

## Cum-ex tax fraud scandal: MEPs call for inquiry, justice, and stronger tax authorities

- EU financial watchdog authorities should conduct an inquiry into dividend arbitrage trades
- National authorities must bring perpetrators and enablers to justice
- EU rules on mandatory exchange of tax information must also require disclosure of dividend arbitrage schemes
- Tax administrations need to be built up and cross-border tax investigation capabilities set up

### **MEPs on Thursday called for an inquiry, rule changes and stronger tax authorities as a result of the EUR 55 billion cum-ex tax fraud.**

The tax fraud, which was uncovered by a team of investigative journalists and has affected at least 11 EU member states and cost taxpayers up to EUR 55 billion, was already the subject of a debate during the October plenary session and has now been supplemented with a resolution adopted by a show of hands.

#### **Inquiry needed**

MEPs call on the EU's European Securities and Markets Authority and the European Banking Authority to conduct an inquiry into the schemes at the root of the fraud to assess potential threats to financial markets, establish the actors involved in these schemes, evaluate if there were breaches of national or EU law, and examine the actions taken by national supervisors. The inquiry should also identify the failings in "the coordination across the member states which allowed these tax theft schemes to continue for years, despite having been identified". Finally, the inquiry should also present recommendations for reform and for action, MEPs say.

Moreover, the resolution urges the national authorities to "end white-collar impunity" by opening criminal investigations, imposing dissuasive penalties and bringing justice on the "perpetrators and enablers, including not only tax advisers but also lawyers, accountants and banks".

#### **EU rule changes**

MEPs say that changes to the Directive on mandatory exchange of tax information (DAC6) are needed to also oblige the disclosure of schemes established for dividend arbitrage. They also call on the Commission to revise the Directive on the common system of taxation and to look into ways of limiting the use of structures like special purpose vehicles, which have been central to cum-ex trades.

### **Improve tax surveillance**

The resolution recognises that the crisis of 2008 and the ensuing cuts in public spending have not spared tax authorities. It calls on member states to invest in and modernise the tools available to tax authorities, and to provide adequate human resources to improve surveillance and ensure better information sharing.

The MEPs also call on the Commission to propose a European framework for cross-border tax investigations, the setting up of an EU Financial Intelligence Unit, and an early warning mechanism.

### **Background**

The cum-ex tax fraud, uncovered in 2012, initially thought to have only affected Germany, is now estimated by an investigative journalist consortium to have been at least ten times more costly than originally thought. It may have affected treasuries from the following 11 EU countries: Germany, Belgium, France, Spain, Italy, the Netherlands, Denmark, Austria, Finland, Poland, Czech Republic, as well as Norway and Switzerland.

The fraud revolved around banks facilitating the buying and then reselling of shares belonging to foreign investors on the dividend pay-out day. The speed with which these transactions were carried out and the lack of communication between authorities meant that tax administrations struggled to identify the shares' real owners. This then exposed the authorities to fraudulent claims, for tax refunds from foreign persons who pretended to have paid a dividend tax, which, as foreigners with a fictitious proof of having paid tax elsewhere, they could recover. Often, tax authorities reimbursed an unpaid tax many times over.

### **Further information**

[Adopted text \(29.11.2018\)](#)

[Video recording of the debate \(23.10.2018\)](#)

[Procedure file](#)

[Committee on Economic and Monetary Affairs](#)


[Cum Ex Scandal; financial crime and the loopholes in the current legal framework: extracts from the vote](#)


## Contacts

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John SCHRANZ

Press Officer

 (+32) 2 28 44264 (BXL)

 (+33) 3 881 74076 (STR)

 (+32) 498 98 14 02

 [@EP\\_Economics](https://twitter.com/EP_Economics)

 [john.schranz@europarl.europa.eu](mailto:john.schranz@europarl.europa.eu)

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