

A few more words on DAC6

Following the brief introduction in our [first issue](#), we are ready to explore more aspects of EU Council Directive 2018/822, which is the fifth amendment to the Directive on Administrative Cooperation (DAC), or simply DAC6.

DAC6 is actually European Commission's response to Action 12 of the OECD Base Erosion and Profit Shifting (BEPS) Project, as well as to the Mandatory Disclosure Rules for addressing CRS avoidance arrangements and opaque offshore structures, also proposed by OECD. In this context, UK, Ireland and Portugal already had similar rules which have proven very effective in clamping down on domestic tax abuse.


Regarding the practical implementation of DAC6, the European Commission has explained that it is not institutionally in the position to issue further guidance. However, Member States can issue further guidance. It has also clarified that DAC6 does not provide for the option for setting up a (white) list of reportable cross-border arrangements that do not need to be reported under DAC6.

Therefore, being aware of the details of national DAC6 implementation is crucial, and for this purpose we have prepared this digital newsletter.

Implementation tracker (status as at 30 November 2019)

Map Key


Implementation status:

 Implemented (DAC6-conform)

 Implemented (broader scope)


 Draft (DAC6-conform)

 Draft (broader scope)


 No draft legislation yet

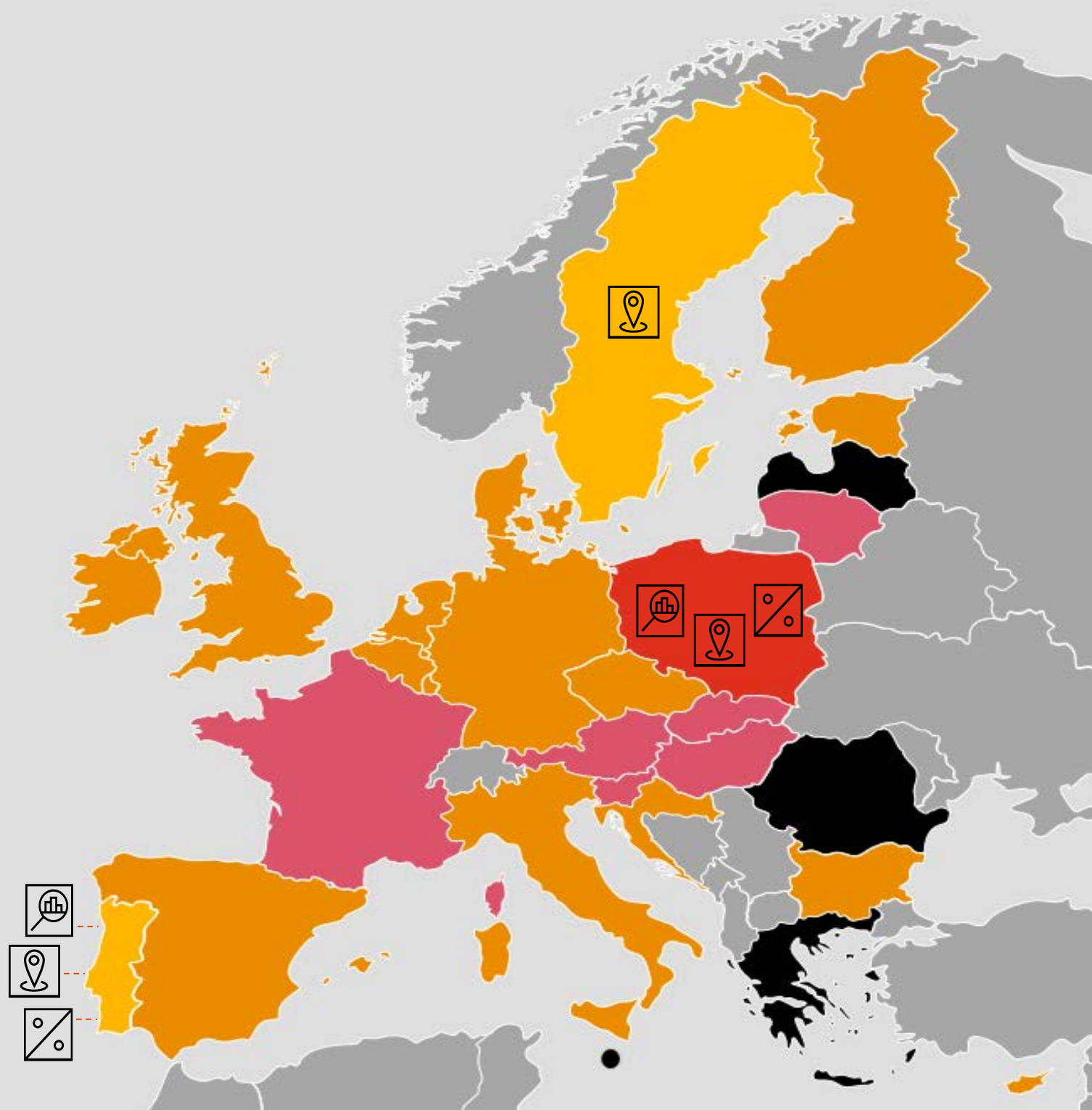
 Non-EU countries

Derogations applied:

 Additional hallmarks included

 Domestic transactions covered

 Other taxes (e.g. VAT) covered



Latest DAC6 developments

- **Belgium, Denmark, Finland:** Draft bill implementing DAC6 presented to the Parliament.
- **Bulgaria:** The Parliament adopted on a preliminary reading the draft bill.
- **Cyprus:** Public consultation ended.
- **Netherlands:** Final proposal has been adopted by the Lower House of Representatives and is expected to pass the Senate in mid December. Clarifications were provided during parliamentary proceedings.
- **Spain:** Draft forms for DAC6 reporting under public consultation.

