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# Flash News

## Global Forum on transparency and exchange of information for tax purposes: Luxembourg successfully passes the OECD review

30 September 2011

Luxembourg received a positive report from the OECD Global Forum review assessing the conformity of the Luxembourg legal and regulatory framework with international standards in the area of the exchange of information.

Furthering efforts to fight against international tax evasion and banking secrecy, all members of the Global Forum<sup>1</sup> as well as jurisdictions identified by the Global Forum as relevant to its work are being reviewed.

This process, being undertaken in two phases (Phase 1, assessing legal and regulatory framework for the exchange of information and Phase 2, the practical implementation of that framework) should help jurisdictions to implement the international standards of transparency and exchange of information for tax purposes.

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### Luxembourg receives a positive report

Since 2009, when the OECD pointed out that Luxembourg was not complying with international standards in terms of tax transparency and exchange of information, the Grand-Duchy is determined to show the Global Forum its motivation to set new standards of cooperation. By amending or negotiating not less than 26 double tax treaties compliant with article 26-5 of the OECD

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<sup>1</sup> Please refer to the following link to know more about Global Forum members: <http://www.oecd.org/document>

Model Convention (providing the possibility of an exchange of information upon request), Luxembourg has put very active and rapid efforts in order to comply with those international standards.

Issued on 12 September 2011, the report concerning Luxembourg attests that the new procedures for the exchange of information introduced by the Law of 31 March 2010 permitting access to banking information and information protected by banking secrecy meet the required standards. Luxembourg hence received a positive report and successfully passed the first review phase (i.e. assessment of the conformity of the Luxembourg legal and regulatory framework). That is a very positive result for the Luxembourg private banking industry and will strengthen its positioning towards competitors.

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## The assessment in questions

Ten elements were examined during this first review phase:

- How jurisdictions ensure that ownership and identity information for all relevant entities and arrangements are made available to their competent authorities;
- How jurisdictions ensure that reliable accounting records are kept for all relevant entities and arrangements;
- How banking information are made available for all account-holders;
- How competent authorities have the power to obtain and provide, from any person within their territorial jurisdiction, information that are subject of a request under an exchange of information arrangement ;
- How the rights and safeguards ensure effective exchange of information;
- How exchange of information mechanisms allow for effective exchange of information;
- How the jurisdiction's network of information exchange mechanisms cover all relevant partners involved;
- How the jurisdiction's network of information exchange mechanisms have adequate provisions to ensure the confidentiality of information received;
- How information exchange mechanisms respect the rights and safeguards of taxpayers and third parties;
- How the jurisdiction provide information in a timely manner.

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## One recommendation

Out of the ten elements examined, only one - related to the necessity for jurisdictions to ensure that ownership and identity information for all relevant entities and arrangements are made available to their competent authorities - was considered not to be in place.

Luxembourg indeed allows for the issuance of bearer securities without having mechanisms permitting the identification of such securities holders. The Global Forum therefore recommends Luxembourg to adopt measures in order to systematically tracing the ultimate holder and ensure the availability of such information in any circumstances.

Luxembourg needs now to focus on the Phase 2 of the review that will examine during the second half of 2012 the practical application of the legal and regulatory framework with regard to the exchange of information.

In the meantime, Luxembourg will examine the implementation of these recommendations and, within six months, will furnish a report on the measures being taken to meet the criteria that are not fully satisfied.

*For further information, please refer to the OECD internet site:  
[www.oecd.org/tax/transparency](http://www.oecd.org/tax/transparency)*

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