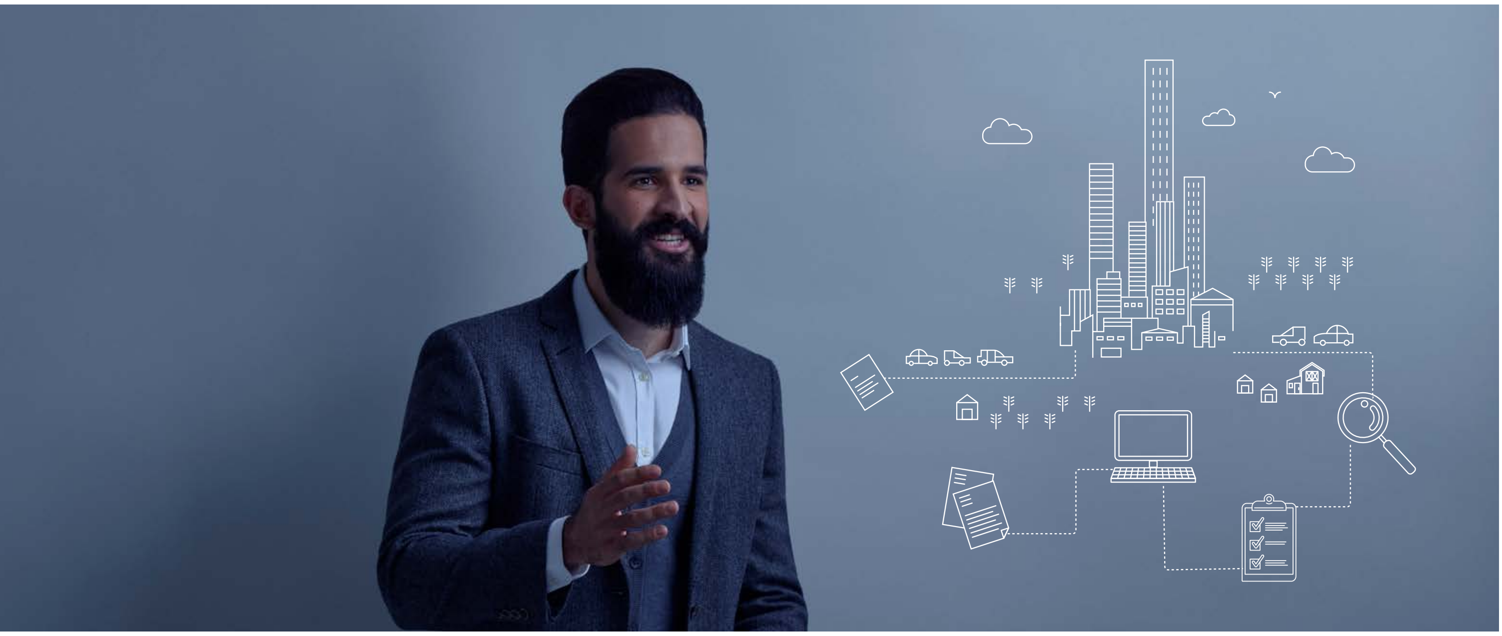

# LATEST DEVELOPMENT ON DAC6 – REPORTING DEADLINES

The Council of the European Union (EU) has reached an agreement to allow Member States to exercise the option to defer the DAC6 reporting deadline by six months. Some EU Member States, have recently exercised the option to extend the deadline, however it is still uncertain whether all EU Member States will extend the reporting deadlines. Therefore, now it's time to act.

## Background

On May 08, 2020, the European Commission had released a proposal to extend the filing deadlines under DAC6 due to Coronavirus crisis. In our earlier newsletter explaining the implications of the extension, we emphasised that the proposed extension did not provide much comfort, and the urgency for Internationally active companies to act on DAC6 would remain a high priority matter.

## What happened now?

On June 24, 2020, a formal agreement has been reached by the Council of the European Union, and the amending directive was published in the Official Journal of the EU on June 26, 2020. This allows EU Member States to opt for an extension of 6 months to the reporting deadlines for intermediaries and relevant taxpayers. Since the deferral is optional, EU Member States will also have the option to continue applying the original deadlines. This implies that EU Member States could have varying deadlines for reporting.

Given the fact that the original directive becomes effective on July 01, 2020, EU Member States opting to extend the deadline will have to implement the amending directive as soon as possible.

## New Deadlines (If deferral option is exercised)

The so-called "historical reference period" (running from June 25, 2018 up to and including June 30, 2020) shall remain the same. This means that where a so-called reportable cross-border arrangement is made available for implementation, or is ready for implementation, or where the first step in its implementation has been made between June 25, 2018 – June 30, 2020, this arrangement must be reported no later than February 28, 2021 (instead of August 31, 2020).

In the case where deferral option is exercised, the new reference period (1 July 2020 until 31 December 2020) shall apply, and the 30-day reporting period shall start from 1 January 2021.

## How are Member States reacting?

Following the agreement of Committee of Permanent representatives proposal by the European Commission on June 03, 2020, several Member States had announced to opt for extension of 6 months however, Finland had announced to continue applying the original deadlines.

On June 26, 2020, Netherlands has also announced to opt for the deferral of reporting deadlines by 6 months. Further communication on the deadlines deferral from other Member States is also expected during the course of ongoing week.

### What does this mean for you?

As the delay is optional, and depends upon the individual decisions of Member States, this may imply different reporting deadlines and potentially added complexity and difficulty for businesses active in the EU.

Jurisdictions offering the extension will allow more time for internationally active companies to get prepared for DAC6, which also includes the process of determining whether or not DAC6 is applicable. However, in some other jurisdictions, where the deferral might not be opted for, the reporting could be due much earlier, hence increasing the compliance burden and risk of penalties in case of delayed or no reporting.

Although the reporting deadline could be extended in some EU Member States, companies must pay attention to fully utilize that extra time as the deadline for "historical reference period" may seem later (at the latest February 28, 2021) but the new reference period also covers a longer period (6 months instead of initial 1 month), i.e. until December 31, 2020 instead of July 31, 2020 .

This implies increased compliance burden to analyse transactions, form conclusions, document transactions and timely report to the relevant tax authorities.

### More information

If you have any questions regarding DAC6 reporting, please contact your trusted RSM advisor.