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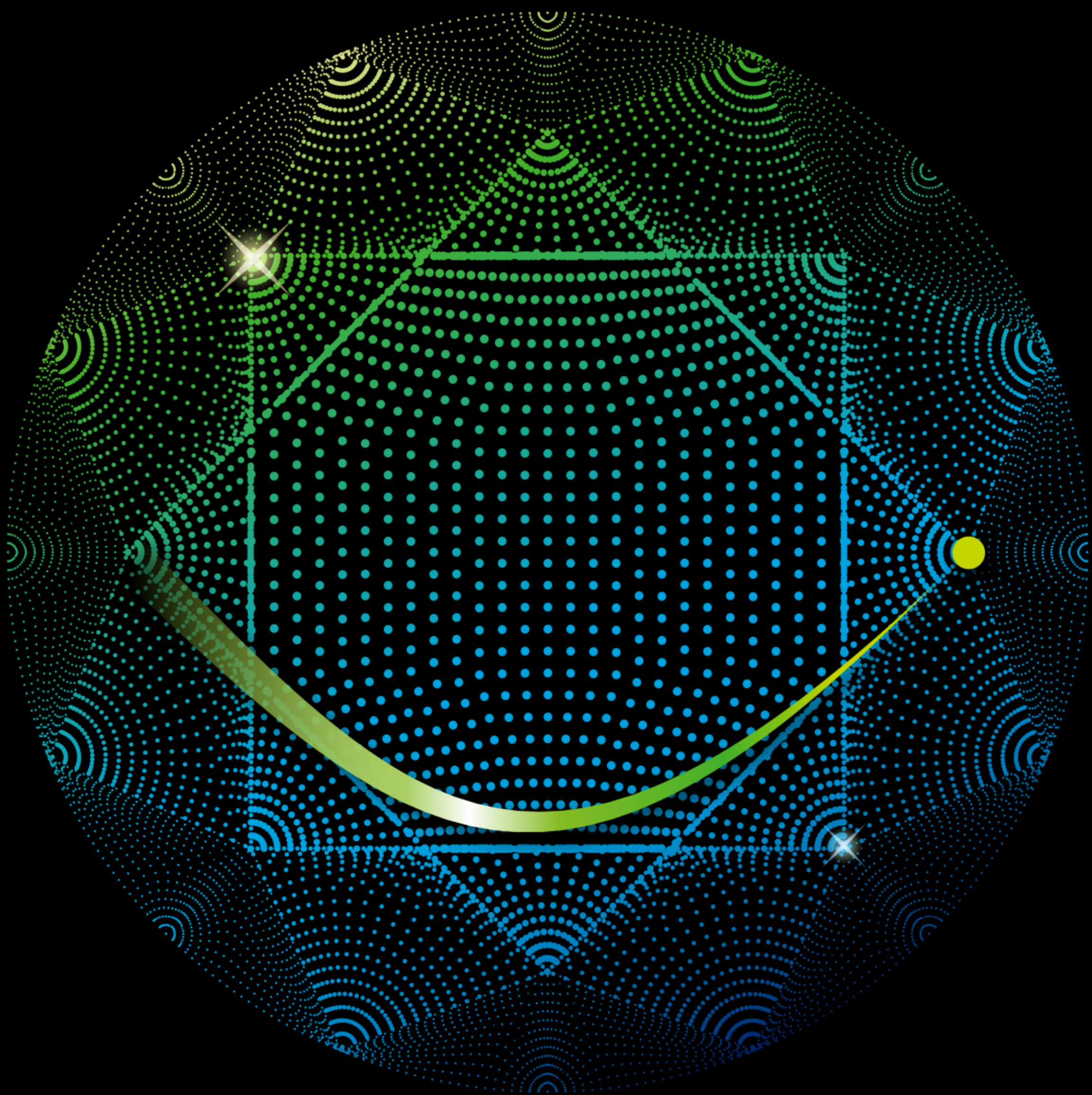


EU public country-by-country reporting

February 2024

MAKING AN IMPACT THAT MATTERS since 1845

Scope

This document provides insights on the European Union's public country-by-country reporting (CbCR) directive. This document is **a high-level overview of the rules** provided for general information only. Users should not rely on it as being complete or comprehensive and should undertake their own research and analysis taking into account the facts and circumstances of their particular case.

The questionnaire used to gather the information in this document was framed in the context of the choices individual EU member states have already announced or are widely expected to make. The information reflects the views of Deloitte tax professionals to the extent they are aware of relevant legislation and developments in their jurisdictions as at February 2024.

