



EU Mandatory Disclosure Regime for cross-border transactions

Do you have the governance and technology framework in place to comply?

On 25 May 2018, the ECOFIN Council formally adopted the Directive on mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements (DAC 6). The main purpose of DAC 6 is to strengthen tax transparency and fight against aggressive tax planning through the disclosure of cross-border arrangements, CRS avoidance schemes and offshore structures.

The first reportable transactions will be those whose first implementation step occurs between 25 June 2018 and 1 July 2020 (i.e. the date of application of the Directive). This information will be reported to tax authorities by 31 August 2020. Going forward the reportable transactions will have to be reported within 30 days leaving only one month to collect and report information.

1. Why is it important?

- Going forward taxpayers and intermediaries will be required to disclose certain **cross-border arrangements** to the relevant tax authorities.
- Broadly, **any transaction involving two countries where one is in the EU** will need to be considered.
- The arrangements are reportable if they fall within certain hallmarks. These **hallmarks are very broadly-defined and will capture a wide range of transactions.**

2. When do the rules apply?

- While the Luxembourg legislation is not yet available, **transitional rules apply from 25 June 2018** so taxpayers and intermediaries need to act quickly to make sure they can comply.

3. Who is required to make the disclosure?

- The **obligation to disclose is on the taxpayer unless there is an EU based intermediary** (such as an adviser or service provider) involved in the arrangement, who will be required to disclose.

4. What are the issues?

- A **wide pool** of taxpayers and intermediaries will be impacted, and all cross-border arrangements involving an EU Member State will need to be considered.
- Taxpayers will need to ensure that what is disclosed to tax authorities under these rules is **consistent** with other filings such as Country-by-Country Reporting.
- Any information disclosed will be **shared automatically with all tax authorities in the EU** and there are penalties for non-compliance.
- Taxpayers and intermediaries will need to have the right **governance framework and systems capability** in place to comply with the rules.

What will you need to consider?

Taxpayers and intermediaries will need to be able to answer the following questions in relation to cross-border arrangements:

Should the arrangement be disclosed?

What controls and processes do you have in place to capture and analyse whether a transaction needs to be reported? How will this be monitored where Tax and Compliance are not involved?

Who should make the disclosure?

Are you required to make the disclosure or are there advisers or other third parties involved in advising on a transaction who may have the obligation to report?

What should be disclosed?

Can you capture the right information from your systems and is this consistent with other filings? What are third parties disclosing about you and does it coincide with your understanding?

How can PwC help?

Our team combines experts in tax, people, processes, data and technology. By bringing together these different skill sets, we can help taxpayers understand the new rules and implement effective controls and processes to ensure disclosable events are proactively identified and managed.



Risk assessment

What?

- Are you aware of the scope of the new rules?
- Which of the hallmarks may be applicable for your business and industry?
- How can you leverage existing controls and processes to help you to comply?
- How does the Tax or Compliance team capture transactions which could trigger the wider hallmarks, even where they are not involved?

How?

- Risk Assessment underpinned by a tried and tested methodology to help you assess key risk areas and readiness to comply.



Governance framework

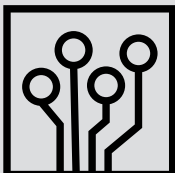
What?

- Are team and individual roles and responsibilities clearly defined?
- Do you have controls in place to identify all potentially impacted transactions and can you leverage existing processes?
- Is the decision making process and control framework formalised and can it stand up to scrutiny?
- Do you know what your advisors will be reporting? Is it consistent with your understanding?

How?

- Comprehensive documented framework to identify and manage risks.
- Clear roles and responsibilities.
- Testing programme for monitoring.

How
can PwC
help



Technology and data

What?

- Do your systems provide relevant data attributes that would help you identify and disclose reportable transactions?
- Would your existing systems and processes enable effective and efficient collation, analysis and sharing of reportable transactions both internally and externally with tax authorities?

How?

- Integrated approach using technology to address multiple reporting requirements using the same data set and reporting mechanism in the required format.



Training

What?

- Are relevant staff appropriately trained to identify potential transactions on an ongoing basis?

How?

- On site trainings with our specialists.
- EU Mandatory Disclosure Regime e-learn module.



Our team

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About PwC Luxembourg

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