

NACRT

PRIJEDLOG ZAKONA BR. ...

**PRIJEDLOG ZAKONA O POTVRĐIVANJU SPORAZUMA O OPOREZIVANJU
DOHOTKA OD ŠTEDNJE IZMEĐU GUERNSEYA I REPUBLIKE HRVATSKE,
S KONAČNIM PRIJEDLOGOM ZAKONA**

PRIJEDLOG ZAKONA O POTVRĐIVANJU SPORAZUMA O OPOREZIVANJU DOHOTKA OD ŠTEDNJE IZMEĐU GUERNSEYA I REPUBLIKE HRVATSKE

I. USTAVNA OSNOVA ZA DONOŠENJE ZAKONA

Ustavna osnova za donošenje Zakona o potvrđivanju Sporazuma o oporezivanju dohotka od štednje između Guernseya i Republike Hrvatske (u daljnjem tekstu: Sporazum) sadržana je u odredbi članka 140. stavka 1. Ustava Republike Hrvatske (Narodne novine, br. 85/2010 – pročišćeni tekst i 5/2014 - Odluka Ustavnog suda Republike Hrvatske).

II. OCJENA STANJA I CILJ KOJI SE DONOŠENJEM ZAKONA ŽELI POSTIĆI

Obveza Republike Hrvatske koja proizlazi iz punopravnog članstva u Europskoj uniji je i propisivanje pravnog okvira za provedbu Direktive 2003/48/EZ Vijeća Europske unije od 3. lipnja 2003. (u daljnjem tekstu: Direktiva 2003/48/EZ) o oporezivanju dohotka od štednje isplaćenog u obliku kamata. Direktiva 2003/48/EZ se odnosi na države članice Europske unije i propisuje obveznu razmjenu informacija između država članica o isplaćenim kamatama na štednju u svrhu oporezivanja kamata u onoj državi članici u kojoj je stvarni korisnik kamate rezident.

Osim država članica Europske unije, Direktiva 2003/48/EZ se odnosi i na tri britanska krunska područja (Guernsey, Otok Man i Jersey) i devet ovisnih ili pridruženih područja Kraljevine Nizozemske ili Ujedinjene Kraljevine Velike Britanije i Sjeverne Irske (Aruba, Curaçao, Sint Maarten, karipski dio Nizozemske, Anquilla, Britanski Djevičanski otoci, Kajmanski Otoci, Montserrat, Otoci Turks i Caicos). U cilju provedbe Direktive 2003/48/EZ, Republika Hrvatska je u obvezi sklopiti dvostrane sporazume s navedenim državama odnosno područjima.

Sklapanje Sporazuma samo je nužan slijed ukupnih aktivnosti koje Republika Hrvatska poduzima u cilju provođenja zajedničke porezne politike. Sporazumom se uspostavlja potrební dvostrani pravni okvir radi oporezivanja kamata na štednju u onoj državi u kojoj je stvarni korisnik rezident radi provedbe temeljnih načela oporezivanja, sprječavanja porezne evazije i negativnog funkcioniranja zajedničkog tržišta.

Sporazum je sklopljen u obliku razmjene pisama od 28. kolovoza 2013. i 4. listopada 2013. godine. Uzimajući u obzir da je tekst Sporazuma koji je predložen Republici Hrvatskoj sastavljen prema lipskom modelu i sadrži odredbu (članak 9.) koja predviđa stupanje na snagu datumom pristupanja Republike Hrvatske Europskoj uniji, te da je intencija bila da se Sporazum sklopi u razdoblju prije datuma pristupanja Republike Hrvatske Europskoj uniji radi omogućavanja primjene učinaka Sporazuma od datuma pristupanja Republike Hrvatske Europskoj uniji, kao i da do tog datuma stupi na snagu, podložno okončanju unutarnjih postupaka potrebnih u tu svrhu, s obzirom na dinamiku pregovora o sklapanju Sporazuma, u tekstovima pisama potvrđeno je razumijevanje ugovornih stranaka da se stupanje na snagu vezuje uz okončanje njihovih unutarnjih pravnih postupaka potrebnih za stupanje Sporazuma na snagu i istaknuta obveza djelovanja ugovornih stranaka na način koji će omogućiti okončanje tih postupaka u najkraćem roku i međusobno obavješćivanje o okončanju tih postupaka. Ujedno, u očekivanju okončanja tih unutarnjih postupaka i stupanja na snagu Sporazuma dogovorena je privremena primjena Sporazuma, u okvirima ustavnih uvjeta ugovornih stranaka, od datuma pristupanja Republike Hrvatske Europskoj uniji. S obzirom da je Sporazum u konačnici sklopljen u razdoblju nakon pristupanja Republike Hrvatske Europskoj uniji (Sporazum je sklopljen s datumom 4. listopada 2013., kao datumom zadnjeg pisma), razmjenom pisama potvrđeno je razumijevanje da kao datum početka privremene primjene ugovorne stranke prihvaćaju 1. srpnja 2013. (datum pristupanja Republike Hrvatske Europskoj

uniji). Slijedom navedenog, Sporazum se u odnosima Republike Hrvatske i Guernseya privremeno primjenjuje od 1. srpnja 2013. i bit će u tom režimu do datuma stupanja na snagu, a stupit će se snagu nakon što ugovorne stranke okončaju svoje unutarnje postupke potrebne za stupanje na snagu i o tomu međusobno razmijene obavijesti.

III. OSNOVNA PITANJA KOJA SE PREDLAŽU UREDITI ZAKONOM

Ovim Zakonom potvrđuje se Sporazum, kako bi njegove odredbe u smislu članka 141. Ustava Republike Hrvatske (Narodne novine, br. 85/2010 – pročišćeni tekst i 5/2014 - Odluka Ustavnog suda Republike Hrvatske) postale dio unutarnjeg pravnog poretka Republike Hrvatske.

Sporazumom se uređuje automatska razmjena informacija o dohotku od štednje u obliku isplata kamata izvršenih u jednoj ugovornoj stranci stvarnim korisnicima, fizičkim osobama, koji su rezidenti u drugoj ugovornoj stranci. Time će se omogućiti oporezivanje dohotka od štednje u obliku isplata kamata u onoj ugovornoj stranci u kojoj je stvarni korisnik rezident u svrhe oporezivanja. Sukladno Sporazumu svaka ugovorna stranka na svojem će području donijeti i osigurati primjenu postupaka slijedom kojih isplatitelj kamata može utvrditi identitet stvarnih korisnika i njihovo prebivalište. Nadležno tijelo ugovorne stranke u kojoj isplatitelj kamata ima sjedište biti će u obvezi priopćiti informacije nadležnom tijelu druge ugovorne stranke u kojoj je prebivalište stvarnog korisnika. Informacije će se dostavljati automatski, najmanje jedanput godišnje, u roku od šest mjeseci od isteka kalendarske godine, za sve isplate kamata izvršene u toj godini.

IV. OCJENA SREDSTAVA POTREBNIH ZA PROVEDBU ZAKONA

Za provedbu ovoga Zakona nije potrebno osigurati dodatna financijska sredstva u državnom proračunu Republike Hrvatske.

V. PRIJEDLOG ZA DONOŠENJE ZAKONA PO HITNOM POSTUPKU

Temelj za donošenje ovoga Zakona po hitnom postupku nalazi se u članku 204. Poslovnika Hrvatskog sabora (Narodne novine, broj 81/2013). Naime, s obzirom na razloge navedene u točkama II. i III. ovoga Prijedloga te činjenicu da se Sporazumom stvara pravni temelj za provedbu Direktive 2003/48/EZ o oporezivanju dohotka od štednje u obliku isplata kamata u odnosima između Republike Hrvatske i Guernseya, ocjenjuje se da postoji interes da Republika Hrvatska što skorije okonča svoj unutarnji pravni postupak kako bi Sporazum, u skladu sa svojim odredbama, formalno pravno stupio na snagu.

S obzirom na prirodu postupka potvrđivanja međunarodnih ugovora, kojima država i formalno izražava spremnost da bude vezana već potpisanim međunarodnim ugovorom, kao i na činjenicu da se u ovoj fazi postupka, u pravilu, ne može mijenjati ili dopunjavati tekst međunarodnog ugovora, predlaže se da se ovaj Prijedlog zakona raspravi i prihvati po hitnom postupku, objedinjavajući prvo i drugo čitanje.

**KONAČNI PRIJEDLOG ZAKONA O POTVRĐIVANJU SPORAZUMA O
OPOREZIVANJU DOHOTKA OD ŠTEDNJE IZMEĐU GUERNSEYA I REPUBLIKE
HRVATSKE**

Članak 1.

Potvrđuje se Sporazum o oporezivanju dohotka od štednje između Guernseya i Republike Hrvatske, sklopljen u Zagrebu 28. kolovoza 2013. i u St. Peter Portu 4. listopada 2013., u obliku razmjene pisama, u izvorniku na engleskom jeziku.

Članak 2.

Tekst Sporazuma i pisama iz članka 1. ovoga Zakona, u izvorniku na engleskom jeziku i u prijevodu na hrvatski jezik, glasi:

SPORAZUM
U OBLIKU RAZMJENE PISAMA
O OPOREZIVANJU DOHOTKA OD ŠTEDNJE
I NJEGOVOJ PRIVREMENOJ PRIMJENI

A. Pismo Republike Hrvatske

Poštovani gospodine,

čast mi je pozvati se na tekstove „Predloženog modela sporazuma između Guernseya, Otoka Mana i Jerseyja i svake pojedine države članice EU-a o primjeni automatske razmjene informacija“ i „Predloženog modela sporazuma između, redom, Guernseya, Otoka Mana i Jerseyja i svake pojedine države članice EU-a o primjeni poreza po odbitku u prijelaznom razdoblju“, koji su rezultat pregovora s nadležnim tijelima Islanda o Sporazumu o porezu na štednju, i koji su u obliku dodatka, odnosno kao Dodatak I i Dodatak II, priloženi Ishodu postupka Visoke radne skupine Vijeća ministara Europske unije od 12. ožujka 2004. (dok. 7408/3/04 REV 3 FISC 58).

S obzirom na navedene tekstove, s potrebnim prilagodbama, čast mi je predložiti Vam „Sporazum o oporezivanju dohotka od štednje“ kako je sadržan u Prilogu 1 ovome pismu, kao i zajedničku obvezu da u najkraćem roku okončamo naše unutarnje ustavne postupke za stupanje na snagu ovoga Sporazuma i da bez odgode obavijestimo jedni druge o okončanju tih postupaka.

U očekivanju okončanja tih unutarnjih postupaka i stupanja na snagu ovoga „Sporazuma o oporezivanju dohotka od štednje“, čast mi je predložiti Vam da Republika Hrvatska i Guernsey privremeno primjenjuju ovaj Sporazum, u okvirima naših unutarnjih ustavnih uvjeta, od datuma pristupanja Republike Hrvatske Europskoj uniji.

Čast mi je predložiti da , ako je gore navedeno prihvatljivo Vašoj Vladi, ovo pismo i Vaša potvrda zajedno čine Sporazum između Republike Hrvatske i Guernseya.

Primitc, gospodine, izraze moga osobitog poštovanja,

Za Republiku Hrvatsku

Slavko Linić, v.r.
ministar financija

Sastavljeno u Zagrebu dana 28. kolovoza 2013., na engleskom jeziku u tri primjerka.

B. Pismo Guernseya

Poštovani gospodine,

čast mi je potvrditi primitak Vašega pisma s današnjim datumom, koje glasi kako slijedi:

" Poštovani gospodine,

čast mi je pozvati se na tekstove „Predloženog modela sporazuma između Guernseya, Otoka Mana i Jerseyja i svake pojedine države članice EU-a o primjeni automatske razmjene informacija“ i „Predloženog modela sporazuma između, redom, Guernseya, Otoka Mana i Jerseyja i svake pojedine države članice EU-a o primjeni poreza po odbitku u prijelaznom razdoblju“, koji su rezultat pregovora s nadležnim tijelima Islanda o Sporazumu o porezu na štednju, i koji su u obliku dodatka, odnosno kao Dodatak I i Dodatak II, priloženi Ishodu postupka Visoke radne skupine Vijeća ministara Europske unije od 12. ožujka 2004. (dok. 7408/3/04 REV 3 FISC 58).

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Čast mi je predložiti da, ako je gore navedeno prihvatljivo Vašoj Vladi, ovo pismo i Vaša potvrda zajedno čine Sporazum između Republike Hrvatske i Guernseya.

Primite, gospodine, izraze moga osobitog poštovanja,

Potvrđujem da je Guernsey suglasan sa sadržajem Vašega pisma.

Primate, gospodine, izraze moga osobitog poštovanja,

Za Guernsey

Peter Harwood, v.r.

predsjednik Vlade

Sastavljeno u St. Peter Portu, dana 4. listopada 2013., na engleskom jeziku u tri primjerka.