Contents

Background

Background

- In December 2021, the European Union has adopted the amendment to Directive 2013/34/EU to introduce rules regarding the disclosure of income tax information by certain undertakings and branches (i.e. public country-by-country reporting (CbCR), Directive (EU) 2021/2101). In the directive it is mentioned by the European Commission that public CbCR as a tool should contribute to increase fairness and corporate transparency, with the ultimate aim of enabling public scrutiny on multinational companies' tax strategies.

Who needs to report?

- The directive will require multinationals (either EU-parented groups and their subsidiaries or non-EU-parented groups with medium or large EU subsidiaries or branches) with annual global consolidated revenue exceeding EUR 750 million for two consecutive periods that are active in more than one EU member state to publish certain tax information on a country-by-country and annual basis.

- Non-EU-parented groups must comply with the public CbCR rules if they are present through at least one medium or large-sized entity in the EU, or an equivalent branch. In this context, the EU rules determine that two out of three of the following criteria should be met: a) EUR 5m balance sheet total; b) EUR 9m net revenue; and/or c) 50 average number of employees during fiscal year. A branch only needs to meet the revenue threshold. However, member states may apply different thresholds to determine whether a subsidiary or branch qualifies as medium/large.

- For EU-parented groups, the reporting obligation lies with the EU parent entity. For non-EU-parented groups, as a main rule each of the qualifying EU subsidiaries and/or EU branches are required to publish the CbCR information in their jurisdiction. However, there is an exception included in the directive that provides that the non-EU parent can publish the report on its own website and assign one of the qualifying EU subsidiaries or EU branches to file the report with their national trade registry.

What information needs to be reported?

- The information to be published includes the following:
  - Nature of the company's activities;
  - Number of full-time equivalent employees;
  - Profit or loss before income tax;
  - Income tax accrued;
  - Income tax paid; and
  - Accumulated earnings.

How to report?

- The beforementioned information will need to be provided separately for each EU member state. In addition, it needs to be reported separately as well for each jurisdiction on the EU-list of non-cooperative jurisdictions for tax purposes and for each jurisdiction that has been on the preliminary nomination EU-list for at least two years. The information of all other third-country operations may be aggregated.

- The report should be made publicly accessible on the reporting companies' website free of charge, in at least one of the official EU languages, according to a common template and in an open data format. The report must remain accessible on the website for a minimum of five consecutive years. The public CbCR report should also be filed with the national trade registry of the respective member state.

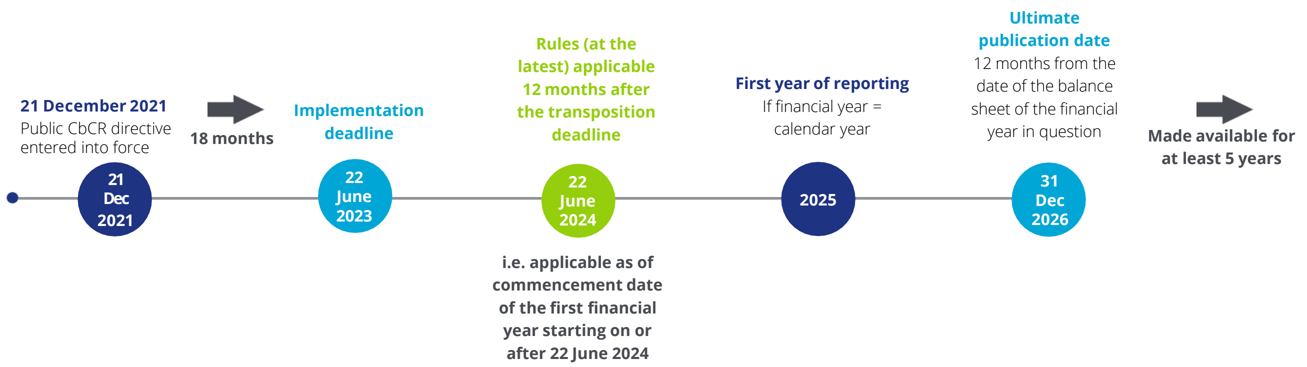
- Non-compliance with any of the obligations may give rise to a penalty. Member states can decide the type and amount of penalties imposed under domestic law, provided such penalties are effective, proportionate and dissuasive.

Timeline

Timeline

- The public CbCR directive entered into force on 21 December 2021. EU member states have been given 18 months (i.e., until 22 June 2023) to transpose the directive into their national laws. Therefore, businesses in principle will need to comply with the directive by mid-2024 as it should apply, at the latest, from the commencement date of the first financial year starting on or after 22 June 2024. However, member states were allowed to transpose and apply the public CbCR rules sooner.

