



## EUROPEAN COMMISSION

*Brussels, 19.12.2017  
C(2017) 8517 final*

*Dear President,*

*The Commission would like to thank the Senát for its Opinion on the proposal for a Council Directive amending Directive 2011/16/EU as regards the mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements {COM(2017) 335 final}.*

*The proposal aims to reinforce certain transparency aspects of the existing taxation framework with the objective of increasing the amount of information that the tax authorities have at their disposal in the fight against tax avoidance and evasion.*

*The Commission is pleased that the Senát recognises the benefits of the proposed measures for tax administration. Thus, the reporting mechanism and the exchange of information between Member States are meant to give access to useful information for tax administrators on cross-border aggressive tax planning arrangements.*

*As regards the Senát's view that some of the provisions of the proposal are unclear and difficult to grasp, that some areas need to be addressed further and, in particular, that the concepts of a 'hallmark' and of an 'intermediary' require a more precise definition, the Commission would like to clarify that the hallmarks are characteristics/features of arrangements that indicate a potentially high risk of tax avoidance. In this context, definitions need to be broad enough, in order not to be circumvented. The Commission has been consistent in explaining that the reporting of a scheme is meant to give some additional information to the tax authorities but by no means presumes a practice of tax avoidance.*

*As regards the introduction of a limit or rules that would reduce the reporting of standard transactions in order to avoid burdening excessively the entities concerned, the Commission is of the opinion that setting a limit in the form of a minimum threshold would not be appropriate as it would leave room for aggressive tax planning in the case of mass-marketed schemes where the amounts of each scheme are relatively low but*

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*there are hundreds or thousands identical schemes in use on the market. While a single arrangement may seem relatively insignificant, if the same mass-marketed arrangement was used by a large number of taxpayers, the overall impact on public revenues could turn out to be quite significant.*

*The Commission hopes that these clarifications address the issues raised by the Senát and looks forward to continuing the political dialogue in the future.*

*Yours faithfully,*

*Frans Timmermans  
First Vice-President*

*Pierre Moscovici  
Member of the Commission*