AMENDMENTS
41 - 132

Draft report
Sven Giegold
(PE658.793v01-00)


Proposal for a directive
Amendment 41
Dimitrios Papadimoulis, Manon Aubry
on behalf of The Left Group

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) In order to accommodate new initiatives of the Union in the field of tax transparency, Council Directive 2011/16/EU\(^1\) has been the subject of a series of amendments over the last years. These changes mainly introduced reporting obligations, followed by communication to other Member States, related to financial accounts, advance cross-border rulings and advance pricing arrangements, country-by-country reports and reportable cross-border arrangements. In such a way, these amendments extended the scope of the automatic exchange of information. The tax authorities now have a broader set of cooperation tools at their disposal, to detect and tackle forms of tax fraud, tax evasion and tax avoidance.


Amendment

(1) In order to accommodate new initiatives of the Union in the field of tax transparency, Council Directive 2011/16/EU\(^1\) has been the subject of a series of amendments over the last years. These changes mainly introduced reporting obligations, followed by communication to other Member States, related to financial accounts, advance cross-border rulings and advance pricing arrangements, country-by-country reports and reportable cross-border arrangements. In such a way, these amendments extended the scope of the automatic exchange of information. The tax authorities now have a broader set of cooperation tools at their disposal, to detect and tackle forms of tax fraud, tax evasion and tax avoidance, in order to safeguard tax revenues and to ensure fair taxation.


Or. en

Amendment 42
Lídia Pereira

Proposal for a directive
Recital 1 a (new)

Text proposed by the Commission

(1a) The broader set of cooperation

Amendment

(1a) The broader set of cooperation
tools, the digital transition and the aim to enhance cooperation between national authorities require qualified human resources and adequate financial resources. To that end, the changes proposed must be accompanied by an adequate level of investment, mainly on the adaptation of informatics and digital infrastructure and professional training.

Amendment 43
Aurore Lalucq, Jonás Fernández, Pedro Marques, Niels Fuglsang, Paul Tang
on behalf of the S&D Group

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) In the past years, the Commission has been monitoring the application and, in 2019, completed an evaluation of Directive 2011/16/EU

Amendment

(2) In the past years, the Commission has been monitoring the application and, in 2019, completed an evaluation of Directive 2011/16/EU. While significant improvements have been made in the field of automatic exchange of information, there is still a need to improve existing provisions that relate to all forms of exchanges of information and administrative cooperation. In order to take into account the evolution of the situation with regard to tax transparency, this directive might need to be regularly updated.

Amendment 44  
Dimitrios Papadimoulis, Manon Aubry  
on behalf of The Left Group

Proposal for a directive  
Recital 3 a (new)

Text proposed by the Commission

(3a) The Union and the Member States should ensure a harmonised system of penalties and sanctions across the Union to prevent the exploitation of loopholes and differences among Member States’ taxation systems by platform operators. In case of violation of the rules, financial penalties and exclusion from public contracts should be considered. In extreme and repeated cases, the possibility of revoking the business licence of the platform operator should be an option.

Or. en

Amendment 45  
Dimitrios Papadimoulis, Manon Aubry  
on behalf of The Left Group

Proposal for a directive  
Recital 3 b (new)

Text proposed by the Commission

(3b) Given the global technological advancement, there is a need for advanced supervisory mechanisms that are in close contact with the relevant counter-criminal financing bodies.

Or. en
Proposal for a directive
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Any information regarding cross-border schemes with implications for third countries should also be disclosed to the tax authorities in these countries. This should concern in particular developing countries, which often have a more limited access to international systems of exchange of tax information.

Or. en

Amendment 47
Isabel Benjumea Benjumea

Proposal for a directive
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The digitalisation of Europe’s economy is one of the mainstays of its reconstruction. This means that Europe must make itself an attractive place for digital companies to conduct their economic and commercial activities, establish themselves and expand, because this will help generate wealth, create jobs and achieve Europe’s objective of digitalisation of its business fabric and administration. This is why the European Union must be sure to introduce fair and appropriate rules which facilitate a free market and free competition between digital platforms, shunning confiscatory tax models and bureaucratic hurdles that make it more expensive and more difficult for companies to operate.

Or. es
Amendment 48
Aurore Lalucq, Jonás Fernández, Paul Tang
on behalf of the S&D Group

Proposal for a directive
Recital 6 a (new)

Text proposed by the Commission

(6a) Proper identification of taxpayers is essential to effective exchange of information between tax administrations. A European taxpayer identification number (TIN) should always be made available when required in this Directive and a European TIN should be created to provide the best means for this identification. It would allow any third party to quickly, easily and correctly identify and record TINs in cross-border relations and serve as a basis for effective automatic exchange of information between Member States tax administrations.

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Or. en

Amendment 49
Lídia Pereira

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) Tax administrations frequently request information from digital platform operators. This causes platform operators significant administrative and compliance costs. At the same time, some Member States have imposed a unilateral reporting obligation, which creates an additional administrative burden for platform operators, as they have to comply with multitude of national standards of reporting. It would therefore be essential that a standardised reporting obligation

Amendment

(7) Tax administrations frequently request information from digital platform operators. This causes platform operators significant administrative and compliance costs. At the same time, some Member States have imposed a unilateral reporting obligation, which creates an additional administrative burden for platform operators, as they have to comply with multitude of national standards of reporting. It would therefore be essential that a standardised reporting obligation
apply across the internal market. This standardisation is essential to promote three major objectives: to minimise compliance costs for operators, to increase the efficiency of national authorities and to reduce bureaucracy for both taxpayers and tax administrations.

Amendment 50
Aurore Lalucq, Jonás Fernández, Pedro Marques, Paul Tang
on behalf of the S&D Group
Proposal for a directive
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) The mainstream digitalisation of many sectors of the economy coupled with the fast developing digital economy calls into question the suitability of the Union corporate tax models designed for brick and mortar industries, including with regard to the extent that valuation and calculation criteria could be re-invented to reflect the commercial activities of the 21st century. Although those situations highlight shortcomings that are completely different in nature, they all create obstacles which impede the proper functioning of the internal market and give rise to distortions between large companies and small and medium-sized enterprises. This directive will solve the problems of information exchange with regard to digital platforms.

Amendment 51
Aurore Lalucq, Jonás Fernández, Pedro Marques, Niels Fuglsang, Paul Tang
on behalf of the S&D Group
Proposal for a directive
Recital 7 b (new)

Text proposed by the Commission

(7b) Digital goods and services tend to be highly mobile and intangible and therefore more prone to suffer from aggressive tax planning practices, since many business models do not require physical infrastructure in order to carry out transactions with customers and make profits. In particular, online sellers and sellers operating via platforms currently enjoy the opportunity to make revenues that are poorly reported, hence at high risk of remaining undertaxed or not taxed at all.

Or. en

Amendment

Amendment 52
Gunnar Beck

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) Given the wide use of digital platforms in performing commercial activities, both by individuals and entities, it is crucial to ensure that the information is reportable regardless of the legal nature of the seller. Nevertheless, an exception should be provided for governmental entities, which should not be captured by the reporting obligation.

Amendment

(10) Given the wide use of digital platforms in performing commercial activities, both by individuals and entities, it is crucial to ensure that the information is reportable regardless of the legal nature of the seller. The reporting obligation should also apply to governmental entities.

Or. en

Amendment

Amendment 53
Isabel Benjumea Benjumea

Proposal for a directive
Recital 10

*Text proposed by the Commission*

(10) Given the wide use of digital platforms in performing commercial activities, both by individuals and entities, it is crucial to ensure that the information is reportable regardless of the legal nature of the seller. Nevertheless, an exception should be provided for governmental entities, which should not be captured by the reporting obligation.

*Amendment*

(10) Given the wide use of digital platforms in performing commercial activities, both by individuals and entities, it is crucial to ensure that the information is reportable regardless of the legal nature of the seller. Nevertheless, an exception should be provided for governmental entities, which should not be captured by the reporting obligation, provided this is justifiable on account of it being sensitive information, prior knowledge of which could affect the market and operators on the market.

