

# Procedure file

Basic information	
CNS - Consultation procedure Directive	2013/0188(CNS) Procedure completed
Taxation: mandatory automatic exchange of information	
Amending Directive 2011/16/EU <a href="#">2009/0004(CNS)</a> See also <a href="#">2017/2013(INI)</a>	
Subject	
2.70 Taxation	
2.80 Cooperation between administrations	
3.45.04 Company taxation	
7.30.30.06 Action to combat economic fraud and corruption	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>ECON</b> Economic and Monetary Affairs		18/06/2013
		S&D <a href="#">CUTA George Sabin</a>	
		Shadow rapporteur	
		PPE <a href="#">NITRAS Sławomir</a>	
		ALDE <a href="#">SCHMIDT Olle</a>	
		Verts/ALE <a href="#">TAVARES Rui</a>	
		ECR <a href="#">STREJČEK Ivo</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>JURI</b> Legal Affairs		The committee decided not to give an opinion.
	<b>CONT</b> Budgetary Control		19/07/2013
		PPE <a href="#">RIVELLINI Crescenzo</a>	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">3356</a>	09/12/2014
European Commission	Commission DG	Commissioner	
	<a href="#">Taxation and Customs Union</a>	ŠEMETA Algirdas	

Key events			
12/06/2013	Legislative proposal published	<a href="#">COM(2013)0348</a>	Summary
04/07/2013	Committee referral announced in Parliament		
05/11/2013	Vote in committee		
12/11/2013	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A7-0376/2013</a>	Summary
10/12/2013	Debate in Parliament		
11/12/2013	Results of vote in Parliament		
11/12/2013	Decision by Parliament	<a href="#">T7-0573/2013</a>	Summary

09/12/2014	Act adopted by Council after consultation of Parliament		
09/12/2014	End of procedure in Parliament		
16/12/2014	Final act published in Official Journal		

### Technical information

Procedure reference	2013/0188(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 2011/16/EU <a href="#">2009/0004(CNS)</a> See also <a href="#">2017/2013(INI)</a>
Legal basis	Treaty on the Functioning of the EU TFEU 115
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	ECON/7/13023

### Documentation gateway

Legislative proposal		<a href="#">COM(2013)0348</a>	12/06/2013	EC	Summary
Committee draft report		<a href="#">PE516.889</a>	05/09/2013	EP	
Amendments tabled in committee		<a href="#">PE519.603</a>	01/10/2013	EP	
Economic and Social Committee: opinion, report		<a href="#">CES5161/2013</a>	16/10/2013	ESC	
Committee opinion	<b>CONT</b>	<a href="#">PE516.714</a>	21/10/2013	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A7-0376/2013</a>	12/11/2013	EP	Summary
Text adopted by Parliament, 1st reading/single reading		<a href="#">T7-0573/2013</a>	11/12/2013	EP	Summary
Commission response to text adopted in plenary		<a href="#">SP(2014)148</a>	13/02/2014	EC	

### Additional information

National parliaments	<a href="#">IPEX</a>
European Commission	<a href="#">EUR-Lex</a>

### Final act

[Directive 2014/107](#)  
[OJ L 359 16.12.2014, p. 0001](#) Summary

## Taxation: mandatory automatic exchange of information

PURPOSE: to expand the scope of the automatic exchange of information in the field of taxation in order to better combat fiscal fraud.

PROPOSED ACT: Council Directive.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: in recent years, the challenge posed by tax fraud and tax evasion has increased considerably and has become a major focus of concern within the European Union and worldwide. An increase in the efficiency and effectiveness of tax collection is therefore urgently needed. The automatic exchange of information (AEOI) constitutes an important tool in this regard.

[Council Directive 2011/16/EU](#) on administrative cooperation in the field of taxation provides that, from 2015, Member States will exchange information automatically upon availability on five categories of income and capital: employment, directors' fees, life insurance products not covered by other Directives, pensions and ownership of and income from immovable property.

