

PENDING EUROPEAN LEGISLATIVE INITIATIVES

Documents issued by the EU	Subject matter	Publication date	Timing	
TAX	<p>EC proposal for a Directive amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches on public¹ Impact assessment²</p>	<p>The proposal is founded on the EC's determination to address corporate tax avoidance in Europe and relates to public reporting requirements for EU and non-EU multinational groups with a consolidated turnover exceeding EUR 750 million.</p> <p>The following data must be disclosed:</p> <ul style="list-style-type: none"> • the nature of the enterprise's activity; • the number of persons employed; • the net turnover – including that with related parties; • the profit/loss before tax; • the current year corporate income tax accrued and corporate income tax paid (differences between amounts of tax paid and tax accrued at group level must be explained); 	12 April 2016	<p>In order for the proposal to be approved, both the Council and the Parliament will have to agree on a final compromise text. Subsequently, it will have to be transposed into the Member States' national legislation within one year following its entry into force.</p> <p>SPF Finance competent</p> <ul style="list-style-type: none"> • EP: Adopts its position at first reading on 21/06/2017 • Council: discussions ongoing at a technical level. At least 11 Member States argue for legal base to be in tax – the question of legal basis will be treated at a Ministerial level much later. No major progress should be expected before

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016PC0198>

² <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016SC0117>

	<ul style="list-style-type: none"> the amount of accumulated earnings. <p>The statutory auditor checks whether Country by Country Reporting on income tax information has been submitted and presented in accordance with Directive requirements.</p>	German elections on 24 September.
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TAX	<p>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</p>	<p>Member States' tax administrations to exchange information on tax planning schemes that fulfil a set of agreed criteria. New transparency rules are introduced for intermediaries - such as tax advisors, accountants, banks and lawyers - who design and promote tax planning schemes for their clients.</p>	5 June 2018	<p>The European Commission has published the final version of the tax intermediaries Directive in the Official Journal. This means that the Directive has officially entered into force on 25 June 2018. Tax professionals might already now have to start preparing to comply with the Directive requirements, even if national transposition has not yet taken place. This is because the Directive states that any arrangement that fulfils the hallmarks in Annex IV and whose first implementation step takes place from 25 June 2018 onwards will have to be reported to the relevant tax authority by 31 August 2020. It remains to be seen how different member states</p>
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transpose the Directive, which leaves quite some flexibility for national amendments and additions. For example, some member states might add additional disclosure requirements and expand the scope of the Directive to also cover national arrangements not only cross-border ones.

TAX	Two Directives on Common Consolidated Corporate Tax Base (CCCTB) – with ‘consolidation’ and ‘common’ proposed separately.	The proposals will establish a new common EU-regime for calculating companies’ taxable base and, eventually with consolidation, for allocating the taxable base between countries where the company is present (through the use of “formula apportionment” based on three criteria – assets, labour and sales). Initially proposed in 2011, the Commission has now re-launched the CCCTB with the following main changes: <ul style="list-style-type: none">• In two separate Directives (‘common’ and ‘consolidation’) to make it politically more digestible• Re-branded as an anti-avoidance tool (as	Proposed on 17/10/2016	Council unanimity needed (can also go forward through enhanced cooperation), European Parliament may only provide its non-binding recommendations. Work at technical level ongoing, Maltese Presidency has sought to “clarify” Member States’ positions on the new elements of the proposals by the end of its mandate in June. Under the Estonian Presidency, uncertainty continues. Belgium is concerned about the lack of a country by country impact assessment of the potential effects of a CCCTB on Member States’ tax revenues. On 20 April 2018, Members states decided to freeze some
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		<p>opposed to business simplification)</p> <ul style="list-style-type: none"> • Compulsory for EU groups with an annual turnover above €750 million (aligned to CBCR threshold) • Super-deduction on R&D expenditure for small companies • Allowance for Growth and Investment (AGI) to address debt-equity bias • Aligns anti-avoidance provisions with those of the Anti-Tax Avoidance Directive (ATAD) 		<p>aspects of the technical discussions on CCTB in order for each member state to evaluate the proposal's potential impact on their national tax bases.</p>
TAX	<p>Common EU list of non-cooperative jurisdictions.</p>	<p>EU Member States should agree on a common EU list of non-cooperative jurisdictions with appropriate sanctions. The purpose is to provide a common EU framework and coordinated approach for fighting against "tax havens" outside of the EU. The Commission proposed a set of selection criteria for Member States to agree on. 92 jurisdictions have now been sent letters indicating that they</p>	<p>14/09/2016 Commission published its "scoreboard of indicators" to help determine the potential risk level of each third country's tax system in facilitating tax avoidance.</p>	<p>The EU member states are planning to remove eight out of the 17 jurisdictions from its list of non-cooperative jurisdictions on tax. This is because the jurisdictions have made high-level reform commitments which EU leaders have deemed to be satisfactory. The jurisdictions to be removed would include Panama, South Korea, United Arab Emirates, Barbados, Grenada, Macao, Mongolia and Tunisia. This</p>

