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AMENDMENTS

21 - 125

Draft report

Emmanuel Maurel

Mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements

Proposal for a directive

(COM(2017)0335 – C8-0195/2017 – 2017/0138(CNS))

Amendment 21
Dimitrios Papadimoulis

Draft legislative resolution
Citation 1 a (new)

Draft legislative resolution

Amendment

– *having regard to its resolution of 6 July 2016^{1a} on tax rulings and other measures similar in nature or effect,*

^{1a} *P8_TA(2016)0310*

Or. en

Amendment 22
Bernard Monot

Proposal for a directive
Recital 2

Text proposed by the Commission

Amendment

(2) Member States find it increasingly difficult to protect their national tax bases from erosion as *tax* planning structures have evolved to be particularly sophisticated and often take advantage of the *increased* mobility of both capital and persons within the internal market. *These structures commonly consist of arrangements which are developed across various jurisdictions and move* taxable profits *towards more beneficial* tax regimes *or have the effect of reducing the taxpayer's* overall tax bill. As a result, Member States often experience considerable reductions in their tax revenues which hinder them from applying growth-friendly *tax* policies. It is therefore critical that Member States' tax authorities obtain comprehensive and relevant information about potentially aggressive tax arrangements. This information would

(2) *Most* Member States find it increasingly difficult to protect their national tax bases from erosion as *legal tax avoidance* planning structures have evolved to be particularly sophisticated and often take advantage of the *overall* mobility of both capital and persons within the internal market. *A small number of Member States are with impunity taking outrageous advantage of this opportunity offered to multinationals, especially American multinationals, to artificially channel their* taxable profits *earned in various EU Member States into jurisdictions offering more favourable conditions, such as Ireland and Luxembourg, whose tax regimes are deliberately designed and tailored to ensure that the overall tax bill payable by these multinationals is kept to a minimum.* As a result, Member States

enable those authorities to be able to promptly react against harmful tax practices and to close loopholes through enacting legislation or by undertaking adequate risk assessments and carrying out tax audits.

often experience considerable reductions in their tax revenues which hinder them from applying growth-friendly *budgetary* policies. It is therefore critical that Member States' tax authorities obtain comprehensive and relevant information about potentially aggressive tax arrangements. This information would enable those authorities to be able to promptly react against harmful tax practices and to close loopholes through enacting legislation or by undertaking adequate risk assessments and carrying out tax audits.

Or. fr

Amendment 23
Dimitrios Papadimoulis

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) Member States find it increasingly difficult to protect their national tax bases from erosion as tax planning structures have evolved to be particularly sophisticated and often take advantage of the increased mobility of both capital and persons within the internal market. These structures commonly consist of arrangements which are developed across various jurisdictions and move taxable profits towards more beneficial tax regimes or have the effect of reducing the taxpayer's overall tax bill. As a result, Member States often experience considerable reductions in their tax revenues *which hinder* them from applying growth-friendly tax policies. It is therefore critical that Member States' tax authorities obtain comprehensive and relevant information about potentially aggressive tax arrangements. This information would

Amendment

(2) Member States find it increasingly difficult to protect their national tax bases from erosion as *aggressive and complex* tax planning structures have evolved to be particularly sophisticated and often take advantage of the increased mobility of both capital and persons within the internal market. These structures commonly consist of arrangements which are developed across various jurisdictions and move taxable *corporate and individual's* profits towards more beneficial tax regimes or have the effect of reducing the taxpayer's overall tax bill. As a result, Member States often experience considerable reductions in their tax revenues *hence hindering* them from applying growth-friendly tax policies *and sustain welfare policies necessary for the most vulnerable social groups while raising walls from fulfilling the constitutional obligations in terms of*

enable those authorities to be able to promptly react against harmful tax practices and to close loopholes through enacting legislation or by undertaking adequate risk assessments and carrying out tax *audits*.

fundamental rights, aggravating social and economic inequality, increasing political power of cross-border business, shifting taxation towards less mobile factors such as labour and consumption, thus making the tax system less progressive, and widening the democratic deficit. It is therefore critical that Member States' tax authorities obtain comprehensive and relevant information about potentially aggressive tax arrangements *or fraud*. This information would enable those authorities to be able to promptly react against harmful tax practices and to close loopholes through enacting legislation or by undertaking adequate risk assessments and carrying out tax *audit that potentially can lead to significant sanctions*.

Or. en

Amendment 24 **Alfred Sant**

Proposal for a directive **Recital 2**

Text proposed by the Commission

(2) Member States find it increasingly difficult to protect their national tax bases from erosion as tax planning structures have evolved to be particularly sophisticated and often take advantage of the increased mobility of both capital and persons within the internal market. These structures commonly consist of arrangements which are developed across various jurisdictions and move taxable profits towards more beneficial tax regimes or have the effect of reducing the taxpayer's overall tax bill. As a result, Member States often experience considerable reductions in their tax revenues which hinder them from applying

Amendment

(2) Member States find it increasingly difficult to protect their national tax bases from erosion as tax planning structures have evolved to be particularly sophisticated and often take advantage of the increased mobility of both capital and persons within the internal market. These structures commonly consist of arrangements which are developed across various jurisdictions and move taxable profits towards more beneficial tax regimes or have the effect of reducing the taxpayer's overall tax bill. As a result, Member States often experience considerable reductions in their tax revenues which hinder them from applying

growth-friendly tax policies. It is therefore critical that Member States' tax authorities obtain comprehensive and relevant information about potentially aggressive tax arrangements. This information would enable those authorities to be able to promptly react against harmful tax practices and to close loopholes through enacting legislation or by undertaking adequate risk assessments and carrying out tax audits.

growth-friendly tax policies. It is therefore critical that Member States' tax authorities obtain comprehensive and relevant information about potentially aggressive tax arrangements. This information would enable those authorities to be able to promptly react against harmful tax practices and to close loopholes through enacting legislation or by undertaking adequate risk assessments and carrying out tax audits. *Care will need to be taken to devise reporting formats that are succinct and user friendly in order to avoid that the volume of information that could be generated by this Directive will by its very size, inhibit meaningful action on practices that are being reported.*

Or. en

Amendment 25

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) Member States find it increasingly difficult to protect their national tax bases from erosion as tax planning structures have evolved to be particularly sophisticated and often take advantage of the increased mobility of both capital and persons within the internal market. These structures commonly consist of arrangements which are developed across various jurisdictions and move taxable profits towards more beneficial tax regimes or have the effect of reducing the taxpayer's overall tax bill. As a result, Member States often experience considerable reductions in their tax revenues which hinder them from **applying growth-friendly tax policies**. It is therefore

Amendment

(2) Member States find it increasingly difficult to protect their national tax bases from erosion as tax planning structures have evolved to be particularly sophisticated and often take advantage of the increased mobility of both capital and persons within the internal market. These structures commonly consist of arrangements which are developed across various jurisdictions and move taxable profits towards more beneficial tax regimes or have the effect of reducing the taxpayer's overall tax bill. As a result, Member States often experience considerable reductions in their tax revenues which hinder them from **financing public services and managing a**

critical that Member States' tax authorities obtain comprehensive and relevant information about ***potentially aggressive tax*** arrangements. This information would enable those authorities to be able to promptly react against harmful tax practices and to close loopholes through enacting legislation or by undertaking adequate risk assessments and carrying out tax audits.

more progressive tax system. It is therefore critical that Member States' tax authorities obtain comprehensive and relevant information about arrangements ***facilitating tax evasion and tax avoidance.*** This information would enable those authorities to be able to promptly react against harmful tax practices and to close loopholes through enacting legislation or by undertaking adequate risk assessments and carrying out tax audits. ***A lack of reaction from tax authorities on reported schemes should not however be interpreted as implicit clearance by the authorities.***

Or. en

Amendment 26 **Ramón Jáuregui Atondo**

Proposal for a directive **Recital 2**

Text proposed by the Commission

(2) Member States find it increasingly difficult to protect their national tax bases from erosion as tax planning structures have evolved to be particularly sophisticated and often take advantage of the increased mobility of both capital and persons within the internal market. These structures commonly consist of arrangements which are developed across various jurisdictions and move taxable profits towards more beneficial tax regimes or have the effect of reducing the taxpayer's overall tax bill. As a result, Member States often experience considerable reductions in their tax revenues which hinder them from applying growth-friendly tax policies. It is therefore critical that Member States' tax authorities obtain comprehensive and relevant information about potentially aggressive

Amendment

(2) Member States find it increasingly difficult to protect their national tax bases from erosion as tax planning structures have evolved to be particularly sophisticated and often take advantage of the increased mobility of both capital and persons within the internal market. These structures commonly consist of arrangements which are developed across various jurisdictions and move taxable profits towards more beneficial tax regimes or have the effect of reducing the taxpayer's overall tax bill. As a result, Member States often experience considerable reductions in their tax revenues which hinder them from applying growth-friendly tax policies, ***as well as making it harder to finance social and other public services and hence to ensure fair treatment.*** It is therefore critical that

tax arrangements. This information would enable those authorities to be able to promptly react against harmful tax practices and to close loopholes through enacting legislation or by undertaking adequate risk assessments and carrying out tax audits.

Member States' tax authorities obtain comprehensive and relevant information about potentially aggressive tax arrangements. This information would enable those authorities to be able to promptly react against harmful tax practices and to close loopholes through enacting legislation or by undertaking adequate risk assessments and carrying out tax audits.

Or. es

Amendment 27
Pirkko Ruohonen-Lerner

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) Member States find it increasingly difficult to protect their national tax bases from erosion as tax planning structures have evolved to be particularly sophisticated and often take advantage of the increased mobility of both capital and persons within the internal market. These structures commonly consist of arrangements which are developed across various jurisdictions and move taxable profits towards more beneficial tax regimes or have the effect of reducing the taxpayer's overall tax bill. As a result, Member States often experience considerable reductions in their tax revenues which hinder them from applying growth-friendly tax policies. It is therefore critical that Member States' tax authorities obtain comprehensive and relevant information about potentially aggressive tax arrangements. This information would enable those authorities to be able to promptly react against harmful tax practices and to close loopholes through enacting legislation or by undertaking

Amendment

(2) Member States find it increasingly difficult to protect their national tax bases from erosion as tax planning structures have evolved to be particularly sophisticated and often take advantage of the increased mobility of both capital and persons within the internal market. These structures commonly consist of arrangements which are developed across various jurisdictions and move taxable profits towards more beneficial tax regimes or have the effect of reducing the taxpayer's overall tax bill. As a result, Member States often experience considerable reductions in their tax revenues which hinder them from applying growth-friendly tax policies, ***in addition to other harmful effects to transparency and regulation of enterprises***. It is therefore critical that Member States' tax authorities obtain comprehensive and relevant information about potentially aggressive tax arrangements. This information would enable those authorities to be able to promptly react against harmful tax

adequate risk assessments and carrying out tax audits.

practices and to close loopholes through enacting legislation or by undertaking adequate risk assessments and carrying out tax audits.

