

Directive 2011/16/EU

Scope (Art. 2)

- .All taxes**
- .Of any kind**
- .By a MS or its territorial or administrative subdivision**

Exceptions

- .VAT, excise duties & customs duties (specific instruments)**
- .Compulsory social security contributions (not tax)**
- .Fees or dues of a contractual nature**

DAC1 - Exchange of information:

- Exchange of information on request (art 5 to 7)

.Time limits:

- .2 months if information available
- .6 months in other cases

- Spontaneous exchange of information (art 9+10)

- .Information of relevance for the tax authorities of another MS
- .At the latest one month after the information becomes available

Exchange of information on request

Limits and obligations (art 17 and 18)

- .National sources have been exhausted**
- .No obligation to collect information if contrary to national law**
- .Information foreseeably relevant for tax purposes**
- .Use of information – purpose limitation**
- .Secrecy/data protection requirements**
- .Obligation to provide information even if held by financial institutions**
- .The requested Member State shall use its measures aimed at gathering information to obtain the requested**

DAC1 - Exchange of information:

- Mandatory automatic exchange of information

(art 8)

.5 categories of income and capital

- .Income from employment
- .Director's fees
- .Pensions
- .Life insurance products
- .Ownership of and income from immovable property

.Remarks

- .Condition of availability
- .National definitions

DAC1 – other forms of cooperation:

- Presence/participation on administrative enquiries (art 11)

- Simultaneous controls (art 12)

.Meetings between auditors of 2 or more MS – planning and overall approach and strategy; consolidation of outcomes

- Administrative notification (art 13)

.Request the notification of any instrument and decision

DAC2 –financial account information

- Context

.Aligned on CRS (Common Reporting Standard) developed by the OECD at the request of G20

- Scope

.Income

.Dividends

.Interests

.Gross proceeds from sale or redemption

.Cash-value insurance contracts

.Account balances

DAC3 – Exchange of tax rulings and APAs

(BEPS 5)

- Scope

- .Advance cross-border rulings
- .Advance transfer pricing arrangements
- .Bilateral or multilateral

- .Scope slightly wider than OECD BEPS 5
- .Exclusion for rulings that exclusively concern the tax affairs of one or more natural persons - art 8a(4)

DAC3 – Exchange of tax rulings and APAs

(BEPS 5)

- Scope

- .Advance cross-border rulings and advance pricing arrangements issued, amended or renewed after 31.12.2016
- .Advance cross-border rulings and advance pricing arrangements issued, amended or renewed within a period beginning 5 years before 1.1.2017 (as a rule)

.Timing

- .Exchanges every 6 months within a period of 3 months.
- .First exchanges by Sept 2017

DAC4 –Country by Country Reporting

(BEPS 13)

.Scope

- . MNE Groups with a total consolidated group revenue exceeding EUR 750 million will be required to prepare the CBCR and report it to tax authorities
- . EU MS shall exchange information on CBCR with MS concerned
- . Information on:

.revenues,

.profits,

.taxes paid,

.capital,

.earnings,

.tangible assets and

.the number of employees on a country-by-country basis

DAC4 –Country by Country Reporting

(BEPS 13)

.Public CBCR not included

.Exchanges

- .MNE groups to report information about 2016 fiscal year by end 2017;*
- .tax administrations to exchange the information by June 2018;*
- .As from the year 2019 exchanges to take place during March.*

