



2015/0068(CNS)

24.9.2015

AMENDMENTS

27 - 178

Draft report
Markus Ferber
(PE560.586v01-00)

Mandatory automatic exchange of information in the field of taxation

Proposal for a directive
(COM(2015)0135 – C8-0085/2015 – 2015/0068(CNS))

Amendment 27

Marisa Matias, Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Miguel Viegas, Dimitrios Papadimoulis

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) The challenge posed by cross-border tax avoidance, aggressive tax planning and harmful tax competition has increased considerably and has become a major focus of concern within the Union and at global level. Tax base erosion is considerably reducing national tax revenues, **which hinders** Member States in applying growth-friendly tax policies. In particular, rulings concerning tax-driven structures lead to a low level of taxation of artificially **high** amounts of income in the country giving the advance ruling and may leave artificially low amounts of income to be taxed in any other countries involved. An increase in transparency is therefore urgently required. The tools and mechanisms established by Council Directive 2011/16/EU¹³ need to be enhanced in order to achieve this.

¹³ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64 of 11.3.2011, p. 1).

Amendment

(1) The challenge posed by cross-border tax avoidance, aggressive tax planning and harmful tax competition has increased considerably and has become a major focus of concern within the Union and at global level. Tax base erosion is considerably reducing national tax revenues, **hence hindering** Member States in applying growth-friendly tax policies **and in fulfilling the constitutional obligations in terms of 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.** In particular, rulings concerning tax-driven structures lead to a low level of taxation of artificially **low** amounts of income in the country giving the advance ruling and may leave artificially low amounts of income to be taxed in any other countries involved. An increase in transparency is therefore urgently required. The tools and mechanisms established by Council Directive 2011/16/EU¹³ need to be enhanced in order to achieve this.

¹³ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64 of 11.3.2011, p. 1).

Or. en

Amendment 28
Sander Loones

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) The challenge posed by cross-border tax avoidance, aggressive tax planning and harmful tax competition has increased considerably and has become a major focus of concern within the Union and at global level. Tax base erosion is considerably reducing national tax revenues, which hinders Member States in applying growth-friendly tax policies. ***In particular***, rulings concerning tax-driven structures lead to a low level of taxation of artificially high amounts of income in the country ***giving*** the advance ruling and ***may leave*** artificially low amounts of income to be taxed in any other countries involved. An increase in transparency is therefore urgently required. The tools and mechanisms established by Council Directive 2011/16/EU¹³ need to be enhanced in order to achieve this.

¹³ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64 of 11.3.2011, p. 1).

Amendment

(1) The challenge posed by cross-border tax avoidance, aggressive tax planning and harmful tax competition has increased considerably and has become a major focus of concern within the Union and at global level. . Tax base erosion is considerably reducing national tax revenues, which hinders Member States in applying growth-friendly tax policies. ***However, in specific cases***, rulings concerning tax-driven structures ***have*** led to a low level of taxation of artificially high amounts of income in the country ***issuing, amending or reviewing*** the advance ruling and ***have left*** artificially low amounts of income to be taxed in any other countries involved. An increase in ***targeted*** transparency is therefore urgently required ***in accordance with OECD standards***. The tools and mechanisms established by Council Directive 2011/16/EU¹³ need to be enhanced in order to achieve this.

¹³ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64 of 11.3.2011, p. 1).

Or. en

Amendment 29
Bernd Lucke

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) The challenge posed by cross-border tax avoidance, aggressive tax planning and harmful tax competition has increased considerably and has become a major focus of concern within the Union and at global level. Tax base erosion is considerably reducing national tax revenues, which hinders Member States in applying growth-friendly tax policies. In particular, rulings concerning tax-driven structures lead to a low level of taxation of artificially high amounts of income in the country giving the advance ruling and may leave artificially low amounts of income to be taxed in any other countries involved. An increase in transparency is therefore urgently required. The tools and mechanisms established by Council Directive 2011/16/EU¹³ need to be enhanced in order to achieve this.

¹³ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64 of 11.3.2011, p. 1).

Amendment

(1) The challenge posed by cross-border tax avoidance, aggressive tax planning and harmful tax competition has increased considerably and has become a major focus of concern within the Union and at global level. Tax base erosion is considerably reducing national tax revenues, which hinders Member States in applying growth-friendly tax policies. In particular, rulings concerning tax-driven structures lead to a low level of taxation of artificially high amounts of income in the country giving the advance ruling and may leave artificially low amounts of income to be taxed in any other countries involved. An increase in transparency is therefore urgently required ***in accordance with OECD standards***. The tools and mechanisms established by Council Directive 2011/16/EU¹³ need to be enhanced in order to achieve this.

¹³ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64 of 11.3.2011, p. 1).

Or. en

Amendment 30
Marco Zanni, Marco Valli

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) The challenge posed by cross-border tax avoidance, aggressive tax planning and harmful tax competition has increased considerably and has become a major focus of concern within the Union and at global

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level. Tax base erosion is considerably reducing national tax revenues, which hinders Member States in applying growth-friendly tax policies. In particular, rulings concerning tax-driven structures lead to a low level of taxation of artificially high amounts of income in the country giving the advance ruling and may leave artificially low amounts of income to be taxed in any other countries involved. An increase in transparency is therefore urgently required. The tools and mechanisms established by Council Directive 2011/16/EU¹³ need to be enhanced in order to achieve this.

¹³ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64 of 11.3.2011, p. 1).

level. Tax base erosion is considerably reducing national tax revenues, which hinders Member States in applying growth-friendly tax policies ***and causes distortions of competition to the detriment of undertakings – particularly SMEs – which pay the correct amounts of tax, and serious imbalances on the internal market.*** In particular, rulings concerning tax-driven structures lead to a low level of taxation of artificially high amounts of income in the country giving the advance ruling and may leave artificially low amounts of income to be taxed in any other countries involved. An increase in transparency is therefore urgently required. The tools and mechanisms established by Council Directive 2011/16/EU¹³ need to be enhanced in order to achieve this.

¹³ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64 of 11.3.2011, p. 1).

Or. it

Amendment 31 **Krišjānis Kariņš**

Proposal for a directive **Recital 1**

Text proposed by the Commission

(1) The challenge posed by cross-border tax avoidance, aggressive tax planning and harmful tax competition has increased considerably and has become a major focus of concern within the Union and at global level. Tax base erosion is considerably reducing national tax revenues, which hinders Member States in applying growth-friendly tax policies. In particular, rulings concerning tax-driven structures lead to a

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(1) The challenge posed by cross-border tax avoidance, aggressive tax planning and harmful tax competition has increased considerably and has become a major focus of concern within the Union and at global level. Tax base erosion is considerably reducing national tax revenues, which hinders Member States in applying growth-friendly tax policies. In particular, rulings concerning tax-driven structures lead to a

low level of taxation of artificially high amounts of income in the country giving the advance ruling and may leave artificially low amounts of income to be taxed in any other countries involved. An increase in transparency is therefore urgently required. The tools and mechanisms established by Council Directive 2011/16/EU¹³ need to be enhanced in order to achieve this.

¹³ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64 of 11.3.2011, p. 1).

low level of taxation of artificially high amounts of income in the country giving the advance ruling and may leave artificially low amounts of income to be taxed in any other countries involved, ***therefore reducing tax base in these Member States***. An increase in transparency ***and in information exchange*** is therefore urgently required. The tools and mechanisms established by Council Directive 2011/16/EU¹³ need to be enhanced in order to achieve this.

¹³ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64 of 11.3.2011, p. 1).

Or. en

Amendment 32

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) The challenge posed by cross-border tax avoidance, aggressive tax planning and harmful tax competition has increased considerably and has become a major focus of concern within the Union and at global level. Tax base erosion is considerably reducing national tax revenues, which hinders Member States in applying growth-friendly tax policies. In particular, rulings concerning tax-driven structures lead to a low level of taxation of artificially high amounts of income in the country giving the advance ruling and may leave artificially low amounts of income to be taxed in any other countries involved. An increase in transparency is therefore

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urgently required. The tools and mechanisms established by Council Directive 2011/16/EU¹³ need to be enhanced in order to achieve this.

urgently required. The tools and mechanisms established by Council Directive 2011/16/EU¹³ need to be enhanced in order to achieve this, ***and need to take account of the wide definition of tax rulings as passed by the Parliament in an amendment to the Shareholder Rights Directive, which complements the definition included therein.***

¹³ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64 of 11.3.2011, p. 1).

¹³ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64 of 11.3.2011, p. 1).

Or. en

Amendment 33 Bernard Monot

Proposal for a directive Recital 1

Text proposed by the Commission

(1) The challenge posed by cross-border tax avoidance, aggressive tax planning and harmful tax competition has increased considerably and has become a major focus of concern within the Union and at global level. Tax base erosion is considerably reducing national tax revenues, which hinders Member States in applying growth-friendly ***tax*** policies. In particular, rulings concerning tax-driven structures lead to a low level of taxation of artificially high amounts of income in the country giving the advance ruling and may leave artificially low amounts of income to be taxed in any other countries involved. An increase in transparency is therefore urgently required. The tools and mechanisms established by Council Directive 2011/16/EU¹³ need to be enhanced in order to achieve this.

Amendment

(1) The challenge posed by cross-border tax avoidance, aggressive tax planning and harmful tax competition has increased considerably and has become a major focus of concern within the Union and at global level. Tax base erosion is considerably reducing national tax revenues, which hinders Member States in applying growth-friendly ***budgetary*** policies. In particular, rulings concerning tax-driven structures lead to a low level of taxation of artificially high amounts of income in the country giving the advance ruling and may leave artificially low amounts of income to be taxed in any other countries involved. An increase in transparency is therefore urgently required. The tools and mechanisms established by Council Directive 2011/16/EU¹³ need to be enhanced in order to achieve this.

¹³ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64 of 11.3.2011, p. 1).

¹³ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC(OJ L 336, 27.12.1977, p. 15).

Or. fr

Amendment 34
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Tax rulings have been used by Member States to attract companies to their territories, by negotiating individual arrangements with multinational corporations, some of which have led to very low tax liabilities for corporations, and have put a downward pressure on rates of corporation tax in Member States. At present Europe is facing several crises, and there is a strain on public finances. Member States should agree a common minimum rate of corporation tax and a common consolidated corporate tax base, instead of engaging in tax competition.

Or. en

Amendment 35
Bernd Lucke

Proposal for a directive
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Following the LuxLeaks scandal and by means of this report, the European

Parliament expresses its strong determination not to tolerate tax fraud and tax avoidance as well as to advocate for fair distribution of a tax burden between citizens and companies.

Or. en

Amendment 36
Krišjānis Kariņš

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) The European Council, in its conclusions of 18 December 2014, underlined the urgent need to advance efforts in the fight against tax avoidance and aggressive tax planning, both at the global and Union levels. Stressing the importance of transparency, the European Council welcomed the Commission's intention to submit a proposal on the automatic exchange of information on tax rulings in the Union.

Amendment

(2) The European Council, in its conclusions of 18 December 2014, underlined the urgent need to advance efforts in the fight against tax avoidance and aggressive tax planning, both at the global and Union levels. Stressing the importance of transparency ***and according information exchange***, the European Council welcomed the Commission's intention to submit a proposal on the automatic exchange of information on tax rulings in the Union.

