

Implementation of Council Directive 2016/881/EU of 25th May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation

The Directive adopts recommendations on country-by-country reporting set out in a report on Transfer Pricing Documentation and Country-by-Country Reporting published by the Organisation for Economic Co-operation and Development (“OECD”) in 2015. The United Kingdom implemented the OECD recommendations via The Country-by-Country (Base-Erosion and Profit Shifting) Regulations 2016 (“the 2016 Regulations”). Many of the provisions in the 2016 Regulations reflect the requirements of the Directive. The Country-by-Country (Base-Erosion and Profit Shifting) (Amendment) Regulations 2017 (“the 2017 Regulations”) include amendments to the 2016 Regulations to incorporate those elements of the Directive which were not implemented by the United Kingdom in 2016.

Provision in Directive	Summary of Provision	Relevant provision in the 2016 Regulations after amendment	Amending provision in the 2017 Regulations
Article 1(1)	Meaning of automatic exchange, cross-referenced to Annex 1 of the Directive	Transposition not necessary	
Article 1(2)	Obligations on Ultimate Parent Entities to file country-by-country reports, content of such reports and communication of such reports between Member States including time limits	Reg 2, Reg 3, Reg 3A(1) and Reg 7	Reg 3, Reg 4, and Reg 8
Article 1(3)	Purpose for which information may be used by Member States	Transposition not necessary	
Article 1(4)	Format of automatic exchange of information between Member States and linguistic arrangements	Transposition not necessary	
Article 1(5)	Electronic communication of information	Transposition not necessary	
Article 1(6)	Communication to Commission yearly assessment of effectiveness of automatic exchange	Transposition not necessary	
Article 1(7)	Penalties for non-compliance by Ultimate Parent Entities	Reg 12 to 20	Reg 12 and Reg 16
Article 1(8)	Procedure requirements for the Committee on administrative cooperation for taxation.	Transposition not necessary	
Article 1(9)	Addition of Annex III regarding filing rules for groups of multinational enterprises	Reg 2, Reg 3, Reg 3A(2), Reg 3B, Reg 3C, Reg 3D, Reg 5, Reg 6 and Reg 7	Reg 3, Reg 4, Reg 6, Reg 8 and Reg 9

Article 2	Publication and communication to Commission of laws, regulations and administrative provisions necessary to comply with the Directive	Transposition not necessary	
Article 3	Directive entering into force	Transposition not necessary	