

## [<sup>F1</sup>ANNEX IV

### HALLMARKS

#### Textual Amendments

- F1** Inserted by Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements.

#### Part II.

#### Categories of hallmarks

- E. Specific hallmarks concerning transfer pricing
1. An arrangement which involves the use of unilateral safe harbour rules.
  2. An arrangement involving the transfer of hard-to-value intangibles. The term ‘hard-to-value intangibles’ covers intangibles or rights in intangibles for which, at the time of their transfer between associated enterprises:
    - (a) no reliable comparables exist; and
    - (b) at the time the transaction was entered into, the projections of future cash flows or income expected to be derived from the transferred intangible, or the assumptions used in valuing the intangible are highly uncertain, making it difficult to predict the level of ultimate success of the intangible at the time of the transfer.
  3. An arrangement involving an intragroup cross-border transfer of functions and/or risks and/or assets, if the projected annual earnings before interest and taxes (EBIT), during the three-year period after the transfer, of the transferor or transferors, are less than 50 % of the projected annual EBIT of such transferor or transferors if the transfer had not been made.]