Or. en

Amendment 37
Marisa Matias, Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Miguel Viegas

Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) Transparency only deploys its benefits fully when it is combined with the possibility of wider public scrutiny. The proposed reforms should hence aim at making publicly available all information on tax rulings exchanged along the

provisions of this Directive.

Or. en

Amendment 38
Petr Ježek, Sylvie Goulard

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) However, the efficient spontaneous exchange of information in respect of advance cross-border rulings and advance pricing arrangements is hindered by several important practical difficulties such as the discretion permitted to the issuing Member State to decide which other Member States should be informed.

Amendment

(4) However, the efficient spontaneous exchange of information in respect of advance cross-border rulings and advance pricing arrangements is hindered by several important practical difficulties such as the discretion permitted to the issuing Member State to decide which other Member States should be informed ***and the weak monitoring system which makes it difficult for the Commission to identify any violation of the exchange information requirement.***

Or. en

Amendment 39
Petr Ježek, Sylvie Goulard

Proposal for a directive
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Underlines that an efficient exchange and processing of tax information and the resulting peer pressure would have a strong deterrent effect against the introduction of harmful tax practices and would allow Member States and the Commission to have all the relevant information at their disposal in order to react against them.

Amendment 40

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) The possibility that the provision of information may be refused where it would lead 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 should not apply to ***provisions of mandatory automatic exchange of information on advance cross-border rulings and advance pricing arrangements in order not to reduce the effectiveness of these exchanges. The limited nature of the information that is required to be shared with all Member States should ensure sufficient protection of those commercial interests.***

Amendment

(5) The possibility that the provision of information may be refused where it would lead 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 should not apply to ***rulings and advance pricing arrangements and therefore all such rulings and arrangements should be made public, by the issuing authorities. The Commission shall be empowered to set out, by means of delegated acts in accordance with Article 27(2a), (2b) and (2c) of the Shareholder Rights Directive, the format and content of publication.***

Or. en

Amendment 41

Marco Zanni, Marco Valli

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) The possibility that the provision of information may be refused where it would lead 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 ***should*** not apply to

Amendment

(5) The possibility that the provision of information may be refused where it would lead 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 ***must*** not apply to provisions

provisions of mandatory automatic exchange of information on advance cross-border rulings and advance pricing arrangements in order not to reduce the effectiveness of these exchanges. The limited nature of the information that is required to be shared with all Member States *should ensure* sufficient protection of those commercial interests.

of mandatory automatic exchange of information on advance cross-border rulings and advance pricing arrangements in order not to reduce the effectiveness of these exchanges. The limited nature of the information that is required to be shared with all Member States *ensures* sufficient protection of those commercial interests.

Or. it

Amendment 42

Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzulică, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive Recital 5

Text proposed by the Commission

(5) The possibility that the provision of information may be refused where it would lead 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 should not apply to provisions of mandatory automatic exchange of information on advance *cross-border* rulings and advance pricing arrangements in order not to reduce the effectiveness of these exchanges. The limited nature of the information that is required to be shared with all Member States should ensure sufficient protection of those commercial interests.

Amendment

(5) The possibility that the provision of information may be refused where it would lead 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 should not apply to provisions of mandatory automatic exchange of information on advance rulings and advance pricing arrangements in order not to reduce the effectiveness of these exchanges. The limited nature of the information that is required to be shared with all Member States should ensure sufficient protection of those commercial interests.

Or. en

Amendment 43

Tom Vandenkendelaere

Proposal for a directive
Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) To avoid arbitrary distinctions between tax arrangements given in the context of different national administrative practices, the definitions of advance rulings and advance pricing arrangements should cover tax arrangements regardless of the formal or informal manner in which they were issued, and irrespective of their binding or non-binding nature.

Or. en

Amendment 44
Sander Loones

Proposal for a directive
Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Advanced tax rulings facilitates the consistent and transparent application of the law.

Or. en

Amendment 45
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Multinational companies are using tax rules and their close relationships with governments to control markets and undermine the competition that allows

business to thrive. It is crucial that companies compete on innovation and efficiency, not on tax policy. Making information on rulings public will make this diversion of energy away from the central purpose of the firm evident.

Or. en

Amendment 46
Marco Zanni, Marco Valli

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) In order to reap the benefits of the mandatory automatic exchange of advance cross-border rulings and advance pricing arrangements, the information should be communicated promptly after they are issued *and therefore regular intervals for the communication of the information should be established.*

Amendment

(6) In order to reap the benefits of the mandatory automatic exchange of advance cross-border rulings and advance pricing arrangements, the information should be communicated promptly, *immediately* after they are issued. *A lack of transparency with regard to the rulings issued results in disalignments between two or more tax systems which affect other countries that have links with the taxpayers to whom they are addressed. Taxpayers are effectively permitted to take advantage of situations such as double deductions and double non-taxation, which bring about huge reductions in, or even avoidance of, the tax due; such practices should be declared illegal.*

Or. it

Amendment 47
Peter Simon

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) In order to reap the benefits of the mandatory automatic exchange of advance cross-border rulings and advance pricing arrangements, the information should be communicated ***promptly after they are issued and therefore regular intervals for the communication of the information should be established.***

Amendment

(6) In order to reap the benefits of the mandatory automatic exchange of advance rulings and advance pricing arrangements, the information concerning them should be communicated ***within a maximum of one month of their issuance.***

Or. de

Amendment 48

Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzulică, Cătălin Sorin Ivan, Elisa Ferreira

**Proposal for a directive
Recital 6**

Text proposed by the Commission

(6) In order to reap the benefits of the mandatory automatic exchange of advance ***cross-border*** rulings and advance pricing arrangements, the information should be communicated ***promptly*** after they are issued and therefore regular intervals for the communication of the information should be established.

Amendment

(6) In order to reap the benefits of the mandatory automatic exchange of advance rulings and advance pricing arrangements, the information should be communicated ***immediately after and at the latest one month after the end of the quarter during which*** after they are issued and therefore regular intervals for the communication of the information should be established (***at least twice a year***).

Or. en

Amendment 49

Molly Scott Cato

on behalf of the Verts/ALE Group

**Proposal for a directive
Recital 6**

Text proposed by the Commission

(6) In order to reap the benefits of ***the mandatory automatic exchange of advance cross-border rulings and advance pricing arrangements***, the information should be communicated promptly after they are issued and therefore regular intervals for the communication of the information should be established.

Amendment

(6) In order to reap the benefits of ***transparency***, the information should be communicated ***and published*** promptly after they are issued and therefore regular intervals for the communication of the information should be established.

Or. en

Amendment 50

Cora van Nieuwenhuizen

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) In order to reap the benefits of the mandatory automatic exchange of advance cross-border rulings and advance pricing arrangements, the information should be communicated promptly after they are issued ***and therefore regular intervals for the communication of the information should be established.***

Amendment

(6) In order to reap the benefits of the mandatory automatic exchange of advance cross-border rulings and advance pricing arrangements, the information should be communicated promptly after they are issued.

Or. en

Amendment 51

Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzuliță, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) The mandatory automatic exchange of advance ***cross-border*** rulings and advance

Amendment

(7) The mandatory automatic exchange of advance rulings and advance pricing

pricing arrangements should in each case include communication of a defined set of basic information to all Member States. The Commission should adopt any measures necessary to standardise the communication of such information under the procedure laid down in Directive 2011/16/EC for establishing a standard form to be used for the exchange of information. That procedure should also be used in the adoption of any necessary measures and practical arrangements for the implementation of the information exchange.

arrangements should in each case include communication of a defined set of basic information to all Member States. The Commission should adopt any measures necessary to standardise the communication of such information under the procedure laid down in Directive 2011/16/EC for establishing a standard form to be used for the exchange of information. That procedure should also be used in the adoption of any necessary measures and practical arrangements for the implementation of the information exchange.

Or. en

Amendment 52
Aldo Patriciello

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) Member States should exchange the basic information to be communicated also with the Commission. This would enable the Commission at any point in time to monitor and evaluate the effective application of the automatic exchange of information on advance cross-border rulings and advance pricing arrangements. Such communication will not discharge a Member State from its obligations to notify any state aid to the Commission.

Amendment

(8) Member States should exchange the basic information to be communicated also with the Commission. This would enable the Commission at any point in time to monitor and evaluate the effective application of the automatic exchange of information on advance cross-border rulings and advance pricing arrangements: ***in this way, transparency would be more readily ensured.*** Such communication will not discharge a Member State from its obligations to notify any state aid to the Commission. ***In particular, the European Anti-Fraud Office (OLAF), as an independent body within the European Commission (Decision 1999/3520), should assume a fundamental role.***

Or. it

Amendment 53

Sander Loones

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) Member States should exchange the basic information to be communicated also with the Commission. This would enable the Commission at any point in time to monitor and evaluate the effective application of the automatic exchange of information on advance cross-border rulings and advance pricing arrangements. Such communication will not discharge a Member State from its obligations to notify any state aid to the Commission.

Amendment

(8) Member States should exchange the basic information to be communicated also with the Commission. This would enable the Commission at any point in time to monitor and evaluate the effective application of the automatic exchange of information on advance cross-border rulings and advance pricing arrangements. ***The information received by the Commission should only be used for these purposes.*** Such communication will not discharge a Member State from its obligations to notify any state aid to the Commission.

Or. en

Amendment 54

Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzuliță, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) Member States should exchange the basic information to be communicated also with the Commission. This would enable the Commission at any point in time to monitor and evaluate the effective application of the automatic exchange of information on advance ***cross-border*** rulings and advance pricing arrangements. Such communication will not discharge a Member State from its obligations to notify any state aid to the Commission.

Amendment

(8) Member States should exchange the basic information to be communicated also with the Commission. This would enable the Commission at any point in time to monitor and evaluate the effective application of the automatic exchange of information on advance rulings and advance pricing arrangements. Such communication will not discharge a Member State from its obligations to notify any state aid to the Commission.

Amendment 55**Marisa Matias, Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Miguel Viegas****Proposal for a directive****Recital 8***Text proposed by the Commission*

(8) Member States should exchange the basic information to be communicated also with the Commission. This would enable the Commission at any point in time to monitor and evaluate the effective application of the automatic exchange of information on advance cross-border rulings and advance pricing arrangements. Such communication will not discharge a Member State from its obligations to notify any state aid to the Commission.

Amendment

(8) Member States should exchange the basic information to be communicated also with the Commission. This would enable the Commission at any point in time to monitor and evaluate the effective application of the automatic exchange of information on advance cross-border rulings and advance pricing arrangements **and to make available to the public the exchanged information on rulings**. Such communication will not discharge a Member State from its obligations to notify any state aid to the Commission.

Amendment 56**Molly Scott Cato**

on behalf of the Verts/ALE Group

Proposal for a directive**Recital 8***Text proposed by the Commission*

(8) Member States should exchange the basic information to be communicated also with the Commission. This would enable the Commission at any point in time to monitor and evaluate the effective application of the automatic exchange of information on advance cross-border rulings and advance pricing arrangements. Such communication will not discharge a Member State from its obligations to notify

Amendment

(8) Member States should exchange the basic information to be communicated also with the Commission. This would enable the Commission at any point in time to monitor and evaluate the effective application of the automatic exchange of information on advance cross-border rulings and advance pricing arrangements. **The Commission will then publish the central directory**. Such communication

any state aid to the Commission.

will not discharge a Member State from its obligations to notify any state aid to the Commission.

