



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Direct Taxation, Tax coordination, Economic Analysis and Evaluation
Direct Tax Policy & Cooperation

DAC Evaluation - Factual Summary

Report on Public Consultation

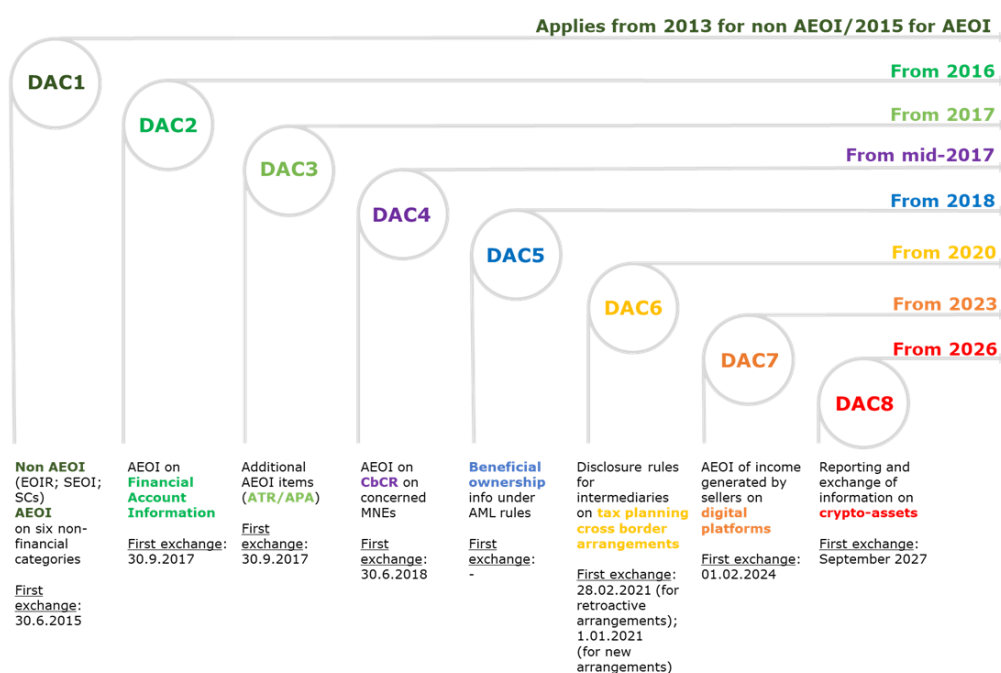
This document should be regarded solely as a summary of the contributions made by stakeholders on the public consultation concerning the DAC evaluation. It is not an official position of the European Commission or its services. Responses to the consultation activities cannot be considered as a representative sample of the views of the wider EU population.

1. BACKGROUND

Council Directive 2011/16/EU Directive on Administrative Cooperation in the field of taxation, otherwise known as DAC ⁽¹⁾, lays down the rules and procedures for effective cooperation between Member States' tax authorities in the field of direct taxation.

The Directive establishes a legal framework of instruments for the exchange of tax information upon request (EOIR) and exchanges which occur either spontaneously, systematically, or automatically (AEOI). It also includes advanced cooperation tools (administrative inquiries, presence in administrative offices and participation in administrative inquiries, simultaneous controls, and joint audits), and a dedicated IT architecture funded by the Fiscalis programme ⁽²⁾.

Evolution of the DAC (2011-2024)



Article 27 of the DAC stipulates that the Commission must submit a report on the application of the DAC to the European Parliament and to the Council, every five years. The first evaluation of the DAC was published in 2019 and covered the period from 2013 to 2017 ⁽³⁾. The conclusions of the evaluation led to legislative amendments of the DAC through DAC7 and DAC8.

The process of the present evaluation began in late 2022 and covers the application of DAC during the period of 2018 to 2022.

2. CALL FOR EVIDENCE AND OPEN PUBLIC CONSULTATION

The European Commission procured an external contractor to undertake an in-depth study of DAC, to support the overall evaluation, as part of the consultation activities for the study, the Commission published a call for evidence on “Have your Say” and a public consultation. The aim of such consultation activities was to reach a wider and more diverse audience, particularly the general public. Both consultation activities were published on 7 May 2024 and closed on 30 July 2024.

