics, Russian Inward FDI Data, Debt instruments, available at: [www.cbr.ru/eng/statistics/?Prtd=svs](http://www.cbr.ru/eng/statistics/?Prtd=svs)

These sums are likely to be an underestimate. Empirical evidence from Ireland indicates net flows are likely to be much larger

(<https://www.emerald.com/insight/content/doi/10.1108/cpoib-08-2019-0063/full/html>).

## Financial Fraud and Tax Evasion

Financial scandals amongst banks have been mirrored by financial scandals amongst non-banks such as Wirecard. The latter example is an interesting case study in failures in regulation, corporate governance, and a failure to prevent illicit financial flows. What are the Commission’s proposals for reform in this and other cases?

## Global Minimum Tax

It appears that the German presidency has made this a priority. The international negotiations on Pillar 2 are well advanced at a technical level, in that they have a highly complex document in the works, but adoption needs a political decision in October.

The Commission’s Tax Good Governance package which is on the agenda for the September meeting, does not include a separate proposal on this topic. However, the Communication states as part of the discussion of Reform of the Code of Conduct that if there is international agreement on a minimum tax it would create a new standard, while if there is no consensus at a global level the concept would need to be introduced into the Code. It would be good to have a thorough discussion of this at the September meeting, to find out what the thinking is, both by the Commission and the current presidency (to the extent possible). Is this likely to be included in the reformed Code of Conduct and if so, will it be a floor?

Perhaps the topic of the minimum tax could be a separate item, to allow sufficient time for discussion of it.

## List of Non-Cooperative Jurisdictions

It would be good to discuss the Commission's plans to reform this list and how to make the process more transparent and fair (e.g. monitor Member States on the same standards).

## Dual Tax Residence as a vehicle of aggressive tax planning

Should the Commission produce guidance on this topic, which can lead to aggressive tax planning? For example, recently, some firms incorporated in Ireland, with major operations in Ireland but are located in Malta for corporate tax purposes. Experts in this area have said that German incorporated entities may use Malta as a location for corporate tax purposes.

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