

Let me brief you on DAC8: Key contextualized topics on crypto and beyond

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EU Member States will soon be busy legislating the transposition of the latest [Amending Directive to the 2011 Directive on Administrative Cooperation \(2023/2226\) \(DAC8\)](#). Its flagship topics are the reporting and exchange of information concerning crypto-asset users and transactions.

However, DAC8 is much more than a crypto soundbite. It fills in gaps and fine-tunes the exchange-of-information framework applicable in the European Union. This complex piece of legislation can only be understood in the context of the shortcomings of an increasingly intricate framework of exchange of information in the field of taxation.

This note will help you see the bigger picture of DAC8, with the most significant legislative changes expected in the coming years. All the measures listed below must be transposed by Member States by the end of 2025 and applied from 2026, except for the amendments to the taxpayer identification number (TIN) reporting system.

1. Establishment of a framework for the reporting and exchange of information on crypto assets

Member States will have to establish a legal framework that sets out reporting requirements regarding crypto-asset users and transactions and that governs the exchange of this information.

Specifically, the framework is twofold:

- Reporting crypto-asset service providers must carry out certain due diligence procedures to identify reportable crypto-asset users and report information regarding such users and their relevant transactions. This regime is supported by specific rules to ensure its effective implementation and compliance.
- Member States' competent authorities will have to communicate to other Member States, through automatic exchange of information, certain details concerning the reportable users, the reporting crypto-asset service providers, and the reportable (crypto-asset) transactions.

Member States will not have to legislate about definitions and obligations already included in the [Markets in Crypto-Assets \(MiCA\) Regulation \(2023/1114\)](#), as regulations are directly and automatically applicable in all Member States.

2. Amendment to the reporting framework of intermediaries regarding reportable cross-border arrangements (DAC6)

[DAC6](#) established that intermediaries subject to legal professional privilege could be waived from reporting on their clients' cross-border arrangements that would potentially constitute aggressive tax planning. An intermediary subject to such privilege would, however, be required to notify other intermediaries or the relevant taxpayer of their reporting obligation.

In December 2022, the European Court of Justice ruled in *Orde van Vlaamse Balies and Others* ([C-694/20](#)) that lawyers who are subject to legal professional privilege and are waived from the reporting obligation should not be required to notify other intermediaries who are not their clients of their reporting obligation. Consequently, several Member States (e.g. [Belgium](#), [France](#), [Luxembourg](#), [Malta](#) and [Spain](#)) have taken measures to clarify intermediaries' notification obligations.

DAC8 makes the necessary amendments to circumscribe the notification obligation of intermediaries subject to privilege exclusively to their client – an intermediary or, if there is no such intermediary, the relevant taxpayer – of their reporting obligations.

3. Creation of effective mechanisms to ensure the use of the information exchanged

The European Court of Auditors published a [report](#) in 2021 noting that, despite large quantities of information being automatically exchanged, information received is generally underused, because it cannot be matched with the relevant taxpayers. To improve the framework's effectiveness, Member States will be obliged to implement an effective mechanism to ensure that the information reported or exchanged under the DAC is used.

4. Cross-border rulings concerning natural persons will be subject to automatic exchange of information under conditions

DAC currently excludes advance cross-border rulings exclusively concerning and involving tax affairs of natural persons from the scope of automatic exchange of information. This exemption, which has [raised fairness concerns](#), will become limited. Specifically, rulings issued, amended or renewed after 1 January 2026 will be subject to mandatory automatic exchange of information if either the amount of the transaction or series of transactions of the ruling exceeds EUR 1.5M or the ruling determines the tax residency of a natural person.

5. Information exchanged between Member States may be used for additional purposes

From the very first [DAC](#) version, value added tax and customs duties, excise duties covered by other Union legislation on administrative cooperation between Member States and compulsory social security contributions have been excluded from its scope.

With DAC8, Member States will be able to use exchanged information to assess, administer and enforce national law concerning the taxes within the directive's scope, as well as VAT and other indirect taxes, customs duties and anti-money laundering and countering the financing of terrorism.

6. Exchange of non-custodial dividend income

Non-custodial dividend income (i.e. dividends or other income treated as dividends that are not paid or cashed in a custodial account) will be subject to automatic exchange of information. This inclusion [closes a loophole](#) that could be used for tax evasion and avoidance.

7. Phased amendments to the reporting and communication system of Tax Identification Numbers

Aiming to reform a somewhat ineffective Tax Identification Number (TIN) reporting system, which was found to [lead to matching difficulties](#) between the information exchanged and the relevant taxpayers, DAC8 offers a three-stage approach to a new set of reporting obligations regarding TINs.

- (1) The first step, to be implemented until the end of 2025 and applicable from 2026, requires the reporting of TINs issued by the Member State of residence by in-scope entities and individuals. This information is subsequently communicated by Member States when explicitly required under the (current) DAC framework.
- (2) The second step, to be implemented until the end of 2027 and applicable from 2028, requires the reporting of TINs issued by the Member State of residence, *where possible*, with respect to:
 - persons whose advance cross-border rulings or advance pricing arrangements are subject to automatic exchange of information;
 - constituent entities of MNE groups required to file a country-by-country report; and
 - persons likely to be affected by reportable cross-border arrangements.

Whenever the competent authority is in possession of these TINs, such information must be included in the relevant communication of information.

Additionally, Member States will have to *endeavour to ensure* that all reporting entities of information subject to automatic exchange are allowed to confirm, by electronic means and exclusively for validation purposes, the correctness of the relevant taxpayers' TIN information.

- (3) The third step, to be implemented until the end of 2029 and applicable from 2030, requires the reporting of TINs issued by the Member State of residence with respect to income from employment, directors' fees and pensions. Currently, Member States only have the obligation to "endeavour to include" TINs in their communications regarding these categories.

IBFD references

- > A.M.L. Gorissen & Y. Uslu, [Investing in Crypto-Assets: Council Adoption of DAC8](#), 24 Fin. & Cap. Mkts 3 (2023), Journal Articles & Opinion Pieces IBFD
- > For more details on Administrative Cooperation in the European Union, see T. Morales Gil & S. Kale, [Direct Taxation](#), Global Topics IBFD
- > For details on Member States' transposition of DAC6 and DAC7, see [DAC6 - DAC7 Implementation Status](#) and [DAC6/DAC7 Compliance Tables](#)
- > EU tax law developments are reported in the daily IBFD [Tax News Service](#).