Or. es

Amendment 54
Aurore Lalucq, Jonás Fernández, Pedro Marques, Niels Fuglsang, Paul Tang
on behalf of the S&D Group

Proposal for a directive
Recital 13

*Text proposed by the Commission*

(13) Given the digital nature and flexibility of digital platforms, the reporting obligation should extend to those platform operators that perform commercial activity in the Union but are neither residents for tax purposes, nor incorporated or managed nor have a permanent establishment in a Member State. This would ensure a level playing field among the platforms and prevent unfair competition. In order to facilitate this, foreign platforms should be required to register and report in one single Member State for the purpose of operating in the internal market.

*Amendment*

(13) Given the digital nature and flexibility of digital platforms, the reporting obligation should extend to those platform operators that perform commercial activity in the Union but are neither residents for tax purposes, nor incorporated or managed nor have a permanent establishment in a Member State. This would ensure a level playing field among the platforms and prevent unfair competition. In order to facilitate this, foreign platforms should be required to register and report in one single Member State for the purpose of operating in the internal market, taking into account the location of their global or regional headquarter, the effective place of management as well as the existence of...
substantial economic activity in that chosen Member State.

Or. en

Amendment 55
Gunnar Beck
Proposal for a directive
Recital 14

Text proposed by the Commission

(14) Considering the developments in the digitalised economy, the reporting of commercial activity should include the rental of immovable property, personal services, sales of goods, the rental of any mode of transport and investing and lending in the context of crowdfunding. Activities carried out by a seller acting as an employee of the platform operator should not fall within the scope of reporting.

Amendment

(14) Considering the developments in the digitalised economy, the reporting of commercial activity should include the rental of immovable property, personal services, sales of goods, the rental of any mode of transport, investing and lending in the context of crowdfunding, and activities carried out by a seller acting as an employee of the platform operator.

Or. en

Amendment 56
Lídia Pereira
Proposal for a directive
Recital 14 a (new)

Text proposed by the Commission

(14a) Considering that the progressively digitised and globalised economy reveals complex and challenging dimensions, such as crypto-assets, it is important to increase cooperation between national tax administrations in this field. A clear definition of crypto-assets, in line with the ongoing work within the OECD and FATF, would be important to enhance the combat against tax evasion and to

Amendment

(14a) Considering that the progressively digitised and globalised economy reveals complex and challenging dimensions, such as crypto-assets, it is important to increase cooperation between national tax administrations in this field. A clear definition of crypto-assets, in line with the ongoing work within the OECD and FATF, would be important to enhance the combat against tax evasion and to
promote fair taxation. The proliferation of crypto-currencies is a topical matter and should be considered in any effort to increase administrative cooperation, based on the principles of subsidiarity and proportionality.

Or. en

Amendment 57
Marco Zanni, Francesca Donato, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) The objective of preventing tax evasion and avoidance could be ensured by requiring digital platform operators to report income earned through platforms at an early stage, before the national tax authorities carry out their yearly tax assessments. To facilitate the work of Member States’ tax authorities, the reported information should be exchanged within one month following the reporting. In order to facilitate the automatic exchange of information and enhance the efficient use of resources, exchanges should be carried out electronically through the existing common communication network (‘CCN’) developed by the Union.

Amendment

(15) The objective of preventing tax evasion and avoidance could be ensured by requiring digital platform operators to report income earned through platforms at an early stage, before the national tax authorities carry out their yearly tax assessments. To facilitate the work of Member States’ tax authorities, the reported information should be exchanged within one month following the reporting. In order to facilitate the automatic exchange of information and enhance the efficient use of resources, exchanges should be carried out electronically through the existing common communication network (‘CCN’) developed by the Union. So as to avoid additional bureaucratic burdens for SMEs, digital platform operators with annual revenues below EUR 50 million globally and EUR 10 million in the EU as a whole should be able to continue to provide information to national authorities by way of the means and tools already in use under Member States’ legislation, at no additional cost.

Or. it
Amendment 58
Lídia Pereira
Proposal for a directive
Recital 15

Text proposed by the Commission

(15) The objective of preventing tax evasion and avoidance could be ensured by requiring digital platform operators to report income earned through platforms at an early stage, before the national tax authorities carry out their yearly tax assessments. To facilitate the work of Member States’ tax authorities, the reported information should be exchanged within one month following the reporting. In order to facilitate the automatic exchange of information and enhance the efficient use of resources, exchanges should be carried out electronically through the existing common communication network (‘CCN’) developed by the Union.

Amendment

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Or. en

Amendment 59
Markus Ferber
Proposal for a directive
Recital 15

Text proposed by the Commission

(15) The objective of preventing tax evasion and avoidance could be ensured by requiring digital platform operators to report income earned through platforms at an early stage, before the national tax authorities carry out their yearly tax assessments. To facilitate the work of Member States’ tax authorities, the reported information should be exchanged

Amendment

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within one month following the reporting. In order to facilitate the automatic exchange of information and enhance the efficient use of resources, exchanges should be carried out electronically through the existing common communication network (‘CCN’) developed by the Union.

without undue delay and at the latest within one month following the reporting. In order to facilitate the automatic exchange of information and enhance the efficient use of resources, exchanges should be carried out electronically through the existing common communication network (‘CCN’) developed by the Union.

Amendment 60
Dimitrios Papadimoulis, Manon Aubry
on behalf of The Left Group

Proposal for a directive
Recital 15 a (new)

Text proposed by the Commission

(15a) Individuals who have access to information related to sensitive tax information of platform operators and multinational corporations regarding tax evasion and tax avoidance practices, should be encouraged to come forward and cooperate with the authorities with discretion and respect to the public interest, and they should be fully protected if they do so.

Or. en

Amendment 61
Aurore Lalucq, Jonás Fernández, Paul Tang
on behalf of the S&D Group

Proposal for a directive
Recital 15 a (new)

Text proposed by the Commission

(15a) This Directive should ensure that competent authorities can access data on the duration of rental contracts where
short term property renting is limited in time so as to facilitate the implementation of those limitations and a control over rental price increases in the Union.

Amendment 62
Markus Ferber

Proposal for a directive
Recital 16

Text proposed by the Commission

(16) The evaluation of Directive 2011/16/EU carried out by the Commission demonstrated the need for consistent monitoring of the effectiveness in the application of that Directive and of the national transposing provisions enabling this application. In order for the Commission to continue to properly monitor and evaluate the effectiveness of the automatic exchanges of information under Directive 2011/16/EU, Member States should be obliged to communicate the statistics on such exchanges to the Commission on an annual basis.

Amendment

(16) The evaluation of Directive 2011/16/EU carried out by the Commission demonstrated the need for consistent monitoring of the effectiveness in the application of that Directive and of the national transposing provisions enabling this application. In order for the Commission to continue to properly monitor and evaluate the effectiveness of the automatic exchanges of information under Directive 2011/16/EU, Member States should be obliged to communicate all relevant information on such exchanges to the Commission on an annual basis.

Amendment 63
Dimitrios Papadimoulis, Manon Aubry
on behalf of The Left Group

Proposal for a directive
Recital 16 a (new)

Text proposed by the Commission

(16a) The Commission should provide, every three years after the entry into force of this Directive, a report on the
application of this Directive to the European Parliament and the Council, taking into account the Member States’ reports on exchange of information and best practices and propose concrete improvements when necessary, including by legislative proposals. The Commission should make this evaluation report public.

### Amendment 64
**Gunnar Beck**

**Proposal for a directive**

**Recital 17**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tr>
<td>(17) It is necessary to strengthen the mechanisms of Directive 2011/16/EU regarding the presence of officials of the tax administration of one Member State in the territory of another Member State and the carrying out of simultaneous controls by two or more Member States in order to ensure their effective application. It follows that responses to requests for the presence of officials of another Member State and for simultaneous controls should be provided within a specified timeframe. Where foreign officials are present in the territory of another Member State during an administrative enquiry, or participate through the use of electronic means of communication, they should be allowed to directly interview individuals and examine records.</td>
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</tr>
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Proposal for a directive
Recital 17

Text proposed by the Commission

(17) It is necessary to strengthen the mechanisms of Directive 2011/16/EU regarding the presence of officials of the tax administration of one Member State in the territory of another Member State and the carrying out of simultaneous controls by two or more Member States in order to ensure their effective application. It follows that responses to requests for the presence of officials of another Member State and for simultaneous controls should be provided within a specified timeframe. Where foreign officials are present in the territory of another Member State during an administrative enquiry, or participate through the use of electronic means of communication, they should be allowed to directly interview individuals and examine records. These diligences are important to safeguard the efficiency of such enquiries and must respect, at all time, fundamental rights.

