

Procedure file

Basic information				
CNS - Consultation procedure Directive	2016/0209(CNS)	Procedure completed		
Access to anti-money-laundering information by tax authorities Amending Directive 2011/16/EU 2009/0004(CNS) Subject 2.70 Taxation 2.80 Cooperation between administrations 7.30.30.08 Capital outflow, money laundering				
Key players				
European Parliament	Committee responsible	Rapporteur	Appointed	
	<div>ECON</div> Economic and Monetary Affairs		12/07/2016	
		<div>S&D</div> MAUREL Emmanuel		
		Shadow rapporteur		
		<div>epp</div> VANDENKENDELAERE Tom		
		<div>ECR</div> RUOHONEN-LERNER Pirkko		
		<div>stars</div> TORVALDS Nils		
		<div>EFD</div> ZANNI Marco		
	Committee for opinion	Rapporteur for opinion	Appointed	
	<div>CONT</div> Budgetary Control	The committee decided not to give an opinion.		
	<div>JURI</div> Legal Affairs	The committee decided not to give an opinion.		
	<div>LIBE</div> Civil Liberties, Justice and Home Affairs	The committee decided not to give an opinion.		
	Council of the European Union	Council configuration	Meeting	Date
		Economic and Financial Affairs ECOFIN	3506	06/12/2016
		Economic and Financial Affairs ECOFIN	3480	12/07/2016
European Commission	Commission DG	Commissioner		
	Taxation and Customs Union	MOSCOVICI Pierre		
Key events				

05/07/2016	Legislative proposal published	COM(2016)0452	Summary
12/07/2016	Debate in Council	3480	
12/09/2016	Committee referral announced in Parliament		
10/11/2016	Vote in committee		
14/11/2016	Committee report tabled for plenary, 1st reading/single reading	A8-0326/2016	Summary
22/11/2016	Results of vote in Parliament		
22/11/2016	Debate in Parliament		
22/11/2016	Decision by Parliament	T8-0432/2016	Summary
06/12/2016	Act adopted by Council after consultation of Parliament		
06/12/2016	End of procedure in Parliament		
16/12/2016	Final act published in Official Journal		

Technical information

Procedure reference	2016/0209(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 2011/16/EU 2009/0004(CNS)
Legal basis	Treaty on the Functioning of the EU TFEU 115; Treaty on the Functioning of the EU TFEU 113
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	ECON/8/07145

Documentation gateway

Legislative proposal		COM(2016)0452	05/07/2016	EC	Summary
Committee draft report		PE589.168	12/09/2016	EP	
Amendments tabled in committee		PE592.157	19/10/2016	EP	
Economic and Social Committee: opinion, report		CES4584/2016	19/10/2016	ESC	
Committee report tabled for plenary, 1st reading/single reading		A8-0326/2016	14/11/2016	EP	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0432/2016	22/11/2016	EP	Summary
Commission response to text adopted in plenary		SP(2017)8	17/01/2017	EC	

Final act

Access to anti-money-laundering information by tax authorities

PURPOSE: to enable tax authorities to consistently access anti-money-laundering information for the performance of their duties in monitoring the proper application of the Directive 2011/16/EU on Administrative Cooperation by Financial Institutions.

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: [Directive 2014/107/EU](#) amending [Directive 2011/16/EU](#) on administrative cooperation applies as of 1 January 2016 to 27 Member States and as of 1 January 2017 to Austria. It implements the Global Standard for Automatic Exchange of Financial Account Information in Tax Matters within the EU. As such, it ensures that information on Account Holders of Financial Accounts is reported to the Member State where the Account Holder is resident.

In addition, Directive 2011/16/EU stipulates that, where the Account Holder is an intermediary structure, Financial Institutions are to look through that structure, and identify and report its beneficial owners. That important element in the application of the Directive relies on anti-money-laundering ('AML') information obtained pursuant to [Directive 2015/849/EU](#) of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

Recent media leaks exposed the large scale concealment of offshore funds. Further measures still need to be taken to reinforce the EU and international transparency framework. In particular, it has become apparent that tax authorities need greater access to information on the beneficial owners of intermediary entities and other relevant customer due diligence information, if they are to effectively identify and address tax evasion.

Tax administrations' access to anti-money-laundering information differs considerably throughout the EU. Even when this access is granted, authorities often still encounter significant barriers that hinder the effectiveness of their work against tax avoidance and evasion.

To ensure effective monitoring of the application by Financial Institutions of the due diligence procedures set forth in Directive 2011/16/EU, the tax authorities need access to AML information.

This proposal is part of the Commissions ambitious agenda against tax evasion and avoidance, with a view to delivering fairer and more effective taxation in the EU.

CONTENT: this proposal seeks to amend Directive 2011/16/EU on administrative cooperation in the field of taxation by introducing a measure to enable tax authorities to consistently access anti-money-laundering information for the performance of their duties.

The amendment would enable tax authorities to have access to the mechanism, procedures, documents and information on beneficial ownership information and the underlying customer due diligence procedures as part of the Fourth Anti-Money-Laundering Directive.

The proposed Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

Access to anti-money-laundering information by tax authorities

The Committee on Economic and Monetary Affairs adopted, following the Parliaments consultation procedure, the report by Emmanuel MAUREL (S&D, FR) on the proposal for a Council directive amending Directive 2011/16/EU as regards access to anti-money-laundering information by tax authorities.

