



# Euro Tax Flash from KPMG's EU Tax Centre



## Background

### Status of implementation across EU Member States

### Status of implementation in certain non-EU Member States

### EU Tax Centre comment

## **EU Mandatory Disclosure Requirements – state of play**

### **European Union – Directive on Administrative Cooperation – Mandatory Disclosure Requirements – Implementation – Member States – Updates**

As previously reported, mandatory disclosure requirements (MDR) for intermediaries and relevant taxpayers entered into force in the European Union on June 25, 2018, to be applied as of July 1, 2020. Most, but not all, Member States met the December 31, 2019 deadline to transpose the new rules into domestic law.

This seventh Special Edition Euro Tax Flash summarizes the most recent status of the implementation of the new rules into Member States' domestic legislation, as at January 8, 2019.

## **Background**

Following a proposal put forward by the European Commission, the new mandatory disclosure requirements were introduced as an amendment to the Directive on Administrative Cooperation in the Field of Taxation (DAC6) and will apply from July 1, 2020.

DAC6 introduces an obligation on intermediaries to disclose information on cross-border arrangements that meet certain criteria to their domestic tax authorities and to introduce rules for the subsequent exchange of this information between tax administrations. According to the final text, as of July 1, 2020 all disclosures must be made within 30 days of implementation.

Intermediaries and relevant taxpayers will also be required to disclose information on reportable cross-border arrangements, the first step of which is to be implemented between June 25, 2018 and July 1, 2020. This information should be filed by August 31, 2020.

Please refer to the new [MDR Updates section](#) on the EU Tax Centre website where commentary on the latest MDR developments across EU Member States can be found.

## **Status of implementation across EU Member States**

### **Austria**

On October 10, 2019, a bill to transpose the provisions of DAC6 into Austrian domestic law entered into law. The provisions of the Austrian mandatory disclosure law are closely aligned to the text of DAC6. The Austrian law will be applicable as of July 1, 2020.

For further information, please refer to [Austrian MDR implementation summary](#).

### **Belgium**

On December 12, 2019, the Belgian Parliament adopted a bill to transpose DAC6 into domestic law. The bill, which mirrors the Directive, was published in the Official Gazette in Belgium on December 30, 2019.

For further information, please refer to our [Belgian MDR implementation summary](#).

### **Bulgaria**

On December 18, 2019, the Bulgarian Parliament approved a bill to transpose DAC6 into Bulgarian domestic law. The bill was published in the Bulgarian State Gazette on December 31, 2019.

The main provisions of the bill align with the text of the Directive, including the descriptions of the hallmarks, the scope of the taxes covered and the definitions of key terms. Penalties of up to approx. EUR 4,000 can apply where sole traders or legal entities report incomplete or inaccurate information. Reduced penalties apply to individuals and other offenses.

### **Croatia**

On November 29, 2019, the Croatian Parliament approved a bill to transpose DAC6 into Croatian domestic law. The bill has been published in the Official Gazette in Croatia and entered into force on January 1, 2020.

### **Cyprus**

On March 19, 2019, the Cypriot Ministry of Finance circulated a bill to transpose DAC6 into Cypriot national legislation. A public consultation process on the bill was opened on October 22, 2019 and ran until November 12, 2019. It is expected that the bill will be presented to the Cypriot Parliament shortly and be enacted into law in February or March of 2020. Official guidance is expected to be issued by the Cypriot tax authorities following the enactment of the law.

## The Czech Republic

On November 29, 2019, the Czech Parliament initiated an approval process in respect of a bill to incorporate DAC6 into Czech domestic law. The approval process is likely to take several months and the bill may change accordingly.

For more information, please refer to our [Czech MDR implementation summary](#).

## Denmark

On December 19, 2019 the bill to transpose the terms of DAC6 into Danish law was passed by the Danish Parliament. This grants the Danish tax authorities the mandate to issue administrative regulations, a draft text of which was subject to public consultation. It is expected that further guidelines will be published in early 2020.

