

UK Government Announces Changes to DAC6 Post-Brexit – Impact for Ireland

EU DAC6 – Mandatory Disclosure of Reportable Cross-Border Arrangements

Directive 2018/822 (DAC6) is an EU Directive requiring EU intermediaries or taxpayers to report information on certain cross-border arrangements to their local tax authorities. Our previous client updates in relation to DAC6 can be found on our website [here](#)¹ and [here](#)².

In an unexpected move on 31 December 2020, at the end of the Brexit transition period, the UK Government published legislation that will narrow the scope of the UK's DAC6 reporting requirements. Only arrangements that meet hallmarks under Category D of DAC6 will need to be reported in the UK. Hallmark D applies to reportable cross-border arrangements that have the effect of undermining rules on beneficial ownership or automatic exchange of information.

Practical Implications for Irish Intermediaries and Taxpayers

There are at least two significant implications for Irish intermediaries and taxpayers arising from the UK position:

1. Irish intermediaries will no longer be able to rely on reporting by UK intermediaries.

The EU DAC6 rules, as implemented in Ireland, provide that an intermediary is exempt from the requirement to file a DAC6 return if another EU intermediary has filed a DAC6 return in another EU member state. An Irish intermediary or taxpayer will no longer be able to rely on a DAC6 return filed in the UK in order to claim an exemption from the requirement to report in Ireland. Under Irish law, the definition of intermediary is limited to persons with an EU connection and, further, the DAC6 rules in the UK are no longer equivalent to the EU rules.

From a practical perspective, in our experience many Irish funds and other investment structure entities may have been considering having a UK based AIFM, legal or tax advisor or investment manager act as primary reporting intermediary for DAC6 where a reporting obligation arose. This approach will now need to be reconsidered.

2. DAC6 reporting obligations may default to Irish taxpayers.

The EU DAC6 rules also provide that where there is no intermediary, the reporting obligation under DAC6 falls on the taxpayer. Where an Irish taxpayer is serviced or advised by a UK intermediary

¹ [Irish Finance Act 2019 – Enactment of the EU Mandatory Disclosure of Cross-Border Arrangements Directive \(DAC6\)](#)

² [Ireland and Luxembourg: Extension of Reporting Deadlines for DAC6, FATCA and CRS](#)

only, and no other intermediary, the Irish taxpayer may need to file a DAC6 return in relation to any reportable cross-border arrangements that it has been involved in. The Irish taxpayer will need to consider whether it is capable of making such filings through the Revenue Online System.

It is important that taxpayers manage DAC6 appropriately in order, for example, to avoid having multiple reports made of the same transaction (potentially in more than one jurisdiction), to monitor the number of reports being made and to avoid a situation where reports are wrongly made by intermediaries. This new change in the UK may impact the management of the DAC6 process by a taxpayer and will need to be considered carefully.

Maples Group

The Maples Group is working with clients to provide legal advice and guidance with respect to the DAC6 obligations of intermediaries and taxpayers, through our dedicated DAC6 team, which comprises tax and dispute resolution lawyers.

Further Information

If you require any further advice or assistance please speak to your usual Maples Group contact or any of the below.

Dublin

Andrew Quinn

Head of Tax
+353 1 619 2038
andrew.quinn@maples.com

William Fogarty

Partner
+353 1 619 2730
william.fogarty@maples.com

Lynn Cramer

Partner
+353 1 619 2066
lynn.cramer@maples.com

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