will be 'screened' for the purpose of assessing whether they fulfil the criteria of a non-cooperative jurisdiction.

means that American Samoa, Bahrain, Guam, Namibia, Palau, Saint Lucia, Samoa, and Trinidad-Tobago would be retained on the list. The eight jurisdictions would be moved to the so-called grey list, which contains those that have made satisfactory reform commitments but are yet to deliver.

To further bolster the dissuasiveness of the list, the Council's Code of Conduct Group on business taxation will discuss possible sanctions on blacklisted jurisdictions.

TAX	VAT reforms	<p>As part of reforming the EU VAT system and moving to a definitive VAT regime based on the destination-principle, the Commission will propose to:</p> <ul style="list-style-type: none"> • Grant Member States more flexibility in setting their VAT rates (based on two distinctive options) • Gradually move towards the definitive VAT system based on the principle of taxation of the supply 	<ul style="list-style-type: none"> • 07/04/2016 Commission published VAT Action Plan • 20/12/2016 consultation on VAT rates • 20/12/2016 consultation on definitive VAT system for B2B intra-EU transactions on goods 	<ul style="list-style-type: none"> • EC proposed VAT package issued on 4 October 2017 (first step towards the definitive regime, introduction of a number of quick fixes and creation of the concept of Certified Taxable Person (CTP)) • On 17 December 2017, the EC reported on the need for better cooperation to improve tax and VAT collection
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	<p>in the Member State of destination, starting by treating B2B intra-EU transactions of goods in the same way as domestic transactions</p> <ul style="list-style-type: none"> • Establish a special alleviated VAT regime for smaller companies as part of the VAT Directive • Implement additional measures to tackle VAT fraud and, in particular, improve cooperation between tax administrations 	<ul style="list-style-type: none"> • 20/12/2016 consultation on a special scheme for small companies under the VAT Directive • 02/03/2017 Consultation on VAT fraud • 04/10/2017 VAT package • 17/12/2017 three reports and a set of recommendations in order to improve tax and VAT collection in the EU • 19/12/2017 proposal to establish the minimum VAT rate to 15% • 18/01/2018 publication of a new VAT package consisting of two core elements: a proposed reform of VAT rates and a proposed reform of the special VAT scheme for SMEs 	<p>for national budgets. The positive impact of the EU wide cooperation between tax administrations on tax collection was highlighted.</p> <ul style="list-style-type: none"> • On 19 December 2017, the EC has published and calls for stakeholders' views on a proposal to establish the EU minimum standard VAT rate to 15% even under an eventual destination-based regime. • The proposals issued on 18 January 2018 will have to be adopted by unanimity in the Council. The ECON Committee has published draft reports on three pending VAT proposals: the VAT rates reform (The ECON Committee is currently expected to vote on the file on 3 September, followed by a Plenary vote possibly on 2 October), the definitive
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regime and certified taxable person (CTP) (The ECON Committee is currently scheduled to vote on the draft report on 3 September 2018) and the special VAT scheme for SMEs (adopted on 11 July and followed by a Plenary vote possibly on 11 September).