Or. en

Amendment 28
Miguel Viegas

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) Member States find it increasingly difficult to protect their national tax bases from erosion as tax planning structures have evolved to be particularly sophisticated and often take advantage of the increased mobility of both capital and persons within the internal market. These structures commonly consist of arrangements which are developed across various jurisdictions and move taxable profits towards more beneficial tax regimes or have the effect of reducing the taxpayer's overall tax bill. As a result, Member States often experience considerable reductions in their tax revenues which hinder them from applying growth-friendly tax policies. It is therefore critical that Member States' tax authorities obtain comprehensive and relevant information about potentially aggressive tax arrangements. This information would enable those authorities to be able to promptly react against harmful tax practices and to close loopholes through enacting legislation or by undertaking adequate risk assessments and carrying out tax audits.

Amendment

(2) Member States find it increasingly difficult to protect their national tax bases from erosion as tax planning structures have evolved to be particularly sophisticated and often take advantage of the increased mobility of both capital and persons within the internal market ***following a long process of deregulation of the European and international financial system.*** These structures commonly consist of arrangements which are developed across various jurisdictions and move taxable profits towards more beneficial tax regimes or have the effect of reducing the taxpayer's overall tax bill. As a result, Member States often experience considerable reductions in their tax revenues which hinder them from applying growth-friendly tax policies. It is therefore critical that Member States' tax authorities obtain comprehensive and relevant information about potentially aggressive tax arrangements. This information would enable those authorities to be able to promptly react against harmful tax practices and to close loopholes through enacting legislation or by undertaking adequate risk assessments and carrying out tax audits.

Or. pt

Amendment 29
Barbara Kappel

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) Member States ***find it increasingly difficult to protect their national tax bases from*** erosion as tax planning structures have evolved to be particularly sophisticated and often take advantage of the increased mobility of both capital and persons within the internal market. These structures commonly consist of arrangements which are developed across various jurisdictions and move taxable profits towards more beneficial tax regimes ***or have the effect of reducing the taxpayer's overall tax bill***. As a result, Member States often experience considerable reductions in their tax revenues ***which hinder them from applying growth-friendly tax policies***. It is therefore ***critical*** that Member States' tax authorities obtain comprehensive and relevant information about potentially aggressive tax arrangements. This information would enable those authorities to be able to promptly react against harmful tax practices and to close loopholes through enacting legislation or by undertaking adequate risk assessments and carrying out tax audits.

Amendment

(2) Member States ***are becoming more vulnerable to base erosion and profit shifting (BEPS)*** as tax planning structures have evolved to be particularly sophisticated and often take advantage of the increased mobility of both capital and persons within the internal market. These structures commonly consist of arrangements which are developed across various jurisdictions and move taxable profits towards more beneficial tax regimes. As a result, Member States often experience considerable reductions in their tax revenues. It is therefore ***useful*** that Member States' tax authorities obtain comprehensive and relevant information about potentially aggressive tax arrangements. This information would enable those authorities to be able to promptly react against harmful tax practices and to close loopholes through enacting legislation or by undertaking adequate risk assessments and carrying out tax audits.

Or. en

Amendment 30
Dimitrios Papadimoulis

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) Considering that most of the potentially aggressive tax planning arrangements span across more than one jurisdiction, the disclosure of information about those arrangements would bring additional positive results where that information was also exchanged amongst Member States. ***In particular***, the automatic exchange of information between tax administrations is crucial in order to provide these authorities with the necessary information to enable them to take action where they observe aggressive tax practices.

Amendment

(3) Considering that most of the potentially aggressive tax planning arrangements span across more than one jurisdiction, the disclosure of information about those arrangements would bring additional positive results where that information was also exchanged amongst Member States. ***Moreover, taking into account the new global reality that allows even illicit money to move thousands of miles at the click of a button, the need for advanced supervisory mechanisms that are in close contact with police and intelligence is necessary.*** Thus, the automatic exchange of information between tax administrations ***and counter-criminal financing bodies*** is crucial in order to provide these authorities with the necessary information to enable them to take action where they observe aggressive tax practices.

Or. en

Amendment 31

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) Considering that most of the potentially aggressive tax planning arrangements span across more than one jurisdiction, the disclosure of information about those arrangements would bring additional positive results where that information was also exchanged amongst Member States. In particular, the automatic exchange of information between tax administrations is crucial in order to provide these authorities with the necessary

Amendment

(3) Considering that most of the potentially aggressive tax planning arrangements span across more than one jurisdiction, the disclosure of information about those arrangements would bring additional positive results where that information was also exchanged amongst Member States. In particular, the automatic exchange of information between tax administrations is crucial in order to provide these authorities with the necessary

information to enable them to take action where they observe aggressive tax practices.

information to enable them to take action where they observe aggressive tax practices. *However, Member States are encouraged to establish similar disclosure requirement for arrangements that exist solely in their jurisdiction only.*

Or. en

Amendment 32
Barbara Kappel

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) Considering that most of the potentially aggressive tax planning arrangements span across more than one jurisdiction, the disclosure of information about those arrangements would bring additional positive results where that information was also exchanged amongst Member States. In particular, the automatic exchange of information between tax administrations is crucial in order to provide these authorities with the necessary information to enable them to take action where they *observe* aggressive tax practices.

Amendment

(3) Considering that most of the potentially aggressive tax planning arrangements span across more than one jurisdiction, the disclosure of information about those arrangements would bring additional positive results where that information was also exchanged amongst Member States. In particular, the automatic exchange of *relevant* information between tax administrations is crucial in order to provide these authorities with the necessary information to enable them to take action where they *discover* aggressive tax practices.

Or. en

Amendment 33
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) Recognising how a transparent

Amendment

(4) Recognising how a transparent

framework for developing business activity could contribute to clamping down on tax avoidance and evasion in the internal market, the Commission has been called on to embark on initiatives on the mandatory disclosure of potentially aggressive tax planning arrangements along the lines of Action 12 of the OECD Base Erosion and Profit Shifting (BEPS). In this context, the European Parliament has called for tougher measures against intermediaries who assist in arrangements that may lead to tax avoidance and evasion.

framework for developing business activity could contribute to clamping down on tax avoidance and evasion in the internal market, the Commission has been called on to embark on initiatives on the mandatory disclosure of potentially aggressive tax planning arrangements along the lines of Action 12 of the OECD Base Erosion and Profit Shifting (BEPS). In this context, the European Parliament has ***demonstrated the crucial role of intermediaries in advising, creating and managing tax schemes*** and called for tougher measures against intermediaries who assist in arrangements that may lead to tax avoidance and evasion.

Or. en

Amendment 34
Dimitrios Papadimoulis

Proposal for a directive
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) The European Parliament should also encourage individuals who have access to information related to sensitive tax information of multinational corporations regarding tax evasion and tax avoidance practices, to come forward and cooperate with the authorities with discretion and respect to the public interest.

Or. en

Amendment 35
Emmanuel Maurel, Pirkko Ruohonen-Lerner, Dimitrios Papadimoulis, Molly Scott Cato, Jeppe Kofod, Pervenche Berès

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) It is necessary to recall how certain financial intermediaries and other providers of tax advice seem to have actively assisted their clients to conceal money offshore. Furthermore, although the CRS introduced by Council Directive (EU) 2014/107²⁷ is a significant step forward in establishing a tax transparent framework within the Union, at least in terms of financial account information, it can still be improved.

²⁷ Council Directive (EU) 2014/107 of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (OJ L 359, 16.2.2014, p. 1).

Amendment

(5) It is necessary to recall how certain financial intermediaries and other providers of tax advice, **and auditors**, seem to have actively assisted their clients to conceal money offshore. Furthermore, although the CRS introduced by Council Directive (EU) 2014/107²⁷ is a significant step forward in establishing a tax transparent framework within the Union, at least in terms of financial account information, it can still be improved.

²⁷ Council Directive (EU) 2014/107 of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (OJ L 359, 16.2.2014, p. 1).

Or. en

Amendment 36
Dimitrios Papadimoulis

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) It is necessary to recall how certain financial intermediaries and other providers of tax advice seem to have actively assisted their clients to conceal money offshore. Furthermore, although the CRS introduced by Council Directive (EU) 2014/107²⁷ is a significant step forward in establishing a tax transparent framework within the Union, at least in terms of financial account information, it can still be improved.

Amendment

(5) It is necessary to recall how certain financial intermediaries and other providers of tax advice seem to have actively assisted their clients to conceal money offshore. ***It is also necessary to identify the legal status of those financial intermediaries and the licence under which they operate.*** Furthermore, although the CRS introduced by Council Directive (EU) 2014/107²⁷ is a significant step forward in establishing a tax transparent framework within the Union, at least in terms of financial account information, it

can still be improved.

²⁷ Council Directive (EU) 2014/107 of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (OJ L 359, 16.2.2014, p. 1).

²⁷ Council Directive (EU) 2014/107 of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (OJ L 359, 16.2.2014, p. 1).

Or. en

Amendment 37

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) It is necessary to recall how certain financial intermediaries and other providers of tax advice seem to have actively assisted their clients to conceal money offshore. Furthermore, although the CRS introduced by Council Directive (EU) 2014/107²⁷ is a significant step forward in establishing a tax transparent framework within the Union, at least in terms of financial account information, it can still be improved.

Amendment

(5) It is necessary to recall how certain financial intermediaries and other providers of tax advice seem to have actively assisted their clients to conceal money offshore. Furthermore, although the CRS introduced by Council Directive (EU) 2014/107²⁷ is a significant step forward in establishing a tax transparent framework within the Union, at least in terms of financial account information, it can still be improved. ***In addition, Member States' capacity to process the amount of financial information received should be enhanced accordingly and tax administrations' financial, human and IT resources should be increased.***

²⁷ Council Directive (EU) 2014/107 of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (OJ L 359, 16.2.2014, p. 1).

²⁷ Council Directive (EU) 2014/107 of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (OJ L 359, 16.2.2014, p. 1).

Amendment 38
Ramón Jáuregui Atondo

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) It is necessary to recall how certain financial intermediaries and other providers of tax advice *seem to* have actively assisted their clients to conceal money offshore. Furthermore, although the CRS introduced by Council Directive (EU) 2014/107²⁷ is a significant step forward in establishing a tax transparent framework within the Union, at least in terms of financial account information, it can still be improved.

²⁷ Council Directive (EU) 2014/107 of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (OJ L 359, 16.2.2014, p. 1).

Amendment

(5) It is necessary to recall how certain financial intermediaries and other providers of tax advice have actively assisted their clients to conceal money offshore. Furthermore, although the CRS introduced by Council Directive (EU) 2014/107~~27~~ is a significant step forward in establishing a tax transparent framework within the Union, at least in terms of financial account information, it can still be improved.