Amendment

(17) It is necessary to strengthen the mechanisms of Directive 2011/16/EU regarding the presence of officials of the tax administration of one Member State in the territory of another Member State and the carrying out of simultaneous controls by two or more Member States in order to ensure their effective application. It follows that responses to requests for the presence of officials of another Member State and for simultaneous controls should be provided within a specified timeframe. Where foreign officials are present in the territory of another Member State during an administrative enquiry, or participate through the use of electronic means of communication, they should be allowed to directly interview individuals and examine records. These diligences are important to safeguard the efficiency of such enquiries and must respect, at all time, fundamental rights.

Or. en

Amendment 66
Gunnar Beck

Proposal for a directive
Recital 19

Text proposed by the Commission

(19) Multilateral controls carried out with the support of the Fiscalis 2020 programme established by Regulation (EU) No 1286/2013 of the European Parliament and of the Council have demonstrated the benefit of co-ordinated controls of one or more taxpayers that are of common or complementary interest to two or more tax

Amendment

(19) Multilateral controls carried out with the support of the Fiscalis 2020 programme established by Regulation (EU) No 1286/2013 of the European Parliament and of the Council have demonstrated the benefit of co-ordinated controls of one or more taxpayers that are of common or complementary interest to two or more tax
administrations in the Union. As there is no explicit legal base for conducting joint audits, such joint actions are currently conducted based on the combined provisions of Directive 2011/16/EU regarding the presence of foreign officials in the territory of other Member States and on simultaneous controls. **However, in many cases this practice has proven to be insufficient and lacking legal clarity and certainty.**


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**Amendment 67**

**Lídia Pereira**

**Proposal for a directive**

**Recital 19**

*Text proposed by the Commission*

(19) Multilateral controls carried out with the support of the Fiscalis 2020 programme established by Regulation (EU) No 1286/2013 of the European Parliament and of the Council have demonstrated the benefit of co-ordinated controls of one or more taxpayers that are of common or complementary interest to two or more tax administrations in the Union. As there is no explicit legal base for conducting joint audits, such joint actions are currently conducted based on the combined provisions of Directive 2011/16/EU regarding the presence of foreign officials in the territory of other Member States and on simultaneous controls.

*Amendment*

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on simultaneous controls. However, in many cases this practice has proven to be insufficient and lacking legal clarity and certainty. It is therefore important to eliminate this legal uncertainty and provide these controls with a legal basis within the framework of administrative cooperation.


Proposal for a directive
Recital 20

Text proposed by the Commission

(20) Member States should adopt a clear and efficient legal framework to allow their tax authorities to perform joint audits of persons with cross-border activity. Joint audits are administrative enquiries conducted jointly by the competent authorities of two or more Member States, to examine a case linked to one or more persons of common or complementary interest to these Member States. Joint audits can play an important role in contributing to the better functioning of the internal market. Joint audits should be structured to offer legal certainty to taxpayers through clear procedural rules, including for mitigating the risk of double taxation.

Amendment 68
Gunnar Beck

Amendment

(20) Member States should adopt a clear and efficient legal framework to allow their tax authorities to perform joint audits of persons with cross-border activity. Joint audits are administrative enquiries conducted jointly by the competent authorities of two or more Member States, to examine a case linked to one or more persons of common or complementary interest to these Member States. Joint audits can play an important role in contributing to the better functioning of the internal market. Joint audits should be structured to offer legal certainty to taxpayers through clear procedural rules, including for mitigating the risk of double taxation.

deleted
Amendment 69
Aurore Lalucq, Jonás Fernández, Paul Tang
on behalf of the S&D Group

Proposal for a directive
Recital 20

Text proposed by the Commission

(20) Member States should adopt a clear and efficient legal framework to allow their tax authorities to perform joint audits of persons with cross-border activity. Joint audits are administrative enquiries conducted jointly by the competent authorities of two or more Member States, to examine a case linked to one or more persons of common or complementary interest to these Member States. Joint audits can play an important role in contributing to the better functioning of the internal market. Joint audits should be structured to offer legal certainty to taxpayers through clear procedural rules, including for mitigating the risk of double taxation.

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(21) In order to ensure the effectiveness of the process, responses to requests for joint audits should be provided within a given timeframe. Rejections of requests should be duly justified. The procedural arrangements applicable to a joint audit should be those of the Member State where the relevant audit action takes place. Accordingly, evidence collected during a joint audit should be mutually recognised by the participating Member State(s). It is equally important that the competent authorities agree on the facts and circumstances of the case and endeavour to reach an agreement on how to interpret the tax position of the audited person(s). In order to ensure that the outcome of a joint audit can be implemented in the participating Member States, the final report should have equivalent legal value to the relevant national instruments that are issued as a result of an audit in the participating Member States. Where necessary, Member States should provide the legal framework for the performance of a corresponding adjustment.

Or. en

Amendment 71
Aurore Lalucq, Jonás Fernández, Pedro Marques, Paul Tang
on behalf of the S&D Group

Proposal for a directive
Recital 21

Text proposed by the Commission

(21) In order to ensure the effectiveness of the process, responses to requests for joint audits should be provided within a given timeframe. Rejections of requests should be duly justified. The procedural

Amendment

(21) In order to ensure the effectiveness of the process, responses to requests for joint audits should be provided within a given timeframe. Rejections of requests should be duly justified and subject to a
arrangements applicable to a joint audit should be those of the Member State where the relevant audit action takes place. Accordingly, evidence collected during a joint audit should be mutually recognised by the participating Member State(s). It is equally important that the competent authorities agree on the facts and circumstances of the case and endeavour to reach an agreement on how to interpret the tax position of the audited person(s). In order to ensure that the outcome of a joint audit can be implemented in the participating Member States, the final report should have equivalent legal value to the relevant national instruments that are issued as a result of an audit in the participating Member States. Where necessary, Member States should provide the legal framework for the performance of a corresponding adjustment.

right of reply by the requesting Member State authority. The procedural arrangements applicable to a joint audit should be those of the Member State where the relevant audit action takes place. Accordingly, evidence collected during a joint audit should be mutually recognised by the participating Member State(s). It is equally important that the competent authorities agree on the facts and circumstances of the case and endeavour to reach an agreement on how to interpret the tax position of the audited person(s). In order to ensure that the outcome of a joint audit can be implemented in the participating Member States, the final report should have equivalent legal value to the relevant national instruments that are issued as a result of an audit in the participating Member States. Where necessary, Member States should provide the legal framework for the performance of a corresponding adjustment.

Amendment 72
Markus Ferber
Proposal for a directive
Recital 21

Text proposed by the Commission

(21) In order to ensure the effectiveness of the process, responses to requests for joint audits should be provided within a given timeframe. Rejections of requests should be duly justified. The procedural arrangements applicable to a joint audit should be those of the Member State where the relevant audit action takes place. Accordingly, evidence collected during a joint audit should be mutually recognised by the participating Member State(s). It is equally important that the competent authorities agree on the facts and circumstances of the case and

Amendment

(21) In order to ensure the effectiveness of the process, responses to requests for joint audits should be provided within a given timeframe. Rejections of requests should be duly justified and should only be possible for the reasons laid out in this directive. The procedural arrangements applicable to a joint audit should be those of the Member State where the relevant audit action takes place. Accordingly, evidence collected during a joint audit should be mutually recognised by the participating Member State(s). It is equally
important that the competent authorities agree on the facts and circumstances of the case and endeavour to reach an agreement on how to interpret the tax position of the audited person(s). In order to ensure that the outcome of a joint audit can be implemented in the participating Member States, the final report should have equivalent legal value to the relevant national instruments that are issued as a result of an audit in the participating Member States. Where necessary, Member States should provide the legal framework for the performance of a corresponding adjustment.