SPORAZUM O OPOREZIVANJU DOHOTKA OD ŠTEDNJE
IZMEĐU GUERNSEYA I REPUBLIKE HRVATSKE

BUDUĆI DA:

1. Članak 17. Direktive 2003/48/EZ („Direktiva“) Vijeća Europske unije („Vijeće“) o oporezivanju dohotka od štednje određuje da će države članice prije 1. siječnja 2004. donijeti i objaviti zakone, propise i administrativne odredbe potrebne za usklađivanje s ovom Direktivom čije se odredbe primjenjuju od 1. siječnja 2005., pod uvjetom da:
 - “(i) Švicarska Konfederacija, Kneževina Lihtenštajn, Republika San Marino, Kneževina Monako i Kneževina Andora od istoga datuma primjenjuju mjere jednake onima sadržanim u Direktivi, u skladu sa sporazumima sklopljenim između njih i Europske zajednice, nakon jednoglasne odluke Vijeća;
 - (ii) svi sporazumi ili drugi dogovori koji postoje, koji određuju da sva ovisna ili pridružena područja od istog datuma primjenjuju automatsku razmjenu informacija na isti način kako je predviđeno u poglavlju II. ove Direktive (ili u prijelaznom razdoblju utvrđenom u članku 10. primjenjuju porez po odbitku pod uvjetima jednakim onima sadržanima u člancima 11. i 12.)“.
2. Vijeće je 19. srpnja 2004. (Odluka Vijeća 2004/587/EZ) izmijenilo datum primjene Direktive s 1. siječnja 2005. na 1. srpnja 2005.;
3. Vijeće je 24. lipnja 2005.:
 - primilo na znanje da je 25 država članica, 5 europskih država (Andora, Lihtenštajn, Monako, San Marino, Švicarska), 3 britanska krunska posjeda (Guernsey, Otok Man i Jersey) i 7 ovisnih ili pridruženih područja Kariba (Nizozemski Antili, Aruba, Angvila, Britanski Djevičanski Otoci, Kajmanski Otoci, Montserrat, Otoci Turks i Caicos)

potvrdilo da od 1. srpnja 2005. provode dogovorene mjere oporezivanja štednje (zeleno svjetlo);

- donijelo „Obavijest o zelenom svjetlu“ (dok. 10038/05 FISC 69) kojom je svih 40 dotičnih partnera u međunarodnom ugovoru počelo primjenjivati dogovorene mjere oporezivanja štednje od 1. srpnja 2005.;
 - ovlastilo Tajništvo Vijeća da dostavi „Obavijesti o zelenom svjetlu“ i informacije o dvostranim sporazumima o oporezivanju štednje i Direktivi o oporezivanju štednje relevantnim trećim zemljama i područjima te javnosti.“
4. Odnos Guernseya s EU-om određen je Protokolom 3. Ugovora o pristupanju Ujedinjene Kraljevine Europskoj zajednici. Prema odredbama Protokola, Guernsey nije u okviru fiskalnog područja EU-a.
 5. Guernsey je pristao primjenjivati automatsku razmjenu informacija na isti način kako je određeno u poglavlju II. Direktive.
 6. Guernsey ima zakonodavstvo koje se odnosi na poduzeća za zajedničko ulaganje za koje smatra da je po svojim učincima jednako zakonodavstvu EU-a iz članka 2. i 6. Direktive.

Guernsey i Republika Hrvatska, u nastavku „ugovorna stranka“ ili „ugovorne stranke“, osim ako kontekst ne zahtjeva drukčije,

sporazumjeli su se da će sklopiti sljedeći sporazum koji sadrži obveze samo za ugovorne stranke i uređuje automatsku razmjenu informacija između nadležnih tijela ugovornih stranaka, u vezi s isplatom kamata koje izvrši isplatelj sa sjedištem u jednoj ugovornoj stranci, fizičkoj osobi koja je rezident u drugoj ugovornoj stranci.

U svrhu ovoga Sporazuma, pojam „nadležno tijelo“, kada se odnosi na ugovorne stranke znači „ministar financija ili ovlaštena predstavnik“ u odnosu na Republiku Hrvatsku te „ravatelj uprave za poreze na dohodak“ u odnosu na Guernsey.

Članak 1. Informacije o kojima izvješćuje isplatitelj

(1) Ako isplatitelj sa sjedištem u jednoj ugovornoj stranci izvrši isplate kamata, kako je određeno u članku 5. ovoga Sporazuma stvarnim korisnicima, kako su određeni u članku 2. ovoga Sporazuma, koji su rezidenti druge ugovorne stranke, isplatitelj priopćuje svojem nadležnom tijelu:

- (a) identitet i rezidentnost stvarnog korisnika utvrđene u skladu s člankom 3. ovoga Sporazuma;
- (b) naziv i adresu isplatitelja;
- (c) broj računa stvarnog korisnika ili, ako nije dostupan, opis tražbine na temelju koje se isplaćuje kamata;
- (d) sljedeće podatke o isplaćenim kamatama:

- u slučaju isplate kamata u smislu članka 5.(1)(a) ovoga Sporazuma: bruto iznos isplaćenih kamata ili uplaćenih na račun;

- u slučaju isplate kamata u smislu članka 5.(1)(b) ili (d) ovoga Sporazuma: iznos kamata ili prihoda iz (b) ili (d) toga stavka ili puni iznos prihoda od prodaje, reotkupa ili otplate;

- u slučaju isplate kamata u smislu članka 5.(1)(c) ovoga Sporazuma: iznos kamata iz tog podstavka;

- u slučaju isplate kamata u smislu članka 5.(4) ovoga Sporazuma: iznos kamata koje se dodjeljuju svakom od članova subjekta iz članka 4.(2) ovoga Sporazuma koji ispunjavaju uvjete iz članka 2.(1) ovoga Sporazuma;

- ako ugovorna stranka koristi mogućnost iz članka 5.(5) ovoga Sporazuma: iznos obračunatih kamata na godišnjoj razini.

Međutim, svaka ugovorna stranka može ograničiti minimalne količine informacija o isplaćenim kamatama o kojima izvješćuje isplatitelj na puni iznos kamata ili dohotka i na puni iznos prihoda od prodaje, reotkupa ili otplate;

a ugovorna stranka u kojoj se nalazi to nadležno tijelo postupa u skladu sa stavkom (2) ovoga članka.

- (2) U razdoblju od šest mjeseci nakon završetka porezne godine nadležno tijelo svake ugovorne stranke priopćuje automatski nadležnom tijelu druge ugovorne stranke informacije iz stavka (1) (a) – (d) ovoga članka, o svim isplatama kamata izvršenim tijekom te godine.

Članak 2. Definicija stvarnog korisnika

- (1) U svrhu ovoga Sporazuma, „stvarni korisnik“ znači fizičku osobu kojoj je kamata isplaćena ili svaku fizičku osobu kojoj je isplata kamate osigurana, osim ako ta osoba ne pruži dokaz da kamata nije primljena ili osigurana u njezinu osobnu korist. Fizička osoba ne smatra se stvarnim korisnikom ako:
 - (a) djeluje kao isplatitelj u smislu članka 4.(1) ovoga Sporazuma;
 - (b) djeluje u ime pravne osobe, subjekta čija se dobit oporezuje prema općim načelima oporezivanja trgovačkih društava, fonda UCITS ovlaštenog u skladu s Direktivom 2009/65/EZ ili istovrsnog poduzeća za zajedničko ulaganje sa sjedištem u Guernseyu, ili subjekta iz članka 4.(2) ovoga Sporazuma i, u potonjem slučaju, gospodarskom subjektu koji isplaćuje kamatu priopćuje naziv i adresu tog subjekta, a on priopćuje takve informacije nadležnom tijelu u svojoj ugovornoj stranci sjedišta;
 - (c) djeluje u ime druge fizičke osobe koja je stvarni korisnik i isplatitelju priopćava podatke o identitetu tog stvarnog korisnika.
- (2) Ako isplatitelj raspolaže informacijama koje ukazuju na to da fizička osoba kojoj je kamata isplaćena ili za koju je isplata kamata osigurana ne može biti stvarni korisnik, i ako se ne primjenjuje ni stavak (1)(a) niti (1)(b) ovoga članka, poduzet će razumne mjere za utvrđivanje

identiteta stvarnog korisnika. Ako isplatitelj ne može utvrditi identitet stvarnog korisnika, postupat će prema toj fizičkoj osobi kao prema stvarnom korisniku.

Članak 3. Identitet i rezidentnost stvarnog korisnika

- (1) Svaka stranka će na svojem području donijeti i osigurati primjenu postupaka potrebnih da se isplatitelju omogući utvrđivanje identiteta stvarnih korisnika i njihove rezidentnosti u svrhe ovoga Sporazuma. Takvi postupci udovoljavaju minimalnim standardima utvrđenim u stavcima (2) i (3).
- (2) Isplatitelj utvrđuje identitet stvarnoga korisnika na temelju minimalnih standarda koji ovise o tome kada su ugovoreni odnosi između isplatitelja i primatelja kamata, i to:
 - (a) za ugovorne odnose sklopljene prije 1. siječnja 2004., isplatitelj utvrđuje identitet stvarnog korisnika, koji se sastoji od njegova imena, prezimena i adrese, koristeći se raspoloživim informacijama, a naročito informacijama stečenim sukladno zakonima i propisima o sprečavanju korištenja financijskog sustava u svrhu pranja novca koji su na snazi u njegovoj zemlji sjedišta;
 - (b) za ugovorne odnose sklopljene, ili za transakcije izvršene, u nedostatku ugovornih odnosa, na dan ili nakon 1. siječnja 2004., isplatitelj utvrđuje identitet stvarnog korisnika, koji se sastoji od njegova imena, prezimena i adrese i, ako postoji, poreznog identifikacijskog broja koji mu je dodijelila država članica rezidentnosti za potrebe oporezivanja. Ovi se podaci utvrđuju na temelju putovnice ili službene osobne iskaznice koju predoči stvarni korisnik. Ako se ti podaci ne pojavljuju na putovnici ili službenoj osobnoj iskaznici, adresa se utvrđuje na temelju bilo kojega drugog dokumentiranog dokaza o identitetu koji predoči stvarni korisnik. Ako porezni identifikacijski broj nije naveden na putovnici, službenoj osobnoj iskaznici ili bilo kojem drugom dokumentiranom dokazu o identitetu, uključujući i potvrdu o rezidentnosti, koje za porezne svrhe predočuje stvarni korisnik, identitet se nadopunjava pozivanjem na datum i mjesto rođenja stvarnog korisnika, koji se utvrđuju iz njegove putovnice ili službene osobne iskaznice.

- (3) Isplatelj utvrđuje rezidentnost stvarnog korisnika na temelju minimalnih standarda koji ovise o tome kada su odnosi između isplatitelja i primatelja kamata sklopljeni. Podložno uvjetima navedenim u nastavku, smatra se da je stvarni korisnik rezident one države u kojoj ima stalnu adresu:
- (a) za ugovorne odnose sklopljene prije 1. siječnja 2004., isplatelj utvrđuje rezidentnost stvarnog korisnika koristeći se raspoloživim informacijama, a naročito informacijama stečenim sukladno zakonima i propisima o sprečavanju korištenja financijskog sustava u svrhu pranja novca koji su na snazi u njegovoj zemlji sjedišta;
 - (b) za ugovorne odnose sklopljene, ili transakcije izvršene u nedostatku ugovornih odnosa, na dan ili nakon 1. siječnja 2004., isplatelj utvrđuje rezidentnost stvarnog korisnika iz adrese navedene u putovnici, službenoj osobnoj iskaznici ili, po potrebi, na temelju bilo kojeg dokumentiranog dokaza o identitetu koji predoči stvarni korisnik i u skladu sa sljedećim postupkom: za fizičke osobe koje predoče putovnicu ili službenu osobnu iskaznicu izdanu u državi članici, koje se izjašnjavaju kao rezidenti treće zemlje, rezidentnost se utvrđuje na temelju potvrde o poreznoj rezidentnosti koju je izdalo nadležno tijelo treće zemlje za koju osoba navodi da je njezin rezident. Ako se takva potvrda ne predoči, država članica koja je izdala putovnicu ili drugi službeni identifikacijski dokument smatra se državom rezidentnosti.

Članak 4. Definicija isplatitelja

- (1) U svrhu ovoga Sporazuma „isplatelj“ znači svaki gospodarski subjekt koji isplaćuje kamatu ili osigurava isplatu kamate za izravnu korist stvarnog korisnika, bez obzira je li gospodarski subjekt ujedno i dužnik kamate ili je gospodarski subjekt koji je imenovan od strane dužnika ili stvarnog korisnika da isplati kamatu ili osigura isplatu kamate.
- (2) Svaki subjekt sa sjedištem u ugovornoj stranci kojem je kamata isplaćena ili isplata kamate osigurana za korist stvarnog korisnika smatra se isplateljem za takvu isplatu ili osiguranje takve isplate. Ova se odredba ne primjenjuje ako gospodarski subjekt, na temelju službenih dokaza koje je taj subjekt dostavio, ima razloga vjerovati da:
 - (a) se radi o pravnoj osobi, osim osoba iz stavka (5) ovoga članka; ili

- (b) se njegova dobit oporezuje prema općim načelima oporezivanja trgovačkih društava; ili
- (c) je fond UCITS, priznat u skladu s Direktivom 2009/65/EZ ili istovrsno poduzeće za zajedničko ulaganje sa sjedištem u Guernseyu.