⁽¹⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02011L0016-20240101>

⁽²⁾ [REGULATION \(EU\) 2021/847 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 May 2021 establishing the ‘Fiscalis’ programme for cooperation in the field of taxation.](#)

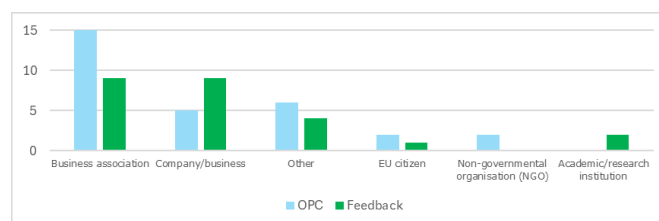
⁽³⁾ https://taxation-customs.ec.europa.eu/document/download/dedeaeafb-deb8-42cf-9810-0b850ec3f298_en?filename=2019_staff_working_document_evaluation_on_dac.pdf

a. Contributions from stakeholders

A total of 55 stakeholders participated in the consultation process. More specifically, 28 stakeholders and 2 citizens answered the public consultation based on a questionnaire focusing on AEOI that addressed the different instruments provided for in the DAC⁽⁴⁾. The Commission also received 25 written feedback contributions to the call for evidence⁽⁵⁾.

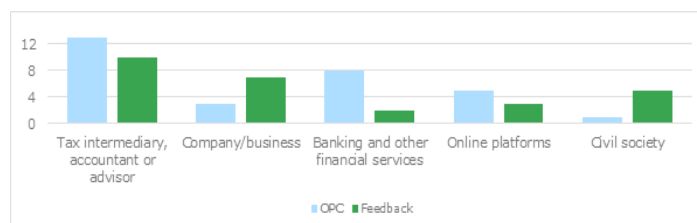
24 respondents identified themselves as ‘business associations’ representing specific economic interests, whether in the legal and accountancy professions or in other areas of activity; 14 identified as ‘company or business’; 10 identified as ‘other’ including tax intermediaries, accountants, or advisors. 7 participants identified themselves as 3 EU citizens, 2 NGOs and 2 academic research and institutions⁽⁶⁾.

Figure 1. Distribution by categories (OPC and Feedback)



The distribution by category of activity shows that tax intermediaries, accountants or consultants are the most common category of respondents, with the highest representation (23) followed by large companies and businesses (10), banks, and other financial services (10).

Figure 2. Distribution by categories and area of activity (OPC and Feedback)



In terms of geographic distribution, Belgium had the highest participation rate, with 13 respondents. One explanation for this is the concentration of business associations and lobby groups based in Brussels. 9 respondents originated in France, while Germany, the Netherlands and Ireland were all represented by 5 respondents each. Other EU countries (Austria, Czechia, Finland, Luxembourg, Malta, Sweden) are represented by smaller percentages of respondents.

b. Summary of answers and comments on relevance and coherence of the Directive⁽⁷⁾

The first part of the questionnaire sought an assessment of the Directive as a whole, which addresses the evaluation criteria of relevance and coherence.

The first questions sought stakeholders’ feedback on the Directive’s fitness to tackle three main underlying tax-related challenges:

- erosion of tax-base following the increased movement of people and capital in the EU;
- aggressive tax planning by corporations;
- harmful tax competition among EU Member States.

In this regard, the questionnaire asked to what extent these three tax-related issues are still perceived as a problem today.

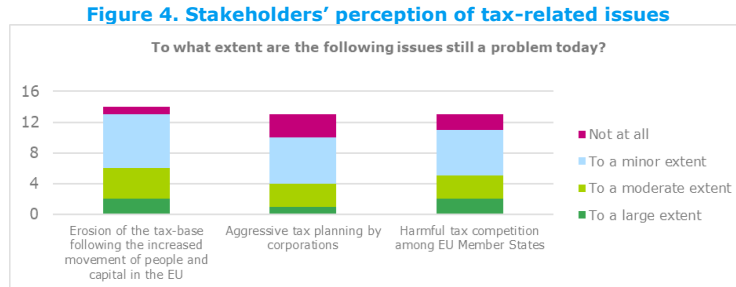
⁽⁴⁾ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13678-Cooperation-on-direct-taxation-evaluation/public-consultation_en

⁽⁵⁾ The number of contributions as feedback differs from the statistics of the feedback online. As a matter of fact, 13 contributions were not included because they were the same contributions sent through the OPC Annex, and therefore are counted only once under OPC.

