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**WORKING PAPER**

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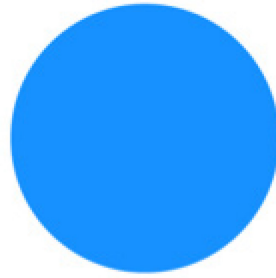
**WORKING DOCUMENT**

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From:	Presidency
To:	Working Party on Tax Questions (Direct Taxation – DAC)
Subject:	PowerPoint presentation

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Delegations will find attached a presentation from the Presidency that was given during the meeting on 15 November 2017.



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# How does DAC6 work?

# When does an arrangement become reportable cross-border arrangement (RCBA)?

1. Is there an arrangement that:

- concerns either more than one Member State, OR
- a Member State and a third country (preamble of p 18 of art 3)?
  - NO => no RCBA
  - YES =>

2. Does the arrangement meet at least one of the additional conditions (subp a-e of p 18 of art 3)?

- NO => no RCBA
- YES =>

# When does an arrangement become reportable cross-border arrangement (RCBA)?

- Does the arrangement satisfy the main benefit test AND contain any of the generic hallmarks under category A or specific hallmarks under category B or D or paragraph 1 of category C?
  - YES => RCBA
  - NO =>
- Does the arrangement contain any of the hallmarks under paragraphs 2 – 5 of category C or category E?
  - YES => RCBA
  - NO => no RCBA

Intermediary  
agrees RCBA  
with Parent  
CO

**MS A**



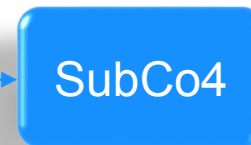
**MS B**



**MS C**



**MS D**



RCBA cross-border  
merger of companys  
in SubCo3 and  
SubCo4

## Participant in the arrangement becomes a 'relevant taxpayer' when:

- the participant is:
  - a person AND
  - to whom RCBA is made available for implementation, OR
  - who is ready to implement RCBA, OR
  - who has implemented the first step of such RCBA.

## Intermediary will report to the tax authorities of the given state when:

- He has a taxable presence in that jurisdiction AND
- He has made the RCBA available for the relevant taxpayer, OR
- The first step in implementing the RCBA has been made (by the relevant taxpayer) AND
- He does not use a waiver related to legal professional privilege



## Taxpayer will report the RCBA when:

- There is no intermediary either because:
  - Intermediary does not have taxable presence in EU
  - RCBA is an 'in-house arrangement'
  - Intermediary uses legal professional privilege
- There is no intermediary vis-a-vis relevant taxpayer (last slide)

## Multiple intermediaries:

- Reporting obligation lies on the intermediary who:
  - is in charge of agreeing RCBA, OR if no such intermediary
  - manages the implementation of RCBA

## Multiple taxpayers:

- Reporting obligation lies on the relevant taxpayer who:
  - was in charge of agreeing RCBA with intermediary, OR if no such taxpayer then
  - manages the implementation of RCBA



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