Gospodarski subjekt koji isplaćuje kamatu ili osigurava isplatu kamate takvom subjektu sa sjedištem u drugoj ugovornoj stranci koji se u smislu ovoga stavka smatra isplatiteljem, dužan je nadležnom tijelu ugovorne stranke svoga sjedišta priopćiti ime, prezime i adresu tog subjekta, kao i ukupni iznos isplaćene kamate ili osigurane isplate kamata, koje će informaciju proslijediti nadležnom tijelu ugovorne stranke u kojoj taj subjekt ima sjedište.

- (3) Subjekt iz stavka (2) ovoga članka ima, međutim, mogućnost odabrati da se s njime za potrebe ovoga Sporazuma postupa kao s investicijskim fondom UCITS ili istovrsnim poduzećem iz podstavka (c) stavka (2) ovoga članka. U tu svrhu taj subjekt treba gospodarskom subjektu dostaviti potvrdu izdanu u ugovornoj stranci u kojoj je subjekt osnovan. Ugovorna stranka propisat će detaljna pravila o ovoj mogućnosti za subjekte osnovane na njezinom području.
- (4) Kada su poduzeće i subjekt iz stavka (2) ovoga članka osnovani u istoj ugovornoj stranci, ta ugovorna stranka poduzima potrebne mjere kako bi osigurala da subjekt, kada djeluje kao isplatitelj, postupa u skladu s odredbama ovoga Sporazuma.
- (5) Pravne osobe izuzete iz podstavka (a) stavka (2) ovoga članka su
 - (a) u Finskoj: avoin yhtio (Ay) and kommandiittiyhtio (Ky)/oppet bolag and kommanditbolag;
 - (b) u Švedskoj: handelsbolag (HB) and kommanditbolag (KB).

Članak 5. Definicija isplaćene kamate

(1) U svrhu ovoga Sporazuma, „isplaćena kamata“ znači:

- (a) kamata isplaćena u gotovini ili uplaćena na račun, vezano za tražbine svake vrste, bez obzira na to je li osigurana zalogom i bez obzira na to nosi li pravo sudjelovanja u dobiti dužnika, a posebno dohodak od državnih vrijednosnih papira i dohodak od obveznica ili zadužnica, uključujući premije i nagrade u vezi s tim vrijednosnim papirima, obveznicama ili zadužnicama; zatezne kamate zbog kašnjenja u plaćanju ne smatraju se kamatom;
- (b) obračunata ili kapitalizirana kamata pri prodaji, reotkupu ili otplati tražbina iz podstavka (a);
- (c) dohodak od kamata koje su isplaćene izravno ili putem subjekta iz članka 4.(2) ovoga Sporazuma, a koje je raspodijelio:
 - (i) investicijski fond UCITS ovlašten u skladu s Direktivom 2009/65/EZ;
 - (ii) istovrsno poduzeće za zajedničko ulaganje osnovano u Guernseyu;
 - (iii) subjekti koji koriste mogućnost iz članka 4.(3) ovoga Sporazuma;
 - (iv) poduzeća za zajedničko ulaganje osnovana izvan područja na koje se primjenjuje Ugovor o funkcioniranju Europske unije na temelju njegovog članka 355. i izvan Guernseya.
- (d) dohodak ostvaren pri prodaji, reotkupu ili otplati dionica ili udjela u sljedećim poduzećima i subjektima, od izravnih ili neizravnih ulaganja, putem drugih poduzeća za zajednička ulaganja ili subjekata navedenih u nastavku, ako je više od 25% njihove imovine uloženo u tražbine iz podstavka (a):
 - (i) investicijski fond UCITS ovlašten u skladu s Direktivom 2009/65/EZ;
 - (ii) istovrsno poduzeće za zajedničko ulaganje osnovano u Guernseyu.

(iii) subjekti koji koriste mogućnost iz članka 4.(3) ovoga Sporazuma;

(iv) poduzeća za zajedničko ulaganje osnovana izvan područja na koje se primjenjuje Ugovor o funkcioniranju Europske unije na temelju njegovog članka 355. i izvan Guernseya.

Međutim, ugovorne stranke mogu dohodak iz stavka (1)(d) ovoga članka uključiti u definiciju kamate samo do granice koja odgovara dohotku koji izravno ili neizravno potječe od kamate u smislu stavka (1)(a) i (b) ovoga članka.

- (2) Što se tiče stavaka (1)(c) i (d) ovoga članka, ako isplatitelj nema informacije o udjelu isplaćenih kamata u dohotku, isplaćenom kamatom smatra se ukupan iznos dohotka.
- (3) Što se tiče stavka (1)(d) ovoga članka, ako isplatitelj nema informacije o postotku udjela imovine uložene u tražbine ili u dionice ili udjele kako je određeno u tom stavku, smatra se da je taj postotak iznad 25%. Ako isplatitelj ne može utvrditi iznos dohotka koji je stvarni korisnik ostvario, smatra se da iznos dohotka odgovara prihodiima od prodaje, reotkupa ili otplate dionica ili udjela.
- (4) Ako je kamata, kako je određena u stavku (1) ovoga članka, isplaćena ili uplaćena na račun subjekta iz članka 4.(2) ovoga Sporazuma i ako taj subjekt ne koristi opciju iz članka 4.(3) ovoga Sporazuma, takva se kamata smatra kamatom isplaćenom od strane tog subjekta.
- (5) Što se tiče stavaka (1)(b) i (d) ovoga članka, ugovorna stranka može isplatiteljima na svom području naložiti obračun kamate na godišnjoj razini za razdoblje do godinu dana i smatrati takvu godišnju kamatu isplaćenom kamatom, čak i ako u tom razdoblju nije bilo prodaje, reotkupa ili otplate.
- (6) Iznimno od stavaka (1)(c) i (d) ovoga članka, ugovorna stranka može iz definicije isplaćene kamate isključiti svaki dohodak naveden u tim odredbama koji ostvare poduzeća ili subjekti sa sjedištem na njezinom području ako ulaganje u tražbine iz stavka (1)(a) ovoga članka ne prelazi 15% njihove imovine. Jednako tako, iznimno od stavka (4) ovoga članka, ugovorna stranka može iz definicije isplaćene kamate iz stavka (1) ovoga članka isključiti kamatu isplaćenu u gotovini ili uplaćenu na račun subjekta iz članka 4.(2) ovoga Sporazuma koja nije

odabrala mogućnost iz članka 4.(3) ovoga Sporazuma, a ima sjedište na njezinom području, ako ulaganje tih subjekata u tražbine iz stavka (1)(a) ovoga članka ne prelazi 15% njezine imovine.

Ako jedna ugovorna stranka iskoristi tu mogućnost, to je obvezujuće i za drugu ugovornu stranku.

- (7) Postotci iz stavka (1)(d) i stavka (6) ovoga članka utvrđuju se u skladu s investicijskom politikom fonda ili statutima dotičnih poduzeća ili subjekata, a u nedostatku istih, utvrđuju se prema aktualnom sastavu imovine dotičnih poduzeća ili subjekata.

Članak 6. Prijelazne odredbe za prenosive dužničke vrijednosne papire

- (1) Tijekom prijelaznog razdoblja kako je određeno u članku 10.(2) Direktive, posebne se odredbe primjenjuju na one domaće i međunarodne obveznice i druge prenosive vrijednosne papire:

- koji sadrže klauzulu o obračunu bruto iznosa ili klauzulu o ranijem otkupu; i,
- ako isplatitelj ima sjedište u ugovornoj stranci koja primjenjuje porez po odbitku i ako isplatitelj isplaćuje kamatu ili osigurava isplatu kamate za izravnu korist stvarnog korisnika rezidenta u drugoj ugovornoj stranci.

Takvi „prenosivi dužnički vrijednosni papiri“ koji su prvi put izdani prije 1. ožujka 2001. ili ako su ih prije toga datuma odobrila nadležna tijela u smislu Direktive 80/390/EEZ ili odgovorna tijela u trećim zemljama, ne smatraju se tražbinom u smislu članka 5.(1)(a) ovoga Sporazuma, pod uvjetom da nije bilo daljnjeg izdavanja takvih prenosivih dužničkih vrijednosnih papira na dan ili nakon 1. ožujka 2002.

Ako na dan ili nakon 1. ožujka 2002. država ili s njom povezani subjekt koji djeluje kao javnopravno tijelo ili čija je uloga priznata međunarodnim ugovorom, kako je određeno u Dodatku ovom Sporazumu, izvrši daljnje izdanje gore navedenih prenosivih dužničkih vrijednosnih papira, ukupno izdanje takvih vrijednosnih papira koje se sastoji od prvog i svih daljnjih izdanja smatra se tražbinom u smislu članka 5.(1)(a) ovoga Sporazuma.

Ako na dan ili nakon 1. ožujka 2002. gore navedene dužničke vrijednosne papire izdaje bilo koji drugi izdavatelj koji nije naveden u drugom podstavku, takvo daljnje izdavanje smatra se tražbinom u smislu članka 5.(1)(a) ovoga Sporazuma.

- (2) Ništa u ovom članku nije zapreka ugovornim strankama za oporezivanje dohotka od prenosivih dužničkih vrijednosnih papira iz stavka (1) u skladu s njihovim nacionalnim propisima.

Članak 7. Postupak zajedničkog dogovaranja

U slučaju nastanka poteškoća ili dvojbi među strankama u vezi s provedbom ili tumačenjem ovoga Sporazuma, ugovorne stranke će učiniti sve kako bi to pitanje riješile zajedničkim dogovorom.

Članak 8. Povjerljivost

- (1) Sve informacije koje nadležno tijelo ugovorne stranke dostavi ili primi smatrat će se povjerljivima.
- (2) Informacije dostavljene nadležnom tijelu ugovorne stranke ne mogu se bez prethodne pisane suglasnosti druge ugovorne stranke koristiti ni u koje druge svrhe osim u svrhe izravnog oporezivanja.
- (3) Informacije se dostavljaju samo dotičnim osobama ili tijelima u svrhu izravnog oporezivanja i te ih osobe ili tijela koriste samo u takve svrhe ili za potrebe praćenja, uključujući žalbeni postupak. U te se svrhe informacije mogu koristiti i u sudskim ili istražnim postupcima.
- (4) Ako nadležno tijelo ugovorne stranke smatra da bi informacija koju je primilo od nadležnog tijela druge ugovorne stranke mogla biti korisna nadležnom tijelu druge države članice, može je proslijediti tom drugom nadležnom tijelu u dogovoru s nadležnim tijelom koje je dostavilo informaciju.

Članak 9. Stupanje na snagu

Ovaj Sporazum stupa na snagu datumom pristupanja Republike Hrvatske Europskoj uniji.

Članak 10. Prestanak

- (1) Ovaj Sporazum ostaje na snazi sve dok ga ne okonča bilo koja ugovorna stranka.
- (2) Bilo koja ugovorna stranka može okončati ovaj Sporazum upućivanjem pisane obavijesti o okončanju drugoj ugovornoj stranci, u kojoj su navedeni razlozi koji su doveli do upućivanja takve obavijesti. U tom slučaju ovaj Sporazum prestaje proizvoditi učinke 12 mjeseci nakon uručenja obavijesti.

Članak 11. Primjena i obustava primjene

- (1) Primjena ovoga Sporazuma proizvodi učinak od datuma pristupanja Republike Hrvatske Europskoj uniji.
- (2) Podložno postupku zajedničkog dogovaranja predviđenog u članku 7. ovoga Sporazuma, svaka ugovorna stranka može obustaviti primjenu ovoga Sporazum ili njegovih dijelova s trenutnim učinkom, uz obavijest drugoj u kojoj su navedene okolnosti koje su dovele do takve obavijesti, ako bi Direktiva u skladu s pravom Europske unije prestala biti primjenjiva bilo privremeno ili trajno, ili u slučaju ako bi država članica obustavila primjenu svog provedbenog zakonodavstva. Primjena Sporazuma ponovno počinje čim prestanu okolnosti koje su dovele do obustave.
- (3) Podložno postupku zajedničkog dogovaranja predviđenog u članku 7. ovoga Sporazuma, svaka ugovorna stranka može obustaviti primjenu ovoga Sporazuma uz obavijest drugoj u kojoj su navedene okolnosti koje su dovele do takve obavijesti, u slučaju da jedna od trećih zemalja ili područja iz članka 17.(2) Direktive potom prestane primjenjivati mjere iz tog stavka. Obustava primjene počinje najranije dva mjeseca nakon obavijesti. Primjena Sporazuma ponovno počinje čim dotična treća zemlja ili područje u pitanju ponovno uvedu te mjere.