Amendment 73
Gunnar Beck

Proposal for a directive
Recital 22

Text proposed by the Commission

(22) Recognising that joint audits are founded on mutual trust between the competent authorities of the participating Member States, the exchange of information related to commercial, industrial or professional secrets or to a commercial process, or information the disclosure of which would be contrary to public policy, should not be refused in the context of a joint audit. Such exchanged information should however remain confidential and not be disclosed to third parties.

Amendment

(22) Recognising that joint audits are founded on mutual trust and consent between the competent authorities of the participating Member States, the exchange of information related to commercial, industrial or professional secrets or to a commercial process, or information the disclosure of which would be contrary to public policy, should remain confidential and not be disclosed to third parties.

Amendment 74
Othmar Karas
Proposal for a directive
Recital 22

Text proposed by the Commission
(22) Recognising that joint audits are founded on mutual trust between the competent authorities of the participating Member States, the exchange of information related to commercial, industrial or professional secrets or to a commercial process, or information the disclosure of which would be contrary to public policy, should not be refused in the context of a joint audit. Such exchanged information should however remain confidential and not be disclosed to third parties.

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Or. en
Justification
This amendment should clarify that in the course of joint audits applicable rules on the disclosure of a commercial, industrial or professional secret or to a commercial process, or information the disclosure of which would be contrary to public policy, should not be circumvented.

Amendment 75
Aurore Lalucq, Jonás Fernández, Pedro Marques
on behalf of the S&D Group

Proposal for a directive
Recital 26

Text proposed by the Commission
(26) In order to ensure uniform conditions for the implementation of Directive 2011/16/EU and in particular, for the automatic exchange of information between tax authorities, implementing

Amendment
(26) In order to ensure uniform conditions for the implementation of Directive 2011/16/EU and in particular, for the automatic exchange of information between tax authorities, implementing
powers should be conferred on the Commission to adopt a standard form, with a limited number of components, including the linguistic arrangements. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

The Commission is entitled to produce reports and documents, using the information exchanged in an anonymised manner, so as to take into account the taxpayers’ rights to confidentiality and in compliance with Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.


Amendment 76
Dimitrios Papadimoulis, Manon Aubry
on behalf of The Left Group

Proposal for a directive
Recital 26 a (new)

Text proposed by the Commission

(26a) The Union and the Member States should provide the relevant tax authorities with the necessary administrative capacities and human resources for the proper implementation of the Directive, which need to be channelled to all Member States, with special provision to those who face tax collection challenges.
with a larger fiscal imprint.

Amendment 77
Aurore Lalucq, Jonás Fernández, Niels Fuglsang, Paul Tang
on behalf of the S&D Group

Proposal for a directive
Recital 29 a (new)

Text proposed by the Commission

(29a) This Directive aims at limiting the exposure of the entire Union to high risks of money laundering, tax fraud and corruption, which could also threaten its security. Other tools should be proposed to also share information such as the granting of European visas and citizenship by investment or residency by investment programmes.

Amendment

Amendment 78
Gunnar Beck

Proposal for a directive
Recital 30

Text proposed by the Commission

(30) The objective of this Directive, namely efficient administrative cooperation between Member States under conditions compatible with the proper functioning of the internal market, cannot sufficiently be achieved by the Member States. Its aim to improve the cooperation between tax administrations requires uniform rules that can be effective in cross-border situations, and therefore be better achieved at Union level. The Union may adopt measures, in accordance with
the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

Amendment 79
Aurore Lalucq, Jonás Fernández, Pedro Marques, Niels Fuglsang, Paul Tang
on behalf of the S&D Group

Proposal for a directive
Recital 30 a (new)

Text proposed by the Commission

(30a) The Commission has announced its intention to propose a revision of this directive to allow for the exchange of information regarding crypto-assets. The Financial Action Task Force (FATF) adopted a broad definition of virtual currency and recommended incorporating within the scope of AML/CFT obligations any natural or legal person who conducts activities including exchange between crypto-assets, transfer of crypto-assets and participation in and provision of financial services related to initial coin offerings.

Amendment 80
Aurore Lalucq, Jonás Fernández, Evelyn Regner, Pedro Marques, Niels Fuglsang, Paul Tang
on behalf of the S&D Group

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


Text proposed by the Commission

Amendment

(aa) The following point is inserted in the first subparagraph:

(aa) for the purpose of Articles 8a, 8aa, and 8ab, the systematic notification of new information communicated to the other Member States.

Or. en

Amendment 81
Aurore Lalucq, Jonás Fernández, Evelyn Regner
on behalf of the S&D Group

Proposal for a directive
Article 1 – paragraph 1 – point 1 a (new)
Directive 2011/16/EU
Article 3 – point 14

Present text

Amendment

(1a) In Article 3, point 14 is amended as follows:

“14. “advance ruling” means any agreement, communication, or any other instrument or action with similar effects, including one issued, amended or renewed in the context of a tax audit, and which meets the following conditions:

(a) is issued, amended or renewed by, or on behalf of, the government or the tax authority of a Member State, or the Member State’s territorial or administrative subdivisions, including local authorities, irrespective of whether it is effectively used;

(b) is issued, amended or renewed, to a particular person or a group of persons, and upon which that person or a group of persons is entitled to rely;

(c) concerns the interpretation or application of a legal or administrative provision concerning the administration or enforcement of national laws relating to
taxes of the Member State, or the Member State’s territorial or administrative subdivisions, including local authorities;

(d) relates to a cross-border transaction or to the question of whether or not activities carried on by a person in another jurisdiction create a permanent establishment; and

(e) is made in advance of the transactions or of the activities in another jurisdiction potentially creating a permanent establishment or in advance of the filing of a tax return covering the period in which the transaction or series of transactions or activities took place. 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;

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Or. en

(32015L2376)

Justification

Corresponds to the Parliament position on DAC 3 and is further justified now that some limits regarding the exchange of rulings have been pointed out in the evaluation of the Directive on Administrative Cooperation

Amendment 82
Aurore Lalucq, Jonás Fernández, Evelyn Regner on behalf of the S&D Group

Proposal for a directive
Article 1 – paragraph 1 – point 1 b (new)
Directive 2011/16/EU
Article 3 – point 16
“(1b) In Article 3, point 16 is deleted

“16. For the purpose of point 14
“cross-border transaction” means a
transaction or series of transactions
where:

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

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

(c) one of the parties to the
transaction or series of transactions
carries on business in another jurisdiction
through a permanent establishment and
the transaction or series of transactions
forms part or the whole of the business of
the permanent establishment. A cross-
border transaction or series of
transactions shall also include
arrangements made by a person in respect
of business activities in another
jurisdiction which that person carries on
through a permanent establishment; or

(d) such transactions or series of
transactions have a cross border impact.

For the purpose of point 15, “cross-border
transaction” means a transaction or series
of transactions involving associated
enterprises which are not all resident for
tax purposes in the territory of a single
jurisdiction or a transaction or series of
transactions which have a cross border
impact.”

Or. en

(32015L2376)
Amendment 83
Aurore Lalucq, Jonás Fernández, Pedro Marques
on behalf of the S&D Group

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

Text proposed by the Commission

1. For the purposes of a request as referred to in Article 5, the requested information shall be deemed to be foreseeable relevant where at the time the request is made the requesting authority considers that, in accordance with its national law, there is a reasonable possibility that the requested information be relevant to the tax affairs of one or several taxpayers, whether identified by name or otherwise, and be justified for the purposes of the investigation.

Amendment

1. For the purposes of a request as referred to in Article 5, the requested information shall be deemed to be foreseeable relevant where at the time the request is made the requesting authority considers that, in accordance with its national law, there is a reasonable possibility that the requested information be relevant to the tax affairs of one or several taxpayers, whether identified by name or otherwise, and be justified for the purposes of assessing, collecting and managing taxes.

Or. en

Amendment 84
Aurore Lalucq, Jonás Fernández, Pedro Marques
on behalf of the S&D Group

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

Text proposed by the Commission

2. With the aim to demonstrate the foreseeable relevance of the requested information, the requesting competent authority shall provide the requested authority with supporting information, in particular on the tax purpose for which the information is requested and the grounds that point to the requested information as being held by the

Amendment

2. With the aim to demonstrate the foreseeable relevance of the requested information, the requesting competent authority shall provide the requested authority with supporting information.
requested authority or as being in the possession or control of a person within the jurisdiction of the requested authority.