⁽⁶⁾ Source: Open public consultation – EU-survey questionnaire

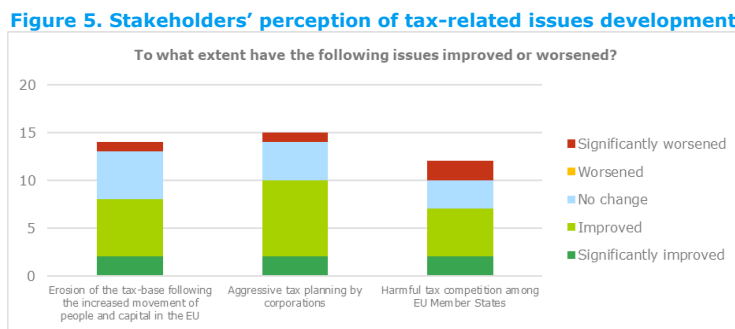
⁽⁷⁾ ‘No opinion’ or ‘don’t know’ responses were not suitable for analysis and were therefore not taken into account in the results.

As shown in Figure 4 below, the **erosion of the tax base following the increased movement of people and capital in the EU** is, of the three issues, the one raising the most concern, as 6 respondents consider the problem as remaining to a large and moderate extent. However, the majority of respondents (8 out of 14) perceive it as a problem to a minor extent (7), or not a problem at all (1). **Aggressive tax planning by corporations** is considered an ongoing problem by 4 respondents (out of 13), and a minor issue or not a problem at all by 9 respondents. Among them, 3 believe that it is not an issue at all. **Harmful tax competition among EU Member States** is deemed by 5 respondents a problem to a large extent or moderate extent, while 8 respondents consider it a minor issue or not an issue at all.



Respondents: 14 (Erosion of the tax base); 13 (Aggressive tax planning); 13 (Harmful tax competition)

This is relatively consistent with the answers provided on the perception of any improvement or worsening of the three issues (Figure 5). **Most respondents saw an improvement in the field of aggressive tax planning by corporations** (10 out of 15), and **harmful tax competition** (7 out of 12) or erosion of the tax-base (8 out of 14). Among the three issues, erosion of the tax-base is perceived as the problem with less changes (5 out of 14).



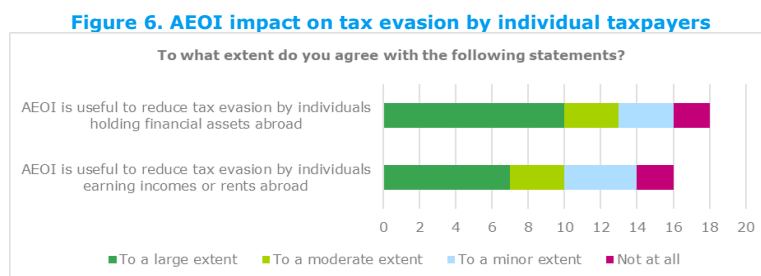
Respondents: 14 (Erosion of the tax base); 15 (Aggressive tax planning); 12 (Harmful tax competition).

The questionnaire sought views on the contribution of Automatic Exchange of Information (AEOI) to reduce tax evasion.

AEOI is considered useful in reducing tax evasion by individuals holding financial assets abroad by most of stakeholders, with 13 out of 18 respondents agreeing that it has achieved its aims in that regard to a large or moderate extent, 3 to a minor extent, while 2 consider it not useful at all. 3 respondents did not know or had no opinion. This indicates a **high level of confidence in the impact of DAC 2 on transparency and compliance for financial asset holdings**.

For most of the stakeholders AEOI is also useful in reducing tax evasion by individuals earning incomes or rents abroad (10 out of 16). A smaller portion (6 out of 16) believe it is slightly useful, or not useful at all.

This confirms the relevance of exchanging information on income as a driver for tax transparency.



