

# DAC6 Factsheet for Intermediaries – What consultants should know about DAC 6

## WHAT is DAC6?

DAC6 (Directive 2018/822) is a new EU mandatory disclosure regime that imposes mandatory reporting of cross-border arrangements. The aim of the new legislation is to create increased tax transparency in line with the BEPS recommendations of the OECD. All EU Member State – and also the UK - have been obliged to implement the directive into local law by December 2019.

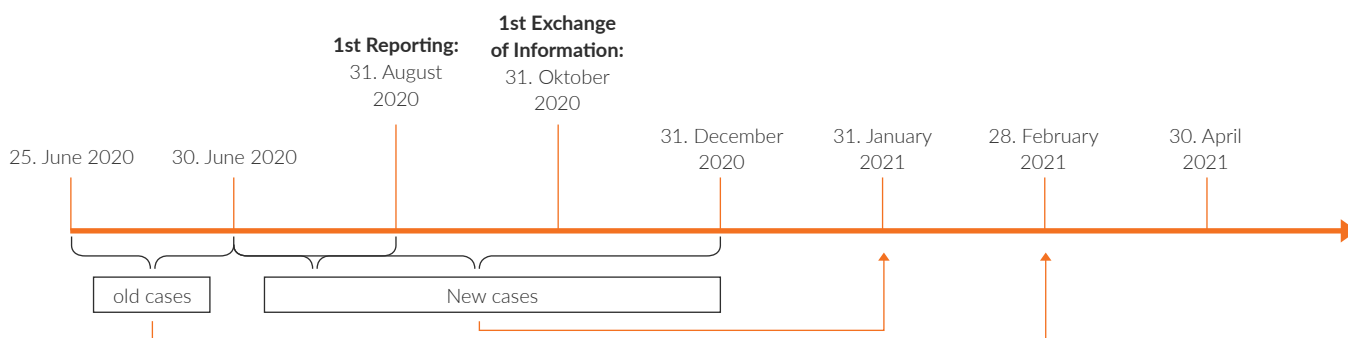
In the future, cross-border arrangements, which meet certain characteristics, must be reported to the relevant authorities within 30 days. Missing these deadlines or a complete failure of filing can result in significant penalties. For the period from June 2018 to June 30th, 2020, the filing deadline was set for August 31st, 2020. In order to provide relief to the parties affected by the filing obligations during the Corona crisis, the European Commission has granted the option of postponing the DAC 6 reporting deadlines by six months as follows:

- Old cases: The reporting deadline for cross-border arrangements concerning the period from June 25th, 2018 to June 30th, 2020 is postponed from August 31st, 2020 to February 2021.
- New cases: The 30 day-reporting period for cross-border tax arrangements from July 1st, 2020 will start on January 1st, 2021
- The first quarterly communication is planned for April 2021.

It is optional for each individual EU member state whether it will make use of this extension. Therefore, the deadlines have to be monitored closely on a country-by-country basis. It is important to note, that this directive only postpones the deadlines for fulfilling the reporting obligations. The date of application of the rules remains as of July 1st, 2020 and cross-border tax arrangements implemented during the postponement must be reported at the end of the moratorium.

### Examples of affected groups of **Intermediaries**

- Tax consultants
- Banks
- Insurances
- Wealth and investment advisors
- Financial Accountants
- Fund promoters
- Trustees
- Lawyers



## WHICH arrangements or structures are subject to reporting?

In case a structure is of a cross-border nature, for example the arrangement affects one EU Member State and at least one other State (EU Member state or not) the new legislation DAC6 will be applicable. At the same time, the arrangement must have a distinctive feature, which at least provides an indication of a possible risk of aggressive tax planning. These characteristics are defined as so-called «hallmarks» in the Directive. As soon as an arrangement has a cross-border element and certain hallmarks are met, it is potentially a reportable arrangement. Different types of hallmarks can be distinguished. Certain hallmarks are already reportable on their own. Other groups of hallmarks also have to meet the so-called main benefit or relevance test in order to become subject to reporting.

### MAIN BENEFIT TEST

#### Definition:

The Main-Benefit-Test is fulfilled if an informed third party, taking into account all material facts and circumstances, can reasonably expect that the main benefit or one of the main advantages of an arrangement is the attainment of a tax advantage“.

Relevant for certain Hallmarks such as:

- Confidentiality agreements
- Success based fees
- Use of standardized documents or structures

## WHAT needs to be done?

### I – Impact Assessment

A comprehensive analysis of the possible relevance and impact of DAC6 is highly recommended for all consultants, even if they are based in e.g. Liechtenstein or Switzerland. The following aspects should be examined in detail:

- Intermediary's own set-up,
- Customer base and
- Advisory services provided.

### II - Review of internal policies, documents & IT solutions

Based on the result of this analysis, the necessary adjustments to internal guidelines or processes have to be determined. In the event of a separate reporting obligation in one or more EU member state, the consultant is obliged to make certain DAC6 reports himself. The necessary processes must be considered and introduced in due time. In addition, it should be examined whether an IT solution to support this process makes sense.

### Why is the DAC 6 Tracker the right IT solution for consultants?

- The DAC6 Tracker was developed by consultants for consultants. It is therefore tailored to the needs of intermediaries like no other tool.
- Due to a smart and rule-bound testing process, the DAC6 Tracker identifies reportable arrangements and qualifies the arrangement according to the relevant hallmark.
- Know-how of industry specialists enabled refined questions on typical transactions or structures.
- Network of international consultants offering country specific support
- Simple, self-explanatory and user friendly
- Secure cloud solution with the possibility to store encrypted data in the country of your choice.

More information about the DAC6 Tracker can be found on [www.dac6tracker.com](http://www.dac6tracker.com)