- The Commission has published a new consolidated version of its VAT Directive on 12 July 2018.

ANTI-MONEY LAUNDERING COUNTER-TERRORIST FINANCING

Directive³(EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU

Key issues are:

- Terrorist financing
- Enhanced customer due diligence with regard to business relationships
- Anonymous prepaid cards
- Virtual currencies
- Exchange of information between FIUs
- registers: centralised automated mechanisms for bank and payment

19 June 2018

Among other things, the Directive:

- expands the scope of the 4th AMLD to include any other person that undertakes to provide, directly or by means of other persons to which that other person is related, material aid, assistance or advice on

³ https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2018.156.01.0043.01.ENG

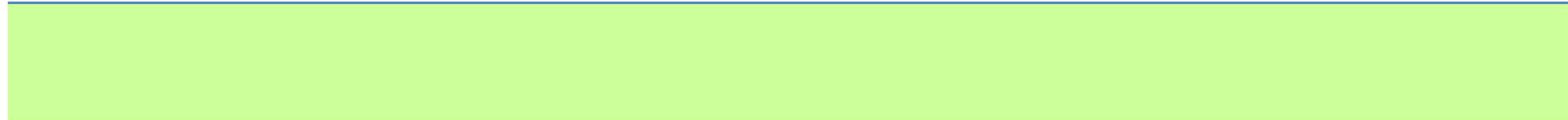
	<p>accounts in order to identify the beneficial owner</p> <ul style="list-style-type: none"> • Beneficial ownership registers (public access, verification of data) 	<p>tax matters as principal business or professional activity;</p> <ul style="list-style-type: none"> • provides public access to beneficial ownership (BO) information for corporate entities and trusts • harmonizes the measures applicable in case of enhanced due diligence • expands the list of criteria for the identification of AML/CFT high-risk third countries <p>Belgium will need to implement the Directive by 10 January 2020.</p> <p>SPF Finance competent</p>
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WHISTLEBLOWING	The EC published a new Directive for the protection of whistleblowers. The Directive is accompanied by a	The Directive's scope covers whistleblowing on breaches of EU legislation. The proposal seeks to introduce minimum	23 April 2018	the European Parliament and the Council will both formulate their respective opinions on the Commission proposal, and will
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	<p>Communication explaining the rationale for the Commission proposal, as well as an Annex.</p>	<p>standards for protection in a wide range of areas. However, it fails to be truly horizontal, which could lead to confusion about its scope.</p> <p>Of interest from a tax perspective, whistleblowers will also be protected when reporting on breaches of corporate tax rules, I.E tax avoidance. This is hardly surprising, however, given that the Luxleaks scandal which triggered the still ongoing tax reform revolution in the EU also raised questions about (the lack of) whistleblower protection in Europe.</p>	<p>have to agree before it can become EU law. The transposition deadline, as set in the Directive, is 15 May 2021.</p>
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<p>SINGLE MARKET FOR SERVICES</p>	<p>Directive (EU) 2018/958 of the European Parliament and of the Council of 28 June 2018 on a proportionality test before adoption of new regulation of professions⁴</p>	<p>The scope of the directive is to create a legal framework for conducting proportionality assessments before introducing new or modifying existing legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions.</p>	<p>9 July 2018</p>	<p>To be implemented by 30 July 2020. SPF Economy competent</p>
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⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32018L0958&from=fr>



CORPORATE GOVERNANCE AND COMPANY LAW	EC proposal : Business Insolvency Directive – 2 nd chance in case of bankruptcy (part of Capital Markets Union)	⁵ Key issues: <ul style="list-style-type: none">• Further specialisation of insolvency practitioners and courts.• Reducing the cost and length of insolvency proceedings.• Early access to help: Member States need to raise awareness on availability of expert advice.• Incentivize directors for early and appropriate action in case of financial distress.• Cross Border proceedings: simplify cross-border insolvency proceedings.	Proposal issued on 22.11.16.	Both the European Parliament and Council have to agree to approve the proposal Rapporteur is Angelica Niebler (DE, EPP) and responsible Committee is the one of Legal Affairs. SPF Justice competent
	EU Company law package	<ul style="list-style-type: none">• Proposal for a directive amending Directive (EU) 2017/1132 as regards the use of	25.04.18	The JURI Committee is expected to vote on the EP draft report on 19 October.