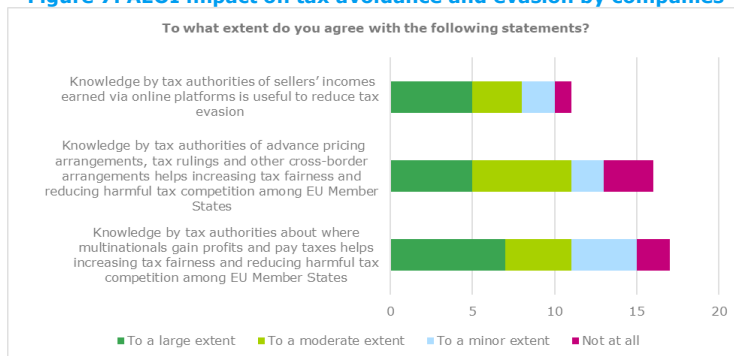
Respondents: 18 (AEOI is useful to reduce tax evasion by individuals holding financial assets abroad); 16 (AEOI is useful to reduce tax evasion by individuals earning incomes or rents abroad)

Few stakeholders (11) had an opinion on the usefulness of tax authorities having knowledge of incomes earned via online platforms received (DAC7). This can be explained considering the exchanges occurred for the first time in 2024.

Stakeholders' opinions on how the **exchange of information on certain information can be useful to tax authorities to tackle the tax-related issues is overall positive**. 11 out of 16 stakeholders agree that knowledge by tax authorities of information exchanged on **Advance Pricing Agreement (APA) and Advance Tax Ruling (ATR), covered in DAC3, and other cross-border arrangements, in scope of DAC6, helps increasing tax fairness and reducing harmful tax competition** to a large (5) or moderate (6) extent. A third part of the stakeholders thinks it has a minor (2) or no (3) effect.

Likewise, **responses are overall positive as regards the exchange of information under DAC4**, (i.e., multinational profits and tax payments). 11 out of 20 respondents agree to a large or moderate extent that this exchange of information has an impact on tax fairness and harmful tax competition.

Figure 7. AEOI impact on tax avoidance and evasion by companies

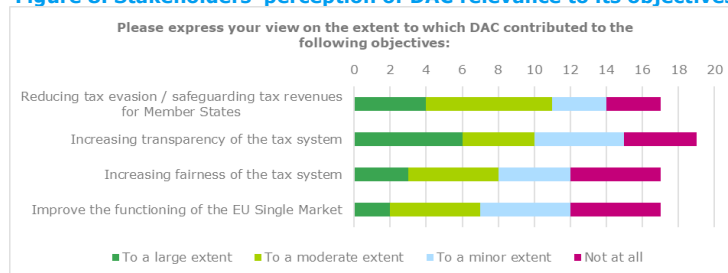


Respondents: 11 (Knowledge by tax authorities of sellers' income); 16 (Knowledge by tax authorities of APA arrangements, tax rulings and other cross-border arrangements); 17 (Knowledge by tax authorities about where multinationals gain profits and pay tax).

Overall, most stakeholders (11 out of 17) believe that **DAC has contributed to reducing tax evasion and safeguarding tax revenues for Member States** to a large or moderate extent. More than a half of the respondents (10 out of 19) also agree that **DAC has helped increasing tax transparency**.

Comparatively, a better fairness of the tax system or the improvement of the functioning of the Single Market seem to be objectives to which DAC's provisions have influenced to a lesser extent. More than a half of respondents stated that DAC has contributed either to a minor extent or not at all to increase fairness of the tax system (9 out of 17) or improve the functioning of the EU single market (10 out of 17).

Figure 8. Stakeholders' perception of DAC relevance to its objectives



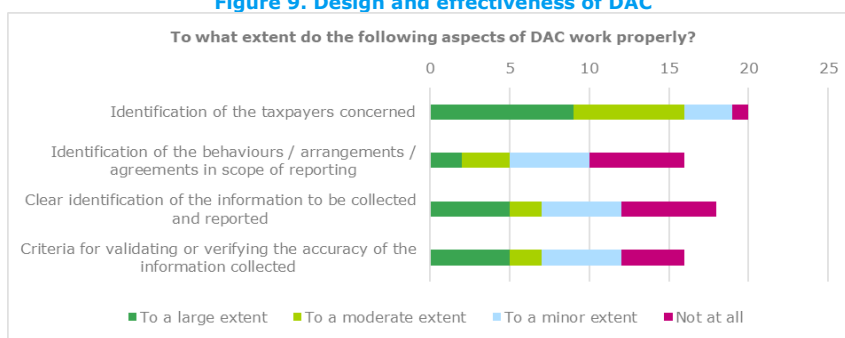
Respondents: 17 (Reducing tax evasion / safeguarding tax revenues); 19 (Increasing transparency); 17 (Increasing fairness of the tax system, improve the functioning of the EU market).