Or. es

Amendment 39
Barbara Kappel

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) The disclosure of potentially aggressive tax planning arrangements of a cross-border dimension can contribute effectively to the efforts for creating an environment of fair taxation in the internal

Amendment

(6) The disclosure of potentially aggressive tax planning arrangements of a cross-border dimension can contribute effectively to the efforts for creating an environment of fair *and efficient* taxation

market. In this light, an obligation on intermediaries to inform tax authorities on certain cross-border arrangements that could potentially be used for tax avoidance purposes **would constitute a step in the right direction**. In order to develop a more comprehensive policy, it would also be significant that as a second step, following disclosure, the tax authorities share information with their peers in other Member States. Such arrangements should also enhance the effectiveness of the CRS. **In addition, it would be crucial to grant the Commission access to a sufficient amount of information so that it can monitor the proper functioning of this Directive. Such access to information by the Commission does not discharge a Member State from its obligations to notify any state aid to the Commission.**

in the internal market. In this light, an obligation on intermediaries to inform tax authorities on certain cross-border arrangements that could potentially be used for tax avoidance purposes **could be considered**. In order to develop a more comprehensive policy, it would also be significant that as a second step, following disclosure, the tax authorities share **relevant** information with their peers in other Member States. Such arrangements should also enhance the effectiveness of the CRS.

Or. en

Amendment 40

Bernard Monot

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) The disclosure of potentially aggressive tax planning arrangements of a cross-border dimension can contribute effectively to the efforts for creating an environment of fair taxation in the internal market. In this light, an obligation on intermediaries to inform tax authorities on certain cross-border arrangements that could potentially be used for tax avoidance purposes would constitute a step in the right direction. In order to develop a more comprehensive policy, it would also be significant that as a second step, following disclosure, the tax authorities share information with their peers in other

Amendment

(6) The disclosure of potentially aggressive tax planning arrangements of a cross-border dimension can contribute effectively to the efforts for creating an environment of fair taxation in the internal market **and strengthen the collective pressure on those Member States that abuse freedom of movement of capital and EU company law provisions in a bid to attract the tax base of other Member States**. In this light, an obligation on intermediaries to inform tax authorities on certain cross-border arrangements that could potentially be used for tax avoidance purposes would constitute a step in the

Member States. Such arrangements should also enhance the effectiveness of the CRS. In addition, it would be crucial to grant the Commission access to a sufficient amount of information so that it can monitor the proper functioning of this Directive. Such access to information by the Commission does not discharge a Member State from its obligations to notify any state aid to the Commission.

right direction. In order to develop a more comprehensive policy, it would also be significant that as a second step, following disclosure, the tax authorities share information with their peers in other Member States. Such arrangements should also enhance the effectiveness of the CRS. In addition, it would be crucial to grant the Commission access to a sufficient amount of information so that it can monitor the proper functioning of this Directive. Such access to information by the Commission does not discharge a Member State from its obligations to notify any state aid to the Commission.

Or. fr

Amendment 41
Tom Vandenkendelaere

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) The disclosure of potentially aggressive tax planning arrangements of a cross-border dimension can contribute effectively to the efforts for creating an environment of fair taxation in the internal market. In this light, an obligation on intermediaries to inform tax authorities on certain cross-border arrangements that could potentially be used for tax avoidance purposes would constitute a step in the right direction. In order to develop a more comprehensive policy, it would also be significant that as a second step, following disclosure, the tax authorities share information with their peers in other Member States. Such arrangements should also enhance the effectiveness of the CRS. In addition, it would be crucial to grant the Commission access to a sufficient amount of information so that it can monitor the

Amendment

(6) The disclosure of potentially aggressive tax planning arrangements of a cross-border dimension can contribute effectively to the efforts for creating an environment of fair taxation in the internal market. In this light, an obligation on intermediaries to inform tax authorities on certain cross-border arrangements that could potentially be used for tax avoidance purposes would constitute a step in the right direction. In order to develop a more comprehensive policy, it would also be significant that as a second step, following disclosure, the tax authorities share information with their peers in other Member States. Such arrangements should also enhance the effectiveness of the CRS. In addition, it would be crucial to grant the Commission access to a sufficient amount of information so that it can monitor the

proper functioning of this Directive. Such access to information by the Commission does not discharge a Member State from its obligations to notify any state aid to the Commission.

proper functioning of this Directive. Such access to information by the Commission does not discharge a Member State from its obligations to notify any state aid to the Commission. ***Finally, in order to enhance legal certainty for intermediaries and taxpayers, the Commission should publish a list of the reported cross-border tax arrangements, without making any reference to the intermediary or taxpayer.***

Or. en

Amendment 42

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) The disclosure of potentially aggressive tax planning arrangements of a cross-border dimension can contribute effectively to the efforts for creating an environment of fair taxation in the internal market. In this light, an obligation on intermediaries to inform tax authorities on certain cross-border arrangements that could potentially be used for tax avoidance purposes would constitute a step in the right direction. In order to develop a more comprehensive policy, it would also be significant that as a second step, following disclosure, the tax authorities share information with their peers in other Member States. Such arrangements should also enhance the effectiveness of the CRS. In addition, it would be crucial to grant the Commission access to ***a sufficient amount of*** information so that it can monitor the proper functioning of this Directive. Such access to information by the Commission does not discharge a Member State from its obligations to notify any state aid to the

Amendment

(6) The disclosure of potentially aggressive tax planning arrangements of a cross-border dimension can contribute effectively to the efforts for creating an environment of fair taxation in the internal market. In this light, an obligation on intermediaries to inform tax authorities on certain cross-border arrangements that could potentially be used for tax avoidance purposes would constitute a step in the right direction. In order to develop a more comprehensive policy, it would also be significant that as a second step, following disclosure, the tax authorities ***automatically*** share information with their peers in other Member States. Such arrangements should also enhance the effectiveness of the CRS. In addition, it would be crucial to grant the Commission access to ***relevant*** information so that it can monitor the proper functioning of this Directive ***and live up to its responsibilities under competition policies***. Such access to information by the Commission does not

Commission.

discharge a Member State from its obligations to notify any state aid to the Commission.

Or. en

Amendment 43
Dimitrios Papadimoulis

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) The disclosure of potentially aggressive tax planning arrangements of a cross-border dimension can contribute effectively to the efforts for creating an environment of fair taxation in the internal market. In this light, an obligation on intermediaries to inform tax authorities on certain cross-border arrangements that could potentially be used for tax avoidance purposes would constitute a step in the right direction. In order to develop a more comprehensive policy, it would also be significant that as a second step, following disclosure, the tax authorities share information with their peers in other Member States. Such arrangements should also enhance the effectiveness of the CRS. In addition, it would be crucial to grant the Commission access to a sufficient amount of information so that it can monitor the proper functioning of this Directive. Such access to information by the Commission does not discharge a Member State from its obligations to notify any state aid to the Commission.

Amendment

(6) The disclosure of potentially aggressive tax planning arrangements of a cross-border dimension can contribute effectively to the efforts for creating an environment of fair taxation in the internal market. In this light, an obligation on intermediaries to inform tax authorities on certain cross-border arrangements that could potentially be used for tax avoidance purposes would constitute a step in the right direction. In order to develop a more comprehensive policy, it would also be significant that as a second step, following disclosure, the tax authorities share information with their peers in other Member States. Such arrangements should also enhance the effectiveness of the CRS. In addition, it would be crucial to grant the Commission access to a sufficient amount of information so that it can monitor the proper functioning of this Directive, ***including state-aid monitoring***. Such access to information by the Commission does not discharge a Member State from its obligations to notify any state aid to the Commission.

Or. en

Amendment 44

Emmanuel Maurel, Pirkko Ruohonen-Lerner, Dimitrios Papadimoulis, Molly Scott Cato, Jeppe Kofod, Pervenche Berès

**Proposal for a directive
Recital 6**

Text proposed by the Commission

(6) The disclosure of potentially aggressive tax planning arrangements of a cross-border dimension can contribute effectively to the efforts for creating an environment of fair taxation in the internal market. In this light, an obligation on intermediaries to inform tax authorities on certain cross-border arrangements that could potentially be used for tax avoidance purposes would constitute a step in the right direction. In order to develop a more comprehensive policy, it would also be significant that as a second step, following disclosure, the tax authorities share information with their peers in other Member States. Such arrangements should also enhance the effectiveness of the CRS. In addition, it would be crucial to grant the Commission access to a sufficient amount of information so that it can monitor the proper functioning of this Directive. Such access to information by the Commission does not discharge a Member State from its obligations to notify any state aid to the Commission.

Amendment

(6) The disclosure of potentially aggressive tax planning arrangements of a cross-border dimension can contribute effectively to the efforts for creating an environment of fair taxation in the internal market. In this light, an obligation on intermediaries **and auditors** to inform tax authorities on certain cross-border arrangements that could potentially be used for tax avoidance purposes would constitute a step in the right direction. In order to develop a more comprehensive policy, it would also be significant that as a second step, following disclosure, the tax authorities share information with their peers in other Member States. Such arrangements should also enhance the effectiveness of the CRS. In addition, it would be crucial to grant the Commission access to a sufficient amount of information so that it can monitor the proper functioning of this Directive. Such access to information by the Commission does not discharge a Member State from its obligations to notify any state aid to the Commission.

Or. en

**Amendment 45
Dimitrios Papadimoulis**

**Proposal for a directive
Recital 6**

Text proposed by the Commission

(6) The disclosure of potentially

Amendment

(6) The disclosure of potentially

aggressive tax planning arrangements of a cross-border dimension *can* contribute effectively to the efforts for creating an environment of fair taxation in the internal market. In this light, an obligation on intermediaries to inform tax authorities on certain cross-border arrangements that could potentially be used for tax avoidance purposes *would constitute a* step in the right direction. In order to develop a more comprehensive policy, it would also be significant that as a second step, following disclosure, the tax authorities share information with their peers in other Member States. Such arrangements should also enhance the effectiveness of the CRS. In addition, it would be crucial to grant the Commission access to a sufficient amount of information so that it can monitor the proper functioning of this Directive. Such access to information by the Commission does not discharge a Member State from its obligations to notify any state aid to the Commission.

aggressive tax planning arrangements of a cross-border dimension *should* contribute effectively to the efforts for creating an environment of fair taxation in the internal market. In this light, an obligation on intermediaries to inform tax authorities on certain cross-border arrangements that could potentially be used for tax avoidance purposes *is a necessary* step in the right direction. In order to develop a more comprehensive policy, it would also be significant that as a second step, following disclosure, the tax authorities share information with their peers in other Member States. Such arrangements should also enhance the effectiveness of the CRS. In addition, it would be crucial to grant the Commission access to a sufficient amount of information so that it can monitor the proper functioning of this Directive. Such access to information by the Commission does not discharge a Member State from its obligations to notify any state aid to the Commission.

Or. en

Amendment 46
Dimitrios Papadimoulis

Proposal for a directive
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) In order to make the tax administrations meet the enhanced duties of mapping the procedures through which amounts of money can secretly surpass national authorities' radars, special funding is needed for equipping them with the necessary legal, administrative and IT tools. This funding has to be channelled to all Member States with special provision to those who face tax collection challenges with a larger fiscal

imprint.