⁵ http://ec.europa.eu/justice/civil/files/insolvency/insolvency_study_2016_final_en.pdf

digital tools and processes in company law

- Proposal for a directive amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions.

DATA PROTECTION

Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC⁶ (General Data Protection Regulation)

The data protection reform is a key enabler of the Digital Single Market which the Commission has prioritized. The reform will allow European citizens and businesses to fully benefit from the digital economy. It will require practitioners to revise their current procedures.

27 April 2016

Deadline: 25 May 2018

Implementation finalized in Belgium (Law of 30 July 2018 published on 5 September 2018)

The Commission published in January 2018 an information notice to stakeholders about the legal repercussions of Brexit for compliance with the General Data Protection Regulation (GDPR).

This will affect accountancy practices which are based in a EU non-UK Member State and which process personal data in the UK. For example, when making use of a cloud service provider with servers in the UK.

⁶ http://ec.europa.eu/justice/data-protection/reform/files/regulation_oj_en.pdf

Therefore, it is important to check with IT suppliers whether any personal data is transferred to the UK.

Because of Brexit, the UK will become a 'third country' from 30 March 2019. From that moment, the GDPR's rules for transfer of personal data to third countries will apply to such transfers from EU Member States to the UK.

To recall, businesses can benefit from an adequacy decision to transfer personal data to countries outside the EU. Under EU privacy rules this is only allowed when the same level of data protection can be guaranteed. An adequacy decision is adopted when the Commission considers the level of protection of third countries as 'adequate'.

The Commission has so far recognized Andorra, Argentina, Canada (commercial organisations), Faeroe Islands, Guernsey, Israel, Isle of Man,

Jersey, New Zealand, Switzerland and Uruguay as providing adequate data protection. The Commission also considers that there is adequate protection to transfer personal data to US- based companies that are signed up to the EU-US Privacy Shield.

CMU	Prospectus Regulation	<p>The agreed new legislation aims to make it simpler and less expensive for companies, especially SMEs, to access and raise money in the capital markets. The legislation will reduce the administrative burden of drawing up prospectuses for all issuers, in particular for SMEs, by permitting lighter, less burdensome prospectus, which also allows for passporting and encourages cross-border issuance. The regulation will also make the prospectus a more relevant disclosure tool for potential investors, while giving crowd-funding platforms space to grow and unifying EU capital markets to deliver high levels of investor protection, which will create growth and jobs.</p>	<p>Commission proposed Prospectus Regulation on 30 November 2016</p>	<p>SPF Finance competent The new prospectus regulation (part of Capital Markets Union) was published in the Official Journal on 30 June 2017. Applicable as from 21 July 2019.</p>
CMU	CMU mid-term review	<p>EC Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the Mid-Term Review of the Capital Markets Union Action Plan.</p>	08/06/2017	<p>Council adopted conclusions on CMU mid-term review (11 July 2017).</p>