For more information, please refer to [Euro Tax Flash Issue 416](#).

## Estonia

The DAC6 transposition law was adopted on December 18, 2019 and has entered into on January 1 of this year. The scope of the legislation does not extend to types of taxes that are otherwise excluded from the scope of DAC6. Estonian mandatory disclosure rules will also only apply for “cross-border arrangements with a potential tax avoidance risk” and the main provisions of the law align with the text of the Directive, including the descriptions of the hallmarks. Failure to submit information can give rise to penalties of up to EUR 3,300.

## Finland

On October 31, 2019, the Finnish Government presented a bill to the Finnish Parliament to incorporate the provisions of DAC6 into Finnish legislation. The law was subsequently approved by parliament and entered into force on January 1, 2020. The rules will apply to arrangements made available for implementation on or after July 1, 2020, in line with the provisions of DAC6. It is expected that draft guidelines from the Finnish tax administration will be released in late January or beginning of February 2020.

For more information, please refer to [Euro Tax Flash Issue 416](#).

## France

The Law authorizing the French Government to adopt, via a Ministerial Order, rules to implement DAC6 into local French law before October 24, 2019. Following the conclusion of a consultation process with the French Council of State, the corresponding Ministerial Order was published on October 22, 2019.

For more information, please refer to [Euro Tax Flash Issue 415](#).

## Germany

On December 12, 2019, the German Parliament (Bundestag) approved a bill to transpose DAC6 into German domestic law. The bill was approved by the German Federal Council

(Bundesrat) on December 20, 2019 and published in the Official Gazette on December 30, 2019. The transposition process is therefore complete.

The legislation is largely consistent with the previous version of the bill published on October 9, 2019 (details of which are included in [Euro Tax Flash Issue 415](#)) with two notable exceptions. Where legal professional privilege applies, intermediaries can be relieved of the requirement to file a report on a redacted / no names basis if the user of the arrangement reports this information separately. The legislation also includes a form of “white list” of arrangements that would not be deemed to satisfy the main benefit test.

#### [Greece](#)

Draft legislation to transpose DAC6 into Greek domestic law is not yet publicly available.

#### [Hungary](#)

The DAC6 implementation bill entered into force in Hungary on July 24, 2019 and will apply from July 1, 2020. The practical aspects of mandatory disclosure reporting in Hungary are still to be clarified (i.e. how detailed the reporting requirements will be or the manner in which the rules will be enforced).

#### [Ireland](#)

On October 17, 2019, proposed legislation to transpose the provisions of DAC6 into Irish domestic law was included as part of the Irish Finance Bill 2019. The bill was signed into law by the Irish President on December 22, 2019 and its provisions will come into operation on July 1, 2020. Additional guidance on the application of the rules is expected to be published by the Irish tax authorities in the second quarter of 2020.

For more information, please refer to our [Irish MDR implementation summary](#).

#### [Italy](#)

On October 18, 2019, legislation which allows the Italian Government to implement DAC6 into Italian domestic legislation by way of decree (with only a consultative role for the Italian Parliament) was published in the Italian Official Gazette. The Legislative Decree and the accompanying Non-regulatory Decree necessary to set out the technical implementation rules are not yet available.

#### [Latvia](#)

No significant steps have been taken by the Latvian authorities to prepare a bill to transpose DAC6 into Latvian domestic law.

#### [Lithuania](#)

On July 16, 2019, the Lithuanian Parliament adopted a bill to transpose the core provisions of DAC6 into Lithuanian national law. The bill has since been signed into law by the Lithuanian President and will come into operation on July 1, 2020.

For more information, please refer to [Euro Tax Flash Issue 415](#).

### [Luxembourg](#)

On 26 July 2019, the Luxembourg Government approved a bill to transpose the provisions of DAC6 into Luxembourg domestic law. The bill was made publicly available on August 8, 2019 but has not yet been voted by the Luxembourg Parliament. While comments on the bill have been provided by the Luxembourg Chamber of Commerce, comments are still awaited from the Conseil d'Etat (the highest consultative body in Luxembourg). The Luxembourg Government may amend the bill further once all comments have been received. It is expected that the bill will be enacted in early 2020.

