



EU Mandatory Disclosure Regime — an update on the state of play for financial services companies

Thursday 25 June 2020

... with you today



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Administration

Polling questions

- Polling questions will appear as we proceed through the presentation.
- As mentioned, in order to receive the certificate of attendance, we require participants to take part in at least five of the six polling questions.
- If you qualify for the certificate of attendance, it will be sent to you following the webcast.

Attendee questions

- You may submit questions in the *Ask a question* button on the left. We will answer as many questions as we can during Q&A. If we are unable to answer your question during the webcast, someone from KPMG may reply via phone or email following the webcast.
- For technical issues, please use the *Question Mark* button in the upper-right hand corner of the media player.

Your feedback

- When the webcast is over, the webcast player will automatically refresh to display an exit survey. Feel free to complete the survey, as your comments are very valuable to us.

Topics for discussion



- 1 Introduction
- 2 EU update
- 3 Emerging guidance and reactions from tax authorities across Europe
- 4 Market reaction
- 5 Q&A



EU update

Raluca Enache
Mark Semple



Initial timeline



DAC6 is adopted

Formal adoption by ECOFIN

25 May
2018

25 June
2018



Local implementation

Deadline for EU Member States to implement DAC6 into local law

31 December
2019



DAC6 becomes effective

MDRs become applicable

Today

1 July
2020



Automatic exchange

First exchange of information between tax authorities

31 August
2020

31 October
2020



DAC6 enters into force

MDR directive comes into force



State of play

Political agreement reached on deferral

- 22 countries have implemented DAC6
- 5 countries in process of approving MDR legislation
- 1 country: bill not published yet



Deadline

Deadline to file retroactive information

Local implementation — progress so far

Discussions with stakeholders

1. Greece



Draft legislation published

1. Cyprus
2. Czech Republic
3. Italy
4. Portugal
5. Spain



Implementation complete — applicable as of 1 July 2020*

- | | |
|-----------------------------------|-----------------|
| 1. Poland
(already applicable) | 12. Ireland |
| 2. Austria | 13. Latvia |
| 3. Belgium | 14. Lithuania |
| 4. Bulgaria | 15. Luxembourg |
| 5. Croatia | 16. Malta |
| 6. Denmark | 17. Netherlands |
| 7. Estonia | 18. Romania |
| 8. Finland | 19. Slovakia |
| 9. France | 20. Slovenia |
| 10. Germany | 21. Sweden |
| 11. Hungary | 22. UK |