Member States have now expressed a clear wish to go beyond current levels of cooperation. The European Council of 2 March 2012 invited the Council and the Commission to develop rapidly concrete ways to improve the fight against tax fraud. On 6 December 2012, the Commission presented an [Action plan to strengthen the fight against tax fraud and tax evasion](#). The European Council on 22 May 2013 went even further, requesting the extension of AEOI at EU and global levels with a view to fighting against tax fraud, tax evasion and aggressive tax planning.

The agreements that many governments have concluded or will conclude with the US as regards the US Foreign Account Tax Compliance Act (FATCA) have given further impetus to AEOI as a way of combating tax fraud and evasion. On 9 April 2013, France, Germany, the United Kingdom, Italy and Spain announced plans for a pilot action on AEOI using the FATCA model agreed with the US as a basis.

The European Parliament adopted a [resolution on 21 May 2013](#) emphasising that the EU should take a leading role in discussions on the fight against tax fraud, tax avoidance and tax havens and, in particular, in relation to the promotion of automatic exchange of information.

IMPACT ASSESSMENT: most Member States wish to take speedy action to increase AEOI. It has, therefore, become exceptionally urgent to provide for a consistent and coherent EU legal framework; for this reason, no impact assessment has been prepared.

LEGAL BASIS: Article 115 of the Treaty on the functioning of the European Union (TFEU).

CONTENT: the proposal aims to amend Council Directive 2011/16/EU to expand the scope of AEOI in the EU beyond that provided for in existing EU automatic information exchange arrangements. It provides for:

- the removal of a threshold below which a Member State may not wish to receive information from other Member States;
- the introduction of automatic exchange of information for dividends, capital gains, any other income generated with respect to the assets held in a financial account, any amount with respect to which the financial institution is the obligor (i.e. is legally or contractually obliged to pay) or the debtor, including any redemption payments, and account balances. Information about those new items will certainly be available as financial intermediaries will be required to report it to tax administrations under the agreements that Member States have concluded or will conclude with the US as regards FATCA;
- the review of the condition of availability to be undertaken in 2017 should be extended to all the five categories referred to in Directive 2011/16/EU so that the case for exchange of information by all Member States on all those categories be examined.

The time limits proposed for transposition and application of the new rules are 31 December 2014 and 1 January 2015 respectively, in order to align them with the dates applicable in respect of the categories of income and capital included in the existing Directive.

BUDGETARY IMPLICATION: the proposal has no budgetary implications.

## Taxation: mandatory automatic exchange of information

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The Committee on Economic and Monetary Affairs adopted, in the framework of a special legislative procedure (consultation of Parliament) the report by George Sabin CUTA? (S&D, RO) on the proposal for a Council directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation

The committee made the following amendments to the Commission proposal:

Scope of mandatory and automatic exchange of information: the new categories of income and capital in respect of which the Directive introduces an obligation to exchange information should be established in accordance with their interpretation in the law of the Member State communicating the information.

Data protection: in light of the sensitivity of the data to be collected, specific attention should be paid to the respect for the right of privacy and to legitimate claims of confidentiality, in particular during any inquiry process. Member States shall take appropriate measures to protect the exchanged information from unauthorised access by third parties or by third countries.

Resources: Member States must make available the human, technological and financial resources needed for the implementation of this Directive, given the amount and the complexity of information, subject to the automatic exchange starting on 1 January 2015.

Negotiating mandate with third countries: from the date of entry into force of this Directive, only the Commission shall negotiate agreements with third countries on automatic exchange of information (AEOI) on behalf of the Union. From that date Member States shall not engage in bilateral agreements.

Penalties: Member State shall lay down penalties for breaches of the Directive and shall take the measures necessary to ensure compliance therewith. Such penalties shall be effective, proportionate and persuasive.

Evaluation: the Commission shall inform the European Parliament on an annual basis of the evaluations made by Member States regarding the effectiveness of automatic exchange of information.

## Taxation: mandatory automatic exchange of information

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The European Parliament adopted by 360 votes to 59, with 287 abstentions, in the framework of a special legislative procedure (consultation of Parliament), a legislative resolution on the proposal for a Council directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation.

