

European Finance Ministers adopt new reporting and exchange of information rules centered around crypto-assets

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In brief

European Finance Ministers met on 16 May as part of the monthly European Council ECOFIN meetings, and agreed to proposed changes to the Directive on Administrative Cooperation in the area of taxation. The changes to the Directive (DAC8) shall, in principle and with minor exceptions, be implemented in EU Member States' legislation by 31 December 2025 and apply from 1 January 2026. While a reporting regime for crypto assets is a core component, the Directive also includes measures strengthening and broadening DACs 1-7, although proposals to provide for minimum penalties have not been agreed. Once the European Parliament presents its opinion on the proposal following final legal checks, the Directive can be formally adopted.

In detail

Overview

The [Compromise Text](#) apparently agreed for the Directive introduces the OECD's Crypto-Asset Reporting Framework (CARF) into the European Union. It imposes new client due diligence and reporting requirements on all crypto-asset service providers – i.e., crypto-asset exchanges and wallet providers – facilitating transactions in crypto-currencies in the European Union. The Directive also provides for enhanced taxpayer identification procedures and the use/ retention of data. Furthermore, it sets the ground for automatic exchange of a) certain rulings granted to natural persons and b) information regarding income derived from non-custodial dividends. The Directive does not provide for minimum penalties for DAC offences since the Finance Ministers did not conclude discussions on these proposals. Finally, it includes an amendment to DAC6 following the CJEU judgment in *Orde van Vlaamse Balies e.a.* (C-694/20).

Implementation of CARF via DAC8

CARF is designed to ensure collection and exchange of information on crypto-asset transactions in a manner similar to the Common Reporting Standard (CRS). CARF builds on the CRS self-certification-based requirement

and existing Anti Money Laundering (AML)/ Know Your Customer (KYC) obligations from Financial Action Task Force (FATF) 2012 Recommendations.

DAC8 updates CRS by introducing new digital financial products within the CRS scope in an effort to ensure a level-playing field between new digital money products and traditional bank and other CRS-reportable accounts. It also aims to improve the functionality of the existing reporting framework through the following adjustments:

- I. **Reporting requirements:** introduction of new reportable data elements
- II. **Due diligence requirements:** AML/KYC rules have been further assimilated to the FATF 2012 Recommendations.
- III. **Commentaries/clarifications on existing definitions:** to adjust the scope of the existing reporting obligations.
- IV. **CBI/ RBI guidance:** identification of high-risk Citizenship and Residence By Investment (or CBI/ RBI) schemes.

DAC8 builds on the [EU Markets in Crypto-Assets Regulation](#) ('MiCA Regulation' - also adopted at the same ECOFIN meeting) and the [Transfer of Funds Regulation](#) (TFR).

Observation: DAC8 covers a broad scope of crypto-assets regulated by MiCA, however, it also applies to other crypto-assets outside of MiCA such as stablecoins, e-money tokens, and certain non-fungible tokens (NFTs). Crypto-assets that can be used for payment or investment purposes are reportable under DAC8. The specific facts and circumstances related to the use and purpose of a crypto-asset will need to be evaluated on a case-by-case basis to determine if it is subject to reporting.

Exchange of information for cross-border rulings for certain natural persons

An automatic exchange of information mechanism is provided for advance cross-border rulings:

- (a) for which the amount of the transaction or series of transactions exceeds EUR 1,500,000 (or the equivalent amount in any other currency), if such amount is referred to in ruling, or
- (b) that exclusively determine whether a person is or is not resident for tax purposes in the Member State issuing the ruling.

The above concerns rulings issued, amended, or renewed after 1 January 2026. Rulings on taxation at source with regard to non-residents' income from employment, director's fees, or pensions shall not be exchanged.

Automatic exchange of information with regard to non-custodial dividends

In order to close loopholes that allow tax evasion, tax avoidance and tax fraud, EU Member States will be required to exchange information related to income derived from non-custodial dividends.

Amendment to DAC6

DAC8 amends DAC6 as a result of the CJEU judgment in *Orde van Vlaamse Balies e.a.* ([C-694/20](#)). With the amendment, the DAC6 provisions do not have the effect of requiring a lawyer acting as an intermediary, where he or she is exempt from the reporting obligation on account of the legal professional privilege by which he or she is bound, to notify any other intermediary who is not his or her client of that intermediary's reporting obligations. However, such a lawyer is required to notify without delay his or her client of his or her reporting obligations.

Other administrative provisions

Each EU Member State is directed to take the necessary measures to require reporting of the tax identification number (TIN) of individuals and entities issued by the EU Member State of residence, with respect to income from employment, director's fees and pensions, advance cross-border rulings and advance pricing arrangements, country-by-country reports and reportable DAC6 cross-border arrangements.

The potential use of information exchanged under DAC is clarified, including for example, for the purposes of customs duties and anti-money laundering.

Member States will have to set rules for retention of the information exchanged but, in general, a minimum of five years will apply.

Observation: The original proposal on penalties suggested by the European Commission, including minimum penalties, was dropped in the text of the Directive agreed on 16th May. The wording has been significantly pared back, and discretion left to the Member States in this regard.

The takeaway

The swift adoption of DAC8 makes the European Union the first mover in this area. This change follows from the agreement resulting in DAC7 (reporting obligation for certain digital platforms), which has now been broadly transposed across the EU Member States. The US Internal Revenue Service is preparing regulations under IRC Section 6045 to implement recent legislation that will require information reporting for Digital Assets, although the timeline on these regulations may be extended. The US regulations are expected to be similar to CARF. Importantly, when transposing the DAC8 changes, Member States should adhere to a consistent approach with the OECD CARF proposals.

Let's talk

For a deeper discussion of how DAC8 might affect your business, please contact:

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