Sastavljeno na engleskom jeziku.

Za Republiku Hrvatsku

Slavko Linić, v.r.
ministar financija

Za Guernsey

Peter Harwood, v.r.
predsjednik Vlade

Popis povezanih subjekata iz članka 6.

U svrhu članka 11. ovoga Sporazuma, sljedeći subjekti smatraju se „povezanim subjektom koji djeluje kao javnopravno tijelo ili čija je uloga priznata međunarodnim ugovorom“.

SUBJEKTI U EUROPSKOJ UNIJI:**Belgija**

Vlaams Gewest (Flamanska regija)

Région wallonne (Valonska regija)

Région bruxelloise/Brussels Gewest (Briselska regija)

Communauté française (Francuska zajednica)

Vlaamse Gemeenschap (Flamanska zajednica)

Deutschsprachige Gemeinschaft (Zajednica njemačkog govornog područja)

Bugarska

Общините (općine)

Španjolska

Xunta de Galicia (Regionalna izvršna vlast Galicije)

Junta de Andalucía (Regionalna izvršna vlast Andaluzije)

Junta de Extremadura (Regionalna izvršna vlast Extremadure)

Junta de Castilla- La Mancha (Regionalna izvršna vlast Castilla- La Mancha)

Junta de Castilla- León (Regionalna izvršna vlast Castilla- León)

Gobierno Foral de Navarra (Regionalna izvršna vlast Navarre)

Govern de les Illes Balears (Vlada Balcarskih otoka)

Generalitat de Catalunya (Autonomna vlada Katalonije)

Generalitat de Valencia (Autonomna vlada Valencije)

Diputación General de Aragón (Regionalno vijeće Aragona)

Gobierno de las Islas Canarias (Vlada Kanarskih Otoka)

Gobierno de Murcia (Vlada Murcije)

Gobierno de Madrid (Vlada Madrida)

Gobierno de la Comunidad Autónoma del País Vasco/Euzkadi (Vlada autonomne zajednice Baskije)

Diputación Foral de Guipúzcoa (Regionalno vijeće Guipúzcoa)

Diputación Foral de Vizcaya/Bizkaia (Regionalno vijeće Vizcaya)

Diputación Foral de Alava (Regionalno vijeće Alava)

Ayuntamiento de Madrid (Gradska uprava Madrida)

Ayuntamiento de Barcelona (Gradska uprava Barcelone)

Cabildo Insular de Gran Canaria (Otočno vijeće Gran Canaria)

Cabildo Insular de Tenerife (Otočno vijeće Tenerife)

Instituto de Crédito Oficial (Javna kreditna ustanova)

Instituto Catalán de Finanzas (Financijska ustanova Katalonije)

Instituto Valenciano de Finanzas (Financijska ustanova Valencije)

Grčka

Οργανισμός Τηλεπικοινωνιών Ελλάδος (Nacionalna organizacija za telekomunikacije)

Οργανισμός Σιδηροδρόμων Ελλάδος (Nacionalne željeznice)

Δημόσια Επιχείρηση Ηλεκτρισμού (Javno poduzeće za električnu energiju)

Francuska

La Caisse d'amortissement de la dette sociale (CADES) (Zaklada za otkup socijalnog duga)

L'Agence française de développement (AFD) (Francuska razvojna agencija)

Réseau Ferré de France (RFF)(Francuske željeznice)

Caisse Nationale des Autoroutes (CNA) (Nacionalni fond za autoceste)

Assistance publique Hôpitaux de Paris (APHP) (Pariške bolnice)

Charbonnages de France (CDF) (Francuski odbor za ugljen)

Entreprise minière et chimique (EMC)(Društvo za rudarstvo i kemiju)

Italija

Regije

Provincije

Općine

Cassa Depositi e Prestiti (Štedno-kreditni fond)

Latvija

Pašvaldības (Tijela lokalne uprave)

Poljska

gminy (općine)

powiaty (oblasti)

województwa (pokrajine)

związki gmin (udruženja općina)

związki powiatów (udruženja oblasti)

związki województw (udruženja pokrajina)

miasto stołeczne Warszawa (glavni grad Varšava)

Agencja Restrukturyzacji i Modernizacji Rolnictwa (Agencija za obnovu i modernizaciju u poljoprivredi)

Agencja Nieruchomości Rolnych (Agencija za poljoprivredno vlasništvo)

Portugal

Região Autónoma da Madeira (Autonomna regija Madeire)

Região Autónoma dos Açores (Autonomna regija Azora)

Općine

Rumunjska

autoritățile administrației publice locale (tijela lokalne uprave)

Slovačka

mestá a obce (općine)

Železnice Slovenskej republiky (Slovačke željeznice)

Štátny fond cestného hospodárstva (Fond za upravljanje državnim cestama)

Slovenské elektrárne (Slovačke elektrane)

Vodohospodárska výstavba (Vodoprivreda)

MEĐUNARODNI SUBJEKTI:

Europska banka za obnovu i razvoj

Europska investicijska banka

Azijska banka za razvoj

Afrička banka za razvoj

Svjetska banka / IBRD / MMF

Međunarodna financijska korporacija

Banka za razvoj u Americi

Fond Vijeća Europe za socijalni razvitak

EURATOM

Europska zajednica

Corporación Andina de Fomento (CAF) (Andska korporacija za razvoj)

Eurofima

Europska zajednica za ugljen i čelik

Nordijska investicijska banka

Karipska banka za razvoj

Odredbe članka 11. ne dovode u pitanje međunarodne obveze koje su ugovorne stranke preuzele s obzirom na gore navedene međunarodne subjekte.

SUBJEKTI U TREĆIM ZEMLJAMA:

Subjekti koji ispunjavaju sljedeće kriterije:

- 1) U skladu s nacionalnim kriterijima, subjekt se jasno smatra javnopравnim tijelom.
- 2) Takav javnopравni subjekt je netržišni proizvođač koji upravlja i financira grupu aktivnosti, uglavnom pružajući netržišna dobra i usluge namijenjene za korist zajednice, a koje su pod stvarnim nadzorom opće države.
- 3) Takvo se javnopравno tijelo u velikom opsegu i redovno zadužuje.
- 4) Smatra se da dotična država može jamčiti da takvo javnopравno tijelo neće iskoristiti mogućnost prijevremenog otkupa, ako postoji klauzula o obračunu bruto iznosa.

UVJETI ZA IZMJENE I DOPUNE POSTOJEĆEG DODATKA:

Popis povezanih subjekata u ovom Dodatku može se izmijeniti i dopuniti uzajamnim dogovorom.

AGREEMENT
IN THE FORM OF AN EXCHANGE OF LETTERS
ON THE TAXATION OF SAVINGS INCOME AND THE PROVISIONAL APPLICATION
THEREOF

A. Letter from the Republic of Croatia

Sir,

I have the honour to refer to the texts of respectively the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU Member State that is to apply automatic exchange of information" and the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU Member State that is to apply the withholding tax in the transitional period", that resulted from the negotiations with the Island Authorities on a Savings Tax Agreement, and that were annexed, respectively as Annex I and Annex II, to the Outcome of Proceedings of the High Level Working Party of the Council of Ministers of the European Union of 12 March 2004 (Doc. 7408/3/04 REV 3 FISC 58).

In view of the above mentioned texts, with necessary adaptations, I have the honour to propose to you the "Agreement on the taxation of savings income" as contained in Appendix I to this letter, and our mutual undertaking to comply at the earliest possible date with our internal constitutional formalities for the entry into force of this Agreement and to notify each other without delay when such formalities are completed.

Pending the completion of these internal procedures and the entry into force of this "Agreement on the taxation of savings income", I have the honour to propose to you that the Republic of Croatia and Guernsey apply this Agreement provisionally, within the framework of our respective domestic constitutional requirements, as from the date of accession of the Republic of Croatia to the European Union.

I have the honour to propose that, if the above is acceptable to your Government, this letter and your confirmation shall together constitute an Agreement between the Republic of Croatia and Guernsey.

Please accept, Sir, the assurance of our highest consideration,

For the Republic of Croatia

Slavko Linić
Minister of Finance

Done at Zagreb, on 28th August 2013, in the English language in three copies.

B. Letter from Guernsey

Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

" Sir,

I have the honour to refer to the texts of respectively the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU member State that is to apply automatic exchange of information" and the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU member State that is to apply the withholding tax in the transitional period", that resulted from the negotiations with the Island Authorities on a Savings Tax Agreement, and that were annexed, respectively as Annex I and Annex II, to the Outcome of Proceedings of the High Level Working Party of the Council of Ministers of the European Union of 12 March 2004 (Doc. 7408/3/04 REV 3 FISC 58).

In view of the above mentioned texts, with necessary adaptations, I have the honour to propose to you the "Agreement on the taxation of savings income" as contained in Appendix 1 to this letter, and our mutual undertaking to comply at the earliest possible date with our internal constitutional formalities for the entry into force of this Agreement and to notify each other without delay when such formalities are completed.

Pending the completion of these internal procedures and the entry into force of this "Agreement on the taxation of savings income", I have the honour to propose to you that the Republic of Croatia and Guernsey apply this Agreement provisionally, within the framework of our respective domestic constitutional requirements, as from the date of accession of the Republic of Croatia to the European Union.

I have the honour to propose that, if the above is acceptable to your Government, this letter and your confirmation shall together constitute an Agreement between the Republic of Croatia and Guernsey.

Please accept, Sir, the assurance of our highest consideration,"

I am able to confirm that Guernsey is in agreement with the contents of your letter.

Please accept, Sir, the assurance of my highest consideration,

For Guernsey

Peter Harwood
Chief Minister

Done at St. Peter Port, on 4th October 2013, in the English language in three copies.

AGREEMENT ON THE TAXATION OF SAVINGS INCOME
BETWEEN GUERNSEY AND THE REPUBLIC OF CROATIA

WHEREAS:

1. Article 17 of Directive 2003/48/EEC (“the Directive”) of the Council of the European Union (“the Council”) on taxation of savings income provides that before 1 January 2004 Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive which provisions shall be applied from 1 January 2005 provided that:
 - “(i) the Swiss Confederation, the Principality of Liechtenstein, the Republic of San Marino, the Principality of Monaco and the Principality of Andorra apply from that same date measures equivalent to those contained in this Directive, in accordance with agreements entered into by them with the European Community, following unanimous decisions of the Council;
 - (ii) all agreements or other arrangements are in place, which provide that all the relevant dependent or associated territories apply from that same date automatic exchange of information in the same manner as is provided for in Chapter II of this Directive, (or, during the transitional period defined in Article 10, apply a withholding tax on the same terms as are contained in Articles 11 and 12)”.
2. On 19 July 2004 (Council Decision 2004/587/EC) the Council amended the date of application of the Directive from 1 January 2005 to 1 July 2005;
3. On 24 June 2005, the Council:
 - took note that the 25 Member States, 5 European countries (Andorra, Liechtenstein, Monaco, San Marino, Switzerland), 3 Crown Dependencies (Guernsey, Isle of Man, and Jersey), and 7 dependent or associated territories in the Caribbean (Netherlands Antilles,

Aruba, Anguilla, British Virgin Islands, Cayman Islands, Montserrat, Turks & Caicos Islands) have confirmed that they apply the agreed savings tax measures from 1 July 2005 (green light);

- adopted the "Green light note" (Doc. 10038/05 FISC 69) which triggered the application, by all 40 treaty partners concerned, of the agreed savings tax measures from 1 July 2005;
 - authorised the Council Secretariat to share the "Green light note" and the information concerning the bilateral savings tax agreements and the Savings Tax Directive with the relevant third countries and territories and the public."
4. The relationship of Guernsey with the EU is determined by Protocol 3 of the Treaty of Accession of the United Kingdom to the European Community. Under the terms of the Protocol Guernsey is not within the EU fiscal territory.
 5. Guernsey has agreed to apply automatic exchange of information in the same manner as is provided for in Chapter II of the Directive.
 6. Guernsey has legislation relating to undertakings for collective investment that is deemed to be equivalent in its effect to the EU legislation referred to in Articles 2 and 6 of the Directive.

Guernsey and the Republic of Croatia hereinafter referred to as a "contracting party" or the "contracting parties" unless the context otherwise requires,

Have agreed to conclude the following agreement which contains obligations on the part of the contracting parties only and provides for the automatic exchange of information between the competent authorities of the contracting parties in respect of interest payments made by a paying agent established in a contracting party to an individual resident in the other contracting party.

For the purposes of this Agreement the term 'competent authority' when applied to the contracting parties means "the Minister of Finance or an authorised representative" in respect of the Republic of Croatia and "the Director of Income Tax" in respect of Guernsey.