Or. en

Amendment 47
Pirkko Ruohonen-Lerner, Bernd Lucke

Proposal for a directive
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Recent tax-related leaks have also underlined the need for better information exchange on aggressive tax planning arrangements. To highlight one example, it is scandalous that despite of various inquiries on Apple's tax practices, its recent Jersey-based tax avoidance structure was only revealed with the Paradise Papers leak.

Or. en

Amendment 48
Barbara Kappel

Proposal for a directive
Recital 7

Text proposed by the Commission

Amendment

(7) It is acknowledged that the disclosure of potentially aggressive cross-border tax planning arrangements would stand a better chance of achieving its envisaged deterrent effect where the relevant information reached the tax authorities at an early stage, in other words before the disclosed arrangements are actually implemented. Where the disclosure obligation is shifted to taxpayers, it would be practical to place the obligation to disclose those potentially

(7) It is acknowledged that the disclosure of potentially aggressive cross-border tax planning arrangements would stand a better chance of achieving its envisaged deterrent effect where the relevant information reached the tax authorities at an early stage, in other words before the disclosed arrangements are actually implemented. Where the disclosure obligation is shifted to taxpayers, it would be practical to place the obligation to disclose those potentially

aggressive cross-border tax planning arrangements at a slightly later stage, as taxpayers may not be aware of the nature of the arrangements at the time of the inception. To facilitate Member States' administrations, the subsequent automatic exchange of information on these arrangements could take place every quarter.

aggressive cross-border tax planning arrangements at a slightly later stage, as taxpayers may not be aware of the nature of the arrangements at the time of the inception. To facilitate Member States' administrations, the subsequent automatic exchange of information on these arrangements could take place *at least biannually, preferably* every quarter.

Or. en

Amendment 49
Dimitrios Papadimoulis

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) It is acknowledged that the disclosure of potentially aggressive cross-border tax planning arrangements would stand a better chance of achieving its envisaged deterrent effect where the relevant information reached the tax authorities at an early stage, in other words before the disclosed arrangements are actually implemented. Where the disclosure obligation is shifted to taxpayers, it would be practical to place the obligation to disclose those potentially aggressive cross-border tax planning arrangements at a slightly later stage, as taxpayers may not be aware of the nature of the arrangements at the time of the inception. To facilitate Member States' administrations, the subsequent automatic exchange of information on these arrangements could take place every quarter.

Amendment

(7) It is acknowledged that the disclosure of potentially aggressive cross-border tax planning arrangements would stand a better chance of achieving its envisaged deterrent effect where the relevant information reached the tax authorities at an early stage, in other words before the disclosed arrangements are actually implemented *creating that way an early warning mechanism with necessary sanctioning powers*. Where the disclosure obligation is shifted to taxpayers, it would be practical to place the obligation to disclose those potentially aggressive cross-border tax planning arrangements at a slightly later stage, as taxpayers may not be aware of the nature of the arrangements at the time of the inception. To facilitate Member States' administrations, the subsequent automatic exchange of information on these arrangements could take place every quarter.

Or. en

Amendment 50
Miguel Viegas

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) It is acknowledged that the disclosure of potentially aggressive cross-border tax planning arrangements would stand a better chance of achieving its envisaged deterrent effect where the relevant information reached the tax authorities at an early stage, ***in other words before the disclosed arrangements are actually implemented. Where the disclosure obligation is shifted to taxpayers, it*** would be practical to place the obligation to disclose those potentially aggressive cross-border tax planning arrangements at ***a slightly later stage, as taxpayers may not be aware of the nature of the arrangements at the time of the inception.*** To facilitate Member States' administrations, the subsequent automatic exchange of information on these arrangements could take place every quarter.

Amendment

(7) It is acknowledged that the disclosure of potentially aggressive cross-border tax planning arrangements would stand a better chance of achieving its envisaged deterrent effect where the relevant information reached the tax authorities at an early stage. ***It*** would ***accordingly*** be practical to place the obligation to disclose those potentially aggressive cross-border tax planning arrangements at ***an initial*** stage. To facilitate Member States' administrations, the subsequent automatic exchange of information on these arrangements could take place every quarter.

Or. pt

Amendment 51
Pirkko Ruohonen-Lerner

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) It is acknowledged that the disclosure of potentially aggressive cross-border tax planning arrangements would stand a better chance of achieving its envisaged deterrent effect where the relevant information reached the tax

Amendment

(7) It is acknowledged that the disclosure of potentially aggressive cross-border tax planning arrangements would stand a better chance of achieving its envisaged deterrent effect where the relevant information reached the tax

authorities at an early stage, in other words before the disclosed arrangements are actually implemented. Where the disclosure obligation is shifted to taxpayers, it would be practical to place the obligation to disclose those potentially aggressive cross-border tax planning arrangements at a slightly later stage, *as taxpayers may not be aware of the nature of the arrangements at the time of the inception*. To facilitate Member States' administrations, the subsequent automatic exchange of information on these arrangements could take place every quarter.

authorities at an early stage, in other words before the disclosed arrangements are actually implemented. Where the disclosure obligation is shifted to taxpayers, it would be practical to place the obligation to disclose those potentially aggressive cross-border tax planning arrangements at a slightly later stage. To facilitate Member States' administrations, the subsequent automatic exchange of information on these arrangements could take place every quarter.

Or. en

Amendment 52
Barbara Kappel

Proposal for a directive
Recital 8

Text proposed by the Commission

Amendment

(8) To ensure the proper functioning of the internal market and to prevent loopholes in the proposed framework of rules, the obligation for disclosure should be placed upon all actors that are usually involved in designing, marketing, organising or managing the implementation of a reportable cross-border transaction or a series thereof as well as those who provide assistance or advice. It should not be ignored either that in certain cases, the obligation to disclose would not be enforceable upon an intermediary due to a legal professional privilege or where there is no intermediary because, for instance, the taxpayer designs and implements a scheme in-house. It would thus be crucial that, in such circumstances, tax authorities do not lose the opportunity to

deleted

receive information about tax-related arrangements that are potentially linked to aggressive tax planning. It would therefore be necessary to shift the disclosure obligation to the taxpayer who benefits from the arrangement in these cases.

Or. en

Amendment 53
Miguel Viegas

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) To ensure the proper functioning of the internal market and to prevent loopholes in the proposed framework of rules, the obligation for disclosure should be placed upon all actors that are usually involved in designing, marketing, organising or managing the implementation of a reportable cross-border transaction or a series thereof as well as those who provide assistance or advice. It should not be ignored either that in certain cases, the obligation to disclose would not be enforceable upon an intermediary due to a legal professional privilege or where there is no intermediary because, for instance, the taxpayer designs and implements a scheme in-house. It would thus be crucial that, in such circumstances, tax authorities do not lose the opportunity to receive information about tax-related arrangements that are potentially linked to aggressive tax planning. ***It would therefore be necessary to shift*** the disclosure obligation to the taxpayer who benefits from the arrangement ***in these cases***.

Amendment

(8) To ensure the proper functioning of the internal market and to prevent loopholes in the proposed framework of rules, the obligation for disclosure should be placed upon all actors that are usually involved in designing, marketing, organising or managing the implementation of a reportable cross-border transaction or a series thereof as well as those who provide assistance or advice. It should not be ignored either that in certain cases, the obligation to disclose would not be enforceable upon an intermediary due to a legal professional privilege or where there is no intermediary because, for instance, the taxpayer designs and implements a scheme in-house. It would thus be crucial that, in such circumstances, tax authorities do not lose the opportunity to receive information about tax-related arrangements that are potentially linked to aggressive tax planning, ***shifting*** the disclosure obligation to the taxpayer who benefits from the arrangement.

Or. pt

Amendment 54
Barbara Kappel

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) Aggressive tax planning arrangements have evolved over the years to become increasingly more complex and are always subject to constant modifications and adjustments as a reaction to defensive counter-measures by the tax authorities. Taking this into consideration, it would be more effective to endeavour to capture potentially aggressive tax arrangements through the compiling of a list of the features and elements of transactions that present a strong indication of tax avoidance or abuse rather than to define the concept of aggressive tax planning. These indications are referred to as 'hallmarks'.

Amendment

(9) ***For the sake of legal certainty, a clear definition of the term "aggressive tax planning" is necessary.***

Or. en

Amendment 55
Dimitrios Papadimoulis

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) Aggressive tax planning arrangements have evolved over the years to become increasingly more complex and are always subject to constant modifications and adjustments as a reaction to defensive counter-measures by the tax authorities. Taking this into consideration, it would be more effective to endeavour to capture potentially aggressive tax

Amendment

(9) Aggressive tax planning arrangements have evolved over the years to become increasingly more complex and are always subject to constant modifications and adjustments as a reaction to defensive counter-measures by the tax authorities. Taking this into consideration, it would be more effective to endeavour to capture potentially aggressive tax

arrangements through the compiling of a list of the features and elements of transactions that present a strong indication of tax avoidance or abuse rather than to define the concept of aggressive tax planning. These indications are referred to as 'hallmarks'.

arrangements through the compiling of a list of the features and elements of transactions that present a strong indication of tax avoidance or abuse rather than to define the concept of aggressive tax planning. These indications are referred to as 'hallmarks'. ***Moreover, given the constant changes in the way that tax planning arrangements evolve and adjust, the Union should take the necessary initiatives and recruit former advisors of such intermediaries in order to access quality information on those practices.***

Or. en

Amendment 56
Pirkko Ruohonen-Lerner, Bernd Lucke

Proposal for a directive
Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) The constantly growing role and importance of intellectual property rights in the business models and tax structures of large corporations further underline the urgency of better information exchange on tax avoidance arrangements, given the various easy options that the use of immaterial rights give for artificial transfer of profits.

Or. en

Amendment 57
Pirkko Ruohonen-Lerner, Bernd Lucke

Proposal for a directive
Recital 9 b (new)

Text proposed by the Commission

Amendment

(9b) The lack of comprehensive, public country-by-country reporting on relevant financial figures of major multinational enterprises has contributed into the poor reliability of aggregated data on offshore structures, highlighted by the fact that many of the recent high-profile tax avoidance structures are not visible in the current commercial corporate financial account databases. These gaps in statistics hinder the attempts of tax authorities to conduct risk assessments on risk jurisdictions and underlines the need for greater information exchange on tax planning structures.

Or. en

Amendment 58

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) Given that the primary objective of such legislation should focus on ensuring the proper functioning of the internal market, it would be critical not to regulate at the level of the Union beyond what is necessary to achieve the envisaged aims. This is why it would be necessary to limit any common rules on disclosure to cross-border situations, namely situations in either more than one Member State or a Member State and a third country. In such circumstances, due to the potential impact on the functioning of the internal market, one can justify the need for enacting a common set of rules, rather than leaving the matter to be dealt with at the national level.