Or. en

Amendment 57
Bernd Lucke

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) Member States should exchange the basic information to be communicated also with the Commission. This would enable the Commission at any point in time to monitor and evaluate the effective application of the automatic exchange of information on advance cross-border rulings and advance pricing arrangements. Such communication will not discharge a Member State from its obligations to notify any state aid to the Commission.

Amendment

(8) Member States should exchange the basic information to be communicated also with the Commission, ***since the Commission must be able to assess independently, if this information is relevant for detecting illegal state aid.*** This would enable the Commission at any point in time to monitor and evaluate the effective application of the automatic exchange of information on advance cross-border rulings and advance pricing arrangements. Such communication will not discharge a Member State from its obligations to notify any state aid to the Commission.

Or. en

Amendment 58
Tom Vandenkendelaere

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) Member States should exchange the basic information to be communicated also with the Commission. This ***would*** enable the Commission at any point in time to monitor and evaluate the effective

Amendment

(8) Member States should exchange the basic information to be communicated also with the Commission. This ***basic information should*** enable the Commission at any point in time to

application of the automatic exchange of information on advance cross-border rulings and advance pricing arrangements. Such communication will not discharge a Member State from its obligations to notify any state aid to the Commission.

efficiently monitor and evaluate the effective application of the automatic exchange of information on advance cross-border rulings and advance pricing arrangements. Such communication will not discharge a Member State from its obligations to notify any state aid to the Commission.

Or. en

Amendment 59
Petr Ježek, Sylvie Goulard

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) Member States should exchange the basic information to be communicated also with the Commission. This would enable the Commission at any point in time to monitor and evaluate the effective application of the automatic exchange of information on advance cross-border rulings and advance pricing arrangements. Such communication will not discharge a Member State from its obligations to notify any state aid to the Commission.

Amendment

(8) Member States should exchange the basic information to be communicated also with the Commission. This would enable the Commission at any point in time to monitor and evaluate the effective application of the automatic exchange of information on advance cross-border rulings and advance pricing arrangements ***and to ensure that rulings do not have a negative impact on the internal market.*** Such communication will not discharge a Member State from its obligations to notify any state aid to the Commission.

Or. en

Amendment 60
Bernd Lucke

Proposal for a directive
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Before 1 October 2018 Member States should provide the Commission

with an ex-post analysis of the effectiveness of this directive.

Or. en

Amendment 61
Aldo Patriciello

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) Feedback by the receiving Member State to the Member State sending the information is a necessary element of the operation of an effective system of automatic information exchange. It is therefore appropriate to provide for measures enabling the provision of feedback in cases where the information has been used and where no feedback can be provided under other provisions of Directive 2011/16/EU.

Amendment

(9) Feedback by the receiving Member State to the Member State sending the information is a necessary element of the operation of an effective system of automatic information exchange. It is therefore appropriate to provide for measures enabling the provision of feedback in cases where the information has been used and where no feedback can be provided under other provisions of Directive 2011/16/EU. ***This would make it more difficult to circumvent the information for purposes of fraud.***

Or. it

Amendment 62
Aldo Patriciello

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) A Member State should be able to rely on Article 5 of Directive 2011/16/EU as regards the exchange of information on request to obtain additional information, including the full text of advance cross-border rulings or advance pricing arrangements, from the Member State having issued such rulings or

Amendment

(10) A Member State should be able to rely on Article 5 of Directive 2011/16/EU as regards the exchange of information on request to obtain additional information, including the full text of advance cross-border rulings or advance pricing arrangements, from the Member State having issued such rulings or arrangements

arrangements.

and any texts which effect subsequent changes.

Or. it

Amendment 63
Aldo Patriciello

Proposal for a directive
Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) The expression ‘information that is foreseeably relevant’ as referred to in Article 1(1) of Directive 2011/16/EU should be clarified in order to prevent interpretations whose purpose is avoidance.

Or. it

Amendment 64
Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzuliță, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive
Recital 10

Text proposed by the Commission

Amendment

(10) A Member State should be able to rely on Article 5 of Directive 2011/16/EU as regards the exchange of information on request to obtain additional information, including the full text of advance *cross-border* rulings or advance pricing arrangements, from the Member State having issued such rulings or arrangements.

(10) A Member State should be able to rely on Article 5 of Directive 2011/16/EU as regards the exchange of information on request to obtain additional information, including the full text of advance rulings or advance pricing arrangements, from the Member State having issued such rulings or arrangements.

Or. en

Amendment 65

Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzuliță, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) Member States should take all measures necessary to remove any obstacle that might hinder the effective and widest possible mandatory automatic exchange of information on advance ***cross-border*** rulings and advance pricing arrangements.

Amendment

(11) Member States should take all measures necessary to remove any obstacle that might hinder the effective and widest possible mandatory automatic exchange of information on advance rulings and advance pricing arrangements.

Or. en

Amendment 66

Marco Zanni, Marco Valli

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) In order to enhance the efficient use of resources, facilitate the exchange of information and avoid the need for Member States each to make similar developments to their systems to store information, specific provision should be made for the establishment of a central directory accessible to all Member States and the Commission where Member States would upload and store information instead of exchanging it by email. The practical arrangements necessary for the establishment of such a directory should be adopted by the Commission in accordance with the procedure referred to in Article 26(2) of Directive 2011/16/EU.

Amendment

(12) In order to enhance the efficient use of resources, facilitate the exchange of information and avoid the need for Member States each to make similar developments to their systems to store information, specific provision should be made for the establishment of a central directory accessible to all Member States and the Commission where Member States would upload and store information instead of exchanging it by email. ***Furthermore, this directory should be public and possible for the public to access free of charge, on-line or on request, with a view to transparency and maintenance of competition, while preserving the right balance between the public interest and the interests of companies.*** The practical arrangements necessary for the establishment of such a directory should be

adopted by the Commission in accordance with the procedure referred to in Article 26(2) of Directive 2011/16/EU.

Or. it

Amendment 67
Aldo Patriciello

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) In order to enhance the efficient use of resources, facilitate the exchange of information and avoid the need for Member States each to make similar developments to their systems to store information, specific provision should be made for the establishment of a central directory accessible to all Member States and the Commission where Member States would upload and store information instead of exchanging it by email. The practical arrangements necessary for the establishment of such a directory should be adopted by the Commission in accordance with the procedure referred to in Article 26(2) of Directive 2011/16/EU.

Amendment

(12) In order to enhance the efficient use of resources, facilitate the exchange of information and avoid the need for Member States each to make similar developments to their systems to store information, specific provision should be made for the establishment of a central directory accessible *(but also appropriately protected, for example by a password)* to all Member States and the Commission where Member States would upload and store information instead of exchanging it by email. The practical arrangements necessary for the establishment of such a directory should be adopted by the Commission in accordance with the procedure referred to in Article 26(2) of Directive 2011/16/EU.

Or. it

Amendment 68
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) In order to enhance the efficient use of

Amendment

(12) In order to enhance the efficient use of

resources, facilitate the exchange of information and avoid the need for Member States each to make similar developments to their systems to store information, specific provision should be made for the establishment of a central directory accessible to all Member States **and** the Commission where Member States would upload and store information instead of exchanging it by email. The practical arrangements necessary for the establishment of such a directory should be adopted by the Commission in accordance with the procedure referred to in Article 26(2) of Directive 2011/16/EU.

resources, facilitate the exchange of information and avoid the need for Member States each to make similar developments to their systems to store information, specific provision should be made for the establishment of a **public** central directory accessible to all Member States, the Commission **and European citizens**, where Member States would upload and store information instead of exchanging it by email. The practical arrangements necessary for the establishment of such a **public** directory should be adopted by the Commission in accordance with the procedure referred to in Article 26(2) of Directive 2011/16/EU.

Or. en

Amendment 69

Marisa Matias, Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Miguel Viegas

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) In order to enhance the efficient use of resources, facilitate the exchange of information and avoid the need for Member States each to make similar developments to their systems to store information, specific provision should be made for the establishment of a central directory accessible to all Member States and the Commission where Member States would upload and store information instead of exchanging it by email. The practical arrangements necessary for the establishment of such a directory should be adopted by the Commission in accordance with the procedure referred to in Article 26(2) of Directive 2011/16/EU.

Amendment

(12) In order to enhance the efficient use of resources, facilitate the exchange of information and avoid the need for Member States each to make similar developments to their systems to store information, specific provision should be made for the establishment of a central directory accessible to all Member States and the Commission where Member States would upload and store information instead of exchanging it by email. The **central directory should then be publicly accessible and searchable**. The practical arrangements necessary for the establishment of such a directory should be adopted by the Commission in accordance with the procedure referred to in Article 26(2) of Directive 2011/16/EU.

Or. en

Amendment 70
Marco Zanni, Marco Valli

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) It is desirable that the Member States should ask their competent authorities to allocate human resources from the existing staff establishment to gather and analyse this information.

Or. it

Amendment 71
Anneliese Dodds, Hugues Bayet

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) In order to enhance transparency for citizens, the Commission should publish an anonymised summary of the main tax rulings agreed in the previous year, based on information contained in the secure central directory. In doing so, the Commission should comply with the confidentiality provisions laid down in Article 23a.

Or. en

Amendment 72
Krišjānis Kariņš

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) Stresses the fact that by 26 June 2017 an EU wide register for beneficial ownership has to be operational, aiding in tracking down possible tax avoidance and profit shifting; emphasises the significance of central register for automatic exchange of advanced tax rulings or price arrangements between Member States, which would be accessible to tax authorities and responsible administrations in the Member States and the Commission.

Or. en

Amendment 73
Petr Ježek, Sylvie Goulard

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) In order to enhance transparency, the Commission should publish an annual report summarising the main cases contained in the secure central directory. This report should at least include :

- Name of taxpayer and group;***
- A description of the issues addressed in the tax ruling;***
- A description of the criteria used to determine an advance pricing arrangement;***
- Identification of the Member State(s) most likely to be affected;***
- Identification of any other taxpayer likely to be affected (apart from natural persons)***

In doing so, the Commission should comply with the confidentiality provisions

laid down in Article 23a.

Or. en

Justification

The information that would have to be public corresponds to the information member states will have to automatically exchange in the "push" phase. This way, trade secret and business confidentiality are respected (the Commission should comply with the confidentiality provisions of art 23a). The information exchanged in the pull phase (entire ruling) however won't be made public.

Amendment 74

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) In the spirit of the incremental approach advocated in Directive 2011/16/EU, it is appropriate to adapt the time limits for the existing mandatory automatic exchange of information provided for in Article 8(1) of Directive 2011/16/EU in order to ensure that the available information on the categories is communicated within **nine** months after the end of the tax year to which it relates.

Amendment

(14) In the spirit of the incremental approach advocated in Directive 2011/16/EU, it is appropriate to adapt the time limits for the existing mandatory automatic exchange of information provided for in Article 8(1) of Directive 2011/16/EU in order to ensure that the available information on the categories is communicated within **six** months after the end of the tax year to which it relates.