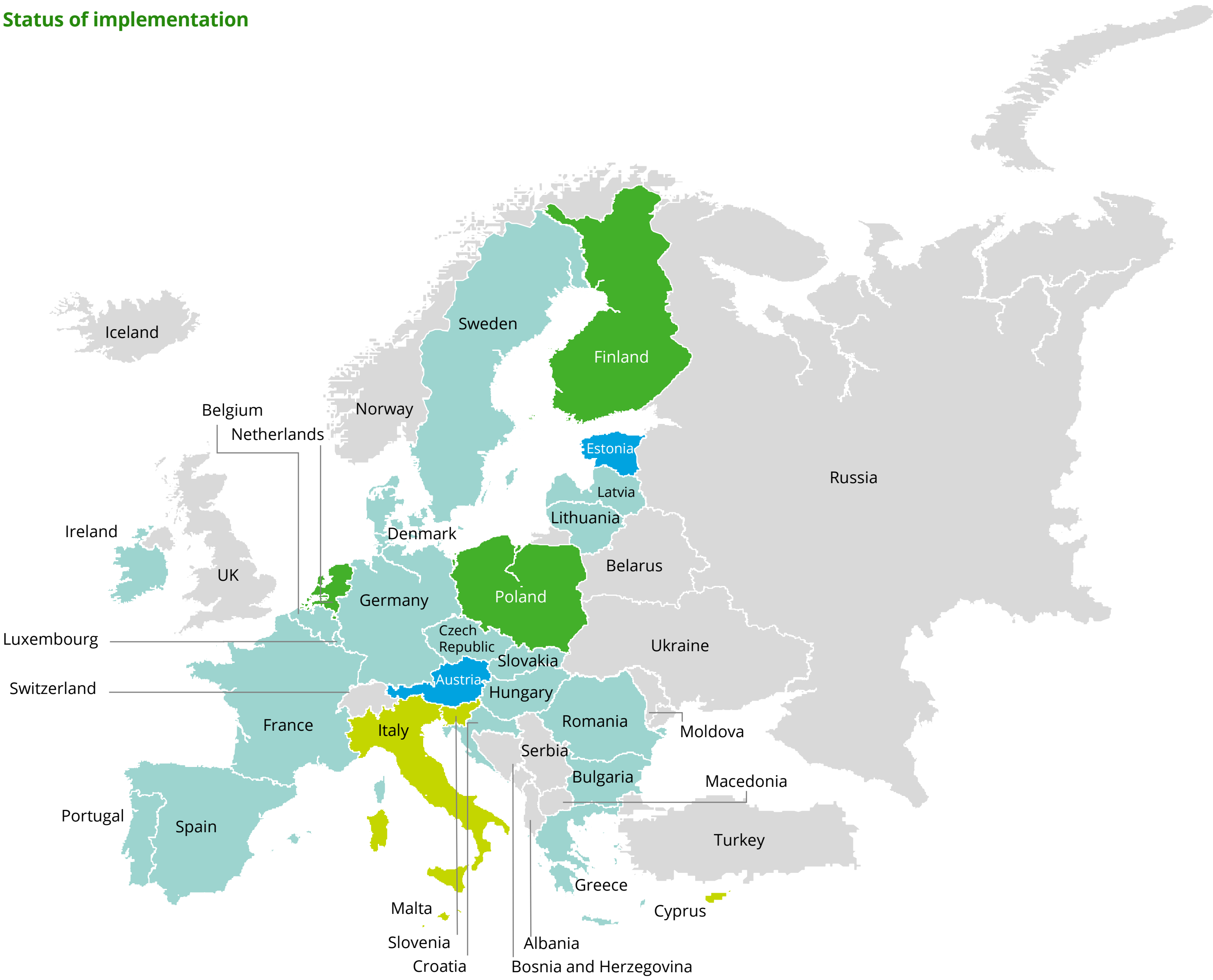
- Pursuant to the directive, the filing deadline (i.e. ultimate publication date) is twelve months from the date of the balance sheet of the financial year in question. However, member states are allowed to apply a stricter deadline.



