

## [<sup>F1</sup>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 I

##### DEFINED TERMS

1. The term ‘Group’ means a collection of enterprises related through ownership or control such that it is either required to prepare Consolidated Financial Statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange.
2. The term ‘Enterprise’ means any form of conducting business by any person referred to in points (b), (c) and (d) of Article 3, point 11.
3. The term ‘MNE Group’ means any Group that includes two or more enterprises the tax residence for which is in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction, and is not an Excluded MNE Group.
4. The term ‘Excluded MNE Group’ means, with respect to any Fiscal Year of the Group, a Group having total consolidated group revenue of less than EUR 750 000 000 or an amount in local currency approximately equivalent to EUR 750 000 000 as of January 2015 during the Fiscal Year immediately preceding the Reporting Fiscal Year as reflected in its Consolidated Financial Statements for such preceding Fiscal Year.
5. The term ‘Constituent Entity’ means any of the following:
  - (a) any separate business unit of an MNE Group that is included in the Consolidated Financial Statements of the MNE Group for financial reporting purposes, or would be so included if equity interests in such business unit of an MNE Group were traded on a public securities exchange;
  - (b) any such business unit that is excluded from the MNE Group's Consolidated Financial Statements solely on size or materiality grounds;
  - (c) any permanent establishment of any separate business unit of the MNE Group included in (a) or (b) provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting, or internal management control purposes.
6. The term ‘Reporting Entity’ means the Constituent Entity that is required to file a country-by-country report conforming to the requirements in Article 8aa(3) in its jurisdiction of tax residence on behalf of the MNE Group. The Reporting Entity may be the Ultimate Parent Entity, the Surrogate Parent Entity, or any entity described in point 1 of Section II.

7. The term ‘Ultimate Parent Entity’ means a Constituent Entity of an MNE Group that meets the following criteria:
  - (a) it owns directly or indirectly a sufficient interest in one or more other Constituent Entities of such MNE Group such that it is required to prepare Consolidated Financial Statements under accounting principles generally applied in its jurisdiction of tax residence, or would be so required if its equity interests were traded on a public securities exchange in its jurisdiction of tax residence;
  - (b) there is no other Constituent Entity of such MNE Group that owns directly or indirectly an interest described in point (a) in the first mentioned Constituent Entity.
8. The term ‘Surrogate Parent Entity’ means one Constituent Entity of the MNE Group that has been appointed by such MNE Group, as a sole substitute for the Ultimate Parent Entity, to file the country-by-country report in that Constituent Entity's jurisdiction of tax residence, on behalf of such MNE Group, when one or more of the conditions set out in point (b) of the first paragraph of point 1 of Section II apply.
9. The term ‘Fiscal Year’ means an annual accounting period with respect to which the Ultimate Parent Entity of the MNE Group prepares its financial statements.
10. The term ‘Reporting Fiscal Year’ means that Fiscal Year the financial and operational results of which are reflected in the country-by-country report referred to in Article 8aa(3).
11. The term ‘Qualifying Competent Authority Agreement’ means an agreement that is between authorised representatives of an EU Member State and a non-Union jurisdiction that are parties to an International Agreement and that requires the automatic exchange of country-by-country reports between the party jurisdictions.
12. The term ‘International Agreement’ means the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, any bilateral or multilateral tax convention, or any tax information exchange agreement to which the Member State is a party, and that by its terms provides legal authority for the exchange of tax information between jurisdictions, including automatic exchange of such information.
13. The term ‘Consolidated Financial Statements’ means the financial statements of an MNE Group in which the assets, liabilities, income, expenses and cash flows of the Ultimate Parent Entity and the Constituent Entities are presented as those of a single economic entity.
14. The term ‘Systemic Failure’ with respect to a jurisdiction means either that a jurisdiction has a Qualifying Competent Authority Agreement in effect with a Member State but has suspended automatic exchange (for reasons other than those that are in accordance with the terms of that Agreement), or that a jurisdiction otherwise persistently failed to automatically provide to a Member State country-by-country reports in its possession of MNE Groups that have Constituent Entities in that Member State.]