Amendment 85
Aurore Lalucq, Jonás Fernández, Pedro Marques
on behalf of the S&D Group

Proposal for a directive
Article 1 – paragraph 1 – point 3 a (new)
Directive 2011/16/EU
Article 6 – paragraph 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

(3a) In article 6, paragraph 4 is amended as follows:

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

Amendment 86
Sven Giegold

Proposal for a directive
Article 1 – paragraph 1 – point 3 a (new)
Directive 2011/16/EU
Article 7 – paragraph 6 a (new)

Text proposed by the Commission

(3a) In Article 7, the following paragraph is added:

“6a. Before 1 January 2023, the
Commission shall submit a report that provides an overview and an assessment of the statistics and information received on a country-by-country basis, on issues such as the administrative and other relevant costs and benefits, including incremental tax revenues of the exchange of information on request, as well as practical aspects linked thereto, including the number of accepted and refused requests received and sent per country, time of handling and other relevant aspects for a comprehensive assessment.”

Amendment 87
Aurore Lalucq, Jonás Fernández, Pedro Marques
on behalf of the S&D Group

Proposal for a directive
Article 1 – paragraph 1 – point 3 b (new)
Directive 2011/16/EU
Article 7 – paragraph 1 – subparagraph 1

Present text

1. The requested authority shall provide the information referred to in Article 5 as quickly as possible, and no later than six months from the date of receipt of the request.

Amendment

(3b) In Article 7(1), the first subparagraph is replaced by the following:

“1. The requested authority shall provide the information referred to in Article 5 as quickly as possible, and no later than three months from the date of receipt of the request.”

Justification

This amendment aims at aligning EU law with the OECD international standard
Amendment 88
Aurore Lalucq, Jonás Fernández
on behalf of the S&D Group

Proposal for a directive
Article 1 – paragraph 1 – point 4 – point a
Directive 2011/16/EU
Article 8 – paragraph 1 – subparagraph 3

Text proposed by the Commission
Member States shall inform the Commission annually of at least two categories of income and capital mentioned in the first subparagraph with regard to which they communicate information concerning residents of another Member State.

Amendment
deleted

Member States shall inform the Commission annually of at least two categories of income and capital mentioned in the first subparagraph with regard to which they communicate information concerning residents of another Member State.

Or. en

Amendment 89
Lídia Pereira

Proposal for a directive
Article 1 – paragraph 1 – point 4 – point a
Directive 2011/16/EU
Article 8 – paragraph 1 – subparagraph 3

Text proposed by the Commission
Member States shall inform the Commission annually of at least two categories of income and capital mentioned in the first subparagraph with regard to which they communicate information concerning residents of another Member State.

Amendment
Member States shall inform the Commission annually of at least three categories of income and capital mentioned in the first subparagraph with regard to which they communicate information concerning residents of another Member State.

Or. en

Amendment 90
Markus Ferber

Proposal for a directive
Member States shall inform the Commission annually of at least two categories of income and capital mentioned in the first subparagraph with regard to which they communicate information concerning residents of another Member State.

Amendment

Member States shall inform the Commission annually of the categories of income and capital mentioned in the first subparagraph with regard to which they communicate information concerning residents of another Member State.

Justification

There is no reason to artificially narrow the scope of the reporting requirement to the Commission to two categories.

Amendment 91
Dimitrios Papadimoulis, Manon Aubry
on behalf of The Left Group

Proposal for a directive
Article 1 – paragraph 1 – point 4 – point a
Directive 2011/16/EU
Article 8 – paragraph 1 – subparagraph 3

Text proposed by the Commission
Member States shall inform the Commission annually of at least two categories of income and capital mentioned in the first subparagraph with regard to which they communicate information concerning residents of another Member State.

Amendment
Member States shall inform the Commission annually of all categories of income and capital mentioned in the first subparagraph with regard to which they communicate information concerning residents of another Member State.

Or. en

Amendment 92
Aurore Lalucq, Jonás Fernández, Pedro Marques, Evelyn Regner
on behalf of the S&D Group
Proposal for a directive
Article 1 – paragraph 1 – point 4 – point a
Directive 2011/16/EU
Article 8 – paragraph 2

Text proposed by the Commission
2. Before 1 January 2023, Member States shall inform the Commission of at least four categories listed in paragraph 1 in respect of which the competent authority of each Member State shall, by automatic exchange, communicate to the competent authority of any other Member State, information concerning residents in that other Member State. The information shall concern taxable periods starting on or after 1 January 2024.

Amendment
2. Before 1 January 2023, Member States shall inform the Commission of all categories listed in paragraph 1 in respect of which the competent authority of each Member State shall, by automatic exchange, communicate to the competent authority of any other Member State, information concerning residents in that other Member State.

Amendment 93
Lídia Pereira

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

Text proposed by the Commission
2. Before 1 January 2023, Member States shall inform the Commission of at least four categories listed in paragraph 1 in respect of which the competent authority of each Member State shall, by automatic exchange, communicate to the competent authority of any other Member State, information concerning residents in that other Member State. The information shall concern taxable periods starting on or after 1 January 2024.

Amendment
2. Before 1 January 2023, Member States shall inform the Commission of all the categories listed in paragraph 1 in respect of which the competent authority of each Member State shall, by automatic exchange, communicate to the competent authority of any other Member State, information concerning residents in that other Member State. The information shall concern taxable periods starting on or after 1 January 2024.
Amendment 94
Dimitrios Papadimoulis, Manon Aubry
on behalf of The Left Group

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

Text proposed by the Commission

2. Before 1 January 2023, Member States shall inform the Commission of at least four categories listed in paragraph 1 in respect of which the competent authority of each Member State shall, by automatic exchange, communicate to the competent authority of any other Member State, information concerning residents in that other Member State. The information shall concern taxable periods starting on or after 1 January 2024.

Amendment

2. Before 1 January 2023, Member States shall inform the Commission of all categories listed in paragraph 1 in respect of which the competent authority of each Member State shall, by automatic exchange, communicate to the competent authority of any other Member State, information concerning residents in that other Member State. The information shall concern taxable periods starting on or after 1 January 2024.

Or. en

Amendment 95
Aurore Lalucq, Jonás Fernández, Pedro Marques, Evelyn Regner
on behalf of the S&D Group

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

Present text

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

Amendment

(-a) The title is amended as follows:

“Scope and conditions of mandatory automatic exchange of information on advance rulings and advance pricing arrangements”

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Or. en
Justification

Corresponds to the Parliament position on DAC 3 and is further justified now that some limits regarding the exchange of rulings have been pointed out in the evaluation of the Directive on Administrative Cooperation

Amendment 96
Aurore Lalucq, Jonás Fernández, Pedro Marques, Evelyn Regner
on behalf of the S&D Group

Proposal for a directive
Article 1 – paragraph 1 – point 5 – point -a a (new)
Directive 2011/16/EU
Article 8a – paragraph 3 – subparagraph 2 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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</thead>
<tbody>
<tr>
<td>(-aa) In paragraph 3, the following subparagraph is added:</td>
<td></td>
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<tr>
<td>“The competent authority shall not negotiate and agree new bilateral or multilateral advance pricing arrangements with third countries that do not permit their disclosure to competent authorities of other Member States as from 1 January 2022.”</td>
<td></td>
</tr>
</tbody>
</table>

Or. en

Amendment 97
Aurore Lalucq, Jonás Fernández, Pedro Marques
on behalf of the S&D Group

Proposal for a directive
Article 1 – paragraph 1 – point 5 – point b
Directive 2011/16/EU
Article 8a – paragraph 6 – point b

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>(b) a summary of the advance cross-border ruling or advance pricing arrangement, including a description of the relevant business</td>
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<tr>
<td>(b) a summary of the advance ruling or advance pricing arrangement, including a description of the relevant business</td>
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</table>
relevant business activities or transactions or series of transactions and any other information that could assist the competent authority in assessing a potential tax risk, without leading to the disclosure of a commercial, industrial or professional secret or of a commercial process, or of information whose disclosure would be contrary to public policy.