		The Commission has launched a public consultation on building a more proportionate regulatory regime for SME listings.	18/12/2017	A possible legislative proposal is to be expected.
CMU	Review of the structure and governance of European Supervisory Authorities (ESAs)	As part of the CMU project and further capital market integration, global financial markets and Brexit, the Commission published a proposal for a regulation for reforming the funding, powers and governance of ESAs. Three main objectives of the proposal are the strengthening and improvement of ESAs' powers, the establishment of a more effective governance and an appropriate funding for the ESAs.	20/09/2017	The Commission is providing an opportunity for stakeholders to share their initial thoughts on the proposal. The Commission communicate to the Council and the European Parliament any views from stakeholders. However, it will still be possible to engage on conventional outreach activities afterwards. A vote in ECON Committee is currently scheduled for 5 November 2018. Following the vote in ECON, the European Parliament may proceed to negotiate with the member states in the Council to reach a mutually agreeable compromise that is, if the member states manage to finalise their own positions. Several member states feel that the Commission proposals are too ambitious.
CMU	EU strategy on sustainable finance	As part of the CMU project, the Commission will seek to develop a EU-level framework for	24/05/2018 Commission published its first	The package of proposals include the following items:

	<p>sustainable finance, including green bonds. The Commission established a High-Level Expert Group (HLEG) on sustainable finance with the purpose of issuing recommendations to the Commission for a EU strategy on sustainable finance.</p>	<p>legislative proposals on sustainable finance</p>	<ul style="list-style-type: none"> • taxonomy: establishing harmonised criteria to determine if an economic activity is sustainable/green • investor's duties: disclosure for sustainable investment and sustainability risks • benchmarks: establishing low carbon benchmarks and positive carbon impact benchmarks
<p>Commission Action Plan on Fintech and crowdfunding Regulation</p>	<p>The Fintech Action Plan recognises both the risks (cyber risks) and opportunities (digital identification, mobile applications, cloud computing, big data analytics, AI, DLT) stemming from this sector. It sets out measures the Commission intends to undertake to both facilitate Fintech development, as well as to protect consumers, investors and the financial sector at large from potential dangers.</p> <p>As part of its FinTech Action Plan, the Commission also proposed a EU framework for crowdfunding. The proposal establishes a stand-alone voluntary European crowdfunding regime under the label of a European Crowdfunding</p>	<p>08/03/2018</p>	<p>Following the publication of the European Parliament's draft report, the ECON Committee has held a first discussion on the topic. In terms of next steps, the ECON Committee will vote on the draft report. After ECON has adopted the draft report, the European Parliament may enter negotiations with member states in the Council in order to find a mutually agreeable compromise. This whole process will take several months at best.</p>

	<p>Services Provider (ECSP) in other words, a EU-label for investment and lending based crowdfunding platforms.</p> <p>The crowdfunding initiative comes in the form of a new Regulation as well as amendments to MiFID.</p>	<p>In terms of next steps, the European Parliament and Council will now form their respective positions on the proposals. After this, they have to find a mutually agreeable compromise, before the new rules can become EU law. This process will take months at best.</p>
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<p>CMU</p>	<p>Regulation on a Pan-European Personal Pension Product (PEPP)</p>	<p>The proposed PEPP will, notably, enable workers moving from country to country to save seamlessly into one retirement pot. As such, PEPP should be thought of as a 'quality label' for personal pension products (PPPs) tailored for cross-border situations. In turn, it would release additional funding for EU capital markets.</p> <p>Overall, PEPP is designed to give savers more choice when they</p>	<p>29/06/2017</p> <p>19/06/18</p>	<p>Member States and the European Parliament will co-legislate on equal terms. The ECON Committee of the European Parliament has published its draft report on the Pan-European Personal Pension Product. On Member States' side, Germany has expressed scepticism.</p> <p>The Council has agreed on its position to the Commission proposal for a Pan-European Personal Pension Product</p>
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are saving for retirement, and provide them with a wider range of more competitive products. It can be offered by a broad range of financial companies such as insurance companies, banks, occupational pension funds, some investment firms as well as asset managers.

The PEPP would be available to savers as a voluntary complement to public and occupational pension systems, alongside existing national private pension schemes and PPPs. The PEPP proposal is part of the Commission's CMU project.

(PEPP). The Council has introduced major amendments to the provisions concerning portability and default option. However, member states wish to see a stronger role for national supervisors, instead of the more pan-European approach proposed by the Commission under the supervision of the European Insurance and Occupational Pensions Authority (EIOPA). A vote is expected in ECON Committee on 3 September 2018.