### [Malta](#)

On December 17, 2019, regulations to transpose DAC6 into Maltese domestic law was published in the Maltese Official Gazette – the transposition process is therefore complete. The provisions set out in the regulations will be fully operational on July 1, 2020. In line with the provisions of DAC6, reporting also extends to arrangements the first step of which was implemented on or after June 25, 2018.

For more information, please refer to our [Maltese MDR implementation summary](#).

### [The Netherlands](#)

On December 17, 2019, the Dutch Parliament adopted a bill to transpose DAC6 into Dutch law. This follows a legislative process in the Dutch Parliament where the Deputy Minister of Finance provided clarifications in relation to certain terms and hallmarks to questions raised by various members of parliament. The Dutch Ministry of Finance plans to issue more detailed guidance in the first quarter of 2020.

For more information, please refer to our [MDR implementation summary for the Netherlands](#).

### [Poland](#)

As previously reported in [Euro Tax Flash Issue 394](#), mandatory disclosure rules that go beyond the text of DAC6 apply in Poland as of January 1, 2019. On January 31, 2019, the Polish Ministry of Finance published guidelines for the application of the new reporting rules, which contain a list of arrangements that should generally not be treated as reportable. Please note that even though the text published on January 31 is the final version of the guidelines, Polish procedural law allows for future amendments to be made.

### [Portugal](#)

The Portuguese Government published a bill to transpose DAC6 into Portuguese law for public consultation on May 28, 2019. The bill received detailed feedback and a revised text is expected to be published in the coming weeks. It is not expected that a final version of the bill will be available until January or February 2020.

## Romania

The Romanian Ministry of Finance published a draft DAC6 transposition bill on January 9, 2020. It is expected that a public consultation process will follow. The main provisions of the bill are closely aligned with the text of the Directive, including the descriptions of the hallmarks, the scope of the taxes covered and the definitions of key terms. Additional guidance on the hallmarks may follow in 2020.

Certain categories of intermediaries may benefit from a waiver for legal professional privilege, provided that the information is obtained as part of legal proceedings. Under the draft bill, such intermediaries may nevertheless disclose the information to the tax authorities provided that the relevant taxpayer allows them to do so. If no such notification is received from the taxpayer, exempt intermediaries will be required to notify any other intermediary or, if there is no such intermediary, the relevant taxpayer of their reporting obligations.

Penalties for non-compliance with the DAC6 reporting obligation can reach the equivalent of EUR 20,000 – if the information is not disclosed or it is disclosed after the relevant deadline and EUR 10,000 – if the information disclosed is incomplete or incorrect. Intermediaries covered by the legal professional privilege which fail to notify the other parties involved may be subject to penalties of up to the equivalent of EUR 6,000.

## Slovakia

On October 1, 2019, the Slovakian President signed into law a bill to transpose the provisions of DAC6 into Slovakian domestic law. The rules are applicable as of July 1, 2020.

The main provisions of the bill are closely aligned with the text of the Directive, including the descriptions of the hallmarks, the scope of the taxes covered and the definitions of key terms. Additional guidance may follow in 2020. Penalties for non-compliance can reach EUR 30,000 and can be imposed for each infringement.

## Slovenia

On June 22, 2019, the bill to transpose the provisions of DAC6 into Slovenian domestic law entered into effect. The rules are applicable as of July 1, 2020.

The legislation does not extend to types of taxes that are otherwise excluded from the scope of DAC6. Slovenian mandatory disclosure rules will also only apply for “cross-border arrangements” and the main provisions of the law align with the text of the Directive, including the descriptions of the hallmarks. Additional guidance may follow in 2020. Failure to submit information can give rise to penalties of up to EUR 30,000 but this penalty could increase to up to EUR 150,000 if the non-reporting is considered to be a serious tax offense.