Or. en

Amendment 98
Aurore Lalucq, Jonás Fernández, Pedro Marques
on behalf of the S&D Group

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

Present text

2. The competent authority of a Member State where the country-by-country report was received pursuant to paragraph 1 shall, by means of automatic exchange and within the deadline laid down in paragraph 4, communicate the country-by-country report to any other Member State in which, on the basis of the information in the country-by-country report, one or more Constituent Entities of the MNE Group of the Reporting Entity are either resident for tax purposes or subject to tax with respect to the business carried out through a permanent establishment.

Amendment

(5a) In Article 8aa, paragraph 2 is replaced by the following:

“2. The competent authority of a Member State where the country-by-country report was received pursuant to paragraph 1 shall, by means of automatic exchange and within the deadline laid down in paragraph 4, communicate the country-by-country report to any other Member State in which, on the basis of the information in the country-by-country report, one or more Constituent Entities of the MNE Group of the Reporting Entity are either resident for tax purposes or subject to tax with respect to the business carried out through a permanent establishment. The competent authority of a Member State where the country-by-country report was received pursuant to paragraph 1 shall also communicate the country-by-

The resulting effective tax rate of the tax payer in the requested Member State or series of transactions and any other information that could assist the competent authority in assessing a potential tax risk, omitting information that could lead to the disproportionate disclosure of a commercial, industrial or professional secret or of a commercial process, or of information whose disclosure would be contrary to public policy.
country report to the European Commission, which is responsible for the centralised register of country-by-country reports, available to its competent services. The Commission shall publish anonymised and aggregated country-by-country report statistics on an annual basis for all Member States.”

(02011L0016-20200701)

Amendment 99
Aurore Lalucq, Jonás Fernández
on behalf of the S&D Group

Proposal for a directive
Article 1 – paragraph 1 – point 5 b (new)
Directive 2011/16/EU
Article 8ab – paragraph 14 – point h a (new)

Text proposed by the Commission

(5b) In Article 8ab, paragraph 14, the following point (ha) is added:

“(ha) the list of beneficiaries, which is updated on a yearly basis.”

Amendment

Or. en

Amendment 100
Aurore Lalucq, Jonás Fernández
on behalf of the S&D Group

Proposal for a directive
Article 1 – paragraph 1 – point 6
Directive 2011/16/EU
Article 8ac – paragraph 2 – point h

Text proposed by the Commission

(h) the Financial Account Identifier to which the Consideration is paid or credited, insofar as it is available to the Reporting

Amendment

(h) the Financial Account Identifier to which the Consideration is paid or credited, as it is collected by the Reporting Platform
<table>
<thead>
<tr>
<th>Amendment 101</th>
<th>Aurore Lalucq, Jonás Fernández, Pedro Marques, Paul Tang on behalf of the S&amp;D Group</th>
</tr>
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<tr>
<td><strong>Proposal for a directive</strong></td>
<td><strong>Article 1 – paragraph 1 – point 6</strong></td>
</tr>
<tr>
<td>Directive 2011/16/EU</td>
<td>Article 8ac – paragraph 2 – subparagraph 1 a (new)</td>
</tr>
</tbody>
</table>

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<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>The information referred to in point (a) and (b) should be made accessible to other competent authorities of Member States to deter and prosecute infringements to local and/or national law, without prejudice to the rules on tax secrecy and data protection applicable in the Member State in which the Reportable Seller is resident.</td>
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<tr>
<th>Amendment 102</th>
<th>Markus Ferber</th>
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<tbody>
<tr>
<td><strong>Proposal for a directive</strong></td>
<td><strong>Article 1 – paragraph 1 – point 6</strong></td>
</tr>
<tr>
<td>Directive 2016/11/EU</td>
<td>Article 8ac – paragraph 3</td>
</tr>
</tbody>
</table>

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<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tr>
<td>3. The communication pursuant to paragraph 2 shall take place using the standard form referred to in Article 20(7)</td>
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</tbody>
</table>

Platform Operator and the competent authority of the Member State where the Seller is resident has not notified the competent authorities of all other Member States that it does not intend to use the Financial Account Identifier for this purpose; 

Operator and the competent authority of the Member State where the Seller is resident has not notified the competent authorities of all other Member States that it does not intend to use the Financial Account Identifier for this purpose;
within 2 months following the end of the Reportable Period to which the reporting obligations of the Reporting Platform Operator relate.

without undue delay and at the latest within one month following the end of the Reportable Period to which the reporting obligations of the Reporting Platform Operator relate.

Amendment 103
Aurore Lalucq, Jonás Fernández, Pedro Marques
on behalf of the S&D Group

Proposal for a directive
Article 1 – paragraph 1 – point 6
Directive 2011/16/EU
Article 8ac – paragraph 4 – subparagraph 2

Text proposed by the Commission

Member States shall lay down rules pursuant to which a Reporting Platform Operator may choose to register with the competent authorities of a single Member State in accordance with the rules laid down in paragraph F of Section IV of Annex V.

Amendment

Member States shall lay down rules pursuant to which a Reporting Platform Operator may choose to register with the competent authorities of a single Member State in accordance with the rules laid down in paragraph F of Section IV of Annex V, taking into account the location of its global or regional headquarters, the effective place of management as well as the existence of substantial economic activity in that chosen Member State, in the absence of identification for VAT purposes as indicated in paragraph F of Section IV of Annex V.

Amendment 104
Markus Ferber

Proposal for a directive
Article 1 – paragraph 1 – point 7 – point a
Directive 2011/16/EU
Article 8b – paragraph 1
Text proposed by the Commission

1. Member States shall provide the Commission on an annual basis with statistics on the volume of automatic exchanges under Articles 8(1), 8(3a), 8aa and 8ac and 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.

Amendment

1. Member States shall provide the Commission on an annual basis with all relevant material information, including statistics on the volume of automatic exchanges as well as an assessment of the usability of the data being exchanged under Articles 8(1), 8(3a), 8aa and 8ac, and 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 105
Dimitrios Papadimoulis, Manon Aubry on behalf of The Left Group

Proposal for a directive
Article 1 – paragraph 1 – point 7 – point b
Directive 2011/16/EU
Article 8b – paragraph 2

Text proposed by the Commission

(b) Paragraph 2 is deleted.

Amendment

deleted

Or. en

Amendment 106
Sven Giegold

Proposal for a directive
Article 1 – paragraph 1 – point 7 – point b a (new)
Directive 2011/16/EU
Article 8b – paragraph 2

Present text

(ba) Paragraph 2 is replaced by the following:

2. Before 1 January 2019, the

2. Before 1 January 2022, 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 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 and the conditions laid down in Article 8(1), including the condition that information concerning residents in other Member States has to be available, or the items referred to in Article 8(3a), or both.

When examining a proposal presented by the Commission, the Council shall assess further strengthening of the efficiency and functioning of the automatic exchange of information and raising the standard thereof, with the aim of providing that:

(a) 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 2019 concerning residents in that other Member State, on all categories of income and capital listed in Article 8(1), as they are to be understood under the national legislation of the Member State communicating the information; and

(b) the lists of categories and items laid down in Articles 8(1) and 8(3a) be extended to include other categories and items, including royalties.

(a) the lists of categories of income and capital laid down in Article 8(1) be made available by Member States, even if not currently available, and accordingly exchanged;

(b) the categories of income laid down in Article 8(1) be expanded to non-financial assets such as real estate, art or jewellery and new forms to store wealth such as free ports and safe deposit boxes;

(c) the lists of items laid down in Article 8(3a) be extended to include the ultimate beneficial ownership data and to tackle circumvention through second or multiple tax residencies;
(d) Member States be generally allowed to use the information received for other purposes than those referred to in Article 16(1);
(e) effective use of the data received be correctly evaluated.”

Amendment 107
Dimitrios Papadimoulis, Manon Aubry
on behalf of The Left Group
Proposal for a directive
Article 1 – paragraph 1 – point 7 – point b a (new)
Directive 2011/16/EU
Article 8b – paragraph 2 – subparagraph 1

Present text
Amendment

2. Before 1 January 2019, 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 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 and the conditions laid down in Article 8(1), including the condition that information concerning residents in other Member States has to be available, or the items referred to in Article 8(3a), or both.