Notable national implementation aspects

- **Cyprus:** A tax advantage arises in relation to the taxes within the scope of the DAC i.e. EU taxes.
- **France:** Customs and excise duties or VAT are not expressly excluded, however, are expected to be.
- **Germany:** In some points the detailed design of the hallmarks differs from DAC6.
- **Ireland:** Unlike in DAC6, definitions of “tax advantage” and “arrangement” are provided.
- **Netherlands:** A group company of the taxpayer itself is considered as an intermediary, for example when its tax specialists perform the tax function for the whole group.
- **UK:** DAC6 is expected to be implemented regardless of what happens on Brexit.

Special story: Demystifying the DAC6 myths

In fact, there are three basic situations, where the reporting obligation is shifted to the taxpayer:

- a) In-house schemes, where there is no intermediary;
- b) The intermediary is in a third country without any taxable presence in the EU; or
- c) The intermediary benefits from a waiver. In this case, the intermediary has to inform the relevant taxpayer accordingly.

DAC6 concerns only intermediaries

Myth #1

Reportable arrangements are any cross-border arrangements that contain at least one of the hallmarks, which are defined as characteristics or features that present an indication of a potential risk of tax avoidance. However, they do not as such constitute a finding of tax avoidance, but rather denote tax planning arrangements which tax administrations may wish to have closer look at.

Myth #2

A reportable arrangement denotes tax avoidance

The term “arrangement” is defined by DAC6

Myth #3

Myth #4

Only EU companies are affected by DAC6

The term arrangement within the meaning of the Directive has a broad scope, as no definition is provided. There is a reference that an arrangement can also include a series of arrangements and could comprise more than one step or part. However, according to the [Commission Services](#), Member States are free to define an “arrangement” insofar as the output does not limit the scope of the Directive.

Multinational companies with headquarters outside the EU could fall under the mandatory disclosure rules if a link to an EU country is established. This clearly indicates that they should not underestimate the implications of DAC6, as failure to comply could mean sanctions. For such companies the development of a structured approach to prepare for DAC6 should start now!

Useful links

[DAC6: The EU Directive on cross-border tax arrangements](#)

[EMEA webcast on DAC6](#)

[EU MDR - Key themes and expert insights for business \(PwC UK\)](#)

[The Polish MDR from foreign entities and individuals perspective](#)

[Hallmark of the month: E3](#)

How can PwC help you

Our team combines experts in tax, people, processes, data and technology. By bringing these different skill sets together, we can help you and your organization understand DAC6, and the broader tax policy context, and implement effective controls and processes to ensure all reportable cross-border arrangements are proactively identified and managed.

Furthermore, we have developed a **DAC6 Smart Reporting tool** that makes use of technology to ensure DAC6 compliance, while keeping costs under control. Find out more [here](#).

Stay tuned for our next issue featuring B2 as the “Hallmark of the month”!

Our team

Netherlands

Edwin Visser

[E-mail](#)

+31 88 792 36 11

Bulgaria

Orlin Hadjiiski

[E-mail](#)

+359 2 93 55 142

Czech Republic

David Borkovec

[E-mail](#)

+420 251 152 561

Finland

Mikko Reinikainen

[E-mail](#)

+358 20 7877463

Greece

Mary Psylla

[E-mail](#)

+30 21 0687 4543

Italy

Enrico Macario

[E-mail](#)

+39 320 430 5409

Luxembourg

Sami Douenias

[E-mail](#)

+352 49 48 48 3060

Poland

Sławomir Krempa

[E-mail](#)

+48 22 746 6874

Slovakia

Christiana Serugová

[E-mail](#)

+421 25 935 0614

Sweden

Marcus Hammarstrand

[E-mail](#)

+46 10 213 14 34

Austria

Richard Jerabek

[E-mail](#)

+43 1 501 88 3431

Croatia

Hrvoje Jelic

[E-mail](#)

+385 (1) 6328 830

Denmark

Anne Cathrine Primdal

Allentoft

[E-mail](#)

+45 39 45 94 35

France

Emmanuel Raingeard

de la Blétière

[E-mail](#)

+33 1 56 57 40 14

Hungary

Bálint Gombkötö

[E-mail](#)

+36 30 590 0264

Latvia

Zlata Elksnina

[E-mail](#)

+371 6709 4514

Malta

Mirko Rapa

[E-mail](#)

+356 2564 6738

Portugal

Leendert Verschoor

[E-mail](#)

+351 213 599 631

Slovenia

Miroslav Marchev

[E-mail](#)

+386 1 583 6058

Switzerland

Bruno Hollenstein

[E-mail](#)

+41 58 792 43 72

Belgium

Pieter Deré

[E-mail](#)

+32 498 48 95 11

Cyprus

Joanne Theodorides

[E-mail](#)

+357 22 553694

Estonia

Hannes Lentsius

[E-mail](#)

+372 6141 800

Germany

Arne Schnitger

[E-mail](#)

+49 30 2636 5466

Ireland

Denis Harrington

[E-mail](#)

+353 (0) 872318277

Lithuania

Asta Mineikiene

[E-mail](#)

+370 687 31417

Netherlands

Robert Jan Meindersma

[E-mail](#)

+31 0887926186

Romania

Andreea Mitirita

[E-mail](#)

+40 722942017

Spain

Roberta Poza Cid

[E-mail](#)

+34 915 684 337

United Kingdom

Adrian Rudd

[E-mail](#)

+44 7753 928353