The committee responsible stressed that combating tax evasion and tax avoidance, including in connection with money laundering, is an absolute priority for the Union. It also stressed the need to:

- benefit synergies stemming from domestic, Union and international cooperation between the different authorities involved in fighting these crimes and abuses;
- take account of issues, such as beneficial ownership transparency or the extent to which entities, such as legal professions, are subject to the Anti-money laundering (AML) framework in third countries, are crucial to enhancing the ability of Union authorities to address tax dodging and money laundering.

This Directive shall apply to all taxes of any kind levied by, or on behalf of, a Member State or the Member States territorial or administrative subdivisions, including the local authorities, as well as to virtual currency exchange services and custodial wallet providers.

Members stressed the need to: (i) ensure direct and facilitated access by the tax authorities to the AML information, procedures, documents and mechanisms for the performance of their duties in monitoring the proper application of Directive 2011/16/EU; (ii) include that information, where relevant, in the automatic exchanges between Member States, and to provide access to the Commission, on a confidential basis.

Since AML information is in many cases of a cross-border nature, it should be included, where relevant, in the automatic exchange between Member States and should be made available on request to the Commission in the framework of its power to enforce state aid rules.

Member States shall ensure that all information exchanged and obtained shall be investigated in a timely manner, whether that information has been obtained by authorities on request, through spontaneous information exchange by another Member State, or from a public information leak. Should a Member State fail to do this in a timeframe required by national law, it should publicly communicate the reasons for this failure to the Commission.

Member States shall adopt and publish, by 31 December 2017 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall apply those provisions from 1 January 2018.

Access to anti-money-laundering information by tax authorities

The European Parliament adopted by 590 votes to 32, with 64 abstentions (following the Parliaments consultation procedure), a legislative resolution on the proposal for a Council directive amending Directive 2011/16/EU as regards access to anti-money-laundering information by tax authorities.

Parliament approved the Commission proposal subject to amendments.

Members stressed that combating tax evasion and tax avoidance, including in connection with money laundering, is an absolute priority for the Union.

The Swissleaks, Luxleaks, Panama Papers and Bahamas Leaks revelations, which are individual manifestations of a global phenomenon, have confirmed the paramount need for greater tax transparency and much closer coordination and cooperation between jurisdictions.

Scope: this Directive shall apply to all taxes of any kind levied by, or on behalf of, a Member State or the Member States territorial or administrative subdivisions, including the local authorities, as well as to virtual currency exchange services and custodial wallet providers.

Automatic exchange of information: since anti-money laundering information is in many cases of a cross-border nature, Parliament called for it to be included, where relevant, in the automatic exchange between Member States and should be made available on request to the Commission in the framework of its power to enforce state aid rules.

According to the amended text, the tax authorities of a Member State shall, within three months of their collection, automatically exchange the documents and information referred to in Article 22 of Directive 2011/16/EU with any other Member State if the beneficial owner of a firm, or, in the case of a trust, the settlor, one of the trustees, the protector (where relevant), a beneficiary or any other person exercising genuine control over the trust, or, lastly, the holder of an account referred to in Article 32a of [Directive \(EU\) 2015/849](#) is a taxpayer in that Member State. Access should be provided to the Commission for the completion of its missions, on a confidential basis.

Access to information: Member States shall provide by law for tax authorities access to the central registers, mechanisms, procedures, documents and information referred to in Articles 7, 13, 18, 18a, 19, 27, 30, 31, 32a, 40, 44 and 48 of Directive (EU) 2015/849 of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

Such access shall be the result of a mandatory automatic exchange of information. Member States shall further guarantee access to that information by including it in a centralised public register of companies, trusts and other structures whose nature or purpose is similar or equivalent.

Efficient use of exchanged data: Member States shall ensure that all information exchanged and obtained shall be investigated in a timely manner, whether that information has been obtained by authorities on request, through spontaneous information exchange by another Member State, or from a public information leak. Should a Member State fail to do this in a timeframe required by national law, it should publicly communicate the reasons for this failure to the Commission.

Transposition: Member States shall adopt and publish, by 31 December 2017 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall apply those provisions from 1 January 2018.

Access to anti-money-laundering information by tax authorities

PURPOSE: to grant access for tax authorities to information held by authorities responsible for the prevention of money laundering.

LEGISLATIVE ACT: Council Directive (EU) 2016/2258 amending Directive 2011/16/EU as regards access to anti-money-laundering information by tax authorities.

CONTENT: the Directive will enable tax authorities to access the mechanisms, procedures, documents and information as regards anti-money-laundering for the performance of their duties in monitoring the proper application of [Directive 2011/16/EU](#) and for the functioning of all forms of administrative cooperation provided for in that Directive.

[Council Directive 2014/107/EU](#), amending Directive 2011/16/EU implements the global Standard for Automatic Exchange of Financial Account Information in Tax Matters within the Union thereby ensuring that information on Account Holders of Financial Accounts is reported to the Member State where the Account Holder is resident.

Directive 2011/16/EU stipulates that, where the Account Holder is an intermediary structure, Financial Institutions are to look through that structure, and identify and report on its beneficial owners. That important element in the application of that Directive relies on anti-money-laundering information obtained pursuant to [Directive \(EU\) 2015/849](#) for the identification of the beneficial owners.

Access to anti-money-laundering information would ensure that tax authorities are better equipped to fulfil their obligations under Directive 2011/16/EU and to combat tax evasion and fraud more effectively.

TRANSPOSITION: 31.12.2017 at the latest.

APPLICATION: from 1.1.2018.

ENTRY INTO FORCE: 6.12.2016.