When assessing which aspects of the DAC work properly, the identification of taxpayers concerned is the most efficient aspect according to stakeholder. Nearly **half of the respondents consider that the identification of taxpayers concerned works well** (9 out of 20), a significant portion sees it as moderately effective (7), and fewer view it as minorly clear or not clear at all (4).

Stakeholders instead appear rather critical regarding the extent to which DAC allows an easy identification of reportable behaviours, arrangements, or agreements, with 12 out of 16 respondents answering that DAC works in this respect only to a limited extent (5), or not well at all (6).

Opinions are more mixed on the good functioning of other aspects, such as the existence of clear elements to identify which information should be collected or reported, and on how to validate its accuracy.

Figure 9. Design and effectiveness of DAC



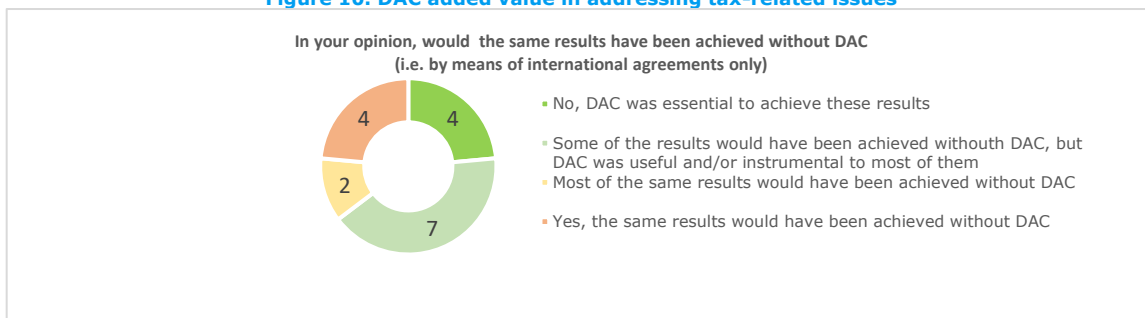
Respondents: 20 (identification of taxpayer concerned); 18 (clear identification of the information to be collected and reported); 16 (clear identification of the behaviours/arrangements/agreements in scope of reporting; criteria for validating or verifying the accuracy of information collected)

CFE Feedback and OPC Annexes

Some comments received from the financial sector identified the verification of the Tax Identification Numbers (TINs) in DAC2 exchanges, as an area for improvement. In particular, it was suggested to improve technical interoperability by investing in IT systems to reduce administrative burdens.

Many responses recognised the Directive’s added value, but opinions varied on the extent to which it remains necessary. In terms of achieving results, 4 respondents deemed DAC essential, 7 respondents feel that some results would have been achieved independently, but DAC was useful and instrumental in achieving most of them; 2 respondents stated that most results would have been achieved without it and a minority (4 out of 17) believed that the same results would have been achieved without DAC.

Figure 10. DAC added value in addressing tax-related issues



Respondents: 17.

CFE Feedback and OPC Annexes

Written contributions to the call for evidence confirm that DAC has been helpful in achieving its objective of facilitating the automatic exchange of tax information between EU Member States, thereby increasing transparency, and combating tax evasion. However, some stakeholders question whether the latest amendments might have increased too much the scope of the exchanges as well as increased the burden on reporting entities.

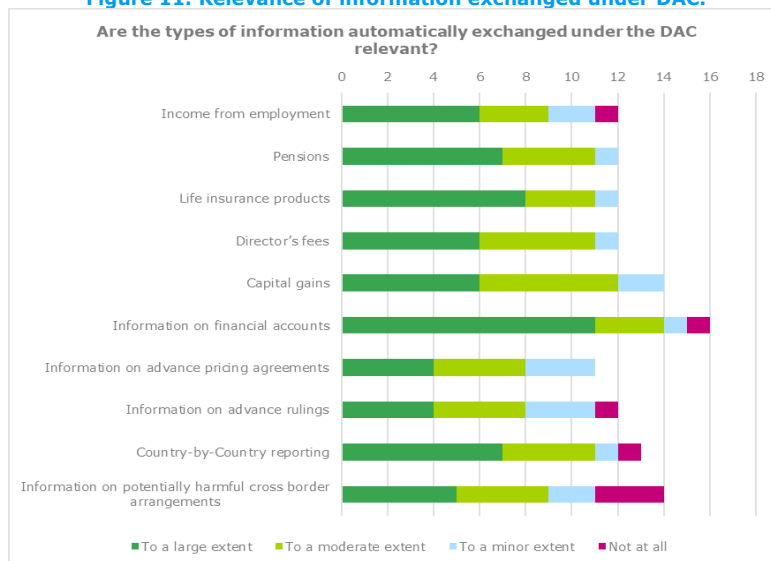
Closely linked to the effectiveness of DAC is the question of **how relevant the categories exchanged under the Directive are.**