Or. en

Amendment 75

Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzuliță, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) The existing provisions regarding confidentiality should be amended to reflect the extension of mandatory automatic exchange of information to advance **cross-border** rulings and advance pricing arrangements.

Amendment

(15) The existing provisions regarding confidentiality should be amended to reflect the extension of mandatory automatic exchange of information to advance rulings and advance pricing arrangements.

Or. en

Amendment 76

Marco Zanni, Marco Valli

Proposal for a directive

Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) It is desirable, precisely for the purpose of attaining the aims of this directive, that the Commission should analyse the role of banks in connection with advance rulings or advance pricing agreements. Thus it could make an ad hoc proposal for monitoring and transparency of banking transactions and possible penalties, such as withdrawal of a licence in the event of recurrent non-compliance and fraud.

Or. it

Amendment 77

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

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

Directive 2011/16/EU

Recital 1

Present text

Amendment

(1) The Member States' need for mutual assistance in the field of taxation is growing rapidly in a globalised era. There is a tremendous development of the mobility of taxpayers, of the number of cross-border transactions and of the internationalisation of financial instruments, which makes it difficult for Member States to assess taxes due properly. This increasing difficulty affects the functioning of taxation systems and entails double taxation, which itself incites tax fraud and tax evasion, while the powers of controls remain at national level. It thus jeopardises the functioning of the internal market.

(1) The Member States' need for mutual assistance in the field of taxation is growing rapidly in a globalised era. There is a tremendous development of the mobility of taxpayers, of the number of cross-border transactions and of the internationalisation of financial instruments, which makes it difficult for Member States to assess taxes due properly. This increasing difficulty affects the functioning of taxation systems and entails double taxation, which itself incites tax fraud, **tax avoidance** and tax evasion, while the powers of controls remain at national level. It thus jeopardises the functioning of the internal market.

Or. es

Amendment 78

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1– point -1 a (new)

Directive 2011/16/EU

Recital 7

Present text

(7) This Directive builds on the achievements of Directive 77/799/EEC but provides for clearer and more precise rules governing administrative cooperation between Member States **where necessary**, in order to establish, especially as regards the exchange of information, a wider scope of administrative cooperation between Member States. Clearer rules should also make it possible in particular to cover all legal and natural persons in the Union, taking into account the ever-increasing range of legal arrangements, including not only traditional arrangements such as trusts, foundations and investment funds, but any new instrument which may be set

Amendment

(7) This Directive builds on the achievements of Directive 77/799/EEC but provides for clearer and more precise rules governing administrative cooperation between Member States, in order to establish, especially as regards the exchange of information, a wider scope of administrative cooperation between Member States. Clearer rules should also make it possible in particular to cover all legal and natural persons in the Union, taking into account the ever-increasing range of legal arrangements, including not only traditional arrangements such as trusts, foundations and investment funds, but any new instrument which may be set

up by taxpayers in the Member States.

up by taxpayers in the Member States.

Or. es

Amendment 79

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

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

Directive 2011/16/EU

Recital 10

Present text

(10) It is recognised that the mandatory automatic exchange of information without preconditions is the most effective means of enhancing the correct assessment of taxes in cross-border situations and of fighting fraud. To that end, a step-by-step approach should therefore be followed starting with the automatic exchange of available information on five categories and reviewing the relevant provisions after a report by the Commission.

Amendment

(10) It is recognised that the mandatory automatic exchange of information without preconditions is the most effective means of enhancing the correct assessment of taxes in cross-border situations and of fighting fraud **and tax avoidance**. To that end, a step-by-step approach should therefore be followed starting with the automatic exchange of available information on five categories and reviewing the relevant provisions after a report by the Commission.

Or. es

Amendment 80

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1– point -1 c (new)

Directive 2011/16/EU

Recital 13

Present text

(13) It is important that officials of the tax administration of one Member State are allowed to be present **in the territory of**

Amendment

:

(13) It is important that officials of the tax administration of one Member State **and of the Commission** are allowed to be present.

another Member State.

Or. es

Amendment 81

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1– point -1 d (new)

Directive 2011/16/EU

Recital 15

Present text

Amendment

(15) In view of the legal requirement in certain Member States that a taxpayer be notified of decisions and instruments concerning his tax liability and of the ensuing difficulties for the tax authorities, including cases where the taxpayer has relocated to another Member State, *it is desirable that, in such circumstances*, the tax authorities *should* be able to call upon the cooperation of the competent authorities of the Member State to which the taxpayer has relocated.

(15) In view of the legal requirement in certain Member States that a taxpayer be notified of decisions and instruments concerning his tax liability and of the ensuing difficulties for the tax authorities, including cases where the taxpayer has relocated to another Member State, the tax authorities *must* be able to call upon the cooperation of the competent authorities of the Member State to which the taxpayer has relocated.

Or. es

Amendment 82

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1– point -1 e (new)

Directive 2011/16/EU

Recital 18

Present text

Amendment

(18) It is important for the efficiency of administrative cooperation that information and documents obtained under this

(18) It is important for the efficiency of administrative cooperation that information and documents obtained under this

Directive could, subject to the restrictions laid down in this Directive, be used by the Member State that received them also for other purposes. It is also important that Member States could transmit that information to a third country, under certain conditions.

Directive could, subject to the restrictions laid down in this Directive, be used by the Member State that received them also for other purposes. It is also important that Member States could transmit that information to a third country, under certain conditions, **and to the Commission**.

Or. es

Amendment 83

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1– point -1 f (new)

Directive 2011/16/EU

Article 2 – paragraph 2

Text proposed by the Commission

Amendment

2. Notwithstanding paragraph 1, this Directive shall **not** apply to value added tax and customs duties, **or** to excise duties covered by other Union legislation on administrative cooperation between Member States. This Directive shall also not apply to compulsory social security contributions payable to the Member State or a subdivision of the Member State or to social security institutions established under public law.

2. Notwithstanding paragraph 1, this Directive shall apply to value added tax and customs duties **and** to excise duties covered by other Union legislation on administrative cooperation between Member States **since this Directive supplements them**. This Directive shall also not apply to compulsory social security contributions payable to the Member State or a subdivision of the Member State or to social security institutions established under public law.

Or. es

Amendment 84

Tom Vandenkendelaere

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b

Directive 2011/16/EU

Article 3 – point 14 – introductory part

Text proposed by the Commission

14. 'advance **cross-border** ruling' means any agreement, communication, or any other instrument or action with similar effects, including one issued in the context of a tax audit, which:

Amendment

14. 'advance ruling' means any agreement, communication, or any other instrument or action with similar effects, including one issued in the context of a tax audit **and irrespective of its formal, informal, legally binding or non-binding nature**, which:

Or. en

Amendment 85

Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzuliță, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b

Directive 2011/16/EU

Article 3 – point 14 – introductory part

Text proposed by the Commission

14. 'advance **cross-border** ruling' means any agreement, communication, or any other instrument or action with similar effects, including one issued in the context of a tax audit, which:

Amendment

14. 'advance ruling' means any agreement, communication, or any other instrument or action with similar effects, including one issued in the context of a tax audit, which:

Or. en

Amendment 86

Petr Ježek, Sylvie Goulard

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b

Directive 2011/16/EU

Article 3 – point 14 – point a

Text proposed by the Commission

(a) is given by, or on behalf of, the government or the tax authority of a Member State, or any territorial or

Amendment

(a) is given **or published** by, or on behalf of, the government or the tax authority of a Member State, or any territorial or

administrative subdivisions thereof, *to any* person;

administrative subdivisions thereof, *on which one or more* person *can rely*;

Or. en

Amendment 87

Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzuliță, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b

Directive 2011/16/EU

Article 3 – point 14 – point c

Text proposed by the Commission

(c) relates to a **cross-border** transaction or to the question of whether or not activities carried on by a legal person in the other Member State create a permanent establishment, and;

Amendment

(c) relates to a transaction or to the question of whether or not activities carried on by a legal person in the other Member State create a permanent establishment, and;

Or. en

Amendment 88

Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzuliță, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b

Directive 2011/16/EU

Article 3 – point 14 – subparagraph 2

Text proposed by the Commission

The **cross-border** transaction may involve, but is not restricted to, the making of investments, the provision of goods, services, finance or the use of tangible or intangible assets and does not have to directly involve the person receiving the advance cross-border ruling;

Amendment

The transaction may involve, but is not restricted to, the making of investments, the provision of goods, services, finance or the use of tangible or intangible assets and does not have to directly involve the person receiving the advance cross-border ruling;

Amendment 89

Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzulică, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b

Directive 2011/16/EU

Article 3 – point 15 – subparagraph 1

Text proposed by the Commission

'advance pricing arrangement' means any agreement, communication or any other instrument or action with similar effects, including one issued in the context of a tax audit, given by, or on behalf of, the government or the tax authority of one or more Member States, including any territorial or administrative subdivision thereof, to any person that determines in advance of **cross-border** transactions between associated enterprises, an appropriate set of criteria for the determination of the transfer pricing for those transactions or determines the attribution of profits to a permanent establishment.

Amendment

'advance pricing arrangement' means any agreement, communication or any other instrument or action with similar effects, including one issued in the context of a tax audit, given by, or on behalf of, the government or the tax authority of one or more Member States, including any territorial or administrative subdivision thereof, to any person that determines in advance of transactions between associated enterprises, an appropriate set of criteria for the determination of the transfer pricing for those transactions or determines the attribution of profits to a permanent establishment.

Amendment 90

Petr Ježek, Sylvie Goulard

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b

Directive 2011/16/EU

Article 3 – point 15 – subparagraph 1

Text proposed by the Commission

'advance pricing arrangement' means any agreement, communication or any other

Amendment

'advance pricing arrangement' means any agreement, communication or any other

instrument or action with similar effects, including one issued in the context of a tax audit, given by, or on behalf of, the government or the tax authority of one or more Member States, including any territorial or administrative subdivision thereof, **to any** person that determines in advance of **cross-border** transactions between associated enterprises, an appropriate set of criteria for the determination of the transfer pricing for those transactions or determines the attribution of profits to a permanent establishment.

instrument or action with similar effects, including one issued in the context of a tax audit, given **or published** by, or on behalf of, the government or the tax authority of one or more Member States, including any territorial or administrative subdivision thereof, **on which one or more** person **can rely**, that determines in advance of transactions between associated enterprises, an appropriate set of criteria for the determination of the transfer pricing for those transactions or determines the attribution of profits to a permanent establishment.

Or. en

Amendment 91
Bernd Lucke

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

Text proposed by the Commission

(a) not all the parties to the transaction or series of transactions are resident for tax purposes in the Member State giving the advance cross-border ruling, or;

Amendment

(a) not all the parties (**including associated enterprises**) to the transaction or series of transactions are resident for tax purposes in the Member State giving the advance cross-border ruling, or;

Or. en

Amendment 92
Bernd Lucke

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

Text proposed by the Commission

(b) any of the parties to the transaction or series of transactions is simultaneously resident for tax purposes in more than one jurisdiction, or;

Amendment

(b) any of the parties (***including associated enterprises***) to the transaction or series of transactions is simultaneously resident for tax purposes in more than one jurisdiction, or;

Or. en

Amendment 93

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

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

Directive 2011/16/EU

Article 4 – point 6

Present text

6. Where a liaison department or a competent official sends or receives a request or a reply to a request for cooperation, it shall inform the central liaison office of its Member State under the procedures laid down by that Member State.