Amendment

(10) Given that the primary objective of such legislation should focus on ensuring the proper functioning of the internal market, it would be critical not to regulate at the level of the Union beyond what is necessary to achieve the envisaged aims. This is why it would be necessary to limit any common rules on disclosure to cross-border situations, namely situations in either more than one Member State or a Member State and a third country. In such circumstances, due to the potential impact on the functioning of the internal market, one can justify the need for enacting a common set of rules, rather than leaving the matter to be dealt with at the national level. *If a Member State implements further national reporting measures of a similar nature, the additional information*

collected should be shared with other Member States if relevant.

Or. en

Amendment 59
Dimitrios Papadimoulis

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) Given that the primary objective of such legislation should focus on ensuring the proper functioning of the internal market, it would be critical not to regulate at the level of the Union beyond what is necessary to achieve the envisaged aims. This is why it would be necessary to limit any common rules on disclosure to cross-border situations, namely situations in either more than one Member State or a Member State and a third country. In such circumstances, due to the potential impact on the functioning of the internal market, one can justify the need for enacting a common set of rules, rather than leaving the matter to be dealt with at the national level.

Amendment

(10) Given that the primary objective of such legislation should focus on ***significantly limiting the catastrophic consequences of tax evasion and tax avoidance on the public accounts*** while ensuring the proper functioning of the internal market, it would be critical not to regulate at the level of the Union beyond what is necessary to achieve the envisaged aims. This is why it would be necessary to limit any common rules on disclosure to cross-border situations, namely situations in either more than one Member State or a Member State and a third country. In such circumstances, due to the potential impact on the functioning of the internal market, one can justify the need for enacting a common set of rules, rather than leaving the matter to be dealt with at the national level.

Or. en

Amendment 60
Ramón Jáuregui Atondo

Proposal for a directive
Recital 10

Text proposed by the Commission

Amendment

(10) Given that the primary objective of such legislation should focus on ensuring the proper functioning of the internal market, it would be critical not to regulate at the level of the Union beyond what is necessary to achieve the envisaged aims. This is why it would be necessary to limit any common rules on disclosure to cross-border situations, namely situations in either more than one Member State or a Member State and a third country. In such circumstances, due to the potential impact on the functioning of the internal market, ***one can justify*** the need for enacting a common set of rules, rather than leaving the matter to be dealt with at the national level.

(10) Given that the primary objective of such legislation should focus on ensuring the proper functioning of the internal market, it would be critical not to regulate at the level of the Union beyond what is necessary to achieve the envisaged aims. This is why it would be necessary to limit any common rules on disclosure to cross-border situations, namely situations in either more than one Member State or a Member State and a third country. In such circumstances, due to the potential impact on the functioning of the internal market, the need for enacting a common set of rules, rather than leaving the matter to be dealt with at the national level, ***is justified***.

Or. es

Amendment 61
Dimitrios Papadimoulis

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) Considering that the disclosed arrangements should have a cross-border dimension, it would be important to share the relevant information with the tax authorities in other Member States in order to ensure the maximum effectiveness of this Directive in deterring aggressive tax planning practices. The mechanism for the exchange of information in the context of advance cross-border rulings and advance pricing arrangements should also be used to accommodate the mandatory and automatic exchange of disclosed information on potentially aggressive cross-border tax planning arrangements amongst tax authorities in the Union.

Amendment

(11) Considering that the disclosed arrangements should have a cross-border dimension, it would be important to share the relevant information with the tax authorities in other Member States in order to ensure the maximum effectiveness of this Directive in deterring aggressive tax planning practices. The mechanism for the exchange of information in the context of advance cross-border rulings and advance pricing arrangements, ***should be available to the public and*** should also be used to accommodate the mandatory and automatic exchange of disclosed information on potentially aggressive cross-border tax planning arrangements amongst tax authorities in the Union.

Amendment 62
Barbara Kappel

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) Considering that the disclosed arrangements should have a cross-border dimension, it would be important to share the relevant information with the tax authorities in other Member States in order to ensure the maximum effectiveness of this Directive in deterring aggressive tax planning practices. The mechanism for the exchange of information in the context of advance cross-border rulings and advance pricing arrangements *should* also be used to accommodate the mandatory and automatic exchange of disclosed information on potentially aggressive cross-border tax planning arrangements amongst tax authorities in the Union.

Amendment

(11) Considering that the disclosed arrangements should have a cross-border dimension, it would be important to share the relevant information with the tax authorities in other Member States in order to ensure the maximum effectiveness of this Directive in deterring aggressive tax planning practices. The mechanism for the exchange of *relevant* information in the context of advance cross-border rulings and advance pricing arrangements *could* also be used to accommodate the mandatory and automatic exchange of disclosed *relevant* information on potentially aggressive cross-border tax planning arrangements amongst tax authorities in the Union.

Or. en

Amendment 63
Pirkko Ruohonen-Lerner

Proposal for a directive
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Penalties are to be effective, proportionate and dissuasive, but their design is left for Member States' legislation. Since all Member States might not have the incentives to design and implement effective sanctions, in order to ensure consistent implementation across

Member States, the exchange of information between tax authorities has to be automatic also in regard to penalties imposed, as well as to situations where the Member State has refrained from imposing any.

Or. en

Amendment 64
Dimitrios Papadimoulis

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) In order to facilitate the automatic exchange of information and enhance the efficient use of resources, exchanges should be carried out through the common communication network (CCN) developed by the Union. In this context, information would be recorded on a secure central directory on administrative cooperation in the field of taxation. Member States should have to implement a series of practical arrangements, including measures to standardise the communication of all requisite information through creating a standard form. This should also involve specifying the linguistic requirements for the envisaged exchange of information and accordingly upgrading the CCN.

Amendment

(12) In order to facilitate the automatic exchange of information and enhance the efficient use of resources, exchanges should be carried out through the common communication network (CCN) developed by the Union. In this context, information would be recorded on a secure central directory on administrative cooperation in the field of taxation, ***which should then be publicly accessible and searchable.*** Member States should have to implement a series of practical arrangements, including measures to standardise the communication of all requisite information through creating a standard form. This should also involve specifying the linguistic requirements for the envisaged exchange of information and accordingly upgrading the CCN.

Or. en

Amendment 65
Barbara Kappel

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) In order to facilitate the automatic exchange of information and enhance the efficient use of resources, exchanges should be carried out through the common communication network (CCN) ***developed by the Union. In this context, information would be recorded on a secure central directory on administrative cooperation in the field of taxation.*** Member States ***should have to*** implement a series of practical arrangements, including measures to standardise the communication of all requisite information through creating a ***standard*** form. This should also involve specifying the linguistic requirements for the envisaged exchange of information and accordingly upgrading the CCN.

Amendment

(12) In order to facilitate the automatic exchange of ***relevant*** information and enhance the efficient use of resources, exchanges should be carried out through the common communication network (CCN). Member States ***could*** implement a series of practical arrangements, including measures to standardise the communication of all requisite ***relevant*** information through creating a ***standardized*** form. This should also involve specifying the linguistic requirements for the envisaged exchange of information and accordingly upgrading the CCN.

Or. en

Amendment 66
Dimitrios Papadimoulis

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) In order to improve the prospects for effectiveness of this Directive, Member States should lay down penalties against the violation of national rules that implement this Directive and ensure that these penalties actually apply in practice, that they are proportionate and have a dissuasive effect.

Amendment

(13) In order to improve the prospects for effectiveness of this Directive, Member States should lay down ***strict*** penalties against the violation of national rules that implement this Directive and ensure that these penalties actually apply ***promptly*** in practice, that they are proportionate and have a dissuasive effect. ***The Member States should submit to the Commission a public list of intermediaries and taxpayers who have had penalties imposed under this Directive, including name, nationality and place of residence.***

Or. en

Amendment 67
Barbara Kappel

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) In order to improve the prospects for effectiveness of this Directive, Member States **should** lay down penalties against the violation of national rules that implement this Directive and ensure that these penalties actually apply in practice, that they are proportionate and have a dissuasive effect.

Amendment

(13) In order to improve the prospects for effectiveness of this Directive, Member States **could** lay down penalties against the violation of national rules that implement this Directive and ensure that these penalties actually apply in practice, that they are proportionate and have a dissuasive effect.

Or. en

Amendment 68
Ramón Jáuregui Atondo

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) In order to improve the **prospects for** effectiveness of this Directive, Member States should lay down penalties against the violation of national rules that implement this Directive and ensure that these penalties actually apply in practice, that they are proportionate and have a dissuasive effect.

Amendment

(13) In order to improve the effectiveness of this Directive, Member States should lay down penalties against the violation of national rules that implement this Directive and ensure that these penalties **are known and** actually apply in practice, that they are proportionate and have a dissuasive effect.

Or. es

Amendment 69
Pirkko Ruohonen-Lerner

Proposal for a directive

Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) Since the knowledge source of new procedures are Member States, which might have a tradition of enticing foreign direct investment with tax advantages, sufficient incentives to expose tax avoidance arrangements in good time must be in place. In particular, sanctions should be increasing with elapsed time on non-reporting to national tax authorities and on sharing the new procedures that meet the specified hallmarks with other Member States' tax authorities.

Or. en

**Amendment 70
Barbara Kappel**

**Proposal for a directive
Recital 14**

Text proposed by the Commission

Amendment

(14) In order to supplement or amend certain non-essential elements of this Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in connection with updating the hallmarks in order to include in the list of hallmarks potentially aggressive tax planning arrangements or series of arrangements in response to updated information on those arrangements or series of arrangements which is derived from the mandatory disclosure of such arrangements.

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Or. en

Amendment 71
Alfred Sant

Proposal for a directive
Recital 14

Text proposed by the Commission

(14) In order to supplement or amend certain non-essential elements of this Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in connection with updating the hallmarks *in order to include in* the list of hallmarks *potentially* aggressive tax planning *arrangements or series of arrangements in response to updated information on those arrangements or series of arrangements which is derived from the mandatory disclosure of such arrangements.*

Amendment

(14) In order to supplement or amend certain non-essential elements of this Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in connection with updating the hallmarks. *Every two years, the Commission should publish a draft update of* the list of hallmarks *that define* aggressive tax planning *to include any new or modified malpractices that will have been identified since the previous update was published and will bring them into force four months after the draft has been published.*

Or. en

Amendment 72
Lieve Wierinck

Proposal for a directive
Recital 14 a (new)

Text proposed by the Commission

(14a) In order to ensure an effective implementation of the measures foreseen by this Directive, it is important that tax authorities have adequate information and communication technology (ICT) systems in place and adequate staff resources.

Amendment

Or. en

Amendment 73
Lieve Wierinck

Proposal for a directive
Recital 14 b (new)

Text proposed by the Commission

Amendment

(14b) In order not to strain the capacity of the national tax authorities to comply with the legislative measures foreseen by this Directive, the hallmarks should be implemented incrementally; the order of the implementation should be based on a prior assessment carried out by the Commission, with the aim of identifying the hallmarks that ought to be given priority.