Article 1 Reporting of Information by Paying Agents

- (1) Where interest payments, as defined in Article 5 of this Agreement, are made by a paying agent established in a contracting party to beneficial owners, as defined in Article 2 of this Agreement, who are residents of the other contracting party, the paying agent shall report to its competent authority:
- (a) the identity and residence of the beneficial owner established in accordance with Article 3 of this Agreement;
 - (b) the name and address of the paying agent;
 - (c) the account number of the beneficial owner or, where there is none, identification of the debt claim giving rise to the interest;
 - (d) the following information concerning the interest payment:
 - in the case of an interest payment within the meaning of Article 5(1)(a) of this Agreement: the gross amount of interest paid or credited;
 - in the case of an interest payment within the meaning of Article 5(1)(b) or (d) of this Agreement: the amount of interest or income referred to in (b) or (d) of that paragraph or the full amount of the proceeds of the sale, redemption or refund;
 - in the case of an interest payment within the meaning of Article 5(1)(c) of this Agreement: the amount of interest referred to in that sub-paragraph;
 - in the case of an interest payment within the meaning of Article 5(4) of this Agreement: the amount of interest attributable to each of the members of the entity referred to in Article 4(2) of this Agreement who meet the conditions of Article 2(1) of this Agreement;
 - where the contracting party exercises the option under Article 5(5) of this Agreement: the amount of annualised interest.

However, each contracting party may restrict the minimum amount of information concerning interest payment to be reported by the paying agent to the total amount of interest or income and to the total amount of the proceeds from sale, redemption or refund;

and the contracting party, in which that competent authority is located, will comply with paragraph (2) of this Article.

- (2) Within six months following the end of the tax year, the competent authority of the contracting party shall communicate to the competent authority of the other contracting party, automatically, the information referred to in paragraph (1) (a) – (d) of this Article, for all interest payments made during that year.

Article 2 Definition of beneficial owner

- (1) For the purposes of this Agreement, “beneficial owner” shall mean any individual who receives an interest payment or any individual for whom an interest payment is secured, unless such individual can provide evidence that the interest payment was not received or secured for his own benefit. An individual is not deemed to be the beneficial owner when he:
 - (a) acts as a paying agent within the meaning of Article 4(1) of this Agreement;
 - (b) acts on behalf of a legal person, an entity which is taxed on its profits under the general arrangements for business taxation, an UCITS authorised in accordance with Directive 2009/65/EC or an equivalent undertaking for collective investment established in Guernsey, or an entity referred to in Article 4(2) of this Agreement and, in the last mentioned case, discloses the name and address of that entity to the economic operator making the interest payment and the latter communicates such information to the competent authority of its contracting party of establishment;
 - (c) acts on behalf of another individual who is the beneficial owner and discloses to the paying agent the identity of that beneficial owner.

- (2) Where a paying agent has information suggesting that the individual who receives an interest payment or for whom an interest payment is secured may not be the beneficial owner, and where neither paragraph (1)(a) nor (1)(b) of this Article applies, it shall take reasonable steps to establish the identity of the beneficial owner. If the paying agent is unable to identify the beneficial owner, it shall treat the individual in question as the beneficial owner.

Article 3 Identity and residence of beneficial owners

- (1) Each Party shall, within its territory, adopt and ensure the application of the procedures necessary to allow the paying agent to identify the beneficial owners and their residence for the purposes of this Agreement. Such procedures shall comply with the minimum standards established in paragraphs (2) and (3).
- (2) The paying agent shall establish the identity of the beneficial owner on the basis of minimum standards which vary according to when relations between the paying agent and the recipient of the interest are entered into, as follows:
 - (a) for contractual relations entered into before 1 January 2004, the paying agent shall establish the identity of the beneficial owner, consisting of his name and address, by using the information at its disposal, in particular pursuant to the laws and regulations in force in its country of establishment on prevention of the use of the financial system for the purpose of money laundering;
 - (b) for contractual relations entered into, or transactions carried out in the absence of contractual relations, on or after 1 January, 2004 the paying agent shall establish the identity of the beneficial owner, consisting of the name, address and, if there is one, the tax identification number allocated by the Member State of residence for tax purposes. These details should be established on the basis of the passport or of the official identity card presented by the beneficial owner. If it does not appear on that passport or official identity card, the address shall be established on the basis of any other documentary proof of identity presented by the beneficial owner. If the tax identification number is not mentioned on the passport, on the official identity card or any other documentary proof of identity, including, possibly the certificate of residence for tax purposes, presented by the beneficial owner, the identity shall be

supplemented by a reference to the latter's date and place of birth established on the basis of his passport or official identification card.

- (3) The paying agent shall establish the residence of the beneficial owner on the basis of minimum standards which vary according to when relations between the paying agent and the recipient of the interest are entered into. Subject to the conditions set out below, residence shall be considered to be situated in the country where the beneficial owner has his permanent address:
- (a) for contractual relations entered into before 1 January, 2004 the paying agent shall establish the residence of the beneficial owner by using the information at its disposal, in particular pursuant to the laws and regulations in force in its country of establishment on prevention of the use of the financial system for the purpose of money laundering;
 - (b) for contractual relations entered into, or transactions carried out in the absence of contractual relations, on or after 1 January, 2004, the paying agents shall establish the residence of the beneficial owner on the basis of the address mentioned on the passport, on the official identity card or, if necessary, on the basis of any documentary proof of identity presented by the beneficial owner and according to the following procedure: for individuals presenting a passport or official identity card issued by a Member State who declare themselves to be resident in a third country, residence shall be established by means of a tax residence certificate issued by the competent authority of the third country in which the individual claims to be resident. Failing the presentation of such a certificate, the Member State which issued the passport or other official identity document shall be considered to be the country of residence.

Article 4 Definition of paying agent

- (1) For the purposes of this Agreement, 'paying agent' means any economic operator who pays interest to or secures the payment of interest for the immediate benefit of the beneficial owner, whether the operator is the debtor of the debt claim which produces the interest or the operator charged by the debtor or the beneficial owner with paying interest or securing the payment of interest.

(2) Any entity established in a contracting party to which interest is paid or for which interest is secured for the benefit of the beneficial owner shall also be considered a paying agent upon such payment or securing of such payment. This provision shall not apply if the economic operator has reason to believe, on the basis of official evidence produced by that entity that:

- (a) it is a legal person with the exception of those legal persons referred to in paragraph (5) of this Article; or
- (b) its profits are taxed under the general arrangements for business taxation; or
- (c) it is an UCITS recognised in accordance with Directive 2009/65/EC or an equivalent undertaking for collective investment established in Guernsey.

An economic operator paying interest to, or securing interest for, such an entity established in the other contracting party which is considered a paying agent under this paragraph shall communicate the name and address of the entity and the total amount of interest paid to, or secured for, the entity to the competent authority of its contracting party of establishment, which shall pass this information on to the competent authority of the contracting party where the entity is established.

- (3) The entity referred to in paragraph (2) of this Article shall, however, have the option of being treated for the purposes of this Agreement as an UCITS or equivalent undertaking as referred to in sub-paragraph (c) of paragraph (2) of this article. The exercise of this option shall require a certificate to be issued by the contracting party in which the entity is established and presented to the economic operator by that entity. A contracting party shall lay down the detailed rules for this option for entities established in its territory.
- (4) Where the economic operator and the entity referred to in paragraph (2) of this Article are established in the same contracting party, that contracting party shall take the necessary measures to ensure that the entity complies with the provisions of this Agreement when it acts as a paying agent.
- (5) The legal persons exempted from sub- paragraph (a) of paragraph (2) of this Article are

- (a) in Finland: avoin yhtiö (Ay) and kommandiittiyhtiö (Ky)/oppet bolag and kommanditbolag;
- (b) in Sweden: handelsbolag (HB) and kommanditbolag (KB).

Article 5 Definition of interest payment

(1) For the purposes of this Agreement “interest payment” shall mean:

- (a) interest paid, or credited to an account, relating to debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor’s profits, and, in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures; penalty charges for late payment shall not be regarded as interest payment;
- (b) interest accrued or capitalised at the sale, refund or redemption of the debt claims referred to in (a);
- (c) income deriving from interest payments either directly or through an entity referred to in Article 4(2) of this Agreement, distributed by :
 - (i) an UCITS authorised in accordance with EU Directive 2009/65/EC;
 - (ii) an equivalent undertaking for collective investment established in Guernsey;
 - (iii) entities which qualify for the option under Article 4(3) of this Agreement;
 - (iv) undertakings for collective investment established outside the territory to which the Treaty on the Functioning of the European Union applies by virtue of Article 355 thereof and outside Guernsey.
- (d) income realised upon the sale, refund or redemption of shares or units in the following undertakings and entities, if they invest directly or indirectly, via other undertakings for

collective investment or entities referred to below, more than 25% of their assets in debt claims as referred to in (a):

- (i) an UCITS authorised in accordance with Directive 2009/65/EC;
- (ii) an equivalent undertaking for collective investment established in Guernsey.
- (iii) entities which qualify for the option under Article 4(3) of this Agreement;
- (iv) undertakings for collective investment established outside the territory to which the Treaty on the Functioning of the European Union applies by virtue of Article 355 thereof and outside Guernsey.

However, the contracting parties shall have the option of including income mentioned under paragraph (1)(d) of this Article in the definition of interest only to the extent that such income corresponds to gains directly or indirectly deriving from interest payments within the meaning of paragraphs (1)(a) and (b) of this Article.

- (2) As regards paragraphs (1)(c) and (d) of this Article, when a paying agent has no information concerning the proportion of the income which derives from interest payments, the total amount of the income shall be considered an interest payment.
- (3) As regards paragraph (1)(d) of this Article, when a paying agent has no information concerning the percentage of the assets invested in debt claims or in shares or units as defined in that paragraph, that percentage shall be considered to be above 25%. Where he cannot determine the amount of income realised by the beneficial owner, the income shall be deemed to correspond to the proceeds of the sale, refund or redemption of the shares or units.
- (4) When interest, as defined in paragraph (1) of this Article, is paid to or credited to an account held by an entity referred to in Article 4(2) of this Agreement, such entity not having qualified for the option under Article 4(3) of this Agreement, such interest shall be considered an interest payment by such entity.
- (5) As regards paragraphs (1)(b) and (d) of this Article, a contracting party shall have the option of requiring paying agents in its territory to annualise the interest over a period of time which

may not exceed one year, and treating such annualised interest as an interest payment even if no sale, redemption or refund occurs during that period.

- (6) By way of derogation from paragraphs (1)(c) and (d) of this Article, a contracting party shall have the option of excluding from the definition of interest payment any income referred to in those provisions from undertakings or entities established within its territory where the investment in debt claims referred to in paragraph (1)(a) of this Article of such entities has not exceeded 15% of their assets. Likewise, by way of derogation from paragraph (4) of this Article, a contracting party shall have the option of excluding from the definition of interest payment in paragraph (1) of this Article interest paid or credited to an account of an entity referred to in Article 4(2) of this Agreement which has not qualified for the option under Article 4(3) of this Agreement and is established within its territory, where the investment of such an entity in debt claims referred to in paragraph (1)(a) of this Article has not exceeded 15% of its assets.

The exercise of such option by one contracting party shall be binding on the other contracting party.

- (7) The percentages referred to in paragraph (1)(d) of this Article and in paragraph (6) of this Article shall be determined by reference to the investment policy as laid down in the fund rules or instruments of incorporation of the undertakings or entities concerned or, failing which, by reference to the actual composition of the assets of the undertakings or entities concerned.

Article 6 Transitional provisions for negotiable debt securities

- (1) During the transitional period as defined in Article 10 (2) of the Directive, specific provisions apply to those domestic and international bonds and other negotiable debt securities:
- which contain gross up and early redemption clauses; and,
 - where the paying agent is established in a contracting party applying retention tax and that paying agent pays interest to, or secures the payment of interest for the immediate benefit of a beneficial owner resident in the other contracting party.

Those such "negotiable debt securities" which have been first issued before 1 March 2001 or for which the original issuing prospectuses have been approved before that date by the competent authorities within the meaning of Council Directive 80/390/EEC or by the responsible authorities in third countries shall not be considered as debt claims within the meaning of Article 5(1)(a) of this Agreement, provided that no further issues of such negotiable debt securities are made on or after 1 March 2002.

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by a Government or a related entity acting as a public authority or whose role is recognised by an international treaty, as defined in the Annex to this Agreement, the entire issue of such security, consisting of the original issue and any further issue, shall be considered a debt claim within the meaning of Article 5(1)(a) of this Agreement.

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by any other issuer not covered by the second sub-paragraph, such further issue shall be considered a debt claim within the meaning of Article 5(1)(a) of this Agreement.

- (2) Nothing in this Article shall prevent the contracting parties from taxing the income from the negotiable debt securities referred to in paragraph (1) in accordance with their national laws.

Article 7 Mutual agreement procedure

Where difficulties or doubts arise between the parties regarding the implementation or interpretation of this Agreement, the contracting parties shall use their best endeavours to resolve the matter by mutual agreement.

