THE OECD CODE OF LIBERALISATION OF CAPITAL MOVEMENTS

Update on developments

This note is provided as background information at the Global Forum on International Investment, 6 March 2017, OECD. It was prepared by the OECD Secretariat at the request of the German Presidency to update Finance Ministers and Central Bank Governors on developments related to the OECD Capital Movements Code since the last progress report that was provided in April 2016.

Multilateral dialogue on the OECD Capital Movements Code is deepening. A high-level seminar on "Open and orderly capital movements: Does international co-operation matter?" co-organised by the OECD and the German Federal Ministry of Finance in Paris on 25 October 2016 provided an opportunity for G20 country senior officials to discuss what role instruments like the Code can play in the search for an open, transparent and resilient regime for capital flows. An Information Workshop on the OECD Code was also held back to back with the G20 International Financial Architecture Working Group in Paris on 15 February 2017; well attended by all G20 delegations, discussions allowed to deepen understanding on the operation of the Code. Presentations at these meetings elaborated on the following features of the Code:

- **The OECD Capital Movements Code is an instrument for international cooperation on capital flow management and liberalisation.** Currently adhered to by thirty-five OECD countries, including twelve G20 countries, the OECD Code is the sole multilateral agreement among State parties dedicated to openness, transparency and mutual accountability in cross-border capital flow policies. While there is no presumption that full liberalisation is an appropriate goal for all countries at all times, the Code is based on the premise that long-term business investment and growth potentials cannot be achieved with closed capital accounts and that "beggar-thy-neighbour" approaches to capital flow policies can result in negative collective outcomes.

- **The Code brings benefits to adherents.** *S*ince its inception in 1961, the Code has served as a platform to get international recognition for reform efforts, compare progress, and exchange good practices among Adherents in their path toward open and orderly capital account movements. It has served as a "conflict avoidance" device and an anchor for countries' policies in times of financial turmoil, by providing a due process – transparency and peer review – to observe when Adherents reintroduce capital flow restrictions while wishing to signal their continued commitment to openness.

- **The Code provides flexibility to maintain or reintroduce capital flow restrictions in light of circumstances.** Adherents can lodge reservations with respect to capital flow operations which they are not in the position to liberalise at the time of adherence. They can also do so at any time when new restrictions on short-term, typically volatile, operations may be needed; over the last five years, two countries have availed themselves of this facility. In situations of serious balance-of-payment difficulties or economic and financial disturbance, adherents can also invoke the derogation clauses of the Code for introducing new restrictions on longer-term capital flows. Over the last five years, two other countries have availed themselves of these clauses.

- **Commonly used macro-prudential tools typically fall outside the scope of the Code.** This also includes limitations on net open positions of banks and currency matching requirements for institutional investors. While the Code provides for the freedom to use foreign currencies to settle and denominate operations abroad between residents and non-residents, it does not cover operations including in foreign currency among residents and it does not require allowing operations, including in foreign currency, in the country with non-residents that are not permitted between residents.

- **The Code supports the implementation of the G20 Coherent Conclusions.** It echoes the Coherent Conclusions' call for capital flow management measures to be “transparent, properly communicated, and be targeted to specific risks identified” and for “multilateral surveillance to assess both their individual impact and aggregate spillover effects”. While the Code and the IMF’s Institutional View are distinct in nature and purpose, both approaches assist countries in ensuring that measures are not more restrictive or maintained longer than necessary; they do not give rise to any conflicting legal requirements. The IMF-OECD joint note provided to Finance Ministers and Central Bank Governors on cooperation on approaches to macro prudential-and capital-flow-measures remains valid. The on-going review of the Code will consider formalising the possibility to elicit inputs from relevant international organisations to assist in informing Adherents’ deliberations and decisions.

The review of the Code is progressing. Key areas of on-going consideration among participants in the review include:

- Developing understandings on the treatment of measures with stated prudential objectives. The vast majority of macro-prudential measures fall outside the scope of the Code. Discussions are clarifying that national adaptations of liquidity coverage ratio (LCR) and net stable funding ratio (NSFR) requirements differentiating by currency should not be considered as capital flow restrictions.
- Considering the merits of rebalancing the list of operations subject to standstill (i.e. derogation is needed to introduce new restrictions) and the list of operations that is not subject to standstill (i.e. new reservations can be lodged to reflect new restrictions). The Terms of Reference for the review have noted non-residents' deposit accounts with domestic financial institutions as a possible candidate to be moved from the former to the latter category.

All G20 members are invited to continue to participate actively in the discussions on the review of the Code at the OECD. The next meeting on the review of the Code is scheduled on 25/26 April 2017 in Paris. G20 members will receive agenda and documents in due time.

The Code is open for adherence by non-OECD countries with equal rights and responsibilities. Countries are encouraged to apply for adherence to the Code. By adhering to the Code and meeting its standards, new adherents will enjoy the benefit of the protection of the Code against potential discrimination by other adherents while reinforcing their role and reputation as responsible international players. Four non-G20 countries are currently in the process of adhering to the Code. Bilateral discussions with several non-adhering G20 members are also well engaged.

OECD Global Forum on International Investment

Paris, 6 March 2017 - The 2017 Global Forum will contribute to the broader policy debate about how to address the backlash against globalisation from an international investment perspective. Debates will address options for reforming the international investment policy regime across three dimensions: openness, responsibility and inclusiveness.

More information: www.oecd.org/investment/globalforum | Follow the discussion on Twitter @OECD_BizFin

OECD