- Please note that member states may choose to apply the rules earlier
- Romania: first reportable year is the one starting on or after 1 January 2023; first reports due on 31 December 2024
- Croatia: first reportable year is the one starting on or after 1 January 2024
- Sweden: first reportable year is the one starting on or after 31 May 2024
- Hungary: ultimate filing deadline is 4 or 5 months from the date of the balance sheet of the financial year in question (instead of the maximum of 12 months). In addition, the published information should remain available for at least 8 years (instead of the minimum of 5 years required by the directive).
- Spain: ultimate filing deadline is 6 months from the date of the balance sheet of the financial year in question (instead of the maximum of 12 months)

Public CbCR directive

Status of implementation



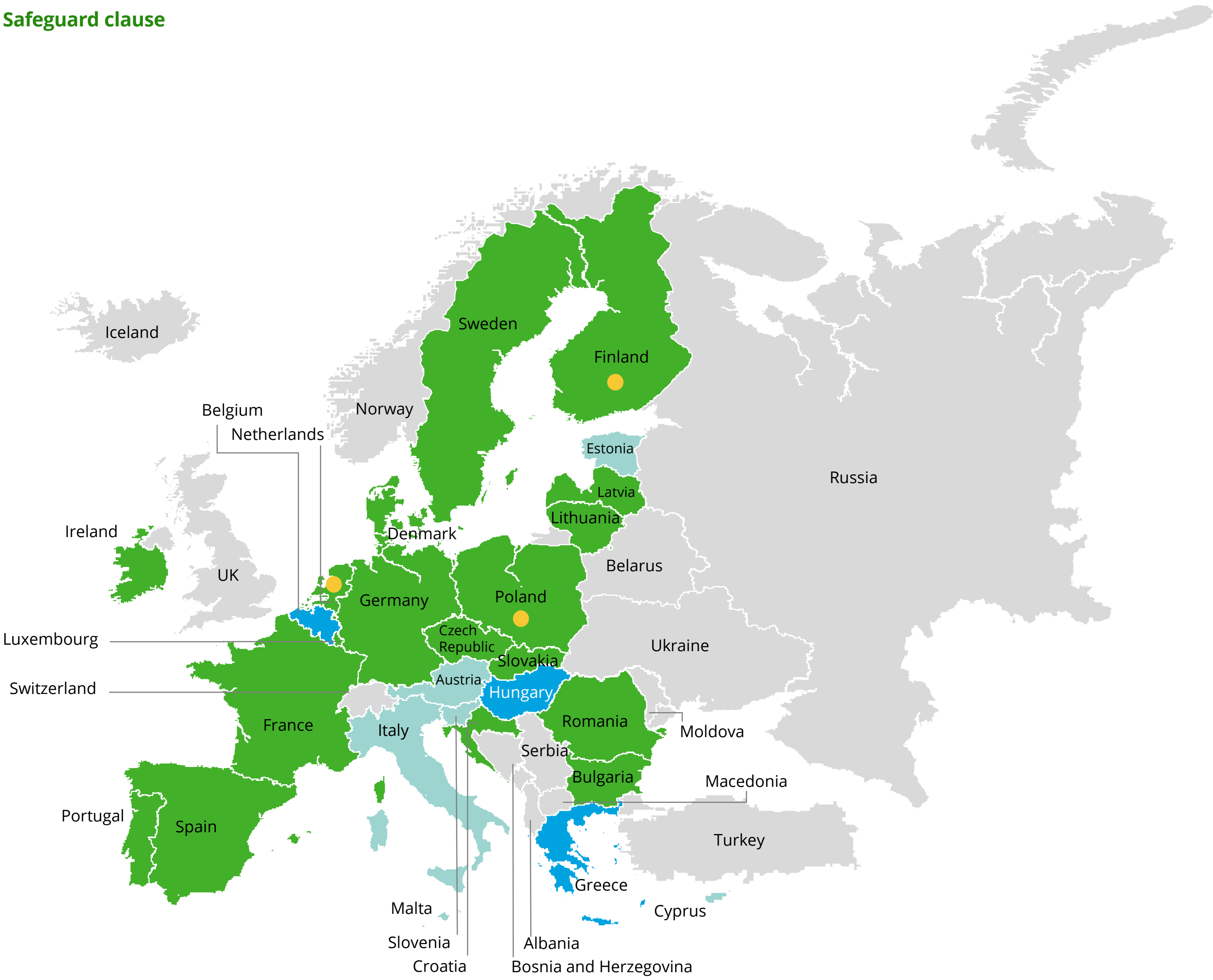
EU member states should have transposed the Public CbCR directive into national law by 22 June 2023.