“2. Before 1 January 2022, 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 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 and the conditions laid down in Article 8(1), including the condition that information concerning residents in other Member States has to be available, or the items referred to in Article 8(3a), or both.’

Amendment 108
Dimitrios Papadimoulis, Manon Aubry
on behalf of The Left Group

Proposal for a directive
Article 1 – paragraph 1 – point 7 – point b b (new)
Directive 2011/16/EU
Article 8b – paragraph 2 – subparagraph 2 – point a

Text proposed by the Commission

In paragraph 2, point a of the second subparagraph is replaced by the following:

(bb) In paragraph 2, point a of the second subparagraph is replaced by the following:

(a) 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 2019 concerning residents in that other Member State, on all categories of income and capital listed in Article 8(1), as they are to be understood under the national legislation of the Member State communicating the information; and

Amendment

‘(a) 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 2022 concerning residents in that other Member State, on all categories of income and capital listed in Article 8(1), as they are to be understood under the national legislation of the Member State communicating the information; and’

Or. en

Amendment 109
Gunnar Beck

Proposal for a directive
Article 1 – paragraph 1 – point 8 – point a
Article 11 – paragraph 1 – point (c)

Text proposed by the Commission

Text proposed by the Commission

(c) participate in the administrative enquiries carried out by the requested Member State through the use of electronic means of communication, where appropriate.

Amendment

deleted

‘deleted’

Or. en
Justification

The Member State where the administrative enquiry is carried out shall be the sole acting authority on its territory. Participation by authorities of other Member States shall only concern their presence, as stated in Article 11, paragraph 1 (a) and (b).

Amendment 110
Aurore Lalucq, Jonás Fernández, Pedro Marques on behalf of the S&D Group

Proposal for a directive
Article 1 – paragraph 1 – point 8 – point a
Directive 2011/16/EU
Article 11 – paragraph 1 – subparagraph 2

Text proposed by the Commission
A competent authority shall respond to a request in accordance with the first subparagraph within 30 days, to confirm its agreement or communicate its reasoned refusal to the requesting authority.

Amendment
A competent authority shall respond to a request in accordance with the first subparagraph within 30 days, to confirm its agreement or communicate its demand for complementary information to the requesting authority via a second request. The competent authority should respond to that second request within 30 days.

Or. en

Amendment 111
Gunnar Beck

Proposal for a directive
Article 1 – paragraph 1 – point 8 – point b
Article 11– paragraph 2

Text proposed by the Commission
(b) In paragraph 2, the first subparagraph is replaced by the following:

Amendment
‘Where officials of the requesting authority are present during administrative enquiries, or participate through the use of electronic means of
communication, they may interview individuals and examine records.’

Or. en

Justification

The Member State where the administrative enquiry is carried out shall be the sole acting authority on its territory. Participation by authorities of other Member States shall only concern their presence, as stated in Article 11, paragraph 1 (a) and (b). Interviews and examination of records shall fall under the exclusive competence of the Member State where the administrative enquiry is carried out.

Amendment 112
Gunnar Beck

Proposal for a directive
Article 1 – paragraph 1 – point 10
Article 12a

Text proposed by the Commission

Amendment

[..] deleted

Or. en

Justification

Joint actions are currently already conducted, based on the combined provisions of Directive 2011/16/EU regarding the presence of foreign officials in the territory of other Member States and on simultaneous controls.

Amendment 113
Markus Ferber

Proposal for a directive
Article 1 – paragraph 1 – point 10
Directive 2011/16/EU
Article 12a – paragraph 3 – introductory part

Text proposed by the Commission

Amendment

3. A request for a joint audit by a competent authority of a Member State

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may be rejected on justified grounds and, in particular, for any of the following reasons:

Grounds for rejection should be narrowly defined.

Amendment 114
Aurore Lalucq, Jonás Fernández, Pedro Marques, Paul Tang
on behalf of the S&D Group

Proposal for a directive
Article 1 – paragraph 1 – point 10
Directive 2011/16/EU
Article 12a – paragraph 3 – introductory part

Text proposed by the Commission                                                                 Amendment

3. A request for a joint audit by a competent authority of a Member State may be rejected on justified grounds and, in particular, for any of the following reasons:

3. A request for a joint audit by a competent authority of a Member State may be rejected on justified grounds for the following reasons:

Amendment 115
Aurore Lalucq, Jonás Fernández, Pedro Marques
on behalf of the S&D Group

Proposal for a directive
Article 1 – paragraph 1 – point 12 – point a
Directive 2011/16/EU
Article 16 – paragraph 1 – subparagraph 1

Text proposed by the Commission                                                                 Amendment

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

Information communicated between Member States in any form pursuant to this Directive shall be covered by the obligation of official secrecy under the national law of the requested Member
under the national law of the Member State which received it. Such information may be used for the assessment, administration and enforcement of the domestic laws of the Member States concerning the taxes referred to in Article 2 as well as VAT and other indirect taxes.

States and requesting Member State 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 assessment, administration and enforcement of the domestic laws of the Member States concerning the taxes referred to in Article 2 as well as VAT, information referred to in Article 8ac, paragraph 2, second subparagraph, and other indirect taxes.

Amendment 116
Aurore Lalucq, Jonás Fernández, Pedro Marques
on behalf of the S&D Group

Proposal for a directive
Article 1 – paragraph 1 – point 13 a (new)
Directive 2011/16/EU
Article 17 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

(13a) In Article 17, the following paragraph is inserted:

“4a. The possibility to refuse the provision of information referred to in paragraph 4 shall not apply if the requesting authority is able to demonstrate that the information will not be disclosed to the public and will only be used for the purpose of the assessment, management and control of the relevant tax affairs of the person or group of persons concerned by the request for information.”

Amendment 117
Lídia Pereira
7. The Commission shall develop and provide technical and logistical support for a secure central interface on administrative cooperation in the field of taxation where Member States communicate with the use of standard forms pursuant to Article 20(1) and (3). The competent authorities of all Member States shall have access to that interface. For the purpose of collecting statistics, the Commission shall have access to information about the exchanges recorded to the interface and which can be extracted automatically. The access by the Commission shall be without prejudice to the obligation of Member States to provide statistics on exchanges of information in accordance with Article 23(4).

**Text proposed by the Commission**

7. The Commission shall develop and provide technical and logistical support for a secure central interface on administrative cooperation in the field of taxation where Member States communicate with the use of standard forms pursuant to Article 20(1) and (3). The competent authorities of all Member States shall have access to that interface. *This central interface must be secured with the highest level of cybersecurity and technically certified procedures to guarantee data protection.* For the purpose of collecting statistics, the Commission shall have access to information about the exchanges recorded to the interface and which can be extracted automatically. The access by the Commission shall be without prejudice to the obligation of Member States to provide statistics on exchanges of information in accordance with Article 23(4).

**Amendment**

7. The Commission shall develop and provide technical and logistical support for a secure central interface on administrative cooperation in the field of taxation where Member States communicate with the use of standard forms pursuant to Article 20(1) and (3). The competent authorities of all Member States shall have access to that interface. *All the necessary* technical and logistical support for a secure central interface on administrative cooperation in...
Member States communicate with the use of standard forms pursuant to Article 20(1) and (3). The competent authorities of all Member States shall have access to that interface. For the purpose of collecting statistics, the Commission shall have access to information about the exchanges recorded to the interface and which can be extracted automatically. The access by the Commission shall be without prejudice to the obligation of Member States to provide statistics on exchanges of information in accordance with Article 23(4).

Or. en

Amendment 119
Lídia Pereira

Proposal for a directive
Article 1 – paragraph 1 – point 17
Directive 2011/16/EU
Article 23 – paragraph 2

Text proposed by the Commission

2. Member States shall examine and evaluate, in their jurisdiction, the effectiveness of administrative cooperation in accordance with this Directive in combating tax evasion and tax avoidance and shall communicate annually the results of their evaluation to the Commission.

Amendment

2. Member States shall examine and evaluate, in their jurisdiction, the effectiveness of administrative cooperation in accordance with this Directive in combating tax evasion and tax avoidance, as well as an evaluation of the compliance costs that can result from a possible over-reporting situation. Member States shall communicate annually the results of their evaluation to the Commission and the European Parliament. A summary of the results shall be made publicly available, but the taxpayers’ rights and confidentiality shall be preserved.

