

[^{F1}ANNEX III**FILING RULES FOR GROUPS OF MULTINATIONAL ENTERPRISES****Textual Amendments**

- F1** Inserted by [Council Directive \(EU\) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation.](#)

SECTION II

GENERAL REPORTING REQUIREMENTS

1. A Constituent Entity resident in a Member State which is not the Ultimate Parent Entity of an MNE Group shall file a country-by-country report with respect to the Reporting Fiscal Year of an MNE Group of which it is a Constituent Entity, if the following criteria are satisfied:
 - (a) the entity is resident for tax purposes in a Member State;
 - (b) one of the following conditions applies:
 - (i) the Ultimate Parent Entity of the MNE Group is not obligated to file a country-by-country report in its jurisdiction of tax residence;
 - (ii) the jurisdiction in which the Ultimate Parent Entity is resident for tax purposes has a current International Agreement to which the Member State is a party but does not have a Qualifying Competent Authority Agreement in effect to which the Member State is a party by the time specified in Article 8aa(1) for filing the country-by-country report for the Reporting Fiscal Year;
 - (iii) there has been a Systemic Failure of the jurisdiction of tax residence of the Ultimate Parent Entity that has been notified by the Member State to the Constituent Entity resident for tax purposes in the Member State.

Without prejudice to the obligation of the Ultimate Parent Entity referred to in Article 8aa(1) or its Surrogate Parent Entity to file the first country-by-country report for the Fiscal Year of the MNE Group commencing on or after 1 January 2016, Member States may decide that the obligation for Constituent Entities set out in point 1 of this Section shall apply for country-by-country reports with respect to the Reporting Fiscal Years commencing on or after 1 January 2017 onwards.

A Constituent Entity resident in a Member State as defined in the first paragraph of this point shall request its Ultimate Parent Entity to provide it with all information required to enable it to meet its obligations to file a country-by-country report, in accordance with Article 8aa(3). If despite that, that Constituent Entity has not obtained or acquired all the required information to report for the MNE Group, this Constituent Entity shall file a country-by-country report containing all information in its possession, obtained or acquired, and notify the Member State of its residence that the Ultimate Parent Entity has refused to make the necessary information available. This shall be without prejudice to the right of the Member State concerned to apply penalties provided for in its national legislation and this Member State shall inform all Member States of this refusal.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

Where there are more than one Constituent Entities of the same MNE Group that are resident for tax purposes in the Union and one or more of the conditions set out in point (b) of the first paragraph apply, the MNE Group may designate one of such Constituent Entities to file the country-by-country report conforming to the requirements of Article 8aa(3) with respect to any Reporting Fiscal Year within the deadline specified in Article 8aa(1) and to notify the Member State that the filing is intended to satisfy the filing requirement of all the Constituent Entities of such MNE Group that are resident for tax purposes in the Union. That Member State shall, pursuant to Article 8aa(2), communicate the country-by-country report received to any other Member State in which, on the basis of the information in the country-by-country report, one or more Constituent Entities of the MNE Group of the Reporting Entity are either resident for tax purposes or are subject to tax with respect to the business carried out through a permanent establishment.

Where a Constituent Entity cannot obtain or acquire all the information required to file a country-by-country report, in line with Article 8aa(3), then such Constituent Entity shall not be eligible to be designated to be the Reporting Entity for the MNE Group in accordance with the fourth paragraph of this point. This rule shall be without prejudice to the obligation of the Constituent Entity to notify the Member State of its residence that the Ultimate Parent Entity has refused to make the necessary information available.

2. By derogation from point 1, when one or more of the conditions set out in point (b) of the first paragraph of point 1 apply, an entity described in point 1 shall not be required to file a country-by-country report with respect to any Reporting Fiscal Year if the MNE Group of which it is a Constituent Entity has made available a country-by-country report in accordance with Article 8aa(3) with respect to such Fiscal Year through a Surrogate Parent Entity that files that country-by-country report with the tax authority of its jurisdiction of tax residence on or before the date specified in Article 8aa(1) and that, in case the Surrogate Parent Entity is tax resident in a jurisdiction outside the Union, satisfies the following conditions:
 - (a) the jurisdiction of tax residence of the Surrogate Parent Entity requires filing of country-by-country reports conforming to the requirements of Article 8aa(3);
 - (b) the jurisdiction of tax residence of the Surrogate Parent Entity has a Qualifying Competent Authority Agreement in effect to which the Member State is a party by the time specified in Article 8aa(1) for filing the country-by-country report for the Reporting Fiscal Year;
 - (c) the jurisdiction of tax residence of the Surrogate Parent Entity has not notified the Member State of a Systemic Failure;
 - (d) the jurisdiction of tax residence of the Surrogate Parent Entity has been notified no later than the last day of the Reporting Fiscal Year of such MNE Group by the Constituent Entity resident for tax purposes in its jurisdiction that it is the Surrogate Parent Entity;
 - (e) a notification has been provided to the Member State in accordance with point 4.
3. Member States shall request that any Constituent Entity of an MNE Group that is resident for tax purposes in that Member State notifies the Member State whether it is the Ultimate Parent Entity or the Surrogate Parent Entity or the Constituent Entity designated under point 1, no later than the last day of the Reporting Fiscal Year of

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

such MNE Group. Member States may extend that deadline to the last day for filing of a tax return of that Constituent Entity for the preceding fiscal year.

4. Member States shall request that where a Constituent Entity of an MNE Group, that is resident for tax purposes in that Member State, is not the Ultimate Parent Entity nor the Surrogate Parent Entity nor the Constituent Entity designated under point 1, it shall notify the Member State of the identity and tax residence of the Reporting Entity, no later than the last day of the Reporting Fiscal Year of such MNE Group. Member States may extend that deadline to the last day for filing of a tax return of that Constituent Entity for the preceding fiscal year.
5. The country-by-country report shall specify the currency of the amounts referred to in that report.]