



European Commission
Taxation And Customs Union Directorate General
SPA3 08/015,
B-1049 Brussels,
Belgium

10 February 2026

Subject: Deloitte Response to the European Commission Public Consultation and Call for Evidence on the Recast of EU Rules on Administrative Cooperation in the Field of Taxation (DAC – Directive 2011/16/EU)

Dear Sir or Madam,

We are pleased to respond on behalf of the Deloitte¹ firms in Europe to the European Commission Public Consultation and Call for Evidence on the Recast of EU Rules on Administrative Cooperation in the Field of Taxation (DAC – Directive 2011/16/EU), and welcome the opportunity input views on this topic. This letter sets out background context and additional comments in relation to this consultation.

As an initial comment, we refer to our detailed Response to the European Commission Public Consultation on the Evaluation of the Directive on Administrative Cooperation (DAC – Directive 2011/16/EU), submitted on 30 July 2024. We consider the observations and recommendations therein remain fully pertinent to this consultation, particularly regarding simplification, proportionality of reporting obligations, and greater harmonisation across Member States.

Deloitte welcomes the Commission's initiative to clarify, simplify and improve EU rules on administrative cooperation in taxation and support EU growth and competitiveness.

We note the Commission's evaluation report on DAC and the items raised in this consultation. Given the direct impact of DAC6 mandatory disclosure rules (Council Directive (EU) 2018/822) on our profession, our comments focus on this fifth amendment, while highlighting relevant synergies with DAC4/DAC9, DAC7, DAC8 and other modules.

1. Simplify and Consolidate the Legal Framework

We support consolidating the DAC into a single, streamlined directive that integrates all previous amendments and rationalizes the current reporting modules to enhance legal clarity and usability for all stakeholders.

DAC6 hallmarks could usefully be revised to focus on higher-risk areas by narrowing their scope, removing obsolete or low-value ones (such as particularly burdensome A1-A3, B2, C1/C2, D and E series), introducing a low-risk whitelist for routine commercial transactions, and providing binding EU-level guidance to promote consistent application across Member States, building on issues flagged in the evaluation. To support the Commission's target of 25-35% burden reduction, a de minimis exclusion for DAC6 reporting could be considered - for instance, based

¹ For more information, see [Deloitte](#).

on cross-border turnover thresholds, number of jurisdictions involved, or arrangement value—to exempt immaterial business transactions. Future DAC6 amendments should prioritise streamlining hallmarks to deliver information most relevant to protecting tax bases, potentially through elimination of less effective ones or safe harbours for arrangements covered by other EU direct tax measures, well-known to authorities, purely commercial in nature, or aligned with stated policy objectives, thereby balancing burden reduction with effective tax administration.

Given the substantial data already available to tax authorities, augmented by technologies for better utilisation and forthcoming GloBE Information Return (GIR) filings, we recommend against adding new hallmarks or criteria to existing ones.

The directive could beneficially incorporate structured periodic reviews of hallmarks every three to five years, informed by stakeholder input and European Court of Auditors findings.

a. DAC4/DAC9 Simplifications and Pillar Two compliance

For DAC4/DAC9, transitioning annual notifications to changes-only reporting, merging schemas with Pillar Two obligations, and aligning deadlines would help avoid overlaps and alleviate high one-off setup costs from evolving rules (including January 2026 amendments); a single EU filing portal with Member State notifications could further streamline compliance. This approach would contribute to greater coherence and support the broader simplification effort.

Multinational enterprises have incurred substantial one-off costs establishing Pillar Two compliance - including determination of reporting perimeters, data collection processes, and computational methodologies - within an evolving legislative framework amended as recently as 5 January 2026. Recurring compliance costs are anticipated to remain significant, driven by ongoing legislative changes, the requirement for annual reporting, and the fragmented application of rules across Member States and beyond. Such costs are likely to be disproportionate to the additional tax revenues generated. On a transitional basis, the alignment of Country-by-Country Reporting (CbCR) and Pillar Two registration requirements could yield efficiency gains. However, given the temporary nature of the technical relationship between these frameworks, it is unclear whether such alignment would deliver enduring simplifications over the longer term.

b. DAC6

Deloitte welcomes the European Commission's ongoing review of the DAC6 framework as part of the DAC recast with the commitment to reducing administrative burden by 25–35% while preserving tax transparency objectives. Our experience across multiple EU jurisdictions confirms that compliance costs extend substantially beyond direct disclosure costs. Both intermediaries and taxpayers must conduct systematic assessments of all cross-border arrangements against hallmarks from each potentially affected Member State's perspective, maintain comprehensive documentation irrespective of outcome, and coordinate across multiple internal functions, resulting in significant hidden costs not reflected in official statistics.