Amendment

6. Where a liaison department or a competent official sends or receives a request or a reply to a request for cooperation, it shall inform ***both*** the central liaison office of its Member State under the procedures laid down by that Member State ***and the Commission***.

Or. es

Amendment 94

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

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

Directive 2011/16/EU

Article 6 – point 2

Present text

2. The request referred to in Article 5 may

Amendment

«2. The request referred to in Article 5 may

contain a reasoned request for a specific administrative enquiry. If the requested authority takes the view that no administrative enquiry is necessary, it shall immediately inform the requesting authority of the reasons thereof.

contain a reasoned request for a specific administrative enquiry. If the requested authority takes the view that no administrative enquiry is necessary, it shall immediately inform the requesting authority **and the Commission** of the reasons thereof.

Or. es

Amendment 95

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

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

Directive 2011/16/EU

Article 6 – point 4

Present text

4. When specifically requested by the requesting authority, the requested authority shall communicate original documents ***provided that this is not contrary to the provisions in force in the Member State of the requested authority.***

Amendment

4. When specifically requested by the requesting authority, the requested authority shall communicate original documents.

Or. es

Amendment 96

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

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

Directive 2011/16/EU

Article 7 – point 6

Present text

6. Where the requested authority is not in possession of the requested information and is unable to respond to the request for

Amendment

6. Where the requested authority is not in possession of the requested information and is unable to respond to the request for

information *or refuses to do so on the grounds provided for in Article 17*, it shall inform the requesting authority of the reasons thereof immediately and in any event within one month of receipt of the request.

information, it shall inform the requesting authority of the reasons thereof immediately and in any event within one month of receipt of the request.

Or. es

Amendment 97

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1 – point 2 – point -a (new)

Directive 2011/16/EU

Article 8 – paragraph 1

Present text

Amendment

1. The competent authority of each Member State shall, by automatic exchange, communicate to the competent authority of any other Member State, information regarding taxable periods as from 1 January 2014 that is available concerning residents in that other Member State, on the following specific categories of income and capital as they are to be understood under the national legislation of the Member State which communicates the information:

1. The competent authority of each Member State shall, by automatic exchange, communicate to the competent authority of any other Member State, **and to the Commission**, information regarding taxable periods as from 1 January 2014 that is available concerning residents in that other Member State, on the following specific categories of income and capital as they are to be understood under the national legislation of the Member State which communicates the information:

Or. es

Amendment 98

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1 – point 2 – point -aa (new)

Directive 2011/16/EU

Article 8 – paragraph 1 – point a

Present text

Amendment

Does not affect English version

Does not affect English version

Or. es

Amendment 99

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1 – point 2 – point –a b (new)

Directive 2011/16/EU

Article 8 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

e a) income from movable capital;

Or. es

Amendment 100

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1 – point 2 – point –a c (new)

Directive 2011/16/EU

Article 8 – paragraph 1 – point e b (new)

Text proposed by the Commission

Amendment

e b) tax rulings,

Or. es

Amendment 101

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive
Article 1 – paragraph 1 – point 2 – point a
Directive 2011/16/EU
Article 8 – paragraph 4 and 5

Text proposed by the Commission

Amendment

a) Paragraphs 4 and 5 are deleted.

deleted

Or. es

Amendment 102
Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive
Article 1 – paragraph 1 – point 2 – point a a (new)
Directive 2011/16/EU
Article 8 – paragraph 5 – point b

Present text

Amendment

b) the list of categories in paragraph 1 be extended to include dividends, capital gains and royalties.

deleted

Or. es

Amendment 103
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2011/16/EU
Article 8a – title

Text proposed by the Commission

Amendment

Scope and conditions of mandatory automatic exchange of information **on advance cross-border** rulings and advance pricing arrangements

Scope and conditions of mandatory automatic exchange of information **and publication of advance** rulings and advance pricing arrangements

Amendment 104

Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzuliță, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 1

Text proposed by the Commission

1. The competent authority of a Member State issuing or amending an advance **cross-border** ruling or an advance pricing arrangement after the date of entry into force of this Directive shall, by automatic exchange, communicate information thereon to the competent authorities of all other Member States as well as to the European Commission.

Amendment

1. The competent authority of a Member State issuing or amending an advance ruling or an advance pricing arrangement after the date of entry into force of this Directive shall, by automatic exchange, communicate information thereon to the competent authorities of all other Member States as well as to the European Commission.

Amendment 105

Cora van Nieuwenhuizen

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 1

Text proposed by the Commission

1. The competent authority of a Member State issuing or amending an advance cross-border ruling or an advance pricing arrangement after the date of entry into force of this Directive shall, by automatic exchange, communicate information thereon to the competent authorities of **all other** Member States as well as to the European Commission.

Amendment

1. The competent authority of a Member State issuing or amending an advance cross-border ruling or an advance pricing arrangement after the date of entry into force of this Directive shall, by automatic exchange, communicate information thereon to the competent authorities of **the** Member States **involved** as well as to the European Commission.

Amendment 106

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 1

Text proposed by the Commission

1. The competent authority of a Member State issuing or amending an advance **cross-border** ruling or an advance pricing arrangement after the date of entry into force of this Directive shall, by automatic exchange, communicate information thereon to the competent authorities of all other Member States as well as to the European Commission.

Amendment

1. The competent authority of a Member State issuing or amending an advance ruling or an advance pricing arrangement after the date of entry into force of this Directive shall, by automatic exchange, communicate information thereon to the competent authorities of all other Member States as well as to the European Commission. ***The competent authority of each Member State shall also publicly disclose advance rulings and advance pricing arrangements in an online public centralised register. The rulings shall be made public within one year of being signed.***

Amendment 107

Sander Loones

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 2

Text proposed by the Commission

2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European

Amendment

2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European

Commission on advance cross-border rulings and advance pricing arrangements issued within a period beginning *ten* years before the entry into force but still valid on the date of entry into force of this Directive;

Commission on advance cross-border rulings and advance pricing arrangements issued within a period beginning *five* years before the entry into force but still valid on the date of entry into force of this Directive;

Or. en

Justification

A retroactivity of 10 years means a large operational cost, which would divert resources away from areas where they would be more effective in tackling tax avoidance.

Amendment 108

Marco Zanni, Marco Valli

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 2

Text proposed by the Commission

2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European Commission on advance cross-border rulings and advance pricing arrangements issued within a period beginning *ten* years before the entry into force but still valid on the date of entry into force of this Directive;

Amendment

2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European Commission on advance cross-border rulings and advance pricing arrangements issued within a period beginning *twenty-five* years before the entry into force but still valid on the date of entry into force of this Directive;

Or. it

Amendment 109

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU
Article 8a – paragraph 2

Text proposed by the Commission

2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European Commission on advance ***cross-border*** rulings and advance pricing arrangements ***issued within a period beginning ten years before the entry into force but*** still valid on the date of entry into force of this Directive;

Amendment

2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European Commission on ***all*** advance rulings and advance pricing arrangements still valid on the date of entry into force of this Directive;

Or. en

Amendment 110

Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzuliță, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 2

Text proposed by the Commission

2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European Commission on advance ***cross-border*** rulings and advance pricing arrangements issued ***within a period beginning ten years*** before the entry into force but still valid on the date of entry into force of this Directive;

Amendment

2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European Commission on advance rulings and advance pricing arrangements issued before the entry into force but still valid on the date of entry into force of this Directive;

Or. en

Amendment 111

Marisa Matias, Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Miguel Viegas

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 2

Text proposed by the Commission

2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European Commission on advance cross-border rulings and advance pricing arrangements issued ***within a period beginning ten years before the entry into force but still valid on the date of entry into force of this Directive;***

Amendment

2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European Commission on advance cross-border rulings and advance pricing arrangements issued ***and still valid on the date of entry into force of this Directive, in order to allow for a full picture of rulings have an impact on current tax schemes;***

Or. en

Amendment 112

Cora van Nieuwenhuizen

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 2

Text proposed by the Commission

2. The competent authority of a Member State shall also communicate information to the competent authorities of ***all other*** Member States as well as to the European Commission on advance cross-border rulings and advance pricing arrangements issued within a period beginning ten years before the entry into force but still valid on the date of entry into force of this Directive;

Amendment

2. The competent authority of a Member State shall also communicate information to the competent authorities of ***the*** Member States ***involved*** as well as to the European Commission on advance cross-border rulings and advance pricing arrangements issued within a period beginning ten years before the entry into force but still valid on the date of entry into force of this Directive;

Or. en

Amendment 113
Angel Dzhambazki

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2011/16/EU
Article 8a – paragraph 2

Text proposed by the Commission

2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European Commission on advance cross-border rulings and advance pricing arrangements issued within a period beginning **ten** years before the entry into force but still valid on the date of entry into force of this Directive;

Amendment

2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European Commission on advance cross-border rulings and advance pricing arrangements issued within a period beginning **five** years before the entry into force but still valid on the date of entry into force of this Directive;

Or. en

Justification

The proposed period of retro-activity of rulings is too long, especially taking into consideration the fact that in some Member States according to national law the limit of those rulings lapses after 5 years.

Amendment 114
Dariusz Rosati

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2011/16/EU
Article 8a – paragraph 2

Text proposed by the Commission

2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European Commission on advance cross-border rulings and advance pricing arrangements issued within a period beginning **ten** years

Amendment

2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European Commission on advance cross-border rulings and advance pricing arrangements issued within a period beginning **five** years

before the entry into force but still valid on the date of entry into force of this Directive;

before the entry into force but still valid on the date of entry into force of this Directive;

Or. en

Amendment 115
Bernard Monot

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2011/16/UE
Article 8a – paragraph 2

Text proposed by the Commission

2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European Commission on advance cross-border rulings and advance pricing arrangements issued within a period beginning ten years before the entry into force *but* still valid on the date of entry into force of this Directive;

Amendment

2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European Commission on *all* advance cross-border rulings and advance pricing arrangements issued within a period beginning ten years before the entry into force, *stating which rulings and arrangements were* still valid on the date of entry into force of this Directive;

Or. fr

Amendment 116
Petr Ježek, Sylvie Goulard

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2011/16/EU
Article 8a – paragraph 2

Text proposed by the Commission

2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European Commission on advance cross-border

Amendment

2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European Commission on advance cross-border

rulings and advance pricing arrangements *issued within a period beginning ten years before the entry into force but* still valid on the date of entry into force of this Directive;

rulings and advance pricing arrangements *that are* still valid on the date of entry into force of this Directive;

Or. en

Amendment 117
Petr Ježek, Sylvie Goulard

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2011/16/EU
Article 8a – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member State's tax administration shall publish anonymously the tax ruling and the advanced pricing agreement granted in their annual activity report. Other forms and more frequent publications are also possible.