The European Parliament, in its [resolution of 21 May 2013](#) on Fight against Tax Fraud, Tax Evasion and Tax Havens, Parliament had already requested the extension of automatic information exchange at Union and global levels with a view to combatting tax fraud, tax evasion and aggressive tax planning.

Parliament approved the Commission proposal, subject to the following amendments:

**Scope of mandatory and automatic exchange of information:** Parliament called for new categories of income and capital in respect of which the Directive introduces an obligation to exchange information to be established in accordance with their interpretation in the law of the Member State communicating the information.

**Data protection:** in light of the sensitivity of the data to be collected, specific attention should be paid to the respect for the right of privacy and to legitimate claims of confidentiality, in particular during any inquiry process. Member States shall take appropriate measures to protect the exchanged information from unauthorised access by third parties or by third countries.

**Resources:** Member States must make available the human, technological and financial resources needed for the implementation of this Directive, given the amount and the complexity of information, subject to the automatic exchange starting on 1 January 2015.

**Negotiating mandate with third countries:** from the date of entry into force of this Directive, only the Commission shall negotiate agreements with third countries on automatic exchange of information (AEOI) on behalf of the Union. From that date Member States shall not engage in bilateral agreements.

**Penalties:** Member State shall lay down penalties for breaches of the Directive and shall take the measures necessary to ensure compliance therewith. Such penalties shall be effective, proportionate and persuasive.

**Evaluation:** the Commission shall inform the European Parliament on an annual basis of the evaluations made by Member States regarding the effectiveness of automatic exchange of information.

**Implementation of amendments:** many of the proposed amendments to Directive 2011/16/EU on administrative cooperation in the field of taxation regulate the same information exchange with which FATCA and the work at the OECD are concerned. Members considered that the Commission should clarify the relationship between those regulatory provisions in order to ensure that the national tax authorities and the financial institutions responsible for applying those amendments are able to implement them.

**Review:** by 12 months after the date of entry into force of this Directive, the Commission shall review the functioning of this Directive and, if appropriate, submit a legislative proposal to the Council to provide for transparency of information exchanges.

## Taxation: mandatory automatic exchange of information

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**PURPOSE:** to extend the scope of automatic exchange of information in order to combat tax fraud and evasion.

**LEGISLATIVE ACT:** Council Directive 2014/107/EU amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation

**CONTENT:** in recent years, the challenge posed by cross-border tax fraud and tax evasion has increased considerably and has become a major focus of concern within the Union and at global level. The European Council on 22 May 2013 requested the extension of automatic information exchange at Union and global levels with a view to combating tax fraud, tax evasion and aggressive tax planning.

The importance of automatic exchange of information as a means to combat cross-border tax fraud and tax evasion has recently been recognised also at the international level (G20 and G8).

In July 2014, the OECD Council released the full global standard, which was endorsed by G20 Finance Ministers and Central Bank Governors in September 2014.

[Council Directive 2011/16/EU](#) already provides for the mandatory automatic exchange of information between Member States on certain categories of income and capital, mainly of a non-financial nature, that taxpayers hold in Member States other than their State of residence.

This Directive amends Directive 2011/16/EU by extending the scope of automatic exchange of information to interest, dividends, gross proceeds from the sale of financial assets and other income, as well as account balances. The aim is to prevent taxpayers from hiding capital abroad or assets on which tax is due, whilst also improving the efficiency of tax collection.

Automatic exchange means the systematic communication of predefined information on residents in other Member States to the relevant Member State of residence, without prior request, at pre-established regular intervals.

The automatic exchange of information will be done in a standard format in order to facilitate exchange.

Member States will start exchanging information automatically under the revised directive for the first time by the end of September 2017. In view of existing structural differences, Austria should be allowed to exchange information automatically under this Directive for the first time by 30 September 2018.

Before 1 July 2017, the Commission shall submit a report that provides an overview and an assessment of the statistics and information received, 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.

**ENTRY INTO FORCE:** 5.1.2015.

**TRANSPOSITION:** by 31.12.2015. The provisions of the Directive apply from 1.1.2016.

