



# EU Mandatory Disclosure Directive - Update

## General Background.

Over the past decade, pressure has been mounting on tax authorities worldwide to crack down on aggressive tax structures in an ever more global economy.

In response, the OECD published BEPS Action 12 in 2015 concerning recommendations on the disclosure of aggressive tax planning arrangements, which recommendations were implemented in the 2018 EU Directive on Administrative Cooperation (**DAC 6**).

In March 2021, the EU further expanded the Directive on Administrative Cooperation introducing the automatic exchange of information for digital Reporting Platform Operators (**RPO**) with an EU nexus, which must be implemented in domestic legislation by 31 December 2022 (**DAC 7**).

## What is DAC 6?

DAC 6 provides for the mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements.



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European taxpayers and intermediaries involved in cross-border arrangements should assess their transactions to determine if they have designed, marketed, organized or implemented any cross-border arrangement that involves more than one EU Member State or an EU Member State and a third country and contains at least one of the hallmarks set out in DAC 6.

Procedures for recording and reporting cross-border arrangements should also be geared towards meeting these obligations.

#### **DAC 6 – Hallmarks.**

Objective guidance has been provided in respect of which types of transactions are covered by the Directive in the form of several general and specific hallmarks. Examples include arrangements that give rise to performance fees (A2), mass-marketed schemes (A3), conversion of income (B2), unilateral safe harbor rules (E1) and intragroup restructuring (E3).

Several hallmarks are also subject to the main benefit test (whereby the main expected benefit of a transaction is a tax benefit).

#### **What is DAC 7?**

From 2023 (subject to implementation of DAC 7 into domestic legislation), Reporting Platform Operators will have to report income realized by sellers (on their platform) from relevant activities to the tax authorities of the relevant EU Member States.

The information must be submitted by 31 January of the following calendar year. Relevant activities include, amongst others, personal services, rental services (property and transport) and the sale of goods.





### What Corpag can do for you?

We can assist our clients in understanding the impact of DAC 6 and DAC 7 on their business, identify relevant information which must be reported, and assist in the reporting towards the relevant tax authority in the EU.

Please get in touch with our offices in the EU (Amsterdam, London, Luxembourg, Barcelona, Madrid) for more information on what we can do for you.



***\*\*Disclaimer of No Legal Advice Intended\*\****

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