



PwC's EU Direct Tax Group

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EU Direct Tax Newsalert

EU Member States reach agreement on optional deferral of DAC6 deadlines

A number of EU Member States, including Belgium, Hungary, Luxembourg and Sweden, have announced that they will provide for, and, in the case of Hungary, are considering to provide for, a deferral in their domestic legislation in connection with the original filing deadlines as laid down in Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements ("DAC6").

These recent announcements and statements by Member States follow and reference the political agreement that was apparently reached behind closed doors on 3 June 2020 by the 27 ambassadors to the European Union in the Council's COREPER II (the body preparing the Council meetings) on the European Commission's proposed amendment to DAC6 of 8 May 2020. The agreement in COREPER deviates from the Commission's proposal.

Based on the available announcements made by some of the Member States mentioned above, the agreement reached in COREPER II would allow Member States **on an optional basis** to postpone the filing deadlines as follows:

- for reportable cross-border arrangements the first step of which was implemented between 25 June 2018 and 30 June 2020 the filing deadline would be **by 28 February 2021**
- for where the triggering event for the reporting took place between 1 July 2020 and 31 December 2020, the period of 30 days for filing information would **start on 1 January 2021**
- for marketable arrangements: the first periodic report would have to be made by the intermediary **by 30 April 2021**.
- finally, the amendment proposal would delay the first automatic exchange of information which would have to take place **by 30 April 2021**.

We understand that the agreement apparently contains the possibility to postpone the deadline by another 3 months in case

Member States have to implement lockdown measures.

Next steps

The agreement reached in COREPER II still requires formal adoption by the EU-27 Finance Ministers in the ECOFIN Council, which given the urgency of the matter, will be done by written procedure, subject to receiving the opinions of the European Parliament and of the European Economic and Social Committee (EESC), as well as legal-linguistic revision.

The EESC's opinion is expected on 14 June 2020. We understand that the European Parliament is looking to use its 'urgent procedure' and the dossier is lined up for a debate and vote in the Plenary Session on 17 June 2020. The European Parliament and EESC cannot amend the text of the agreement anymore.

Given the urgency of the matter, Member States agreed that the formal legislative adoption procedure will derogate from the normal eight-week consultation period of national parliaments for newly proposed EU Directives to speed up the process and allow for the amended DAC6 Directive to be adopted and published in the Official Journal of the European Union before the end of June 2020. The amended Directive will enter into force on the day following that of its publication.

Every individual Member State will have to decide on whether they will implement the deadline postponement or stick with the original DAC6 timelines.