Figure 11 shows that most respondents consider information collected and exchanged for under DAC2 and DAC1 highly important. Specifically, 14 respondents (out of 16) indicated that information on financial accounts is largely or moderately relevant. Categories exchanged under DAC1 are deemed to be relevant to a large or a moderate extent for most of the respondents: capital gains (12), director fees (11), life insurance products (11), pensions (11) income from employment (9). **DAC4 Country-by-Country reports (CbCRs) is deemed largely or moderately relevant by 11 respondents (out of 13).** Compared to other types of information, **DAC6 AEOI information received more mixed opinions, with 9 out of 14 respondents rating it as highly or moderately relevant** and 5 respondents rating it as not relevant at all or to a lesser extent. It is followed in similar proportions by **information exchanged under DAC3 on APA**

and ATR, which is considered by 8 respondents (out of 12) either largely or moderately relevant, while 4 respondents consider it as not so relevant or not relevant at all.

Overall, it should be noted that there are fewer responses indicating low relevance across all categories, suggesting that **most respondents consider information exchanged under DAC to be generally relevant.**

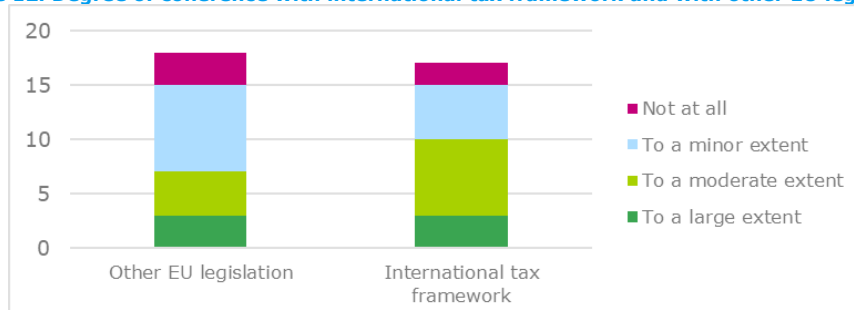
Figure 11. Relevance of information exchanged under DAC.



Respondents: 12 (Income from employment, pensions, life insurance products, Director's fee), 14 (Capital gains), 16 (financial accounts), 12 (APA and rulings), 13 (CbCR), 14 (Potentially harmful cross border arrangements)

Finally, stakeholders were also asked to share their **views regarding the alignment of DAC provisions to other EU initiative and to the international tax framework**, in order to assess the internal and external degree of coherence. As shown in Figure 12, **more than 50% of stakeholders (10 out of 17) believe that DAC instruments work in synergy with the international tax framework**, while 7 are more sceptical. The view is less positive on other EU legislations, as **more than a half (11 out of 18) of the respondents believe that DAC is not consistent with other EU framework to a minor extent (8) or not at all (3).**

Figure 12. Degree of coherence with international tax framework and with other EU legislation



Respondents: 18 (Coherence with other EU legislation); 17 (Coherence with international tax framework)

CFE Feedback and OPC Annexes

Written contributions shed further light on stakeholders' views on this issue. Regarding DAC coherence with international tax framework, two specific initiatives were referenced: US Foreign Account Tax Compliance Act (FATCA) and OECD Pillar II. In detail, 2 stakeholders argue for clearer self-certification procedures and better alignment with FATCA and DAC2 classifications, to streamline reporting obligations and improve the overall efficiency of tax compliance frameworks. 8 associations representing both tax advisors and businesses mentioned the need to enhance synergies among OECD Pillar II and DAC4, simplifying the reporting requirements under the latter. According to their feedback, this would avoid duplication of effort and significantly reduce compliance costs for companies. 5 respondents referred to the OECD temporary CbCR Safe Harbour as a possible common ground as it would involve less extensive calculations on the basis of a smaller pool of already available data from the CbCR report.