Or. en

Amendment 74
Barbara Kappel

Proposal for a directive
Recital 15

Text proposed by the Commission

Amendment

(15) In order to ensure uniform conditions for the implementation of this Directive and in particular for the automatic exchange of information between tax authorities, implementing powers should be conferred on the Commission to adopt a standard form with a limited number of components, including the linguistic arrangements. For the same reason, implementing powers should also be conferred on the Commission to adopt the necessary practical arrangements for upgrading the central directory on administrative cooperation in the field of taxation. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the

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*European Parliament and of the Council*²⁸.

²⁸ *Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).*

Or. en

Amendment 75
Lieve Wierinck

Proposal for a directive
Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) In order to ensure a uniform use and interpretation of hallmarks, the Commission should regularly monitor the activities of the tax authorities, within the powers conferred upon it by this Directive.

Or. en

Amendment 76
Dimitrios Papadimoulis

Proposal for a directive
Recital 18

Text proposed by the Commission

Amendment

(18) Since the objective of this Directive, namely to improve the functioning of the internal market through discouraging the use of cross-border aggressive tax planning arrangements,

(18) Since the objective of this Directive, namely ***to significantly limit the catastrophic consequences of tax evasion and tax avoidance on the public accounts and*** to improve the functioning of the

cannot sufficiently be achieved by the Member States acting individually in an uncoordinated fashion but can rather be better achieved at Union level by reason of the fact that it targets schemes which are developed to potentially take advantage of market inefficiencies that originate in the interaction amongst disparate national tax rules, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective, especially considering that it is limited to arrangements of a cross-border dimension of either more than one Member State or a Member State and a third country.

internal market through discouraging the use of cross-border aggressive tax planning arrangements, cannot sufficiently be achieved by the Member States acting individually in an uncoordinated fashion but can rather be better achieved at Union level by reason of the fact that it targets schemes which are developed to potentially take advantage of market inefficiencies that originate in the interaction amongst disparate national tax rules, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective, especially considering that it is limited to arrangements of a cross-border dimension of either more than one Member State or a Member State and a third country.

Or. en

Amendment 77

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b

Directive 2011/16/EU

Article 3 – point 18 – point c

Text proposed by the Commission

(c) one or more of the parties to the arrangement or series of arrangements carries on **a business** in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement or series of arrangements forms part or the whole of the **business** of that permanent establishment;

Amendment

(c) one or more of the parties to the arrangement or series of arrangements carries on **an activity** in another jurisdiction through a permanent establishment **or a controlled foreign company** situated in that jurisdiction and the arrangement or series of arrangements forms part or the whole of the **activity** of that permanent establishment;

Amendment 78
Dimitrios Papadimoulis

Proposal for a directive
Article 1 – paragraph 1 – point 1 – point b
Directive 2011/16/EU
Article 3 – point 18 – point c

Text proposed by the Commission

(c) one or more of the parties to the arrangement or series of arrangements carries on a business in another jurisdiction through a permanent establishment *situated* in that jurisdiction and the arrangement or series of arrangements forms part or the whole of the business of that permanent establishment;

Amendment

(c) one or more of the parties to the arrangement or series of arrangements carries on a business in another jurisdiction through a permanent establishment *or a foreign company regardless of its location*, in that jurisdiction and the arrangement or series of arrangements forms part or the whole of the business of that permanent establishment;

Amendment 79
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 1 – point b
Directive 2011/16/EU
Article 3 – point 18 – point d

Text proposed by the Commission

(d) one or more of the parties to the arrangement or series of arrangements carries on *a business* in another jurisdiction *through a permanent establishment which is not situated* in that jurisdiction *and the arrangement or series of arrangements forms part or the whole of the business of that permanent establishment*;

Amendment

(d) one or more of the parties to the arrangement or series of arrangements carries on *an activity* in another jurisdiction *without creating a taxable presence* in that jurisdiction;

Amendment 80
Pirkko Ruohonen-Lerner

Proposal for a directive
Article 1 – paragraph 1 – point 1 – point b
Directive 2011/16/EU
Article 3 – point 18 – point e

Text proposed by the Commission

(e) such arrangement or series of arrangements **has** a tax-related impact on at least two jurisdictions.

Amendment

(e) such arrangement or series of arrangements **can potentially have** a tax-related impact on at least two jurisdictions.

Or. en

Justification

The effect is not certain.

Amendment 81
Lieve Wierinck

Proposal for a directive
Article 1 – paragraph 1 – point 1 – point b
Directive 2016/11/EU
Article 3 – point 19

Text proposed by the Commission

19. "reportable cross-border arrangement" means any cross-border arrangement or series of arrangements that satisfy at least one of the hallmarks set out in Annex IV.

Amendment

19. "reportable cross-border arrangement" means any cross-border arrangement or series of arrangements that satisfy at least one of the hallmarks set out in Annex IV. ***The Commission shall identify which hallmarks ought to be prioritized and consequently allow an incremental implementation.***

Or. en

Amendment 82

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b

Directive 2011/16/EU

Article 3 – point 20

Text proposed by the Commission

20. "hallmark" means *a typical characteristic or feature of* an arrangement or series of arrangements which is listed in Annex IV.

Amendment

20. "hallmark" means an arrangement or series of arrangements which is listed in Annex IV.

Or. en

Amendment 83

Fulvio Martusciello

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b

Directive 2011/16/EU

Article 3 – point 21 – paragraph 1

Text proposed by the Commission

"intermediaries" means any person that carries the responsibility vis-à-vis the taxpayer for designing, marketing, organising or managing the implementation of the tax aspects of a reportable cross-border arrangement, or series of such arrangements, in the course of providing services relating to *taxation*. "Intermediaries" also means any such person that undertakes to provide, directly or by means of other persons to which it is related, material aid, assistance or advice with respect to designing, marketing, organising or managing the tax aspects of a reportable cross-border arrangement.

Amendment

"intermediaries" means any person that carries the responsibility vis-à-vis the taxpayer for designing, marketing, organising or managing the implementation of the tax aspects of a reportable cross-border arrangement, or series of such arrangements, in the course of providing *financial, accounting or fiscal* services relating to *taxes and duties*. "Intermediaries" also means any such person that undertakes to provide, directly or by means of other persons to which it is related, material aid, assistance or advice with respect to designing, marketing, organising or managing the tax aspects of a reportable cross-border arrangement.

Or. it

Justification

It is important to underline that the field is only taxation.

Amendment 84

Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b (new)

Directive 2011/16/EU

Article 3 – point 21 – point d a (new)

Text proposed by the Commission

Amendment

(da) provide the service to a taxpayer resident for tax purposes in a Member State in the case of is a legal person established in a third country and belonging to a group of companies established in the Member State of the recipient;

Or. es

Amendment 85

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b (new)

Directive 2011/16/EU

Article 3 – point 21 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

While conducting tax and financial statements audits of intermediaries, as defined in this Article, auditors shall be subject to the same identification and disclosure obligations regarding potential aggressive tax schemes covered by article 8aaa of this Directive.

Or. en

Amendment 86
Miguel Viegas

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b

Directive 2011/16/EU

Article 3 – point 23 – point b

Text proposed by the Commission

(b) a taxpayer participates in the control of another taxpayer through a holding that exceeds **20%** of the voting rights;

Amendment

(b) a taxpayer participates in the control of another taxpayer through a holding that exceeds **10%** of the voting rights;

Or. pt

Amendment 87
Miguel Viegas

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b

Directive 2011/16/EU

Article 3 – point 23 – point c

Text proposed by the Commission

(c) a taxpayer participates in the capital of another taxpayer through a right of ownership that, directly or indirectly, exceeds **20%** of the capital.

Amendment

(c) a taxpayer participates in the capital of another taxpayer through a right of ownership that, directly or indirectly, exceeds **10%** of the capital.

Or. pt

Amendment 88
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b (new)

Directive 2011/16/EU

Article 3 – point 23 – point c a (new)

Text proposed by the Commission

Amendment

(ca) A taxpayer is the beneficial owner of another taxpayer within the meaning of Directive (EU) 2015/849.

Or. en

Amendment 89
Miguel Viegas

Proposal for a directive
Article 1 – paragraph 1 – point 2
Directive 2011/16/EU
Chapter II – section II – Article 8 a a a – paragraph 1

Text proposed by the Commission

Amendment

1. Each Member State shall take the necessary measures to require *intermediaries* to file information with the competent tax authorities on *a reportable cross-border arrangement or series of such arrangements within five working days, beginning on the day after the reportable cross-border arrangement or series of arrangements is made available for implementation by the intermediary to one or more taxpayers following contact with that taxpayer or those taxpayers, or where the first step in a series of arrangements has already been implemented.*

1. Each Member State shall take the necessary measures to require *taxpayers* to file information with the competent tax authorities on *the use of advantageous* cross-border arrangements.

Or. pt

Amendment 90
Emmanuel Maurel, Pirkko Ruohonen-Lerner, Dimitrios Papadimoulis, Molly Scott Cato, Jeppe Kofod, Pervenche Berès

Proposal for a directive
Article 1 – paragraph 1 – point 2
Directive 2011/16/EU
Chapter II – section II – Article 8 a a a – paragraph 1

Text proposed by the Commission

1. Each Member State shall take the necessary measures to require intermediaries to file information with the competent tax authorities on a reportable cross-border arrangement or series of such arrangements within five working days, beginning on the day after the reportable cross-border arrangement or series of arrangements is made available for implementation by the intermediary to one or more taxpayers following contact with that taxpayer or those taxpayers, or where the first step in a series of arrangements has already been implemented.

Amendment

1. Each Member State shall take the necessary measures to require intermediaries **and auditors** to file information with the competent tax authorities on a reportable cross-border arrangement or series of such arrangements within five working days, beginning on the day after the reportable cross-border arrangement or series of arrangements is made available for implementation by the intermediary to one or more taxpayers following contact with that taxpayer or those taxpayers, or where the first step in a series of arrangements has already been implemented.

Or. en

Amendment 91
Miguel Viegas

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 2 – subparagraph 1

Text proposed by the Commission

Each Member State shall take the necessary measures to give intermediaries the right to a waiver from filing information on a reportable cross-border arrangement or series of such arrangements where they are entitled to a legal professional privilege under the national law of that Member State. In such circumstances, the obligation to file information on such an arrangement or series of arrangements shall be the responsibility of the taxpayer and intermediaries shall inform taxpayers of this responsibility due to the privilege.

Amendment

deleted

Amendment 92

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 2 – subparagraph 1

Text proposed by the Commission

Each Member State *shall* take the necessary measures to give intermediaries the right to a waiver from filing information on a reportable cross-border arrangement or series of such arrangements where they are entitled to a legal professional privilege under the national law of that Member State. In such circumstances, the obligation to file information on such an arrangement or series of arrangements shall be the responsibility of the taxpayer and intermediaries shall inform taxpayers of this responsibility due to the privilege.