Legend:

4	Legislative process has not yet started
2	Public CbCR rules are in the process of national consultation
3	Draft legislation has been published
18	Legislation implementing Public CbCR has passed

Public CbCR directive

Safeguard clause



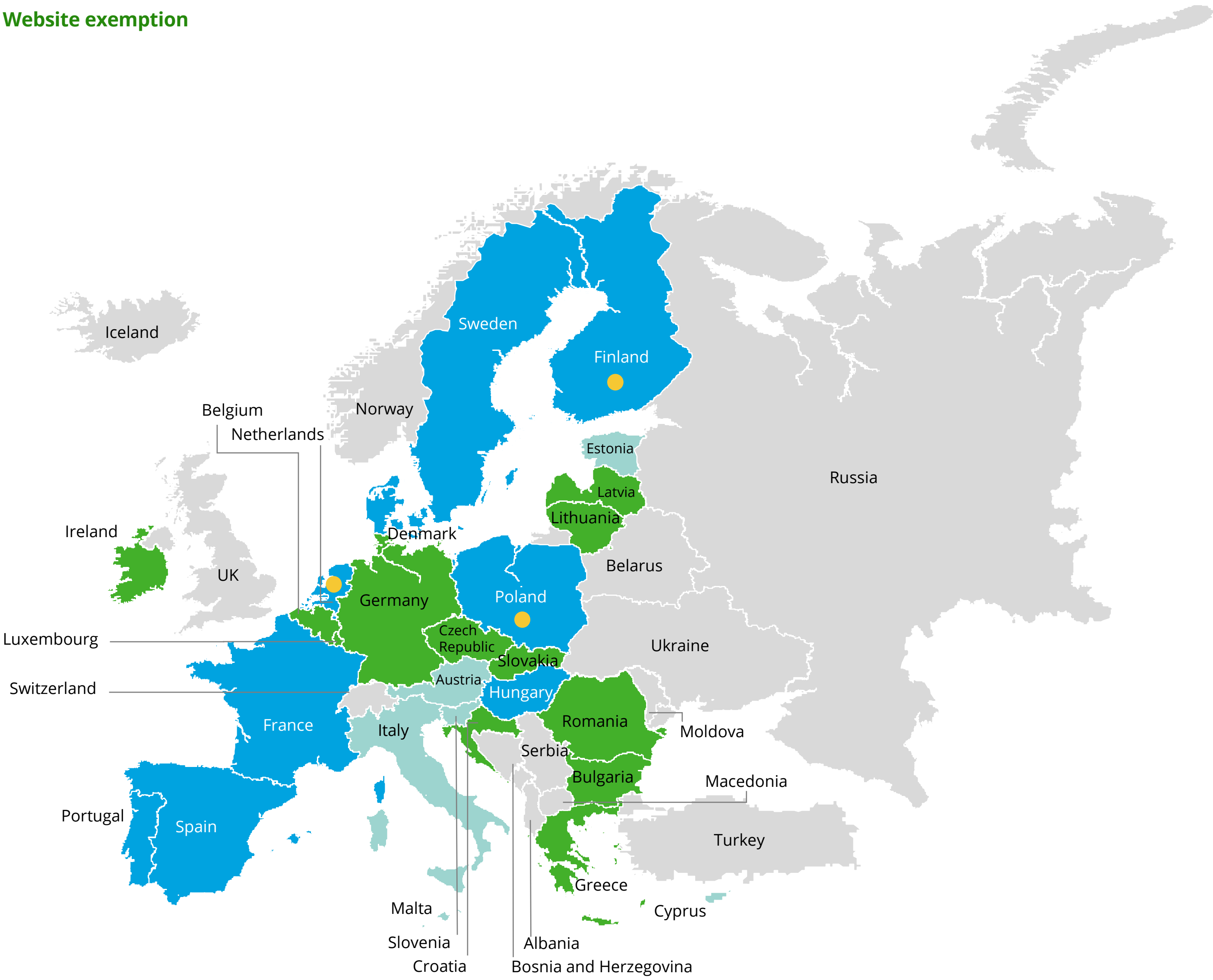
The Directive provides for a safeguard clause to be adopted at member states' discretion. The safeguard clause provides for the possibility of a deferral of certain reporting requirements concerning commercially sensitive information. The deferral is limited to five years and a reasoned explanation must be disclosed. In addition, the safeguard clause cannot apply to information concerning jurisdictions listed by the EU as non-cooperative for tax purposes.

Legend:

18	Safeguard clause
3	No safeguard clause
6	No (draft) legislation implementing Public CbCR published yet
●	Draft law (no implementation legislation adopted yet)

Public CbCR directive

Website exemption



Legend:

12 Website exemption

9 No website exemption

6 No (draft) legislation implementing Public CbCR published yet

Draft law (no implementation legislation adopted yet)

The Public CbCR report should be made accessible on the public registry of the relevant member state and on the company's website. Article 48d(3) of the directive allows member states to apply a website publication exemption. This entails that a member state may opt to exempt companies from publishing the report on their website, if the access to the report in the public registry is free of charge.

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