Article 8 Confidentiality

- (1) All information provided and received by the competent authority of a contracting party shall be kept confidential.
- (2) Information provided to the competent authority of a contracting party may not be used for any purpose other than for the purposes of direct taxation without the prior written consent of the other contracting party.

- (3) Information provided shall be disclosed only to persons or authorities concerned with the purposes of direct taxation, and used by such persons or authorities only for such purposes or for oversight purposes, including the determination of any appeal. For these purposes, information may be disclosed in public court proceedings or in judicial proceedings.
- (4) Where a competent authority of a contracting party considers that information which it has received from the competent authority of the other contracting party is likely to be useful to the competent authority of another Member State, it may transmit it to the latter competent authority with the agreement of the competent authority which supplied the information.

Article 9 Entry into force

This Agreement shall come into force on the date of accession of the Republic of Croatia to the European Union.

Article 10 Termination

- (1) This Agreement shall remain in force until terminated by either contracting party.
- (2) Either contracting party may terminate this Agreement by giving notice of termination in writing to the other contracting party, such notice to specify the circumstances leading to the giving of such notice. In such a case, this Agreement shall cease to have effect 12 months after the serving of notice.

Article 11 Application and suspension of application

- (1) The application of this Agreement shall have effect as from the date of accession of the Republic of Croatia to the European Union.
- (2) Subject to the mutual agreement procedure provided for in Article 7 of this Agreement, the application of this Agreement or parts thereof may be suspended by either contracting party with immediate effect through notification to the other specifying the circumstances leading

to such notification should the Directive cease to be applicable either temporarily or permanently in accordance with European Union law or in the event that a Member State should suspend the application of its implementing legislation. Application of the Agreement shall resume as soon as the circumstances leading to the suspension no longer apply.

- (3) Subject to the mutual agreement procedure provided for in Article 7 of this Agreement, either contracting party may suspend the application of this Agreement through notification to the other specifying the circumstances leading to such notification in the event that one of the third countries or territories referred to in Article 17(2) of the Directive should subsequently cease to apply the measures referred to in that paragraph. Suspension of application shall take place no earlier than two months after notification. Application of the Agreement shall resume as soon as the measures are reinstated by the third country or territory in question.

Done in English.

For the Republic of Croatia

For Guernsey

Slavko Linić
Minister of Finance

Peter Harwood
Chief Minister

List of related entities referred to in Article 6

For the purposes of Article 11 of this Agreement, the following entities will be considered to be a "*related entity acting as a public authority or whose role is recognised by an international treaty*":

ENTITIES WITHIN THE EUROPEAN UNION:**Belgium**

Vlaams Gewest (Flemish Region)

Région wallonne (Walloon Region)

Région bruxelloise/Brussels Gewest (Brussels Region)

Communauté française (French Community)

Vlaamse Gemeenschap (Flemish Community)

Deutschsprachige Gemcinschaft (German-speaking Community)

Bulgaria

Общините (municipalities)

Spain

Xunta de Galicia (Regional Executive of Galicia)

Junta de Andalucía (Regional Executive of Andalusia)

Junta de Extremadura (Regional Executive of Extremadura)

Junta de Castilla- La Mancha (Regional Executive of Castilla- La Mancha)

Junta de Castilla- León (Regional Executive of Castilla- León)

Gobierno Foral de Navarra (Regional Government of Navarra)

Govern de les Illes Balears (Government of the Balearic Islands)

Generalitat de Catalunya (Autonomous Government of Catalonia)

Generalitat de Valencia (Autonomous Government of Valencia)

Diputación General de Aragón (Regional Council of Aragon)

Gobierno de las Islas Canarias (Government of the Canary Islands)

Gobierno de Murcia (Government of Murcia)

Gobierno de Madrid (Government of Madrid)

Gobierno de la Comunidad Autónoma del País Vasco/Euzkadi (Government of the Autonomous Community of the Basque Country)

Diputación Foral de Guipúzcoa (Regional Council of Guipúzcoa)

Diputación Foral de Vizcaya/Bizkaia (Regional Council of Vizcaya)

Diputación Foral de Alava (Regional Council of Alava)

Ayuntamiento de Madrid (City Council of Madrid)

Ayuntamiento de Barcelona (City Council of Barcelona)

Cabildo Insular de Gran Canaria (Island Council of Gran Canaria)

Cabildo Insular de Tenerife (Island Council of Tenerife)

Instituto de Crédito Oficial (Public Credit Institution)

Instituto Catalán de Finanzas (Finance Institution of Catalonia)

Instituto Valenciano de Finanzas (Finance Institution of Valencia)

Greece

Οργανισμός Τηλεπικοινωνιών Ελλάδος (National Telecommunications Organisation)

Οργανισμός Σιδηροδρόμων Ελλάδος (National Railways Organisation)

Δημόσια Επιχείρηση Ηλεκτρισμού (Public Electricity Company)

France

La Caisse d'amortissement de la dette sociale (CADES) (Social Debt Redemption Fund)

L'Agence française de développement (AFD) (French Development Agency)

Réseau Ferré de France (RFF)(French Rail Network)

Caisse Nationale des Autoroutes (CNA) (National Motorways Fund)

Assistance publique Hôpitaux de Paris (APHP) (Paris Hospitals Public Assistance)

Charbonnages de France (CDF) (French Coal Board)

Entreprise minière et chimique (EMC)(Mining and Chemicals Company)

Italy

Regions

Provinces

Municipalities

Cassa Depositi e Prestiti (Deposits and Loans Fund)

Latvia

Pašvaldības (Local governments)

Poland

gminy (communes)

powiaty (districts)

województwa (provinces)

związki gmin (associations of communes)

związki powiatów (association of districts)

związki województw (association of provinces)

miasto stołeczne Warszawa (capital city of Warsaw)

Agencja Restrukturyzacji i Modernizacji Rolnictwa (Agency for Restructuring and
Modernisation of Agriculture)

Agencja Nieruchomości Rolnych (Agricultural Property Agency)

Portugal

Região Autónoma da Madeira (Autonomous Region of Madeira)

Região Autónoma dos Açores (Autonomous Region of Azores)

Municipalities

Romania

autoritățile administrației publice locale (local public administration authorities)

Slovakia

mestá a obce (municipalities)

Železnice Slovenskej republiky (Slovak Railway Company)

Štátny fond cestného hospodárstva (State Road Management Fund)

Slovenské elektrárne (Slovak Power Plants)

Vodohospodárska výstavba (Water Economy Building Company)

INTERNATIONAL ENTITIES:

European Bank for Reconstruction and Development

European Investment Bank

Asian Development Bank

African Development Bank

World Bank / IBRD / IMF

International Finance Corporation

Inter-American Development Bank

Council of Europe Social Development Fund

EURATOM

European Community

Corporación Andina de Fomento (CAF) (Andean Development Corporation)

Eurofima

European Coal & Steel Community

Nordic Investment Bank

Caribbean Development Bank

The provisions of Article 11 are without prejudice to any international obligations that the Contracting Parties may have entered into with respect to the above mentioned international entities.

ENTITIES IN THIRD COUNTRIES :

The entities that meet the following criteria :

- 1) The entity is clearly considered to be a public entity according to the national criteria.

- 2) Such public entity is a non-market producer which administers and finances a group of activities, principally providing non-market goods and services, intended for the benefit of the community and which are effectively controlled by general government.
- 3) Such public entity is a large and regular issuer of debt.
- 4) The State concerned is able to guarantee that such public entity will not exercise early redemption in the event of gross-up clauses.

CONDITIONS FOR AMENDING THE PRESENT ANNEX:

The list of related entities in this Annex may be amended by mutual agreement.

Članak 3.

Provedba ovoga Zakona u djelokrugu je središnjeg tijela državne uprave nadležnog za poslove financija.

Članak 4.

Na dan stupanja na snagu ovoga Zakona, Sporazum iz članka 1. ovoga Zakona nije na snazi već se privremeno primjenjuje od datuma pristupanja Republike Hrvatske Europskoj uniji, te će se podaci o njegovom stupanju na snagu objaviti u skladu s odredbom članka 30. stavak 3. Zakona o sklapanju i izvršavanju međunarodnih ugovora.

Članak 5.

Ovaj Zakon stupa na snagu osmoga dana od dana objave u Narodnim novinama.

OBRAZLOŽENJE

Člankom 1. Konačnog prijedloga Zakona utvrđuje se da Hrvatski sabor, sukladno odredbi članka 140. stavka 1. Ustava Republike Hrvatske (Narodne novine, br. 85/2010 – pročišćeni tekst i 5/2014 - Odluka Ustavnog suda Republike Hrvatske) potvrđuje Sporazum sklopljen u obliku razmjene pisama, čime se iskazuje formalni pristanak Republike Hrvatske da bude vezana Sporazumom, na temelju čega će ovaj pristanak biti iskazan i u odnosima s drugom ugovornom strankom.

Članak 2. Konačnog prijedloga Zakona sadrži tekst Sporazuma i pisama u izvorniku na engleskom jeziku i u prijevodu na hrvatski jezik.

Člankom 3. Konačnog prijedloga Zakona utvrđuje se da je provedba Zakona u djelokrugu središnjeg tijela državne uprave nadležnog za poslove financija.

Člankom 4. utvrđuje se da na dan stupanja na snagu Zakona, Sporazum nije na snazi već se privremeno primjenjuje od datuma pristupanja Republike Hrvatske Europskoj uniji te će se podaci o njegovom stupanju na snagu objaviti sukladno odredbi članka 30. stavka 3. Zakona o sklapanju i izvršavanju međunarodnih ugovora. Uzimajući u obzir da je intencija bila da se Sporazum sklopi i stupi na snagu u razdoblju prije datuma pristupanja Republike Hrvatske Europskoj uniji, u samom tekstu Sporazuma koji je sastavljen prema tipskom modelu i kao takav predložen Republici Hrvatskoj, sadržana je odredba članka 9. Sporazuma koja predviđa stupanje na snagu datumom pristupanja Republike Hrvatske Europskoj uniji. Unatoč odredbi članka 9. Sporazuma, s obzirom na dinamiku pregovora, u tekstovima pisama potvrđeno je razumijevanje ugovornih stranaka da se stupanje na snagu vezuje uz okončanje njihovih unutarnjih pravnih postupaka potrebnih za stupanje Sporazuma na snagu. U očekivanju okončanja tih unutarnjih postupaka i stupanja Sporazuma na snagu dogovorena je privremena primjena Sporazuma od datuma pristupanja Republike Hrvatske Europskoj uniji. S obzirom da je Sporazum u konačnici sklopljen nakon datuma pristupanja Republike Hrvatske Europskoj uniji, razmjenom pisama potvrđeno je razumijevanje da kao datum početka privremene primjene ugovorne stranke prihvaćaju 1. srpnja 2013. (datum pristupanja Republike Hrvatske Europskoj uniji). Slijedom navedenog, Sporazum se u odnosima Republike Hrvatske i Guernseya privremeno primjenjuje od 1. srpnja 2013. i bit će u tom režimu do datuma stupanja na snagu, a stupit će se snagu nakon što ugovorne stranke okončanju svoje unutarnje postupke potrebne za stupanje na snagu i o tomu međusobno razmijene obavijesti.

Člankom 5. uređuje se stupanje na snagu Zakona.

**AGREEMENT
IN THE FORM OF AN EXCHANGE OF LETTERS
ON THE TAXATION OF SAVINGS INCOME AND THE PROVISIONAL APPLICATION
THEREOF**

A. Letter from the Republic of Croatia

Sir,

I have the honour to refer to the texts of respectively the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU Member State that is to apply automatic exchange of information" and the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU Member State that is to apply the withholding tax in the transitional period", that resulted from the negotiations with the Island Authorities on a Savings Tax Agreement, and that were annexed, respectively as Annex I and Annex II, to the Outcome of Proceedings of the High Level Working Party of the Council of Ministers of the European Union of 12 March 2004 (Doc. 7408/3/04 REV 3 FISC 58).

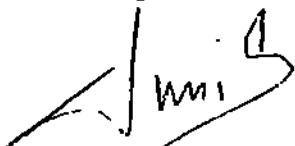
In view of the above mentioned texts, with necessary adaptations, I have the honour to propose to you the "Agreement on the taxation of savings income" as contained in Appendix 1 to this letter, and our mutual undertaking to comply at the earliest possible date with our internal constitutional formalities for the entry into force of this Agreement and to notify each other without delay when such formalities are completed.

Pending the completion of these internal procedures and the entry into force of this "Agreement on the taxation of savings income", I have the honour to propose to you that the Republic of Croatia and Guernsey apply this Agreement provisionally, within the framework of our respective domestic constitutional requirements, as from the date of accession of the Republic of Croatia to the European Union.

I have the honour to propose that, if the above is acceptable to your Government, this letter and your confirmation shall together constitute an Agreement between the Republic of Croatia and Guernsey.