*Unless otherwise indicated



DAC6 Implementation guidance – progress so far

1**Final local guidance available**

- Denmark
- Finland
- Slovenia
- Sweden

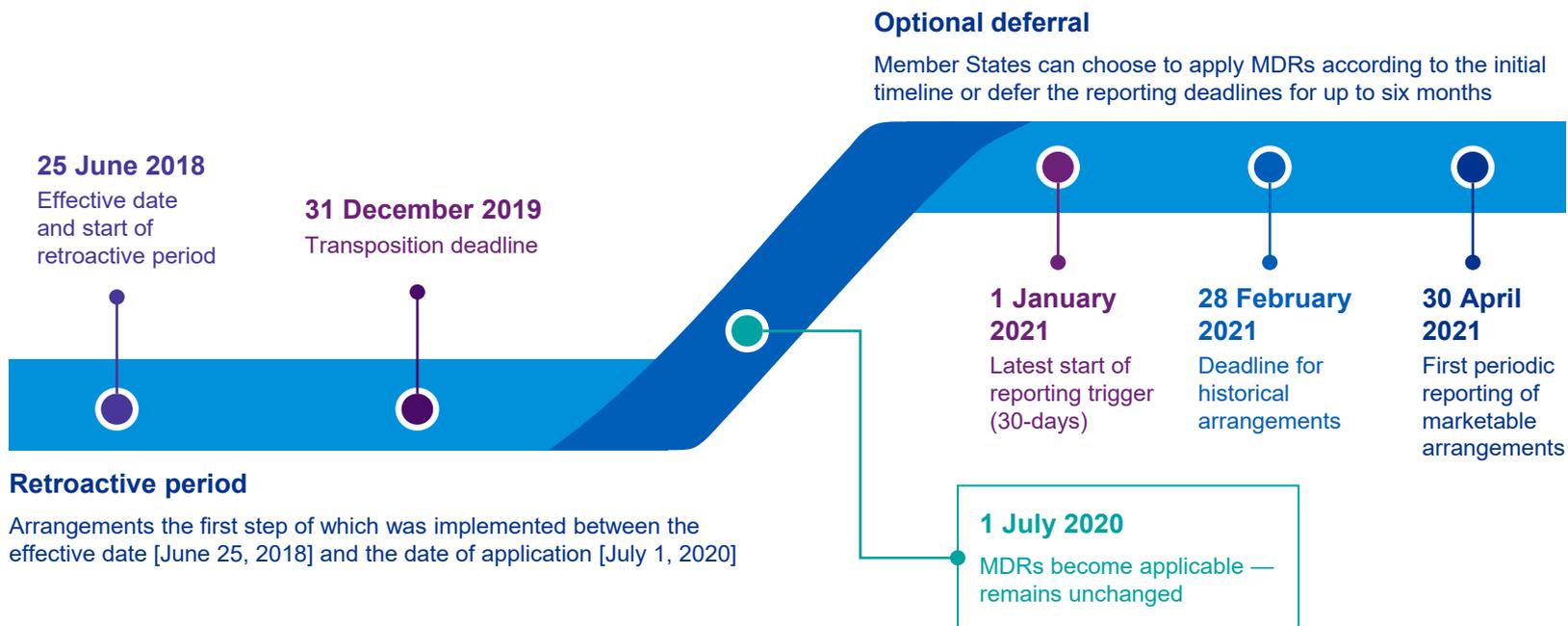
2**Draft local guidance available**

- Estonia
- France
- Germany

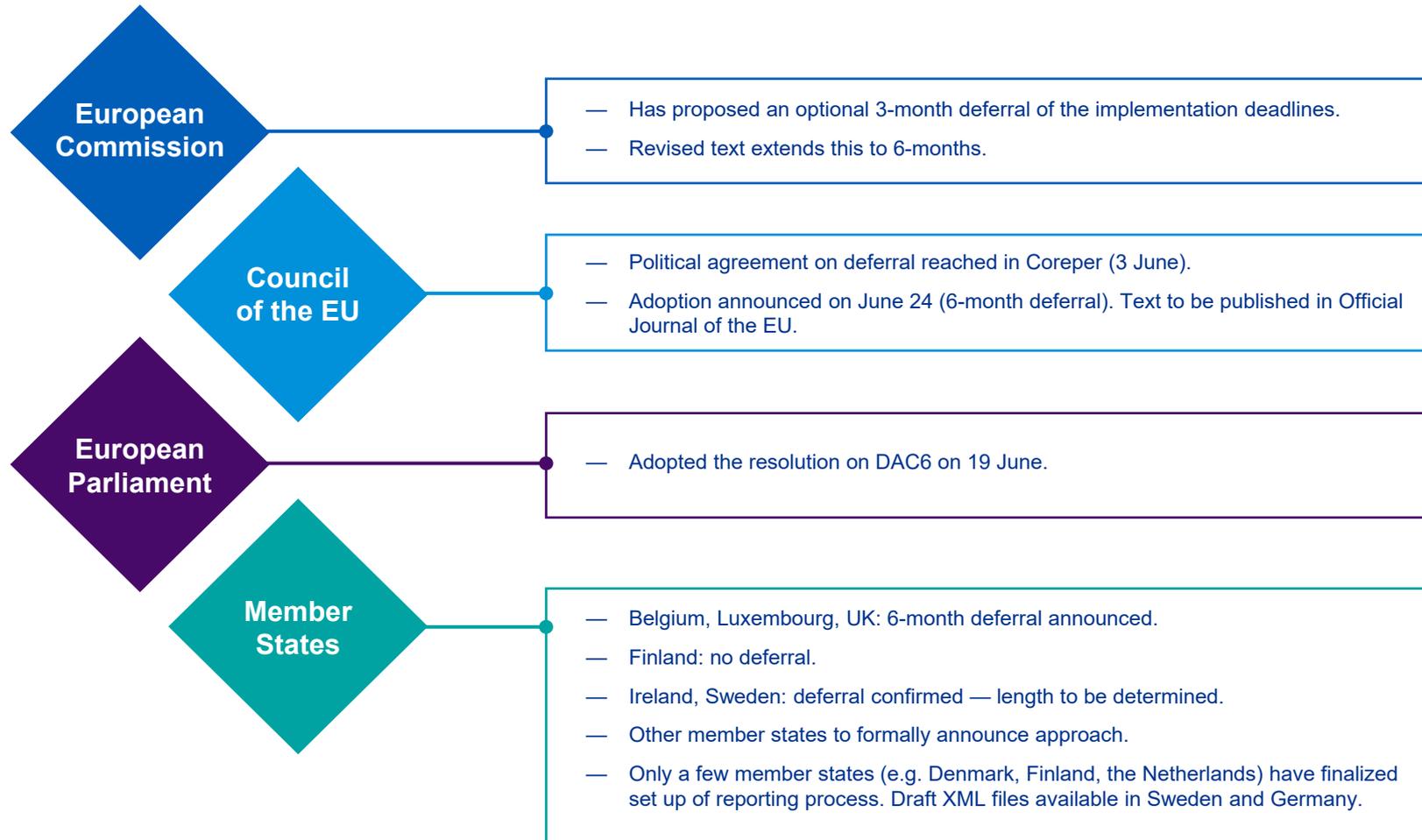
3**Local guidance not publicly available**

