

## 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

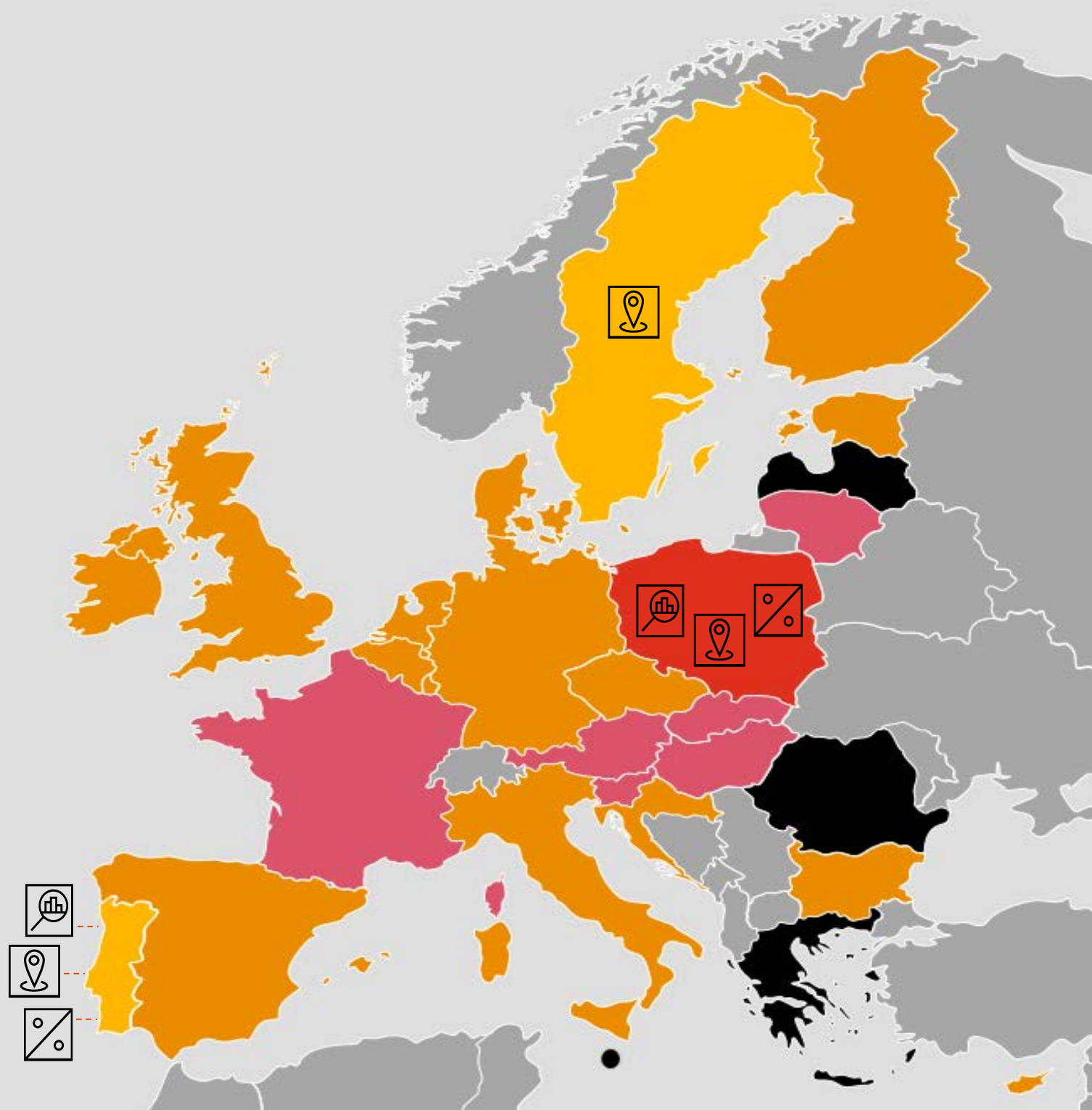
 Non-EU countries

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**

**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”!**

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