Or. en

Amendment 120
Dimitrios Papadimoulis, Manon Aubry on behalf of The Left Group

Proposal for a directive
Article 1 – paragraph 1 – point 17
Directive 2011/16/EU
Article 23 – paragraph 2

Text proposed by the Commission

2. Member States shall examine and evaluate, in their jurisdiction, the effectiveness of administrative cooperation in accordance with this Directive in combating tax evasion and tax avoidance and shall communicate annually the results of their evaluation to the Commission.

Amendment

2. Member States shall examine and evaluate, in their jurisdiction, the effectiveness of administrative cooperation in accordance with this Directive in combating tax evasion and tax avoidance and shall communicate annually the results of their evaluation to the Commission. These annual reports shall be made public.

Or. en

Amendment 121
Sven Giegold

Proposal for a directive
Article 1 – paragraph 1 – point 17 a (new)
Directive 2011/16/EU
Article 23 – paragraph 3

Present text

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

Amendment

(17a) In Article 23, paragraph 3 is replaced by the following:

3. Member States shall communicate to the Commission a yearly assessment of the effectiveness of the exchange of information on request referred to in Article 5, 6 and 7 and the automatic exchange of information referred to in Articles 8, 8a, 8aa and 8ab as well as the practical results achieved, including the incremental tax revenues associated with administrative cooperation. The information communicated shall be disaggregated, at minimum to a country-
by-country level. The Commission shall, by means of implementing acts, adopt the form and the conditions of communication for that yearly assessment. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 26(2).


Amendment 122
Dimitrios Papadimoulis, Manon Aubry
on behalf of The Left Group

Proposal for a directive
Article 1 – paragraph 1 – point 17 a (new)
Directive 2011/16/EU
Article 23a – paragraph 1

Present text

(17a) In Article 23a, paragraph 1 is replaced by the following:

‘1. Information communicated to the Commission pursuant to this Directive shall be kept confidential to the point that does not harm public interest or taxpayers.’


Amendment 123
Dimitrios Papadimoulis, Manon Aubry
on behalf of The Left Group

Proposal for a directive
Article 1 – paragraph 1 – point 18
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 be used by the Member States only for analytical purposes, and shall not be published or made available to any other person or body without the express agreement of the Commission.

**Amendment**
Reports and documents produced by the Commission, referred to in the first subparagraph, may be used by the Member States and be accessible to all interested parties and subsequently be public.

Or. en

**Amendment 124**
**Aurore Lalucq, Jonás Fernández, Pedro Marques**
on behalf of the S&D Group

Proposal for a directive
**Article 1 – paragraph 1 – point 18**
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 be used by the Member States only for analytical purposes, and shall not be published or made available to any other person or body without the express agreement of the Commission.

**Amendment**
Reports and documents produced by the Commission, referred to in the first subparagraph shall not be published or made available to any other person or body without the express agreement of the Commission, in compliance with Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.

Or. en

**Amendment 125**
**Markus Ferber**

Proposal for a directive
**Article 1 – paragraph 1 – point 18**
Directive 2011/16/EU
Article 23a – paragraph 2 – subparagraph 3
Text proposed by the Commission

Notwithstanding the first and second subparagraphs, the Commission may publish annually anonymised summaries of the statistical data that Member States communicate to it in accordance with Article 23(4).

Amendment

Notwithstanding the first and second subparagraphs, the Commission shall publish annually anonymised summaries of the statistical data that Member States communicate to it in accordance with Article 23(4).

Amendment 126
Othmar Karas

Proposal for a directive
Article 1 – paragraph 1 – point 19 – point b
Directive 2011/16/EU
Article 25 – paragraph 5 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that, in the event of a personal data breach in the meaning of point 12 of Article 4 of Regulation (EU) 2016/679, the competent authorities may ask the Commission, as processor, to suspend, as a mitigating measure, the exchanges of information under this Directive with the Member State where the breach occurred.

Amendment

Member States shall ensure that, in the event of a personal data breach in the meaning of point 12 of Article 4 of Regulation (EU) 2016/679 or in the event of a breach of the principles of the rule of law in accordance with Article 4 of Regulation (EU) 2020/… [Rule of Law Mechanism] the competent authorities may ask the Commission, as processor, to suspend, as a mitigating measure, the exchanges of information under this Directive with the Member State where the breach occurred.

*REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 December 2020 on a general regime of conditionality for the protection of the Union budget

Or. en

Justification

The possibility to suspend the exchanges of information under this Directive should also be
applicable in the event of a breach of the principles of the rule of law in accordance with the Regulation of the European Parliament and the Council on a general regime of conditionality for the protection of the Union budget.

Amendment 127
Lídia Pereira

Proposal for a directive
Article 1 – paragraph 1 – point 19 – point b
Directive 2011/16/EU
Article 25 – paragraph 5 – subparagraph 2

Text proposed by the Commission

The suspension shall last until the competent authorities ask the Commission to enable again the exchanges of information under this Directive with the Member State where the breach occurred.

Amendment

The suspension shall last until the competent authorities ask the Commission to enable again the exchanges of information under this Directive with the Member State where the breach occurred. The Commission shall enable the exchanges of information only when there is technical evidence that the data flow is secured.

Or. en

Amendment 128
Dimitrios Papadimoulis, Manon Aubry
on behalf of The Left Group

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2011/16/EU
Article 25a – paragraph 1

Text proposed by the Commission

Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and concerning Articles 8aa, 8ab and 8ac, and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and

Amendment

Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and concerning Articles 8aa, 8ab and 8ac, and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and
dissuasive. These penalties shall include financial penalties, exclusion from public contracts and, in extreme and repeated cases, the revoking of the business licence of the platform operator.

Amendment 129
Dimitrios Papadimoulis, Manon Aubry
on behalf of The Left Group

Proposal for a directive
Article 1 – paragraph 1 – point 20 a (new)
Directive 2011/16/EU
Article 25b (new)

Text proposed by the Commission

Amendment

(20a) The following article is added: ‘Article 25b
Review clause
By ... [three years after the date of entry into force of this amending Directive], and every three years henceforth, the Commission shall present a report on the efficiency of the Directive and make specific proposals, including legislative proposals, for its improvement. This report shall be made public.’

Amendment 130
Aurore Lalucq, Jonás Fernández, Evelyn Regner
on behalf of the S&D Group

Proposal for a directive
Annex I
Directive 2011/16/EU
ANNEX V – Section 1 – paragraph 3 – point b a (new)

Text proposed by the Commission

Amendment
(ba) it has revenues made in the Union exceeding EUR 100 000 over the previous calendar year.

Amendment 131
Aurore Lalucq, Jonás Fernández, Pedro Marques
on behalf of the S&D Group

Proposal for a directive
Annex I
Directive 2011/16/EU
ANNEX V – Section III – point B – paragraph 2 – point b

Text proposed by the Commission

(b) the Financial Account Identifier, as collected by the Reporting Platform Operator and insofar as the competent authority of the Member State where the Reportable Seller is resident has not notified the competent authorities of all other Member States that it does not intend to use the Financial Account Identifier for this purpose;

Amendment

(b) the Financial Account Identifier, insofar as it is available to the Reporting Platform Operator and the competent authority of the Member State where the Reportable Seller is resident has not notified the competent authorities of all other Member States that it does not intend to use the Financial Account Identifier for this purpose;

Amendment 132
Aurore Lalucq, Jonás Fernández, Pedro Marques
on behalf of the S&D Group

Proposal for a directive
Annex I
Directive 2011/16/EU
ANNEX V – Section III – point B – paragraph 3 – point b

Text proposed by the Commission

(b) the Financial Account Identifier, insofar as it is available to the Reporting Platform Operator and the competent authority of the Member State where the Reportable Seller is resident has not notified the competent authorities of all other Member States that it does not intend to use the Financial Account Identifier for this purpose;

Amendment

(b) the Financial Account Identifier, as collected by the Reporting Platform Operator and insofar as the competent authority of the Member State where the Reportable Seller is resident has not notified the competent authorities of all other Member States that it does not intend to use the Financial Account Identifier for this purpose;
notified the competent authorities of all other Member States that it does not intend to use the Financial Account Identifier for this purpose;