



Proposal for a Council Directive amending Directive (EU)2011/16 as regards access to AML information by tax authorities - "DAC5"

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European Commission
DG Taxation and Customs Union

EU framework for Administrative Cooperation

DAC1 (Dir. 2011/16, except Art. 8)	DAC1 (AEOI) (Dir. 2011/16, Art. 8)	DAC2 (Dir. 2014/107)	DAC3 (Dir. 2015/2376)	DAC4 (Dir. 2016/881)
<ul style="list-style-type: none"> • New framework and tools (incl. removal of banking secrecy) for administrative cooperation and, in particular, new provisions for: • Exchanges on request • Spontaneous exchanges 	<ul style="list-style-type: none"> • Automatic exchange of information on 5 non-financial categories: • <i>Income from employment</i> • <i>Director's fees</i> • <i>Pensions</i> • <i>Life insurance products</i> • <i>Immovable property (income and ownership)</i> 	<ul style="list-style-type: none"> • Automatic exchange of information on financial account information: • <i>Interests, dividends or other income generated</i> • <i>Gross proceeds from sale or redemption</i> • <i>Account balances</i> 	<ul style="list-style-type: none"> • Automatic exchange (using a central directory as from 1.2018) of: • Advance cross-border rulings • Advance pricing arrangements 	<ul style="list-style-type: none"> • Country-by-country reporting on certain financial information: • <i>Revenues</i> • <i>Profits</i> • <i>Taxes paid and accrued</i> • <i>Accumulated earnings</i> • <i>Number of employees</i> • <i>Certain assets</i>

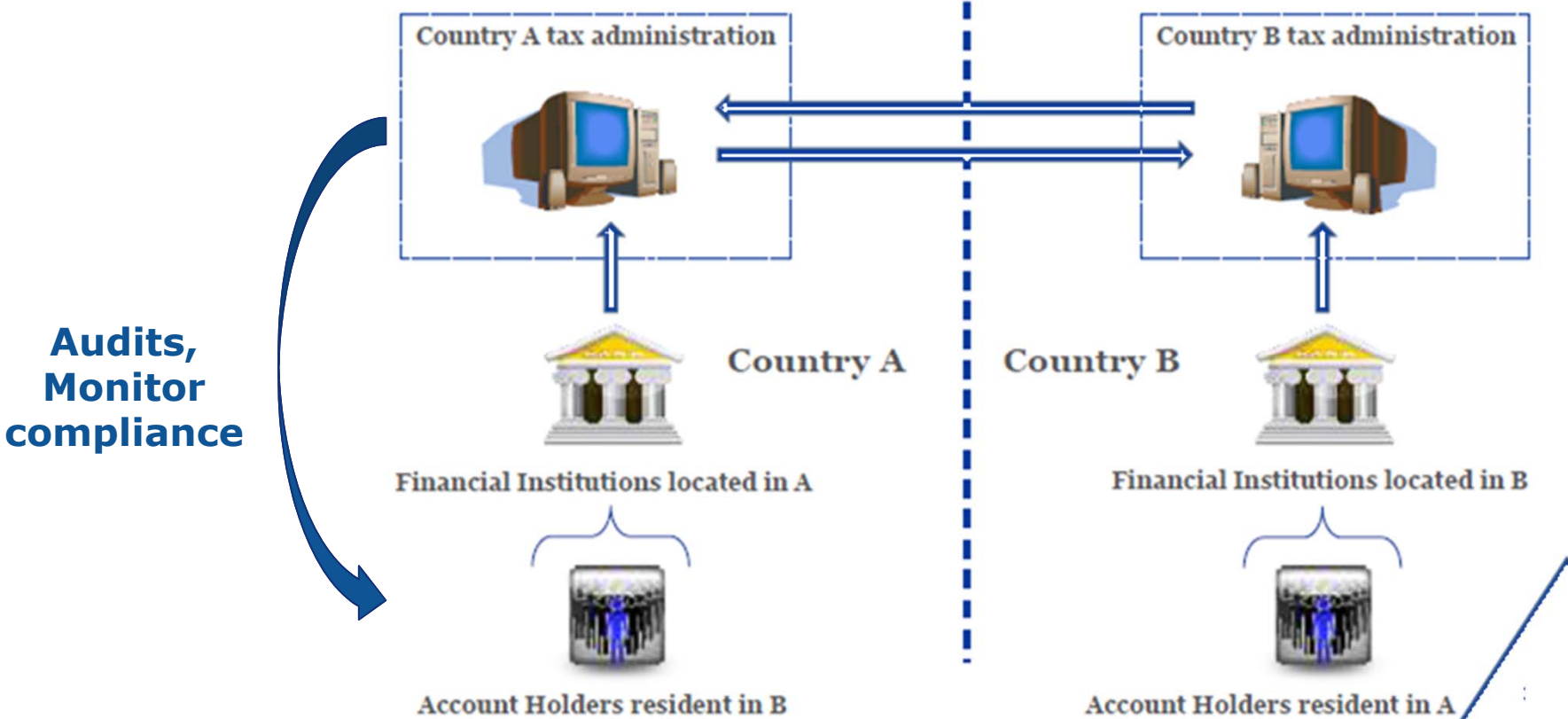
DAC5 – The proposal

- **MS tax administrations shall have access to beneficial ownership information held by obliged entities and registries collected under AML legislation**
- **Rationale behind the proposal**
 - Identification of beneficial owners behind intermediary entities key in the fight against tax fraud and evasion
 - Uneven access to beneficial ownership information by tax authorities within the EU

Access to:

AMLD provision	explanation	4AMLD	Impact of the 4AMLD proposal
13	Customer due diligence measures	✓	Enhanced to include electronic identification means
30	Information held on registries of BO – entities, trusts and other similar legal arrangements	✓	Access
31		✓	Registration Access
32a	Access to mechanisms on BO of bank accounts	✗	New
40	Documents and information on the customer due diligence and evidence/records of transactions	✓	Enhanced to include electronic identification means

DAC – the basics



"Look-through" for Controlling Persons



- **Corresponds to "beneficial owner" in the Financial Action Task Force Recommendations**
- **Look-through the entity to identify the natural person(s) who exercises control over the entity**
 - For entities: control or ownership interest (often interpreted as >25% ownership)
 - For trusts (and equivalent): settlor(s), trustee(s), protector(s), beneficiary(ies) and other natural person(s) exercising effective control over the trust

Exchange of information on request

- **Pre-requisites**
 - National sources have been exhausted
 - No obligation to collect information if contrary to national law
 - Foreseeably relevant information for tax purposes
 - Use of information for tax – purpose limitation
 - Secrecy requirements
- **Follow-up requests to exchanges resulting from automatic exchange of information would fall into this scope**