DAC5 – Access to BO information

- Scope

.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

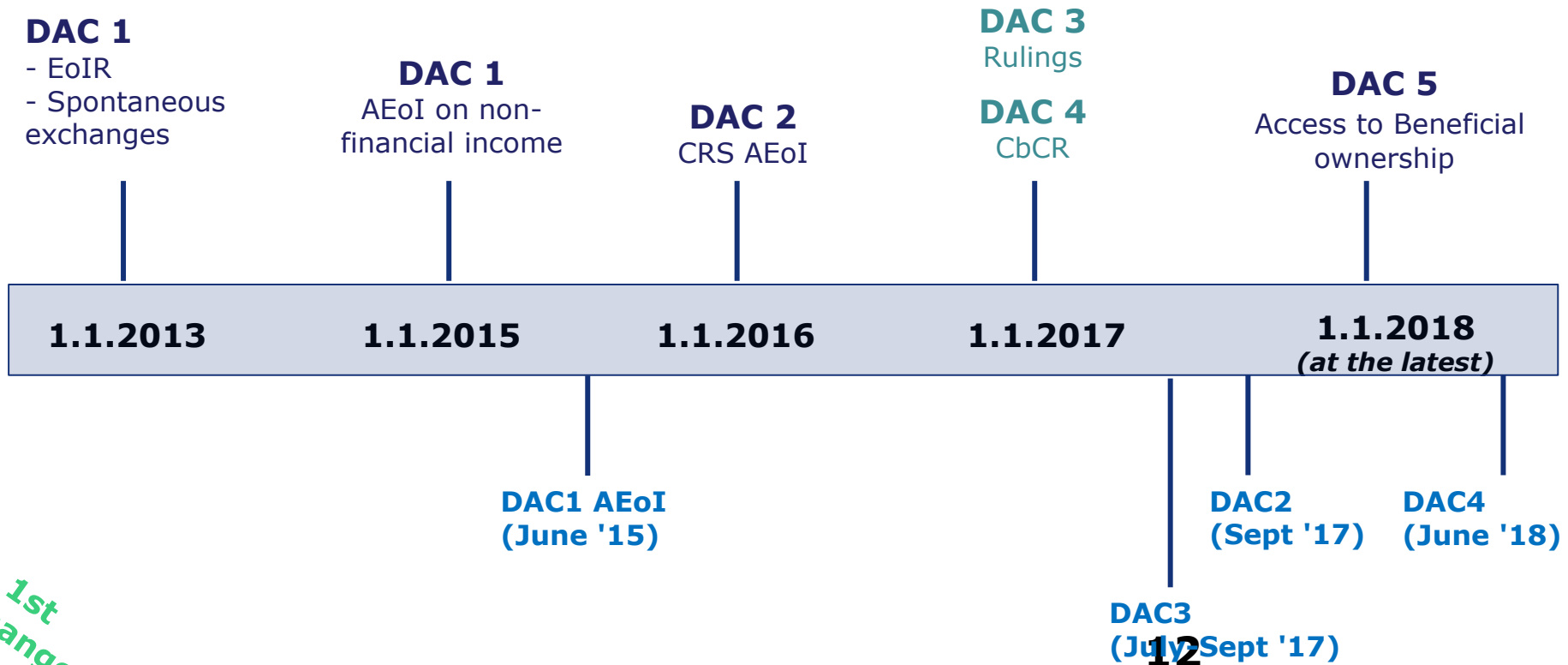
Uneven access to beneficial ownership information by tax authorities

.Timing

1 January 2018

The EU Directive on Administrative Cooperation

Implementation timeline



Overall principles – use of the information : (art 16)

- .obligation of official secrecy and enjoy the protection extended to similar information under the national law
- .Used for the administration and enforcement of the domestic laws of the Member States - taxes referred to in Article 2

Overall principles – use of the information : (art 16)

- .Also: used for the assessment and enforcement of other taxes and duties covered Directive 2010/24/EU concerning mutual assistance for the recovery of claims or for the assessment and enforcement of compulsory social security contributions
- .used in connection with judicial and administrative proceedings that may involve penalties, initiated as a result of infringements of tax law, without prejudice to the general rules and provisions governing the rights of defendants and witnesses in such proceedings.

Other use / purposes of information (Art. 16-2)

.Used for other purposes than those referred to in paragraph 1
if:

- .Permission of the competent authority of the Member State communicating information pursuant to this Directive and
- .Only insofar as this is allowed under the legislation of the Member State of the competent authority receiving the information

.Such permission shall be granted if the information can be used for similar purposes in the Member State of the competent authority communicating the information.

Questions?