Amendment

Each Member State *may* take the necessary measures to give intermediaries the right to a waiver from filing information on a reportable cross-border arrangement or series of such arrangements where they are entitled to a legal professional privilege under the national law of that Member State. In such circumstances, the obligation to file information on such an arrangement or series of arrangements shall be the responsibility of the taxpayer and intermediaries shall inform taxpayers of this responsibility due to the privilege.

Or. en

Amendment 93

Emmanuel Maurel, Pirkko Ruohonen-Lerner, Dimitrios Papadimoulis, Molly Scott Cato, Jeppe Kofod, Pervenche Berès

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 2 – subparagraph 1

Text proposed by the Commission

Each Member State shall take the necessary measures to give intermediaries the right to a waiver from filing information on a reportable cross-border

Amendment

Each Member State shall take the necessary measures to give intermediaries *and auditors* the right to a waiver from filing information on a reportable cross-

arrangement or series of such arrangements where they are entitled to a legal professional privilege under the national law of that Member State. In such circumstances, the obligation to file information on such an arrangement or series of arrangements shall be the responsibility of the taxpayer and intermediaries shall inform taxpayers of this responsibility due to the privilege.

border arrangement or series of such arrangements where they are entitled to a legal professional privilege under the national law of that Member State. In such circumstances, the obligation to file information on such an arrangement or series of arrangements shall be the responsibility of the taxpayer and intermediaries shall inform taxpayers of this responsibility due to the privilege.

Or. en

Amendment 94
Lieve Wierinck

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – Section II – Article 8 a a a – paragraph 2 – subparagraph 1

Text proposed by the Commission

Each Member State shall take the necessary measures to give intermediaries the right to a waiver from filing information on a reportable cross-border arrangement or series of such arrangements where they are entitled to a legal professional privilege under the national law of that Member State. In such circumstances, the obligation to file information on such an arrangement or series of arrangements shall be the responsibility of the taxpayer and intermediaries shall inform taxpayers of this responsibility due to the privilege.

Amendment

Each Member State shall take the necessary measures to give intermediaries the right to a waiver from filing information on a reportable cross-border arrangement or series of such arrangements where they are entitled to a legal professional privilege under the national law of that Member State. In such circumstances, the obligation to file information on such an arrangement or series of arrangements shall be the responsibility of the taxpayer and intermediaries shall inform taxpayers of this responsibility due to the privilege. ***The taxpayer shall report the information to the competent tax authorities on the reportable cross-border arrangement or series of such arrangements within ten working days. Without prejudice to the obligations of the intermediaries, this time period shall apply whenever the tax reporting obligations are to be fulfilled by the tax payer.***

Amendment 95
Ramón Jáuregui Atondo

Proposal for a directive
Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – Section II – Article 8 a a a – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

Each Member State shall take the necessary measures to give intermediaries the right to a waiver from filing information on a reportable cross-border arrangement or series of such arrangements where they are entitled to a legal professional privilege under the national law of that Member State. In such circumstances, the obligation to file information on such an arrangement or series of arrangements shall be the responsibility of the taxpayer and intermediaries shall inform taxpayers of this responsibility due to the privilege.

Each Member State shall take the necessary measures to give intermediaries the right to a waiver from filing information on a reportable cross-border arrangement or series of such arrangements where they are entitled to a legal professional privilege under the national law of that Member State. In such circumstances, the obligation to file information on such an arrangement or series of arrangements shall be the responsibility of the taxpayer and intermediaries shall inform taxpayers *in writing* of this responsibility due to the privilege *and shall keep an acknowledgement of receipt signed by the taxpayer.*

Or. es

Amendment 96
Miguel Viegas

Proposal for a directive
Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Intermediaries may only be entitled to a waiver under the first subparagraph to the extent that they operate within the limits

deleted

of the relevant national laws that define their professions.

Or. pt

Amendment 97

Emmanuel Maurel, Pirkko Ruohonen-Lerner, Dimitrios Papadimoulis, Molly Scott Cato, Jeppe Kofod, Pervenche Berès

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 2 – subparagraph 2

Text proposed by the Commission

Intermediaries may only be entitled to a waiver under the first subparagraph to the extent that they operate within the limits of the relevant national laws that define their professions.

Amendment

Intermediaries **and auditors** may only be entitled to a waiver under the first subparagraph to the extent that they operate within the limits of the relevant national laws that define their professions.

Or. en

Amendment 98

Miguel Viegas

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 2 – subparagraph 3

Text proposed by the Commission

Each Member State shall take the necessary measures to ensure that, **where there is no intermediary within the meaning of point 21 of Article 3, the obligation to file information on a reportable cross-border arrangement or series of such arrangements shall be the responsibility of the taxpayer. The taxpayer shall file** information within five working days, beginning on the day after

Amendment

Each Member State shall take the necessary measures to ensure that the taxpayer **files** information within five working days, beginning on the day after the reportable cross-border arrangement or series of arrangements or the first step in a series of such arrangements has been implemented.

the reportable cross-border arrangement or series of arrangements or the first step in a series of such arrangements has been implemented.

Or. pt

Amendment 99
Miguel Viegas

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 3 – subparagraph 1

Text proposed by the Commission

Amendment

Each Member State shall take the necessary measures to ensure that, where more than one intermediary is involved in a reportable cross-border arrangement or series of such arrangements, only the intermediary that carries the responsibility vis-à-vis the taxpayer for designing and implementing the arrangement or series of arrangements shall file information in accordance with paragraph 1.

deleted

Or. pt

Amendment 100
Lieve Wierinck

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – Section II – Article 8 a a a a – paragraph 4

Text proposed by the Commission

Amendment

4. Each Member State shall take the necessary measures to require intermediaries and taxpayers to file

4. Each Member State shall take the necessary measures to require intermediaries and taxpayers to file

information on reportable cross-border arrangements that were implemented between [date of political agreement] and 31 December 2018 Intermediaries and taxpayers, as appropriate, shall file information on those reportable cross-border arrangements by 31 March 2019.

information on reportable ***cross-border arrangements that were in place on [date of political agreement]*** and cross-border arrangements that were implemented between [date of political agreement] and 31 December 2018 Intermediaries and taxpayers, as appropriate, shall file information on those reportable cross-border arrangements by 31 March 2019.

Or. en

Justification

The scope of this amendment is to ensure that the Directive covers not only the schemes that will be in place in the future, but also those that are currently in place, without creating an excessive administrative burden.

Amendment 101

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 4

Text proposed by the Commission

4. Each Member State shall take the necessary measures to require intermediaries and taxpayers to file information on reportable cross-border arrangements that were implemented ***between [date of political agreement] and 31 December 2018*** Intermediaries and taxpayers, as appropriate, shall file information on those reportable cross-border arrangements by 31 March 2019.

Amendment

4. Each Member State shall take the necessary measures to require intermediaries and taxpayers to file information on reportable cross-border arrangements that were implemented ***since 1 January 2009***. Intermediaries and taxpayers, as appropriate, shall file information on those reportable cross-border arrangements by 31 March 2019.

Or. en

Amendment 102

Miguel Viegas

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 4

Text proposed by the Commission

4. Each Member State shall take the necessary measures to require **intermediaries and** taxpayers to file information on reportable cross-border arrangements that were implemented between [date of political agreement] and 31 December 2018. Intermediaries and taxpayers, as appropriate, shall file information on those reportable cross-border arrangements by 31 March 2019.

Amendment

4. Each Member State shall take the necessary measures to require taxpayers to file information on reportable cross-border arrangements that were implemented between [date of political agreement] and 31 December 2018. Intermediaries and taxpayers, as appropriate, shall file information on those reportable cross-border arrangements by 31 March 2019.

Or. pt

Amendment 103

Emmanuel Maurel, Pirkko Ruohonen-Lerner, Dimitrios Papadimoulis, Molly Scott Cato, Jeppe Kofod, Pervenche Berès

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article a a a – paragraph 4

Text proposed by the Commission

4. Each Member State shall take the necessary measures to require intermediaries and taxpayers to file information on reportable cross-border arrangements that were implemented between [date of political agreement] and 31 December 2018. Intermediaries and taxpayers, as appropriate, shall file information on those reportable cross-border arrangements by 31 March 2019.

Amendment

4. Each Member State shall take the necessary measures to require intermediaries, **auditors** and taxpayers to file information on reportable cross-border arrangements that were implemented between [date of political agreement] and 31 December 2018. Intermediaries, **auditors** and taxpayers, as appropriate, shall file information on those reportable cross-border arrangements by 31 March 2019.

Or. en

Amendment 104

Tom Vandenkendelaere

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 4

Text proposed by the Commission

4. Each Member State shall take the necessary measures to require intermediaries and taxpayers to file information on reportable cross-border arrangements that were implemented between [date of political agreement] and 31 December 2018. Intermediaries and taxpayers, as appropriate, shall file information on those reportable cross-border arrangements by 31 March 2019.

Amendment

4. Each Member State shall take the necessary measures to require intermediaries and taxpayers to file information on reportable cross-border arrangements that were implemented ***or through which cross-border transactions were performed***, between [date of political agreement] and 31 December 2018. Intermediaries and taxpayers, as appropriate, shall file information on those reportable cross-border arrangements by 31 March 2019.

Or. en

Amendment 105

Pirkko Ruohonen-Lerner

on behalf of the ECR Group

Bernd Lucke

Proposal for a directive

Article 1 – paragraph 1 – point 2 (new)

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Each Member State shall take the necessary measures to investigate the tax arrangements disclosed through the exchange of information provided by this Directive, as well as to provide the resources required for this to their tax authorities.

Justification

Necessary to ensure that Member States provide sufficient resources and investigate disclosed tax arrangements.

