



Brussels, 11 December 2018

Dear Working Party IV Members,

Dear Mr. Quest,

We are writing to you regarding Council Directive EU/2018/822 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements, known as “DAC6”, which entered into force on 25 June 2018. DAC6 is to be transposed into the domestic legislation of the Member States by 31 December 2019 at the latest.

We are supportive of the broad objectives of the Directive and want to ensure that it is as effective as possible and that there are no misunderstandings.

Professional services firms and other tax intermediaries wish to be fully compliant with DAC6. We have started to identify and track potential cross-border reportable arrangements to be reported in 2020. If a reportable cross-border arrangement takes place between 25 June 2018 and 30 June 2020 that arrangement has to be reported before August 2020. As of July 2020, reporting needs to take place within 30 days as of the reportable cross-border arrangements being made available or being ready for implementation, or after the first step of implementation has been taken, whichever happens first. At the moment, this is an enormous challenge. The Directive relies on key concepts that lack consistent equivalents in Member State legislation (for example, the main benefit test or the notion of intermediary or arrangement) and there is a lack of interpretative guidance which can be deduced from the legislative process, as well as a current lack of legislation and guidance by Member States.

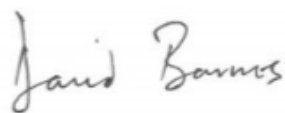
Consistent implementation of DAC6 in all EU Member States and clear and consistent interpretative guidance agreed between the different EU Member States would help limit unnecessarily excessive administrative costs and limit confusion for taxpayers and service providers about their responsibilities. It would also help make the reporting obligations as effective and efficient as possible by preventing over and underreporting as much as possible. We understand that it will be unlikely that full consistency will be achieved, as EU Member States may supplement the Directive with their own policy preferences. However, we would strongly urge for these differences to be limited to those situations where there are clear policy reasons for these inconsistencies, and not be simply due to Member States using different routes to clarify DAC6 provisions.

We therefore welcome the initiative taken by Working Party IV to discuss the application of DAC6 in its meeting of 24 September 2018. Whilst the summary record of that meeting may have no clear legal status, it certainly contributes to a more common interpretation by Member States, and it does help tax practitioners and multinational enterprises to better understand the rules. We also appreciate the Commission's efforts to engage with stakeholders at the CFE Tax Advisers Europe conference in Madrid, as an opportunity to clarify some of the technical issues in the course of the implementation of DAC6 by Member States.

We would very much welcome the continuation of these discussions in Working Party IV on a regular basis, as there are still many uncertainties regarding important issues. We encourage the Commission and the Member States to continue their efforts to provide more guidance and clarification and welcome any opportunity to actively contribute during public consultations. From the summary record of the meeting of Working Party IV on 24 September, we understand that the possibility of a workshop was discussed. We believe that such a workshop between EU Member States, the European Commission and stakeholders would be an excellent means of having a public consultation and dialogue.

Yours sincerely,

For The European Contact Group¹,



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Chairman

For CFE Tax Advisers Europe²,



Wim Gohres
Executive Board Member and Chairman of the
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For The European Group of
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¹ The European Contact Group (ECG) is the European public policy working group comprising regulatory and policy partners of BDO, Deloitte, EY, Grant Thornton, KPMG and PWC. ECG is registered in the EU Transparency Register under n° 0633841538-63.

² CFE Tax Advisers Europe is a Brussels-based umbrella association uniting 30 European national tax institutes and associations of tax advisers from 24 European countries. Founded in 1959, CFE represents more than 200,000 tax advisers. CFE Tax Advisers Europe is registered in the EU Transparency Register under n° 3543183647-05. For further information please contact the CFE Brussels office at info@taxadviserseurope.org or visit the CFE website www.taxadviserseurope.org

³ Acting as a European representative office, EGIAN's membership is made up of 20 global mid-tier accounting networks and associations. It provides a forum for its members to develop common positions on specific technical and legislative issues and to debate these issues with policy makers, regulators and key professional stakeholders especially in Europe. EGIAN is registered in the EU Transparency Register under no. 78403342288-89. The website is <http://www.egian.eu/>.