Please accept, Sir, the assurance of our highest consideration,

For the Republic of Croatia

A handwritten signature in black ink, appearing to be 'M. M. M.', written over a horizontal line.

Minister of Finance

Done at Zagreb, on

28th August

, in the English language in three copies.

B. Letter from Guernsey

Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

" Sir,

I have the honour to refer to the texts of respectively the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU member State that is to apply automatic exchange of information" and the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU member State that is to apply the withholding tax in the transitional period", that resulted from the negotiations with the Island Authorities on a Savings Tax Agreement, and that were annexed, respectively as Annex I and Annex II, to the Outcome of Proceedings of the High Level Working Party of the Council of Ministers of the European Union of 12 March 2004 (Doc. 7408/3/04 REV 3 FISC 58).

In view of the above mentioned texts, with necessary adaptations, I have the honour to propose to you the "Agreement on the taxation of savings income" as contained in Appendix I to this letter, and our mutual undertaking to comply at the earliest possible date with our internal constitutional formalities for the entry into force of this Agreement and to notify each other without delay when such formalities are completed.

Pending the completion of these internal procedures and the entry into force of this "Agreement on the taxation of savings income", I have the honour to propose to you that the Republic of Croatia and Guernsey apply this Agreement provisionally, within the framework of our respective domestic constitutional requirements, as from the date of accession of the Republic of Croatia to the European Union.

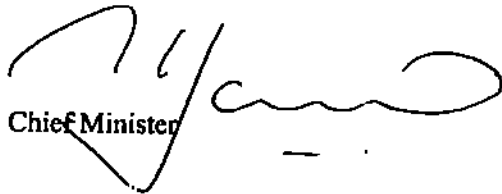
I have the honour to propose that, if the above is acceptable to your Government, this letter and your confirmation shall together constitute an Agreement between the Republic of Croatia and Guernsey.

Please accept, Sir, the assurance of our highest consideration,"

I am able to confirm that Guernsey is in agreement with the contents of your letter.

Please accept, Sir, the assurance of my highest consideration,

For Guernsey


Chief Minister

Done at St. Peter Port, on 4th Dec 2017, in the English language in three copies.

AGREEMENT ON THE TAXATION OF SAVINGS INCOME
BETWEEN GUERNSEY AND THE REPUBLIC OF CROATIA

WHEREAS:

1. Article 17 of Directive 2003/48/EEC ("the Directive") of the Council of the European Union ("the Council") on taxation of savings income provides that before 1 January 2004 Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive which provisions shall be applied from 1 January 2005 provided that:
 - (i) the Swiss Confederation, the Principality of Liechtenstein, the Republic of San Marino, the Principality of Monaco and the Principality of Andorra apply from that same date measures equivalent to those contained in this Directive, in accordance with agreements entered into by them with the European Community, following unanimous decisions of the Council;
 - (ii) all agreements or other arrangements are in place, which provide that all the relevant dependent or associated territories apply from that same date automatic exchange of information in the same manner as is provided for in Chapter II of this Directive, (or, during the transitional period defined in Article 10, apply a withholding tax on the same terms as are contained in Articles 11 and 12)".
2. On 19 July 2004 (Council Decision 2004/587/EC) the Council amended the date of application of the Directive from 1 January 2005 to 1 July 2005;

On 24 June 2005, the Council:

- took note that the 25 Member States, 5 European countries (Andorra, Liechtenstein, Monaco, San Marino, Switzerland), 3 Crown Dependencies (Guernsey, Isle of Man, and Jersey), and 7 dependent or associated territories in the Caribbean (Netherlands Antilles, Aruba, Anguilla, British Virgin Islands, Cayman Islands, Montserrat, Turks & Caicos Islands) have confirmed that they apply the agreed savings tax measures from 1 July 2005 (green light);
 - adopted the "Green light note" (Doc. 10038/05 FISC 69) which triggered the application, by all 40 treaty partners concerned, of the agreed savings tax measures from 1 July 2005;
 - authorised the Council Secretariat to share the "Green light note" and the information concerning the bilateral savings tax agreements and the Savings Tax Directive with the relevant third countries and territories and the public."
4. The relationship of Guernsey with the EU is determined by Protocol 3 of the Treaty of Accession of the United Kingdom to the European Community. Under the terms of the Protocol Guernsey is not within the EU fiscal territory.
 5. Guernsey has agreed to apply automatic exchange of information in the same manner as is provided for in Chapter II of the Directive.
 6. Guernsey has legislation relating to undertakings for collective investment that is deemed to be equivalent in its effect to the EU legislation referred to in Articles 2 and 6 of the Directive.

Guernsey and the Republic of Croatia hereinafter referred to as a "contracting party" or the "contracting parties" unless the context otherwise requires,

Have agreed to conclude the following agreement which contains obligations on the part of the contracting parties only and provides for the automatic exchange of information between the competent authorities of the contracting parties in respect of interest payments made by a paying agent established in a contracting party to an individual resident in the other contracting party.

For the purposes of this Agreement the term 'competent authority' when applied to the contracting party means "the Minister of Finance or an authorised representative" in respect of the Republic of Croatia and "the Director of Income Tax" in respect of Guernsey.

Article 1 Reporting of Information by Paying Agents

(1) Where interest payments, as defined in Article 5 of this Agreement, are made by a paying agent established in a contracting party to beneficial owners, as defined in Article 2 of this Agreement, who are residents of the other contracting party, the paying agent shall report to its competent authority:

- (a) the identity and residence of the beneficial owner established in accordance with Article 3 of this Agreement;
- (b) the name and address of the paying agent;
- (c) the account number of the beneficial owner or, where there is none, identification of the debt claim giving rise to the interest;
- (d) the following information concerning the interest payment:
 - in the case of an interest payment within the meaning of Article 5(1)(a) of this Agreement: the gross amount of interest paid or credited;
 - in the case of an interest payment within the meaning of Article 5(1)(b) or (d) of this Agreement: the amount of interest or income referred to in (b) or (d) of that paragraph or the full amount of the proceeds of the sale, redemption or refund;
 - in the case of an interest payment within the meaning of Article 5(1)(c) of this Agreement: the amount of interest referred to in that sub-paragraph;

• In the case of an interest payment within the meaning of Article 5(4) of this Agreement: the amount of interest attributable to each of the members of the entity referred to in Article 4(2) of this Agreement who meet the conditions of Article 2(1) of this Agreement;

- where the contracting party exercises the option under Article 5(5) of this Agreement: the amount of annualised interest.

However, each contracting party may restrict the minimum amount of information concerning interest payments to be reported by the paying agent to the total amount of interest or income and to the total amount of the proceeds from sale, redemption or refund;

and the contracting party, in which that competent authority is located, will comply with paragraph (2) of this Article.

(2) Within six months following the end of the tax year, the competent authority of each contracting party shall communicate to the competent authority of the other contracting party, automatically, the information referred to in paragraph (1) (a) – (d) of this Article, for all interest payments made during that year.

Article 2 Definition of beneficial owner

(1) For the purposes of this Agreement, “beneficial owner” shall mean any individual who receives an interest payment or any individual for whom an interest payment is secured, unless such individual can provide evidence that the interest payment was not received or secured for his own benefit. An individual is not deemed to be the beneficial owner when he:

(a) acts as a paying agent within the meaning of Article 4(1) of this Agreement;

- (b) acts on behalf of a legal person, an entity which is taxed on its profits under the general arrangements for business taxation, an UCITS authorised in accordance with Directive 2009/65/EC or an equivalent undertaking for collective investment established in Guernsey, or an entity referred to in Article 4(2) of this Agreement and, in the last mentioned case, discloses the name and address of that entity to the economic operator making the interest payment and the latter communicates such information to the competent authority of its contracting party of establishment;
 - (c) acts on behalf of another individual who is the beneficial owner and discloses to the paying agent the identity of that beneficial owner.
- (2) Where a paying agent has information suggesting that the individual who receives an interest payment or for whom an interest payment is secured may not be the beneficial owner, and where neither paragraph (1)(a) nor (1)(b) of this Article applies, it shall take reasonable steps to establish the identity of the beneficial owner. If the paying agent is unable to identify the beneficial owner, it shall treat the individual in question as the beneficial owner.

Article 3 Identity and residence of beneficial owners

- (1) Each Party shall, within its territory, adopt and ensure the application of the procedures necessary to allow the paying agent to identify the beneficial owners and their residence for the purposes of this Agreement. Such procedures shall comply with the minimum standards established in paragraphs (2) and (3).
- (2) The paying agent shall establish the identity of the beneficial owner on the basis of minimum standards which vary according to when relations between the paying agent and the recipient of the interest are entered into, as follows:
 - (a) for contractual relations entered into before 1 January 2004, the paying agent shall establish the identity of the beneficial owner, consisting of his name and address, by using the information at its disposal, in particular pursuant to the laws and regulations in force in its country of establishment on prevention of the use of the financial system for the purpose of money laundering;

(b) for contractual relations entered into, or transactions carried out in the absence of contractual relations, on or after 1 January, 2004 the paying agent shall establish the identity of the beneficial owner, consisting of the name, address and, if there is one, the tax identification number allocated by the Member State of residence for tax purposes. These details should be established on the basis of the passport or of the official identity card presented by the beneficial owner. If it does not appear on that passport or official identity card, the address shall be established on the basis of any other documentary proof of identity presented by the beneficial owner. If the tax identification number is not mentioned on the passport, on the official identity card or any other documentary proof of identity, including, possibly the certificate of residence for tax purposes, presented by the beneficial owner, the identity shall be supplemented by a reference to the latter's date and place of birth established on the basis of his passport or official identification card.

(3) The paying agent shall establish the residence of the beneficial owner on the basis of minimum standards which vary according to when relations between the paying agent and the recipient of the interest are entered into. Subject to the conditions set out below, residence shall be considered to be situated in the country where the beneficial owner has his permanent address:

(a) for contractual relations entered into before 1 January, 2004 the paying agent shall establish the residence of the beneficial owner by using the information at its disposal, in particular pursuant to the laws and regulations in force in its country of establishment on prevention of the use of the financial system for the purpose of money laundering;

- (b) for contractual relations entered into, or transactions carried out in the absence of contractual relations, on or after 1 January, 2004, the paying agents shall establish the residence of the beneficial owner on the basis of the address mentioned on the passport, on the official identity card or, if necessary, on the basis of any documentary proof of identity presented by the beneficial owner and according to the following procedure: for individuals presenting a passport or official identity card issued by a Member State who declare themselves to be resident in a third country, residence shall be established by means of a tax residence certificate issued by the competent authority of the third country in which the individual claims to be resident. Failing the presentation of such a certificate, the Member State which issued the passport or other official identity document shall be considered to be the country of residence.

Article 4 Definition of paying agent

- (1) For the purposes of this Agreement, 'paying agent' means any economic operator who pays interest to or secures the payment of interest for the immediate benefit of the beneficial owner, whether the operator is the debtor of the debt claim which produces the interest or the operator charged by the debtor or the beneficial owner with paying interest or securing the payment of interest.
- (2) Any entity established in a contracting party to which interest is paid or for which interest is secured for the benefit of the beneficial owner shall also be considered a paying agent upon such payment or securing of such payment. This provision shall not apply if the economic operator has reason to believe, on the basis of official evidence produced by that entity that:
- (a) it is a legal person with the exception of those legal persons referred to in paragraph (5) of this Article; or
 - (b) its profits are taxed under the general arrangements for business taxation; or
 - (c) it is an UCITS recognised in accordance with Directive 2009/65/EC or an equivalent undertaking for collective investment established in Guernsey.

the economic operator paying interest to, or securing interest for, such an entity established in another contracting party which is considered a paying agent under this paragraph shall communicate the name and address of the entity and the total amount of interest paid to, or secured for, the entity to the competent authority of its contracting party of establishment, which shall pass this information on to the competent authority of the contracting party where the entity is established.

- (3) The entity referred to in paragraph (2) of this Article shall, however, have the option of being treated for the purposes of this Agreement as an UCITS or equivalent undertaking as referred to in sub-paragraph (c) of paragraph (2) of this article. The exercise of this option shall require a certificate to be issued by the contracting party in which the entity is established and presented to the economic operator by that entity. A contracting party shall lay down the detailed rules for this option for entities established in its territory.
- (4) Where the economic operator and the entity referred to in paragraph (2) of this Article are established in the same contracting party, that contracting party shall take the necessary measures to ensure that the entity complies with the provisions of this Agreement when it acts as a paying agent.
- (5) The legal persons exempted from sub- paragraph (a) of paragraph (2) of this Article are
 - (a) in Finland: avoin yhtio (Ay) and kommandiittiyhtio (Ky)/oppet bolag and kommanditbolag;
 - (b) in Sweden: handelsbolag (HB) and kommanditbolag (KB).