## Spain

Draft regulations to incorporate DAC6 into Spanish law were published for public consultation on June 20, 2019. In addition, the Spanish tax authorities published draft regulations on three new models for reporting cross-border arrangements. However, in light of the current political situation in Spain, the regulations have not yet been finalized.

## Sweden

On December 5, 2019, the Swedish MDR Committee presented its draft proposal to the Swedish Council on Legislation. While a draft proposal presented in January 2019 suggested that the scope of Swedish MDR could be extended to cover domestic arrangements, this is no longer included in the latest proposal. The bill was presented to the Council on Legislation for comments and is expected to be sent to the Swedish Parliament in early 2020.

## The United Kingdom

On July 22, 2019, Her Majesty's Revenue and Customs (HMRC) issued draft regulations to incorporate DAC6 into UK law alongside a public consultation document. It is expected that a revised set of regulations and guidance will be present to parliament in early 2020.

## Status of implementation in certain non-EU Member States

### The Channel Islands

On October 1, 2019, a briefing note was issued by the Guernsey Revenue Service on Mandatory Disclosure Rules on Common Reporting Standard (CRS) Avoidance Arrangements and Offshore Opaque Structures. This followed the launch of a public consultation process in Jersey which ran from September 23, 2019 to November 1, 2019. Guernsey, Jersey and the Isle of Man had all previously made commitments to introduce a form of mandatory disclosure legislation by the end of 2019. Draft legislation for each jurisdiction is not yet available.

### Mexico

A bill introducing a form of mandatory disclosure reporting was approved by the Mexican Chamber of Deputies on September 8, 2019, as part of a wider economic package for the year 2020. The bill was later approved by the Mexican Chamber of Deputies and by the Mexican Senate and is now in force. Following the inclusion of a new chapter on the Disclosure of Reportable Operations in the Mexican Fiscal Code, tax advisors will be required to report (in January 2021 with respect to operations carried out in 2020) to the tax authorities on certain operations in which they are involved. Relevant taxpayers will be required to report on qualifying existing operations that have a tax impact in 2020.

For more information, please refer to the following [newsletter](#).

### Norway

On June 27, 2019, a Norwegian Official Report ("NOU") was published proposing to introduce mandatory disclosure rules in Norway. The NOU was subject to a public consultation process which closed on December 2, 2019. The proposal is largely in line with DAC6 but includes certain adjustments and exemptions. It is not yet clear when the introduction of mandatory disclosure rules in Norway will be finalized.

## EU Tax Centre comment

At the date of this publication, fifteen EU Member States (Austria, Belgium, Bulgaria, Croatia, Estonia, France, Germany, Hungary, Ireland, Lithuania, Malta, the Netherlands, Poland,

Slovakia and Slovenia) had finalized their respective legislative processes to implement DAC6. The DAC6 implementation deadline of December 31, 2019 was therefore not met by the remaining thirteen Member States. However, Cyprus, the Czech Republic, Denmark, Finland, Italy, Luxembourg, Portugal, Romania, Spain, Sweden and the United Kingdom have made progress on the transposition of the Directive and it is expected that most of these Member States will have their rules in place in early 2020. Greece and Latvia are yet to make public the text of their respective DAC6 implementation bills.

The EU Tax Centre will continue to monitor and provide commentary on MDR developments across the EU in 2020. In this regard, a new [MDR Updates section](#) has been added on the EU Tax Centre website, where the latest developments are readily accessible, including country-specific commentaries. Additional MDR implementation summaries will be uploaded to this website in the coming weeks. For information on the impact of the mandatory disclosure rules and the approach developed by KPMG to assist clients with their processes and controls and also on the related technology solution, please refer to the [EU MDR page](#).

Should you have any queries, please do not hesitate to contact [KPMG's EU Tax Centre](#), or, as appropriate, your local KPMG tax advisor.



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