Or. en

Amendment 118
Marisa Matias, Rina Ronja Kari, Fabio De Masi, Paloma López Bermejo, Miguel Viegas, Dimitrios Papadimoulis

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2011/16/EU
Article 8a – paragraph 3

Text proposed by the Commission

Amendment

3. Paragraph 1 shall not apply in a case where an advance cross-border ruling exclusively concerns and involves the tax affairs of one or more natural persons.

deleted

Or. en

Amendment 119

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 3

Text proposed by the Commission

Amendment

3. Paragraph 1 shall not apply in a case where an advance cross-border ruling exclusively concerns and involves the tax affairs of one or more natural persons.

deleted

Or. es

Amendment 120

Hugues Bayet, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzulică, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 3

Text proposed by the Commission

Amendment

3. Paragraph 1 shall **not** apply **in a case** where an advance **cross-border** ruling **exclusively concerns and involves the tax affairs of one or more natural persons.**

3. Paragraph 1 shall **also** apply where **the request for an advance ruling relates to a legal structure without legal personality. In that instance, the competent authority of the Member State issuing the advance ruling shall forward the information it has to the competent authorities of all other Member States and shall arrange for the memorandum of incorporation to be transferred to the Member State or States where the incorporator or incorporators and the beneficiary or beneficiaries are resident.**

Or. fr

Amendment 121

Peter Simon

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 4 – point a

Text proposed by the Commission

a) in respect of the information exchanged pursuant to paragraph 1: within one month ***following the end of the quarter during which*** the advance cross-border rulings or advance pricing arrangements ***have been issued or amended.***

Amendment

a) in respect of the information exchanged pursuant to paragraph 1: within ***a maximum of*** one month ***of the issuance or amendment of*** the advance cross-border rulings or advance pricing arrangements.

Or. de

Amendment 122

Hugues Bayet, Emmanuel Maurel, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzulică, Cătălin Sorin Ivan, Anneliese Dodds, Elisa Ferreira

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 4 – point a

Text proposed by the Commission

(a) in respect of the information exchanged pursuant to paragraph 1: ***within*** one month ***following*** the end of the quarter during which the advance ***cross-border*** rulings or advance pricing arrangements have been issued or amended.

Amendment

(a) in respect of the information exchanged pursuant to paragraph 1: ***immediately after and at the latest*** one month ***after*** the end of the quarter during which the advance rulings or advance pricing arrangements have been issued or amended.

Or. en

Amendment 123

Dariusz Rosati

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU
Article 8a – paragraph 4 – point b

Text proposed by the Commission

Amendment

(b) in respect of the information exchanged pursuant to paragraph 2: before 31 December **2016**;

(b) in respect of the information exchanged pursuant to paragraph 2: before 31 December **2017**;

Or. en

Amendment 124

Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Peter Simon, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzulică, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 4 – point b

Text proposed by the Commission

Amendment

(b) in respect of the information exchanged pursuant to paragraph 2: **before 31 December 2016**;

(b) in respect of the information exchanged pursuant to paragraph 2: **within three months following the entry into force**;

Or. en

Amendment 125

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 5 – introductory part

Text proposed by the Commission

Amendment

5. The information to be communicated by a Member State pursuant to this Article shall as a minimum include the following information:

5. The information to be communicated **and published** by a Member State pursuant to this Article shall as a minimum include the following information:

Amendment 126

Marco Zanni, Marco Valli

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 5 – point b

Text proposed by the Commission

b) the content of the advance cross-border ruling or advance pricing arrangement, including a description of the relevant business activities or transactions or series of transactions;

Amendment

b) the content of the advance cross-border ruling or advance pricing arrangement, including ***the legal basis for the decision, as well as*** a description of the relevant business activities or transactions or series of transactions;

Or. it

Amendment 127

Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzuliță, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 5 – point b

Text proposed by the Commission

(b) the content of the advance ***cross-border*** ruling or advance pricing arrangement, including a description of the relevant business activities or transactions or series of transactions;

Amendment

(b) the content of the advance ruling or advance pricing arrangement, including a description of the relevant business activities or transactions or series of transactions;

Or. en

Amendment 128

Petr Ježek, Sylvie Goulard

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2011/16/EU
Article 8a – paragraph 5 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the criteria used to determine the advance ruling or the advanced pricing arrangement, as well as the limitation in time of, if any, or the circumstances under which the decision can be revoked;

Or. en

Amendment 129
Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzuliță, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2011/16/EU
Article 8a – paragraph 5 – point d

Text proposed by the Commission

Amendment

(d) the identification of the other Member States likely to be directly or indirectly concerned by the advance ***cross-border*** ruling or advance pricing arrangement;

(d) the identification of the other Member States likely to be directly or indirectly concerned by the advance ruling or advance pricing arrangement;

Or. en

Amendment 130
Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzuliță, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2011/16/EU
Article 8a – paragraph 5 – point e

Text proposed by the Commission

(e) the identification of any person, other than a natural person, in the other Member States likely to be directly or indirectly affected by the advance **cross-border** ruling or advance pricing arrangement (indicating to which Member State the affected persons are linked).

Amendment

(e) the identification of any person, other than a natural person, in the other Member States likely to be directly or indirectly affected by the advance ruling or advance pricing arrangement (indicating to which Member State the affected persons are linked).

Or. en

Amendment 131

Hugues Bayet, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzulică, Cătălin Sorin Ivan, Anneliese Dodds, Elisa Ferreira

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 5 – point e a (new)

Text proposed by the Commission

Amendment

(ea) as soon as it is available, the European Tax identification Number (TIN) as outlined in the Commission's Action Plan on the fight against tax fraud and tax evasion of 2012.

Or. en

Amendment 132

Hugues Bayet

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 5 – point e b (new)

Text proposed by the Commission

Amendment

(eb) a description of the set of criteria used and of the arrangements applicable

where, by means of a de jure or de facto mechanism, the taxpayer's taxable base is reduced by derogation from the standard rules of the Member State issuing the opinion, involving, for example, authorisation for a faster rate of amortisation than is customary or deduction of costs not directly incurred or not actually incurred by the taxpayer;

Or. fr

Amendment 133
Hugues Bayet

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2011/16/EU
Article 8a – paragraph 5 – point e c (new)

Text proposed by the Commission

Amendment

(ec) a description of the set of criteria used and of the arrangements applicable where a taxpayer is granted a rate of taxation which is lower than the standard rate in the Member State issuing the opinion;

Or. fr

Amendment 134
Hugues Bayet

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2011/16/EU
Article 8a – paragraph 5 – point e d (new)

Text proposed by the Commission

Amendment

(ed) a description of the set of criteria used and of the mechanism applied where a party to that mechanism is established in a third country in which taxation is

either non-existent or much more favourable.

Or. fr

Amendment 135

Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzuliță, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States shall require each issuer to annually publicly disclose, specifying by Member State and by third country in which it has a subsidiary, the following information on a consolidated basis for the financial year :

- (a) name(s), nature of activities and geographical location,*
- (b) turnover,*
- (c) number of employees on a full-time equivalent basis,*
- (d) profit or loss before tax,*
- (e) tax on profit or loss,*
- (f) public subsidies received.*

Or. en

Amendment 136

Hugues Bayet, Emmanuel Maurel, Peter Simon, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzuliță, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 6

Text proposed by the Commission

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

Amendment

6. To facilitate the exchange the Commission shall adopt any measures and practical arrangements necessary for the implementation of this Article, including measures to standardise the communication of the information set out in paragraph 5 of this Article, as part of the procedure for establishing the standard form provided in Article 20(5). ***In Member States where decentralised territorial or administrative bodies are endowed with fiscal-related competences, the Commission shall assist member states to ensure that they meet their responsibility to provide training and support to these bodies.***

Or. en

Amendment 137

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 6

Text proposed by the Commission

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

Amendment

6. To facilitate the exchange ***and publication*** the Commission shall adopt any measures and practical arrangements necessary for the implementation of this Article, including measures to standardise the communication of the information set out in paragraph 5 of this Article, as part of the procedure for establishing the standard form provided in Article 20(5) ***and the creation of a public central database where all rulings would be stored and available.***

Or. en

Amendment 138

Hugues Bayet, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Doru-Claudian Frunzulică, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 8

Text proposed by the Commission

8. Member States may, in accordance with Article 5, request additional information, including the full text of an advance cross-border ruling or an advance pricing arrangement, from the Member State which issued it.

Amendment

8. Member States – *or their territorial or administrative bodies including local authorities if applicable* – may, in accordance with Article 5, request additional information, including the full text of an advance cross-border ruling or an advance pricing arrangement, from the Member State which issued it.

Or. en

Amendment 139

Hugues Bayet, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzulică, Cătălin Sorin Ivan, Evelyn Regner, Elisa Ferreira

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2011/16/EU

Article 8a – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. A minimum tax rate shall be established.

Or. en

Amendment 140

Tom Vandenkendelaere

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2011/16/EU
Article 8a – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. The Commission shall propose a common Union framework setting out standard procedural requirements for tax rulings, including:

- 1) the obligation to publish an anonymised and summarised version of all tax rulings, fully respecting confidentiality requirements,**
- 2) the obligation to publish the criteria for granting, refusing and revoking tax rulings,**
- 4) equal treatment and availability to all taxpayers,**
- 5) the requirement that at least two officials (either internally or externally shown) give their approval of decisions on rulings.**

Or. en

Amendment 141
Petr Ježek, Sylvie Goulard

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2011/16/EU
Article 8a – paragraph 9 a (new)

Text proposed by the Commission

Amendment

9a. Member States shall notify the Commission and other member states at an early stage about any relevant change in their tax ruling practice (application formalities, decision process, etc.);

Or. en

Amendment 142
Petr Ježek, Sylvie Goulard

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2011/16/EU
Article 8a – paragraph 9 b (new)

Text proposed by the Commission

Amendment

9b. Member states' tax authorities shall notify the Commission and other member states about any relevant changes to their corporate taxation law (introduction of a new allowance, relief, exception, incentive or similar measure etc.) that could have an impact on their effective tax rates or on any other Member State's tax revenue;

Or. en

Justification

The Code of Conduct Group was designed for such notifications but it has proven its limits. So the Commission should establish a mechanism via which member states can notify the Commission and other member states about any relevant change in their corporate tax law if this can have an impact on its own tax rates and/or on another member state's tax revenue.

Amendment 143
Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2011/16/EU
Article 8b – paragraph 1

Text proposed by the Commission

Amendment

1. Before 1 October 2017, Member States shall provide the Commission on an annual basis with statistics on the volume of automatic exchanges ***under Articles 8 and 8a and, to the extent possible, with information on the administrative and other relevant costs and benefits relating***

1. Before 1 October 2017, Member States shall provide the Commission on an annual basis with statistics on the volume of automatic exchanges ***in respect of tax rulings.***

to exchanges that have taken place and any potential changes, for both tax administrations and third parties.

Or. es

Amendment 144
Petr Ježek, Sylvie Goulard

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2011/16/EU
Article 8b – paragraph 1

Text proposed by the Commission

Amendment

1. Before 1 October 2017, Member States shall provide the Commission on an annual basis with statistics on the volume of automatic exchanges under Articles 8 and 8a and, to the extent possible, with information on the administrative and other relevant costs and benefits relating to exchanges that have taken place and any potential changes, for both tax administrations and third parties.