- Majority of member states
- Draft guidance under discussion with stakeholder in a number of EU jurisdictions

Extended timeline – optional

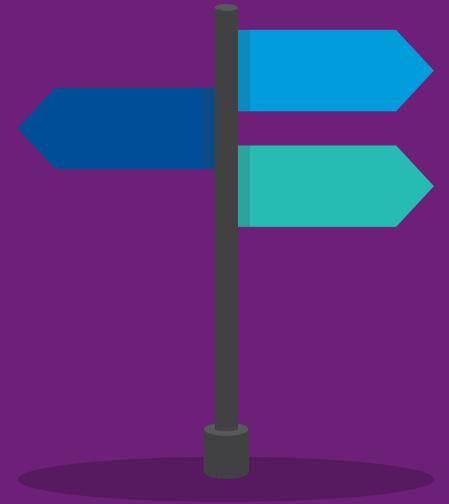


Extended timeline – legislative process





Emerging guidance and reactions from tax authorities across Europe



Reaction from tax authorities

	France	Germany	Ireland
Latest position	<ul style="list-style-type: none"> General French administrative guidelines (AG) and AG relating to the hallmarks were published (9 March 2020). Were subject to public consultation until 31 May. 	<ul style="list-style-type: none"> Amended draft of administrative guidelines circulated 15 June 2020 Covers interpretation of law (intermediary, hallmarks) plus as details of the reporting procedure 	<ul style="list-style-type: none"> Draft guidance released for consultation (Hallmarks A, B, D & E). Hallmark C guidance keenly awaited by FS clients. Draft reporting schema not yet released.
Final guidance	<ul style="list-style-type: none"> AG applicable since their issuance. However, AG can be modified following the public consultation. 	<ul style="list-style-type: none"> Release date not announced but expected in summer As for other general guidelines regular updates are expected 	<ul style="list-style-type: none"> Expected shortly. Even with guidance — likely significant judgment will be required.
Key points to be aware of/issues to consider	<ul style="list-style-type: none"> An advisor would not be deemed to be an intermediary where services provided solely relate to an arrangement that has already been implemented. Foreign branches of French branch are not required to report in France. Legal professional privilege could be applicable to persons referred to in Article L 511–33 of the Monetary and Financial Code Guidance clarifies that when the main advantage obtained in France is achieved from a tax incentive that is in accordance with French law, MBT would not typically be met provided that the arrangement is also implemented in accordance with the spirit of the legislation. Any banking products/instruments/transactions are offered to a broad public based on standardized documents (Hallmark A3). Regulated savings products should not be reportable as long as the relating tax benefit was provided by French law and that the use of such products is in line with the intention of the legislator. 	<ul style="list-style-type: none"> Amended guidelines provide further clarifications and application examples Intermediary concept refers to conscious activities, available information and relevant experience Further clarifications relate to multi-intermediary situations and investment funds Potential COVID-19 deferral not included (expected to be dealt with separately) 	<ul style="list-style-type: none"> How will MBT apply in practice? Will reporting apply to routine financial products? Balancing reporting requirements with level of knowledge of intermediaries (e.g. banks, distributor etc) Multiple reports on same transaction?

Reaction from tax authorities

	Lux	UK
Latest position	<ul style="list-style-type: none"> – The Luxembourg tax authorities have issued guidance on 13 May 2020 	<ul style="list-style-type: none"> – Draft guidance released by HMRC on 26 March 2020
Final guidance	<ul style="list-style-type: none"> – The guidance released should be understood as additional clarification. Still open whether a more detailed administrative circular will be released 	<ul style="list-style-type: none"> – HMRC is aiming to provide this before the rules come into force on 1 July 2020 – UK has yet to publicly state its position on deferral
Key points to be aware of/issues to consider	<ul style="list-style-type: none"> – Relation between intermediary and participant – No additional due diligence required – Cross-border defined based on residence of participants – Reporting process 	<ul style="list-style-type: none"> – A number of industry bodies are moving to publish their own position papers on the application of the rules – AFME and ISLA have already released papers on securities lending.



Market reaction



Virtual panel discussion

?

**What is the general readiness across your sector?
What actions have been taken to date?**

?

How do you envisage governance and ownership for processes to operate?

?

**Are there any surprises in guidance or rules for your sector?
How are clients reacting?**

?

What are the most important actions to be taken over the next 1–3 months?

?

How will technology be used — will this be a factor of the volume clients expect to report?

?

How are clients reacting?



Q&A



Thank you for joining us



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