Amendment 106

Emmanuel Maurel, Pirkko Ruohonen-Lerner, Dimitrios Papadimoulis, Molly Scott Cato, Jeppe Kofod, Pervenche Berès

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/UEU

Chapter II – section II – Article 8 a a a – paragraph 6 – point a

Text proposed by the Commission

(a) the identification of intermediaries and taxpayers, including their name, residence for tax purposes, and taxpayer identification number (TIN) and, where appropriate, the persons who are associated enterprises to the intermediary or taxpayer;

Amendment

(a) the identification of intermediaries, **or, where applicable auditors,** and taxpayers, including their name, residence for tax purposes, and taxpayer identification number (TIN) and, where appropriate, the persons who are associated enterprises to the intermediary or taxpayer;

Or. en

Amendment 107

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 6 – point a

Text proposed by the Commission

(a) the identification of intermediaries and taxpayers, including their name, residence for tax purposes, and taxpayer identification number (TIN) and, where appropriate, the persons who are associated

Amendment

(a) the identification of intermediaries and taxpayers, including their name, **nationality,** residence for tax purposes, and taxpayer identification number (TIN) and, where appropriate, the persons who are associated enterprises to the intermediary

enterprises to the intermediary or taxpayer;

or taxpayer;

Or. en

Amendment 108

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 6 – point c

Text proposed by the Commission

(c) a summary of the content of the reportable cross-border arrangement or series of such arrangements, including a reference to the name by which they are commonly known, if any, and a description in abstract terms of the relevant business activities or arrangements, ***without leading to the disclosure of a commercial, industrial or professional secret or of a commercial process, or of information whose disclosure would be contrary to public policy;***

Amendment

(c) a summary of the content of the reportable cross-border arrangement or series of such arrangements, including a reference to the name by which they are commonly known, if any, and a description in abstract terms of the relevant business activities or arrangements;

Or. en

Amendment 109

Miguel Viegas

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 6 – point c

Text proposed by the Commission

(c) a summary of the content of the reportable cross-border arrangement or series of such arrangements, including a reference to the name by which they are

Amendment

(c) a summary of the content of the reportable cross-border arrangement or series of such arrangements, including a reference to the name by which they are

commonly known, if any, and a description in abstract terms of the relevant business activities or arrangements, *without leading to the disclosure of a commercial, industrial or professional secret or of a commercial process, or of information whose disclosure would be contrary to public policy*;

commonly known, if any, and a description in abstract terms of the relevant business activities or arrangements;

Or. pt

Amendment 110

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 6 – point d

Text proposed by the Commission

(d) the *date that* the implementation of the reportable cross-border arrangement or of the first step in a series of such arrangements *is to start or started*;

Amendment

(d) the *starting date of* the implementation of the reportable cross-border arrangement or of the first step in a series of such arrangements;

Or. en

Amendment 111

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 6 – point e

Text proposed by the Commission

(e) details of the national tax provisions *the application of which creates a tax advantage*, if applicable;

Amendment

(e) details of the national tax provisions *forming the basis for the reportable arrangements or series of arrangements*, if applicable;

Amendment 112

Emmanuel Maurel, Pirkko Ruohonen-Lerner, Dimitrios Papadimoulis, Molly Scott Cato, Jeppe Kofod, Pervenche Berès

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 6 – point h

Text proposed by the Commission

(h) the identification of any person in the other Member States, if any, likely to be affected by the reportable cross-border arrangement or series of such arrangements indicating to which Member States the affected intermediaries or taxpayers are linked.

Amendment

(h) the identification of any person in the other Member States, if any, likely to be affected by the reportable cross-border arrangement or series of such arrangements indicating to which Member States the affected intermediaries, **auditors** or taxpayers are linked.

Or. en

Amendment 113

Tom Vandenkendelaere

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 7

Text proposed by the Commission

7. To facilitate the exchange of information referred to in paragraph 5 of this Article, the Commission shall adopt the practical arrangements necessary for the implementation of this Article, including measures to standardise the communication of the information set out in paragraph 6 of this Article, as part of the procedure for establishing the standard form provided for in Article 20(5).

Amendment

7. To facilitate the exchange of information referred to in paragraph 5 of this Article, the Commission shall adopt the practical arrangements, **and provide sufficient resources**, necessary for the implementation of this Article, including measures to standardise the communication of the information set out in paragraph 6 of this Article, as part of the procedure for establishing the standard form provided for in Article 20(5).

Amendment 114

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 8

Text proposed by the Commission

Amendment

8. *The Commission shall not have access to information referred to in points (a), (c) and (h) of paragraph 6.* **deleted**

Or. en

Amendment 115

Tom Vandenkendelaere

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2011/16/EU

Chapter II – section II – Article 8 a a a – paragraph 8

Text proposed by the Commission

Amendment

8. The Commission shall **not** have access to information referred to in points (a), (c) **and** (h) of paragraph 6.

8. The Commission shall have access to information referred to in points (b), (c), (d), (e), (f) **and** (g) of paragraph 6. **The Commission shall make publicly available a list of the reported cross-border arrangements, without making any reference to the respective intermediary or taxpayer.**

Or. en

Amendment 116

Emmanuel Maurel

Proposal for a directive

Article 1 – paragraph 1 – point 4

Directive 2011/16/EU

Article 21 – paragraph 5 – subparagraph 1

Text proposed by the Commission

The Commission shall by 31 December 2017 develop and provide with technical and logistical support a secure **Member State** central directory on administrative cooperation in the field of taxation where information to be communicated in the framework of paragraphs 1 and 2 of Article 8a shall be recorded in order to satisfy the automatic exchange provided for in those paragraphs.

Amendment

The Commission shall by 31 December 2017 develop and provide with technical and logistical support a secure central directory on administrative cooperation in the field of taxation, **with access restricted to the Member States and the Commission**, where information to be communicated in the framework of paragraphs 1 and 2 of Article 8a shall be recorded in order to satisfy the automatic exchange provided for in those paragraphs.

Or. en

Amendment 117

Emmanuel Maurel

Proposal for a directive

Article 1 – paragraph 1 – point 4

Directive 2011/16/EU

Article 21 – paragraph 5 – subparagraph 2

Text proposed by the Commission

The Commission shall by 31 December 2018 develop and provide with technical and logistical support a secure **Member State** central directory on administrative cooperation in the field of taxation where information to be communicated in the framework of paragraphs 5, 6 and 7 of Article 8aaa shall be recorded in order to satisfy the automatic exchange provided for in those paragraphs.

Amendment

The Commission shall by 31 December 2018 develop and provide with technical and logistical support a secure central directory on administrative cooperation in the field of taxation, **with access restricted to the Member States and the Commission**, where information to be communicated in the framework of paragraphs 5, 6 and 7 of Article 8aaa shall be recorded in order to satisfy the automatic exchange provided for in those paragraphs.

Or. en

Amendment 118
Dimitrios Papadimoulis

Proposal for a directive
Article 1 – paragraph 1 – point 4
Directive 2011/16/EU
Article 21 – paragraph 5 – subparagraph 3

Text proposed by the Commission

The competent authorities of all Member States shall have access to the information recorded in that directory. The Commission shall also have access to the information recorded in that directory, ***however within the limitations set out in Articles 8a(8) and 8aaa(8)***. The necessary practical arrangements shall be adopted by the Commission in accordance with the procedure referred to in Article 26(2).

Amendment

The competent authorities of all Member States shall have access to the information recorded in that directory. The Commission shall also have access to the information recorded in that directory, ***taking into account confidentiality***. The necessary practical arrangements shall be adopted by the Commission in accordance with the procedure referred to in Article 26(2). ***The Commission shall ensure access to the information stored in the directory, to the public.***

Or. en

Amendment 119
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 4
Directive 2011/16/EU
Article 21 – paragraph 5 – subparagraph 3

Text proposed by the Commission

The competent authorities of all Member States shall have access to the information recorded in that directory. ***The Commission shall also have access to the information recorded in that directory, however within the limitations set out in Articles 8a(8) and 8aaa(8)***. The necessary practical arrangements shall be adopted by

Amendment

The competent authorities of all Member States ***and the Commission*** shall have access to the information recorded in that directory. The necessary practical arrangements shall be adopted by the Commission in accordance with the procedure referred to in Article 26(2).

the Commission in accordance with the procedure referred to in Article 26(2).

Or. en

Amendment 120

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2011/16/EU

Article 23 – paragraph 3

Text proposed by the Commission

3. Member States shall communicate to the Commission a yearly assessment of the effectiveness of the automatic exchange of information referred to in Articles 8, 8a, 8aa and 8aaa as well as the practical results achieved. The Commission shall, by means of implementing acts, adopt the form and the conditions of communication for that yearly assessment. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 26(2)..

Amendment

3. Member States shall communicate to the Commission a yearly assessment of the effectiveness of the automatic exchange of information referred to in Articles 8, 8a, 8aa and 8aaa as well as the practical results achieved. The Commission shall, by means of implementing acts, adopt the form and the conditions of communication for that yearly assessment. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 26(2). ***Member States shall communicate to the Commission information about the number of arrangements or series of arrangements disclosed (as classified in Annex IV), the nationality of taxpayers benefiting from these arrangements and the number of sanctions applied to intermediaries or taxpayers disclosing aggressive tax arrangements. The Commission shall produce a yearly public report with this information.***

Or. en

Amendment 121

Tom Vandenkendelaere

Proposal for a directive
Article 1 – paragraph 1 – point 5
Directive 2011/16/EU
Article 23 – paragraph 3

Text proposed by the Commission

3. Member States shall communicate to the Commission a yearly assessment of the effectiveness of the automatic exchange of information referred to in Articles 8, 8a, 8aa and 8aaa **as well as the practical results achieved**. The Commission shall, by means of implementing acts, adopt the form and the conditions of communication for that yearly assessment. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 26(2)..

Amendment

3. Member States shall communicate to the Commission a yearly assessment of the effectiveness of the automatic exchange of information referred to in Articles 8, 8a, 8aa and 8aaa, **the quality and quantity of information exchanged, and the legislative changes proposed or implemented based on the loopholes in the regulatory framework revealed by this information**. The Commission shall, by means of implementing acts, adopt the form and the conditions of communication for that yearly assessment. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 26(2). **Based on these assessments the Commission shall put forward legislative proposals to close loopholes in existing legislation.**

Or. en

Amendment 122
Lieve Wierinck

Proposal for a directive
Article 1 – paragraph 1 – point 5 (new)
Directive 2011/16/EU
Article 23 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Member States shall each year submit to the Commission a list of the cross-border arrangements that are regarded by the tax authority as compliant with this Directive.

Or. en

Amendment 123
Alfred Sant

Proposal for a directive
Article 1 – paragraph 1 – point 6
Directive 2011/16/EU
Chapter V – Article 23 a a

Text proposed by the Commission

The Commission shall be empowered to adopt delegated acts in accordance with Article 26a to amend Annex IV, in order to include in the list of hallmarks potentially aggressive tax planning arrangements or series of arrangements in response to updated information on those arrangements or series of arrangements which is derived from the mandatory disclosure of such arrangements..

Amendment

The Commission shall be empowered to adopt delegated acts in accordance with Article 26a to amend Annex IV, in order to include in the list of hallmarks potentially aggressive tax planning arrangements or series of arrangements in response to updated information on those arrangements or series of arrangements, which is derived from the mandatory disclosure of such arrangements. ***It shall do so every two years acting on the basis of the information that will be available regarding new or modified malpractices, publishing its new criteria in draft form four months prior to bringing them into force.***

Or. en

Amendment 124
Ramón Jáuregui Atondo

Proposal for a directive
Article 1 – paragraph 1 – point 7
Directive 2011/16/EU
Article 25 a

Text proposed by the Commission

Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and concerning Articles 8aa and 8aaa, and shall take all measures necessary

Amendment

Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and concerning Articles 8aa and 8aaa, and shall take all measures necessary

to ensure that they are implemented. The *penalties* provided for shall be effective, proportionate and dissuasive.

to ensure that they are implemented. The *sanctions* provided for shall be effective, proportionate and dissuasive. *The Commission may publish an indicative table of sanctions.*

Or. es

Amendment 125
Dimitrios Papadimoulis

Proposal for a directive
Article 1 – paragraph 1 – point 8 (new)
Directive 2011/16/EU
Article 26 a – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Every three years after entry into force, the Commission shall submit a report on the application of this Directive to the European Parliament and to the Council.

Or. en