1. Before 1 October 2017, Member States shall provide the Commission on an annual basis with statistics on the volume of automatic exchanges under Articles 8 and 8a, ***the types of ruling granted***, and, to the extent possible, with information on the administrative and other relevant costs and benefits relating to exchanges that have taken place and any potential changes, for both tax administrations and third parties;

Or. en

Amendment 145
Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2011/16/EU
Article 8b – paragraph 2

Text proposed by the Commission

Amendment

2. Before 1 October 2018, the Commission shall submit a report that provides an overview and an assessment of the statistics and information received under paragraph 1 of this Article, on issues such as the administrative and other relevant

deleted

costs and benefits of the automatic exchange of information, as well as practical aspects linked thereto. If appropriate, the Commission shall present a proposal to the Council regarding the categories of income and capital and/or the conditions laid down in Article 8(1), including the condition that information concerning residents in other Member States has to be available.

Or. es

Amendment 146
Anneliese Dodds, Hugues Bayet

Proposal for a directive
Article 1 – paragraph 1 – point 3
Directive 2011/16/EU
Article 8b – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Before 1 October 2017, and on an annual basis thereafter, the Commission shall publish an anonymised summary of the main tax rulings agreed in the previous year, based on information contained in the secure central directory. In doing so, the Commission shall comply with the confidentiality provisions laid down in Article 23a.

Or. en

Amendment 147
Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive
Article 1 – paragraph 1 – point 3 a (new)
Directive 2011/16/EU
Article 9 – paragraph 1

Present text

1. The competent authority of each Member State shall communicate the information referred to in Article 1(1) to the competent authority of any other Member State concerned, in any of the following circumstances:

Amendment

1. The competent authority of each Member State shall communicate the information referred to in Article 1(1) to the competent authority of any other Member State concerned, **and to the Commission**, in any of the following circumstances:

Or. es

Amendment 148

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1 – point 3 b (new)

Directive 2011/16/EU

Article 9 – paragraph 2

Present text

2. The competent authorities of each Member State may communicate, by spontaneous exchange, to the competent authorities of the other Member States any information of which they are aware and which may be useful to the competent authorities of the other Member States.

Amendment

«2. The competent authorities of each Member State may communicate, by spontaneous exchange, to the competent authorities of the other Member States, **and to the Commission**, any information of which they are aware and which may be useful to the competent authorities of the other Member States.

Or. es

Amendment 149

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 14 – paragraph 3

Text proposed by the Commission

3. Where a Member State makes use of any information communicated by another Member State in accordance with Article 8a, it shall send feedback thereon to the competent authority which provided the information as soon as possible, and no later than three months after the outcome of the use of the requested information is known, except if feedback has already been provided pursuant to paragraph 1 of this Article. The Commission shall determine the practical arrangements in accordance with the procedure referred to in Article 26(2).

Amendment

3. Where a Member State makes use of any information communicated by another Member State in accordance with Article 8a, it shall send feedback thereon to the **Commission and** competent authority which provided the information as soon as possible, and no later than three months after the outcome of the use of the requested information is known, except if feedback has already been provided pursuant to paragraph 1 of this Article. The Commission shall determine the practical arrangements in accordance with the procedure referred to in Article 26(2).

Or. en

Amendment 150

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1 – point 4 a (new) Directive 2011/16/EU

Article 16 – paragraph 1

Present text

1. Information communicated between Member States in any form pursuant to this Directive shall ***be covered by the obligation of official secrecy and*** enjoy the protection extended to similar information under the national law of the Member State which received it. Such information may be used for the administration and enforcement of the domestic laws of the Member States concerning the taxes referred to in Article 2.

Amendment

1. Information communicated between Member States in any form pursuant to this Directive ***shall enjoy the protection extended to similar information*** under the national law of the Member State which received it ***and should be considered confidential if this so stipulates***. Such information may be used for the administration and enforcement of the domestic laws of the Member States concerning the taxes referred to in Article 2.

Or. es

Amendment 151
Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive
Article 1 – paragraph 1 – point 4 b (new)
Directive 2011/16/EU
Article 16 – paragraph 2

Present text

Amendment

2. With the permission of the competent authority of the Member State communicating information pursuant to this Directive, and only in so far as this is allowed under the legislation of the Member State of the competent authority receiving the information, information and documents received pursuant to this Directive may be used for other purposes than those referred to in paragraph 1.

Such permission shall be granted if the information can be used for similar purposes in the Member State of the competent authority communicating the information.

2. Such permission shall be granted if the information can be used for similar purposes in the Member State of the competent authority communicating the information.

Or. es

Amendment 152
Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive
Article 1 – paragraph 1 – point 4 c (new) Directive 2011/16/EU
Article 16 – paragraph 3

Present text

Amendment

3. Where a competent authority of a Member State considers that information which it has received from the competent authority of another Member State is likely to be useful for the purposes referred to in paragraph 1 to the competent authority of a third Member State, it may transmit that

3. Where a competent authority of a Member State considers that information which it has received from the competent authority of another Member State is likely to be useful for the purposes referred to in paragraph 1 to the competent authority of a third Member State, it may transmit that

information to the latter competent authority, provided that transmission is in accordance with the rules and procedures laid down in this Directive. It shall inform the competent authority of the Member State from which the information originates about its intention to share that information with a third Member State.

The Member State of origin of the information may oppose such a sharing of information within 10 working days of receipt of the communication from the Member State wishing to share the information.

information to the latter competent authority, provided that transmission is in accordance with the rules and procedures laid down in this Directive. It shall inform the competent authority of the Member State from which the information originates about its intention to share that information with a third Member State.

Or. es

Amendment 153

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1 – point 4 d (new)

Directive 2011/16/EU

Article 17 – paragraph 2, 3, 4 and 5

Present text

Amendment

2. This Directive shall impose no obligation upon a requested Member State to carry out enquiries or to communicate information, if it would be contrary to its legislation to conduct such inquiries or to collect the information requested for its own purposes.

deleted

3. The competent authority of a requested Member State may decline to provide information where the requesting Member State is unable, for legal reasons, to provide similar information.

4. The provision of information may be refused where it would lead 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.

5. The requested authority shall inform the requesting authority of the grounds for refusing a request for information.

Or. es

Amendment 154

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1 – point 4 e (new)

Directive 2011/16/EU

Article 18 – paragraph 1

Present text

Amendment

1. If information is requested by a Member State in accordance with this Directive, the requested Member State shall use its measures aimed at gathering information to obtain the requested information, even though that Member State may not need such information for its own tax purposes. That obligation *is without prejudice to paragraphs 2, 3 and 4 of Article 17, the invocation of which* shall in no case be construed as permitting a requested Member State to decline to supply information solely because it has no domestic interest in such information.

If information is requested by a Member State in accordance with this Directive, the requested Member State shall use its measures aimed at gathering information to obtain the requested information, even though that Member State may not need such information for its own tax purposes. That obligation shall in no case be construed as permitting a requested Member State to decline to supply information solely because it has no domestic interest in such information.

Or. es

Amendment 155

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1 – point 4 f (new)

Directive 2011/16/EU

Article 18 – paragraph 2

Present text

Amendment

2. In no case shall **Article 17(2) and (4)** be construed as permitting a requested authority of a Member State to decline to supply information solely because this information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

«2. In no case shall **Article 17** be construed as permitting a requested authority of a Member State to decline to supply information solely because this information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Or. es

Amendment 156

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1 – point 4 g (new)

Directive 2011/16/EU

Article 18 – paragraph 3

Present text

Amendment

3. **Notwithstanding paragraph 2**, a Member State may refuse the transmission of requested information where such information concerns taxable periods prior to 1 January 2011 and where the transmission of such information could have been refused on the basis of Article 8(1) of Directive 77/799/EEC if it had been requested before 11 March 2011.

3. **Nonetheless**, a Member State may refuse the transmission of requested information where such information concerns taxable periods prior to 1 January 2011 and where the transmission of such information could have been refused on the basis of Article 8(1) of Directive 77/799/EEC if it had been requested before 11 March 2011.

Or. es

Amendment 157

Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Peter Simon, Jakob von Weizsäcker, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzuliță, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive
Article 1 – paragraph 1 – point 5
Directive 2011/16/EU
Article 20 – paragraph 5

Text proposed by the Commission

5. The automatic exchange of information on advance **cross-border** rulings and advance pricing arrangements pursuant to Article 8a shall be carried out using a standard form once that form has been adopted by the Commission in accordance with the procedure referred to in Article 26(2).

Amendment

5. The automatic exchange of information on advance rulings and advance pricing arrangements pursuant to Article 8a shall be carried out using a standard form once that form has been adopted by the Commission in accordance with the procedure referred to in Article 26(2).

Or. en

Amendment 158
Peter Simon

Proposal for a directive
Article 1 – paragraph 1 – point 6
Directive 2011/16/EU
Article 21 – paragraph 5

Text proposed by the Commission

(5) **The** Commission shall develop a secure central directory where information to be communicated in the framework of Article 8a of this Directive may be recorded in order to satisfy the automatic exchange provided for in paragraphs 1 and 2 of Article 8a. The Commission shall have access to the information recorded in this directory. The necessary practical arrangements shall be adopted by the Commission in accordance with the procedure referred to in Article 26(2).

Amendment

(5) **By 31 December 2016**, the Commission shall develop a secure central directory where information to be communicated in the framework of Article 8a of this Directive may be recorded in order to satisfy the automatic exchange provided for in paragraphs 1 and 2 of Article 8a. **The Member States are obliged to make the exchanged information stored in this directory available.** The Commission shall have access to the information recorded in this directory. The necessary practical arrangements shall be adopted by the Commission in accordance with the procedure referred to in Article 26(2). **All persons or organisations able to demonstrate a legitimate interest may have access to the information recorded.**

Amendment 159

Marisa Matias, Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Miguel Viegas

Proposal for a directive

Article 1 – paragraph 1 – point 6

Directive 2011/16/EU

Article 21 – paragraph 5

Text proposed by the Commission

5. The Commission shall develop a secure central directory where information to be communicated in the framework of Article 8a of this Directive may be recorded in order to satisfy the automatic exchange provided for in paragraphs 1 and 2 of Article 8a. The Commission shall have access to the information recorded in this directory. The necessary practical arrangements shall be adopted by the Commission in accordance with the procedure referred to in Article 26(2).

Amendment

5. **By December 2016** the Commission shall develop a secure central directory where information to be communicated in the framework of Article 8a of this Directive may be recorded in order to satisfy the automatic exchange provided for in paragraphs 1 and 2 of Article 8a. The Commission shall have access to the information recorded in this **directory and shall ensure access by the public to the information stored in the** directory. The necessary practical arrangements shall be adopted by the Commission in accordance with the procedure referred to in Article 26(2).

Or. en

Amendment 160

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 6

Directive 2011/16/EU

Article 21 – paragraph 5

Text proposed by the Commission

5. The Commission shall develop a **secure** central directory where information to be communicated in the framework of Article 8a of this Directive **may** be recorded in order to satisfy the automatic exchange

Amendment

5. The Commission shall develop a **public** central directory where information to be communicated in the framework of Article 8a of this Directive **shall** be recorded in order to satisfy the automatic exchange

provided for in paragraphs 1 and 2 of Article 8a. The Commission shall have access to the information recorded in this directory. The necessary practical arrangements shall be adopted by the Commission in accordance with the procedure referred to in Article 26(2).

provided for in paragraphs 1 and 2 of Article 8a **and will be made available to the public**. The Commission shall have access to the information recorded in this directory. The necessary practical arrangements shall be adopted by the Commission in accordance with the procedure referred to in Article 26(2).