Current Challenges with the Main Benefit Test and Hallmarks

The Main Benefit Test (MBT) represents a principal source of complexity and administrative burden. Absence of harmonised EU-level guidance has resulted in divergent interpretations across Member States regarding "main benefit" and "tax advantage," creating operational uncertainty and materially increasing compliance costs. The inherently subjective nature of the MBT precludes definitive determinations in substantial cases, contributing to defensive over-reporting.

Beyond MBT-related hallmarks, the broader DAC6 framework presents additional challenges. While certain hallmarks such as B.1 and E.2 function relatively effectively, others - including B.2, certain Category C hallmarks, and hallmarks D.1, D.2, and E.3 - present significant interpretative challenges and are, in some instances, practically impossible to apply due to limited access to information concerning recipient tax status, ownership transparency, or CRS compliance.

DAC6 Scope: Considerations in Light of Existing EU Anti-Avoidance Measures

DAC6 reform must be viewed within the comprehensive EU tax transparency and anti-avoidance framework already in place. ATAD I and II provide harmonised anti-abuse tools including general anti-abuse rules, CFC rules, anti-hybrid rules, interest limitation rules, and exit taxation. The CJEU has established robust jurisprudence on conduit companies and wholly artificial arrangements (Danish Cases C-116/16, C-117/16; Deister Holding C-504/16), while tax treaty provisions reinforced through the OECD Multi-Lateral Instrument provide safeguards through the Principal Purpose Test and beneficial ownership requirements.

The DAC framework already ensures comprehensive information exchange through DAC2 (financial accounts), DAC3 (tax rulings), DAC4 (Country-by-Country Reports), DAC5 (beneficial ownership), DAC7 (digital platforms), DAC8 (crypto assets), and DAC9 (Pillar Two). Critically, Pillar Two will provide unprecedented transparency through GloBE Information Returns while ensuring minimum 15% effective taxation—directly addressing the low-taxation scenarios certain DAC6 hallmarks currently target.

Given this comprehensive regulatory architecture, introducing additional hallmarks or extending existing ones - notably based on the Unshell proposal - would create unnecessary duplication, impose disproportionate compliance burden, and risk inconsistent application across overlapping frameworks. The European Court of Auditors' November 2024 report reinforces this conclusion, noting limited utilization of existing DAC6 information by certain Member States.

Recommended Policy Approach: Integrated Reform Strategy

We recommend an integrated reform strategy combining: (1) targeted legislative amendments narrowing and clarifying the MBT, supported by comprehensive EU-level guidance; and (2) strategic removal of hallmarks generating disproportionate burden relative to demonstrable value.

Narrowing and Clarifying the Main Benefit Test

The MBT should be clarified to apply exclusively to tax advantages obtained within Member States and refined to capture arrangements where advantages are inconsistent with legislation's intent and purpose, aligning with CJEU guidance in Case C-623/22 and the Danish Cases. The formulation should be tightened to require that obtaining tax advantage must constitute the "principal benefit" assessed objectively with reference to documented business rationale and economic substance. The MBT should incorporate an explicit safe harbour for arrangements with

genuine commercial rationale, significant non-tax purposes, and adequate substance - harmonising with ATAD CFC rules. We strongly support development of comprehensive, binding EU-level guidance providing clear definitions, practical examples, and enhanced coordination mechanisms.

Strategic Removal of Low-Value Hallmarks

We recommend deletion of hallmarks generating disproportionate burden without commensurate value, such as generic hallmarks A.1, A.2, and A.3 (confidentiality clauses, success-based fees, standardised documentation), as well as other hallmarks capturing transactions already addressed by other EU tax directives or anti-avoidance regulations.

Enhanced Clarity, Safe Harbours, Procedural Reforms, and Harmonisation

We call for enhanced legislative clarity and comprehensive, binding EU-level guidance - drawing upon successful models such as the EU Transfer Pricing Forum - to promote consistent application of retained hallmarks across Member States. Key areas requiring targeted clarification include:

- **fundamental definitions** of "participant" (requiring active involvement, excluding intermediaries, and clarifying that passive impact on tax position does not create participant status), "arrangement" (explicitly stating that compliance with both letter and intent of law should not be reportable as aggressive), and "tax advantage" (limiting to advantages obtained in EU Member States);
- **hallmark B.2** (clarifying it applies only to actual conversions of pre-existing income, not initial structuring choices, and excluding arrangements already addressed by ATAD II);
- **hallmark C.1(d)** (limiting scope to regimes assessed as harmful by OECD FHTP or EU Code of Conduct Group, excluding generally available incentives meeting international standards);
- **hallmark C.2** (confirming that double deductions accompanied by double inclusions resulting in no net tax benefit do not trigger reporting);
- **hallmarks D** (confirming that interposing entities with appropriate KYC compliance and beneficial ownership verification fall outside scope);
- **hallmark C.4** (defining "material difference" and clarifying whether it concerns differences in commercial transfer prices, fiscal transfer prices, or both, and confirming it does not apply to timing differences or tax-neutral intra-group transfers);
- **hallmark E.1** (developing an EU-wide "white list" of arrangements excluded by default, including administrative simplification measures not directly involving arm's length price determination, advance transfer pricing agreements, and unilateral safe harbour rules accepted by the OECD);
- **hallmark E.2** (amending the text to explicitly reference the OECD Transfer Pricing Guidelines definition of "hard-to-value intangibles" and clarifying whether recent arm's length acquisitions from unrelated parties exempt subsequent intra-group transfers); and
- **hallmark E.3** (if retained, providing centralized guidance on whether the EBIT test applies to each of the three years or on average, whether EBIT refers to accounting or tax earnings, treatment of dividend and interest income, and application where EBIT is negative or zero following liquidation or merger).

We support the introduction of explicit safe harbours automatically excluding: arrangements governed by other EU tax directives (ATAD, Parent-Subsidiary, Interest and Royalties, Merger Directive); arrangements implemented by groups within Pillar Two scope; entities meeting minimum substance requirements; purely commercial transactions

with documented business rationale; and transactions already disclosed through transfer pricing documentation, public CbCR, or beneficial ownership registers—avoiding unnecessary duplication.

We recommend that the reporting deadline be extended from 30 to 90 days to provide adequate time for thorough analysis and coordination, reducing defensive over-reporting while maintaining timely disclosure. Additionally, reporting obligations should be limited to arrangements actually implemented, aligning with CJEU guidance in Case C-623/22.

We recommend that taxpayers be provided with the option to assume primary reporting responsibility where this would promote efficiency, while secondary intermediary obligations generating unnecessary duplication should be eliminated.

Enhanced coordination mechanisms through technical working groups should be established to ensure consistent application across Member States.

c. DAC7 Thresholds and CESOP Overlaps

DAC7 thresholds for goods sales reporting could be further reviewed and aligned, where appropriate, with national VAT de minimis levels to avoid disproportionate impacts on B2B and tourism activities, particularly where transaction data are already captured through existing VAT systems. Such alignment would promote proportionality and ensure that reporting obligations remain targeted and efficient.

Both DAC7 and CESOP (Directive (EU) 2020/284) are important components of the EU's broader transparency framework; however, overlaps arise in practice where platforms act as payment service providers. This dual role can trigger separate quarterly CESOP reporting for cross-border payments exceeding €25 and annual DAC7 reporting for seller-level turnover and transaction counts. The resulting duplication increases compliance burden without a commensurate improvement in tax authority insight. We would therefore welcome consideration of closer alignment between the two regimes to ensure a more coherent and proportionate reporting landscape.

Streamlining could be achieved through greater consistency in definitions and data requirements, enabling the use of common data points such as seller identifiers and transaction references. Aligning reporting frequencies and timelines, wherever possible, would facilitate a more efficient use of underlying datasets. Similarly, improving interoperability between the two systems—potentially through a one-stop-shop reporting mechanism that allows submission to a single Member State, as already exists under DAC7 and the Union One Stop Shop (UOSS)—would substantially reduce redundancy while preserving CESOP's focus on VAT fraud detection and DAC7's emphasis on income transparency.

The current CESOP reporting setup is particularly burdensome for cross-border operators. Simplification through harmonised or single-State filing would improve both efficiency and data reliability. In addition, clearer guidance from the Commission on delineating the scope of each regime and identifying cases where dual application may occur would help ensure consistent implementation and legal certainty across Member States.

Regarding DAC7, we welcome the planned introduction of TIN validation as a positive step toward improving data quality. However, it will be important to avoid the limitations present in the current VIES system. In particular, the proposed TIN checker service - which may require platforms to enter multiple or free-text data points to obtain a

match - risks creating unnecessary complexity and could be difficult to use effectively in practice. The system would benefit from a streamlined, reliable validation process that achieves accuracy without excessive data entry.