Article 5 Definition of interest payment

- (1) For the purposes of this Agreement "interest payment" shall mean:
- (a) interest paid, or credited to an account, relating to debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and, in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures; penalty charges for late payment shall not be regarded as interest payment;
 - (b) interest accrued or capitalised at the sale, refund or redemption of the debt claims referred to in (a);
 - (c) income deriving from interest payments either directly or through an entity referred to in Article 4(2) of this Agreement, distributed by :
 - (i) an UCITS authorised in accordance with EU Directive 2009/65/EC;
 - (ii) an equivalent undertaking for collective investment established in Guernsey;
 - (iii) entities which qualify for the option under Article 4(3) of this Agreement;
 - (iv) undertakings for collective investment established outside the territory to which the Treaty on the Functioning of the European Union applies by virtue of Article 355 thereof and outside Guernsey.
 - (d) income realised upon the sale, refund or redemption of shares or units in the following undertakings and entities, if they invest directly or indirectly, via other undertakings for collective investment or entities referred to below, more than 25% of their assets in debt claims as referred to in (a):

in UCITS authorised in accordance with Directive 2009/65/EC;

(ii) an equivalent undertaking for collective investment established in Guernsey.

(iii) entities which qualify for the option under Article 4(3) of this Agreement;

(iv) undertakings for collective investment established outside the territory to which the Treaty on the Functioning of the European Union applies by virtue of Article 355 thereof and outside Guernsey.

However, the contracting parties shall have the option of including income mentioned under paragraph (1)(d) of this Article in the definition of interest only to the extent that such income corresponds to gains directly or indirectly deriving from interest payments within the meaning of paragraphs (1)(a) and (b) of this Article.

- (2) As regards paragraphs (1)(c) and (d) of this Article, when a paying agent has no information concerning the proportion of the income which derives from interest payments, the total amount of the income shall be considered an interest payment.
- (3) As regards paragraph (1)(d) of this Article, when a paying agent has no information concerning the percentage of the assets invested in debt claims or in shares or units as defined in that paragraph, that percentage shall be considered to be above 25%. Where he cannot determine the amount of income realised by the beneficial owner, the income shall be deemed to correspond to the proceeds of the sale, refund or redemption of the shares or units.
- (4) When interest, as defined in paragraph (1) of this Article, is paid to or credited to an account held by an entity referred to in Article 4(2) of this Agreement, such entity not having qualified for the option under Article 4(3) of this Agreement, such interest shall be considered an interest payment by such entity.
- (5) As regards paragraphs (1)(b) and (d) of this Article, a contracting party shall have the option of requiring paying agents in its territory to annualise the interest over a period of time which may not exceed one year, and treating such annualised interest as an interest payment even if no sale, redemption or refund occurs during that period.

By way of derogation from paragraphs (1)(c) and (d) of this Article, a contracting party shall have the option of excluding from the definition of interest payment any income referred to in those provisions from undertakings or entities established within its territory where the investment in debt claims referred to in paragraph (1)(a) of this Article of such entities has not exceeded 15% of their assets. Likewise, by way of derogation from paragraph (4) of this Article, a contracting party shall have the option of excluding from the definition of interest payment in paragraph (1) of this Article interest paid or credited to an account of an entity referred to in Article 4(2) of this Agreement which has not qualified for the option under Article 4(3) of this Agreement and is established within its territory, where the investment of such an entity in debt claims referred to in paragraph (1)(a) of this Article has not exceeded 15% of its assets.

The exercise of such option by one contracting party shall be binding on the other contracting party.

- (7) The percentages referred to in paragraph (1)(d) of this Article and in paragraph (6) of this Article shall be determined by reference to the investment policy as laid down in the fund rules or instruments of incorporation of the undertakings or entities concerned or, failing which, by reference to the actual composition of the assets of the undertakings or entities concerned.

Article 6 Transitional provisions for negotiable debt securities

- (1) During the transitional period as defined in Article 10 (2) of the Directive, specific provisions apply to those domestic and international bonds and other negotiable debt securities:
- which contain gross up and early redemption clauses; and,
 - where the paying agent is established in a contracting party applying retention tax and that paying agent pays interest to, or secures the payment of interest for the immediate benefit of a beneficial owner resident in the other contracting party.

Those such "negotiable debt securities" which have been first issued before 1 March 2001 or for which the original issuing prospectuses have been approved before that date by the competent authorities within the meaning of Council Directive 80/390/EEC or by the responsible authorities in third countries shall not be considered as debt claims within the meaning of Article 5(1)(a) of this Agreement, provided that no further issues of such negotiable debt securities are made on or after 1 March 2002.

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by a Government or a related entity acting as a public authority or whose role is recognised by an international treaty, as defined in the Annex to this Agreement, the entire issue of such security, consisting of the original issue and any further issue, shall be considered a debt claim within the meaning of Article 5(1)(a) of this Agreement.

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by any other issuer not covered by the second sub-paragraph, such further issue shall be considered a debt claim within the meaning of Article 5(1)(a) of this Agreement.

- (2) Nothing in this Article shall prevent the contracting parties from taxing the income from the negotiable debt securities referred to in paragraph (1) in accordance with their national laws.

Article 7 Mutual agreement procedure

Where difficulties or doubts arise between the parties regarding the implementation or interpretation of this Agreement, the contracting parties shall use their best endeavours to resolve the matter by mutual agreement.

Article 8 Confidentiality

- (1) All information provided and received by the competent authority of a contracting party shall be kept confidential.
- (2) Information provided to the competent authority of a contracting party may not be used for any purpose other than for the purposes of direct taxation without the prior written consent of the other contracting party.

Information provided shall be disclosed only to persons or authorities concerned with the purposes of direct taxation, and used by such persons or authorities only for such purposes or for oversight purposes, including the determination of any appeal. For these purposes, information may be disclosed in public court proceedings or in judicial proceedings.

- (4) Where a competent authority of a contracting party considers that information which it has received from the competent authority of the other contracting party is likely to be useful to the competent authority of another Member State, it may transmit it to the latter competent authority with the agreement of the competent authority which supplied the information.

Article 9 Entry into force

This Agreement shall come into force on the date of accession of the Republic of Croatia to the European Union.

Article 10 Termination

- (1) This Agreement shall remain in force until terminated by either contracting party.
- (2) Either contracting party may terminate this Agreement by giving notice of termination in writing to the other contracting party, such notice to specify the circumstances leading to the giving of such notice. In such a case, this Agreement shall cease to have effect 12 months after the serving of notice.

Article 11 Application and suspension of application

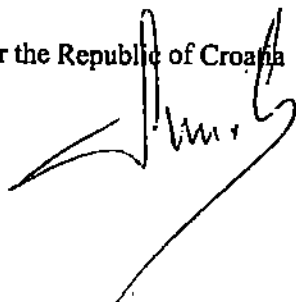
- (1) The application of this Agreement shall have effect as from the date of accession of the Republic of Croatia to the European Union.

(2) Subject to the mutual agreement procedure provided for in Article 7 of this Agreement, the application of this Agreement or parts thereof may be suspended by either contracting party with immediate effect through notification to the other specifying the circumstances leading to such notification should the Directive cease to be applicable either temporarily or permanently in accordance with European Union law or in the event that a Member State should suspend the application of its implementing legislation. Application of the Agreement shall resume as soon as the circumstances leading to the suspension no longer apply.


(3) Subject to the mutual agreement procedure provided for in Article 7 of this Agreement, either contracting party may suspend the application of this Agreement through notification to the other specifying the circumstances leading to such notification in the event that one of the third countries or territories referred to in Article 17(2) of the Directive should subsequently cease to apply the measures referred to in that paragraph. Suspension of application shall take place no earlier than two months after notification. Application of the Agreement shall resume as soon as the measures are reinstated by the third country or territory in question.

Done in English.

For the Republic of Croatia



For Guernsey



List of related entities referred to in Article 6

For the purposes of Article 11 of this Agreement, the following entities will be considered to be a "related entity acting as a public authority or whose role is recognised by an international treaty":

ENTITIES WITHIN THE EUROPEAN UNION:

Belgium

Vlaams Gewest (Flemish Region)

Région wallonne (Walloon Region)

Région bruxelloise/Brussels Gewest (Brussels Region)

Communauté française (French Community)

Vlaamse Gemeenschap (Flemish Community)

Deutschsprachige Gemeinschaft (German-speaking Community)

Bulgaria

Общините (municipalities)

Spain

Xunta de Galicia (Regional Executive of Galicia)

Junta de Andalucía (Regional Executive of Andalusia)

Junta de Extremadura (Regional Executive of Extremadura)

Junta de Castilla- La Mancha (Regional Executive of Castilla- La Mancha)

Junta de Castilla- León (Regional Executive of Castilla- León)

Gobierno Foral de Navarra (Regional Government of Navarre)

Govern de les Illes Balears (Government of the Balearic Islands)

Generalitat de Catalunya (Autonomous Government of Catalonia)

Generalitat de Valencia (Autonomous Government of Valencia)

Diputación General de Aragón (Regional Council of Aragón)

Gobierno de las Islas Canarias (Government of the Canary Islands)

Gobierno de Murcia (Government of Murcia)

Gobierno de Madrid (Government of Madrid)

Gobierno de la Comunidad Autónoma del País Vasco/Euzkadi (Government of the Autonomous Community of the Basque Country)

Diputación Foral de Guipúzcoa (Regional Council of Guipúzcoa)

Diputación Foral de Vizcaya/Bizkaia (Regional Council of Vizcaya)

Diputación Foral de Alava (Regional Council of Alava)

Ayuntamiento de Madrid (City Council of Madrid)

Ayuntamiento de Barcelona (City Council of Barcelona)

Cabildo Insular de Gran Canaria (Island Council of Gran Canaria)

Cabildo Insular de Tenerife (Island Council of Tenerife)

Instituto de Crédito Oficial (Public Credit Institution)

Instituto Catalán de Finanzas (Finance Institution of Catalonia)

Instituto Valenciano de Finanzas (Finance Institution of Valencia)

Greece

Οργανισμός Τηλεπικοινωνιών Ελλάδος (National Telecommunications Organisation)

Οργανισμός Σιδηροδρόμων Ελλάδος (National Railways Organisation)

Δημόσια Επιχείρηση Ηλεκτρισμού (Public Electricity Company)

France

La Caisse d'amortissement de la dette sociale (CADES) (Social Debt Redemption Fund)

L'Agence française de développement (AFD) (French Development Agency)

Réseau Ferré de France (RFF)(French Rail Network)

Caisse Nationale des Autoroutes (CNA) (National Motorways Fund)

Assistance publique Hôpitaux de Paris (APHP) (Paris Hospitals Public Assistance)

Charbonnages de France (CDF) (French Coal Board)

Entreprise minière et chimique (EMC)(Mining and Chemicals Company)

Italy

Regions

Provinces

Municipalities

Fondo di Cassa di Risparmio e Prestiti (Deposits and Loans Fund)

Latvia

Pašvaldības (Local governments)

Poland

gminy (communes)

powiaty (districts)

województwa (provinces)

związki gmin (associations of communes)

związki powiatów (association of districts)

związki województw (association of provinces)

miasto stołeczne Warszawa (capital city of Warsaw)

Agencja Restrukturyzacji i Modernizacji Rolnictwa (Agency for Restructuring and Modernisation of Agriculture)

Agencja Nieruchomości Rolnych (Agricultural Property Agency)

Portugal

Região Autónoma da Madeira (Autonomous Region of Madeira)

Região Autónoma dos Açores (Autonomous Region of Azores)

Municipalities

Romania

autoritățile administrației publice locale (local public administration authorities)

Slovakia

mestá a obce (municipalities)

Železnice Slovenskej republiky (Slovak Railway Company)

Štátny fond cestného hospodárstva (State Road Management Fund)

Slovenské elektrárne (Slovak Power Plants)

Vodohospodárska výstavba (Water Economy Building Company)

INTERNATIONAL ENTITIES:

European Bank for Reconstruction and Development

European Investment Bank

Asian Development Bank

African Development Bank

World Bank / IBRD / IMF

International Finance Corporation

Inter-American Development Bank

Council of Europe Social Development Fund

EURATOM

European Community

Corporación Andina de Fomento (CAF) (Andean Development Corporation)

Eurofima

European Coal & Steel Community

Nordic Investment Bank

Caribbean Development Bank

The provisions of Article 11 are without prejudice to any international obligations that the Contracting Parties may have entered into with respect to the above mentioned international entities.

ENTITIES IN THIRD COUNTRIES :

The entities that meet the following criteria :

- 1) The entity is clearly considered to be a public entity according to the national criteria.
- 2) Such public entity is a non-market producer which administers and finances a group of activities, principally providing non-market goods and services, intended for the benefit of the community and which are effectively controlled by general government.
- 3) Such public entity is a large and regular issuer of debt.
- 4) The State concerned is able to guarantee that such public entity will not exercise early redemption in the event of gross-up clauses.

CONDITIONS FOR AMENDING THE PRESENT ANNEX:

The list of related entities in this Annex may be amended by mutual agreement.