Or. en

Amendment 161

Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzulică, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive

Article 1 – paragraph 1 – point 6

Directive 2011/16/EU

Article 21 – paragraph 5

Text proposed by the Commission

5. The Commission shall develop a secure central directory where information to be communicated in the framework of Article 8a of this Directive **may** be recorded in order to satisfy the automatic exchange provided for in paragraphs 1 and 2 of Article 8a. The Commission shall have access to the information recorded in this directory. The necessary practical arrangements shall be adopted by the Commission in accordance with the procedure referred to in Article 26(2).

Amendment

5. **On 31 December 2016 at the latest**, the Commission shall develop a secure central directory where information to be communicated in the framework of Article 8a of this Directive **must** be recorded in order to satisfy the automatic exchange provided for in paragraphs 1 and 2 of Article 8a. The Commission shall have access to the information recorded in this directory. The necessary practical arrangements shall be adopted by the Commission in accordance with the procedure referred to in Article 26(2).

Or. en

Amendment 162

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1 – point 6

Directive 2011/16/EU

Article 21 – paragraph 5

Text proposed by the Commission

5. The Commission shall develop a secure central directory where information to be communicated in the framework of **Article 8a** of this Directive may be recorded in order to satisfy the automatic exchange provided for in paragraphs 1 and 2 of Article 8a. The Commission shall have access to the information recorded in this directory. The necessary practical arrangements shall be adopted by the Commission in accordance with the procedure referred to in Article 26(2).

Amendment

5. The Commission shall develop a secure central directory where information to be communicated in the framework of **Articles 8 and 8a** of this Directive may be recorded in order to satisfy the automatic exchange provided for in paragraphs 1 and 2 of Article 8a. The Commission shall have access to the information recorded in this directory. The necessary practical arrangements shall be adopted by the Commission in accordance with the procedure referred to in Article 26(2).

Or. es

Amendment 163
Petr Ježek, Sylvie Goulard

Proposal for a directive
Article 1 – paragraph 1 – point 6
Directive 2011/16/EU
Article 21 – paragraph 5

Text proposed by the Commission

5. The Commission shall develop a secure central directory where information to be communicated in the framework of Article 8a of this Directive may be recorded in order to satisfy the automatic exchange provided for in paragraphs 1 and 2 of Article 8a. The Commission shall have access to the information recorded in this directory. The necessary practical arrangements shall be adopted by the Commission in accordance with the procedure referred to in Article 26(2).

Amendment

5. The Commission shall develop a secure central directory where information to be communicated in the framework of Article 8a of this Directive may be recorded in order to satisfy the automatic exchange provided for in paragraphs 1 and 2 of Article 8a. The Commission **and the Member States** shall have access to the information recorded in this directory. The necessary practical arrangements shall be adopted by the Commission in accordance with the procedure referred to in Article 26(2)."

Or. en

Amendment 164

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1 – point 7 – point -a (new)

Directive 2011/16/EU

Article 23 – paragraph 2

Present text

Amendment

2. Member States shall communicate to the Commission a yearly assessment of the effectiveness of the automatic exchange of information referred to in Article 8 as well as the practical results achieved. The form and the conditions of communication of that yearly assessment shall be adopted by the Commission in accordance with the procedure referred to in Article 26(2).

2. Member States shall communicate to the Commission a yearly assessment of the effectiveness of the automatic exchange of information referred to in Article 8 as well as the practical results achieved. The form and the conditions of communication of that yearly assessment shall be adopted by the Commission in accordance with the procedure referred to in Article 26(2) ***in respect of combating tax evasion, fraud and avoidance.***

Or. es

Amendment 165

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1 – point 7 a a (new)

Directive 2011/16/EU

Article 23 – paragraph 5

Present text

Amendment

5. Information communicated to the Commission under paragraphs 2, 3 and 4 shall be kept confidential by the Commission in accordance with the provisions applicable to Union authorities.

deleted

Or. es

Amendment 166

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1 – point 7ab (new)

Directive 2011/16/EU

Article 23 – paragraph 6

Present text

Amendment

6. Information communicated to the Commission by a Member State under paragraphs 2, 3 and 4, as well as any report or document produced by the Commission using such information, may be transmitted to other Member States. ***Such transmitted information shall be covered by the obligation of official secrecy and enjoy the protection extended to similar information under the national law of the Member State which received it.***

6. Information communicated to the Commission by a Member State under paragraphs 2, 3 and 4, as well as any report or document produced by the Commission using such information, may be transmitted to other Member States.

Or. es

Amendment 167

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1 – point 7 b a (new)

Directive 2011/16/EU

Article 23 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. The Member States of the requesting authority shall submit a report on the outcome of the investigation to the Commission once the case is closed. The Commission shall store these reports in a database and draw up a list of those guilty of cross-border tax evasion and avoidance in cases where criminal sanctions are imposed on the individual or legal entity covered by the investigation or automatic

exchange of information.

Or. es

Amendment 168

Sander Loones

Proposal for a directive

Article 1 – paragraph 1 – point 8

Directive 2011/16/EU

Article 23a – paragraph 1

Text proposed by the Commission

1. Information communicated to the Commission pursuant to this Directive shall be kept confidential by the Commission in accordance with the provisions applicable to Union authorities.

Amendment

1. Information communicated to the Commission pursuant to this Directive shall be kept confidential by the Commission in accordance with the provisions applicable to Union authorities ***and may not be used for any purposes other than those required to determine whether and to what extent Member States comply with this Directive.***

Or. en

Justification

The European Commission is not a Tax Authority and can therefore only use the information to monitor and evaluate the effective application of this directive.

Amendment 169

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 8

Directive 2011/16/EU

Article 23a – paragraph 1

Text proposed by the Commission

1. Information communicated to the Commission pursuant to this Directive

Amendment

1. Information communicated to the Commission pursuant to this Directive

shall be *kept confidential* by the Commission in accordance with the provisions applicable to Union authorities.

shall be *made public* by the Commission *and by the Member States communicating the information* in accordance with the provisions applicable to Union authorities, *at the latest one year after the ruling has been issued*.

Or. en

Amendment 170
Bernd Lucke

Proposal for a directive
Article 1 – paragraph 1 – point 8
Directive 2011/16/EU
Article 23a – paragraph 2 – subparagraph 1

Text proposed by the Commission

Information communicated to the Commission by *a* Member State under Article 23, as well as any report or document produced by the Commission using such information, may be transmitted to other Member States. Such transmitted information shall be covered by the obligation of official secrecy and enjoy the protection extended to similar information under the national law of the Member State which received it.

Amendment

Information communicated to the Commission by *an EU or EEA* Member State under Article 23, as well as any report or document produced by the Commission using such information, may be transmitted to other *EU* Member States *(and in case of reciprocity also EEA Member States)*. Such transmitted information shall be covered by the obligation of official secrecy and enjoy the protection extended to similar information under the national law of the *EU* Member State *(and in case of reciprocity also EEA Member State)* which received it.

Or. en

Amendment 171
Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive
Article 1 – paragraph 1 – point 8
Directive 2011/16/EU
Article 23a – paragraph 2 – subparagraph 1

Text proposed by the Commission

Information communicated to the Commission by a Member State under Article 23, as well as any report or document produced by the Commission using such information, may be transmitted to other Member States. Such transmitted information shall ***be covered by the obligation of official secrecy and*** enjoy the protection extended to similar information under the national law of the Member State which received it.

Amendment

Information communicated to the Commission by a Member State under Article 23, as well as any report or document produced by the Commission using such information, may be transmitted to other Member States. Such transmitted information shall enjoy the protection extended to similar information under the national law of the Member State which received it.

Or. es

Amendment 172
Bernd Lucke

Proposal for a directive
Article 1 – paragraph 1 – point 8
Directive 2011/16/EU
Article 23a – paragraph 2 – subparagraph 2

Text proposed by the Commission

Reports and documents produced by the Commission referred to in the first subparagraph may only be used by the Member States for analytical purposes but shall not be published or made available to any other person or body without express agreement of the Commission.

Amendment

Reports and documents produced by the Commission referred to in the first subparagraph may only be used by the ***EU or EEA*** Member States for analytical purposes but shall not be published or made available to any other person or body without express agreement of the Commission.

Or. en

Amendment 173
Hugues Bayet, Emmanuel Maurel, Peter Simon, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzulică, Cătălin Sorin Ivan, Anneliese Dodds, Elisa Ferreira

Proposal for a directive
Article 1 – paragraph 1 – point 8 a (new)

Directive 2011/16/EU
Article 23 b (new)

Text proposed by the Commission

Amendment

The following Article is inserted:

“Article 23b

The Commission must examine all sanctions to be established in instances of refusal or omission of information exchange.”

Or. en

Amendment 174

Hugues Bayet, Anneliese Dodds, Emmanuel Maurel, Neena Gill, Jonás Fernández, Ramón Jáuregui Atondo, Doru-Claudian Frunzulică, Cătălin Sorin Ivan, Elisa Ferreira

Proposal for a directive

Article 1 – paragraph 1 – point 8 b (new)

Directive 2011/16/EU

Article 23 c (new)

Text proposed by the Commission

Amendment

The following Article is inserted:

“Article 23c

The Commission should accommodate and extend the working methods and the established criteria in the code of conduct in order to fight against the emergence of new forms of harmful fiscal practices within the present economic environment.”

Or. en

Amendment 175

Jonás Fernández, Ramón Jáuregui Atondo

Proposal for a directive

Article 1 – paragraph 1 – point 8 c (new)

Present text

1. Where the competent authority of a Member State receives from a third country information that is foreseeably relevant to the administration and enforcement of the domestic laws of that Member State concerning the taxes referred to in Article 2, that authority may, in so far as this is allowed pursuant to an agreement with that third country, provide that information to the competent authorities of Member States for which that information might be useful and to any requesting authorities.

Amendment

1. Where the competent authority of a Member State receives from a third country information that is foreseeably relevant to the administration and enforcement of the domestic laws of that Member State concerning the taxes referred to in Article 2, that authority may, in so far as this is allowed pursuant to an agreement with that third country, provide that information to the competent authorities of Member States for which that information might be useful and to any requesting authorities ***and to the Commission.***

Or. es

Amendment 176

Marisa Matias, Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Miguel Viegas

Proposal for a directive

Article 1 – paragraph 1 – point 9 a (new)

Directive 2011/16/EU

Article 27

Text proposed by the Commission

Amendment

9a. Article 27 is amended as follows:

Reporting

Every 3 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

Amendment 177

Dariusz Rosati

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

Text proposed by the Commission

Member States shall adopt and publish, by 31 December **2015** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Amendment

Member States shall adopt and publish, by 31 December **2016** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Or. en

Amendment 178
Dariusz Rosati

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

Text proposed by the Commission

They shall apply those provisions from 1 January **2016**.

Amendment

They shall apply those provisions from 1 January **2017**.

Or. en