The existing VIES infrastructure also presents operational challenges that make VAT number validation burdensome for DAC7 reporting. These range from technical constraints, such as system throughput and bandwidth limitations, to incomplete datasets. Addressing these issues would materially improve the usability and integrity of the system.

We note that, in some cases, the process for notifying Member States of a reporting obligation where sellers are located can be more administratively demanding than the actual report submission. Simplifying this procedural requirement could significantly reduce compliance effort without compromising policy intent. Likewise, the obligation to report a seller's place and country of birth where a TIN is unavailable appears to add limited value and could be reconsidered in light of proportionality objectives.

We also see merit in extending the DAC7 reporting deadline to at least sixty days after the end of the relevant year to align with the timeframe available to reportable sellers to provide their data. Without such alignment, sellers falling in scope late in the year may not deliver the necessary information before the reporting deadline. Similarly, extending registration deadlines for platforms whose reporting status may change close to year-end would ensure that obligations remain administratively feasible and proportionate. Finally, it would be helpful if the legislation explicitly confirmed that platforms are required to collect, verify, and report only the VAT registration number issued by the Member State corresponding to the seller's primary address, in order to promote consistency and clarity across the EU.

Taken together, these refinements would support the Commission's broader goal of improving the efficiency, coherence, and practical operability of EU tax transparency frameworks. They would help ensure that DAC7 and CESOP continue to serve complementary policy objectives while minimising duplication and unnecessary administrative burden for reporting entities.

d. DAC8 Clarifications and Harmonisation

DAC8 requirements for crypto-asset service providers (CASPs) from 2026 would benefit from safeguards against double or multiple reporting, achieved via a single EU-level submission obligation, complemented by Commission guidelines clarifying DAC8's scope vis-à-vis MiFID instruments and MiCAR assets, such that only MiCAR-regulated crypto falls under DAC8, with MiFID derivatives under CRS. CASPs qualifying as CRS/DAC2 Reporting Financial Institutions could then omit redundant data like account balances, facilitated by standardised XML schemas for cross-referencing and EU-level de-duplication.

Harmonising "crypto-asset" definitions across DAC8, MiCAR and CRS, explicitly excluding pure MiFID items like certain tokenized securities while treating indirect exposures consistently, would further aid clarity. We encourage the Commission to provide explanatory guidelines, Q&A and technical handbooks by mid-2026 on key interactions, incorporating safe harbours for reverse solicitation and non-EU providers.

A centralised EU registration and reporting portal for all CASPs (including non-MiCAR entities), with automated TIN validation, phased DeFi rollout and minimum harmonised penalties, would effectively minimise divergences and enforce single-point reporting.

2. Enhance Taxpayer Identification and Data Matching

An EU Taxpayer Identification Number—leveraging existing national systems with central validation—would strengthen identification and enable near-automatic matching of exchanged records. DAC3/DAC6 schemas could prioritise structured fields over free text, mandating non-EU country codes and standardised risk indicators.

Member States could commit to minimum matching thresholds (e.g., 95%+) with efficient handling for residuals.

3. Boost Data Utilization and Accountability

Mandatory EU-wide indicators on DAC data usage – covering integration rates, revenue impacts and audit triggers – published annually via an enhanced TADEUS, would improve transparency and comparability. Greater embedding of DAC data in pre-filled returns and AI-driven risk tools would maximise value, addressing noted gaps in utilisation relative to compliance costs.

4. Modernize IT Infrastructure and Reduce Burdens

Progressive centralisation, such as a common EU portal as single entry point for key modules (DAC6, DAC8, Pillar Two) and harmonised schemas for domestic reporting, would cut duplication, enhance interoperability and yield cost savings.

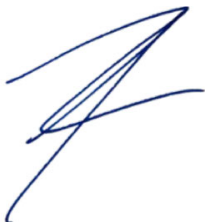
Complementary measures like 90-day DAC6 deadlines (from 30 days), optional primary taxpayer reporting (avoiding compulsion where burdensome), elimination of secondary intermediary duties, and API promotion aligned with DAC8/CARF digital trends would make processes more practical.

We highlight that true DAC6 compliance costs – driven by assessing all cross-border arrangements against hallmarks via multi-level reviews and record-keeping – far exceed visible filing costs, underscoring the need for these reforms.

Deloitte places high value in the continued dialogue with policy makers and stands ready to support the EU in its analysis.

We would be happy to discuss any comments or questions you may have regarding our responses. We can be reached as follows: pzalba@deloitte.es or rpozacid@deloitte.es.

Yours sincerely,



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