With regards to other EU legislation, the use of consistent definitions across EU Regulations (e.g., the Anti-Tax Avoidance Directive (ATAD), VAT administrative cooperation regulation, and the Recovery Directive) were mentioned by several stakeholders (8) as an element that would greatly enhance clarity and efficiency. More specifically on DAC6, one example mentioned was hallmark B2 covering inter alia 'hybrid instruments', addressed also by ATAD. Some associations representing the banking and financial sector and

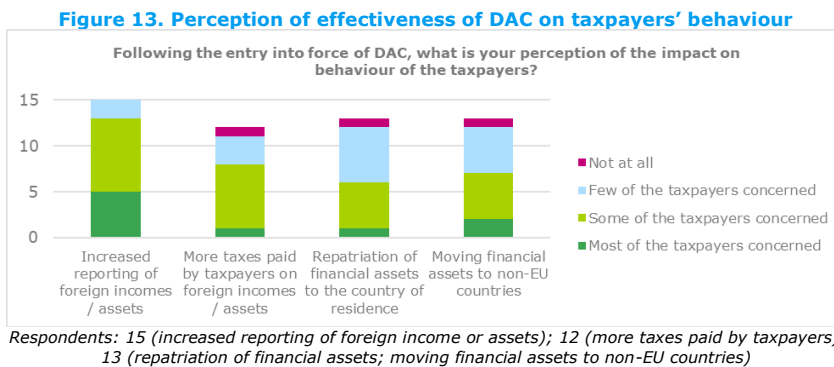
the business community (3) stressed the need for stronger coherence between certain DAC6 reporting obligations and the Anti-Money Laundering (AML) Directive.

c. Automatic exchange of information on income and assets (DAC1, DAC2)

The second part of the questionnaire concerned the effectiveness of DAC provisions (and specifically DAC1 and DAC2) on taxpayers' behaviour.

According to stakeholders, **the most significant impact on taxpayers' behaviour concerns the increased reporting of foreign income and/or assets**: almost 90% of respondents (13 out of 15) deemed that it affected some or most of the taxpayers concerned.

This is followed by **more taxes paid by taxpayers on foreign income and taxes** – 8 respondents (out of 12) deemed it affected most or some of the taxpayers concerned. Conversely, the perception of the impact on repatriation of financial assets to the country of residence and the move of financial assets is split between affecting few and some taxpayers. **These views reflect an acknowledgement of the actual impact of exchanges of information in this field, including a possible deterrent effect.**

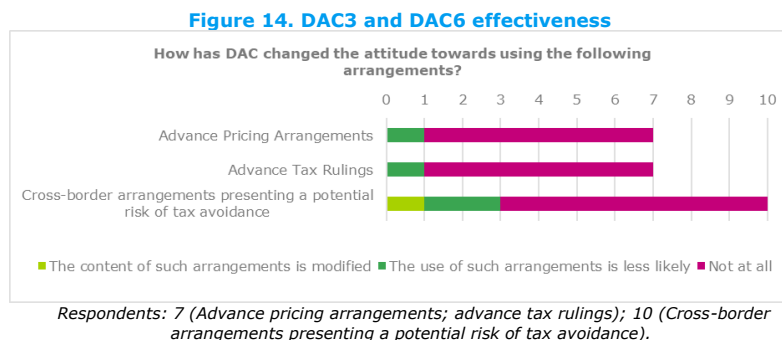


d. Automatic exchange of information on enhancing tax transparency (DAC3, DAC4, DAC6)

The last section of the questionnaire investigated tax transparency, and some aspects of the effectiveness of the Directive. In detail the questions covered the effectiveness of exchanges under DAC3, DAC4 and DAC6.

The first viewpoint investigated in this section is whether and how DAC changed the attitude towards the use of ATR, APA and cross-border arrangements. Across all three types of arrangements, **the most common response is that DAC has not changed the content nor the frequency of use of these arrangements.**

Conversely, for cross-border arrangements presenting a potential risk of tax avoidance, there is a slightly higher perception of modification and reduced likelihood of use. This indicates that, according to the respondents, **while the impact of DAC might be limited, it is somewhat more noticeable for DAC6 than for DAC3.**



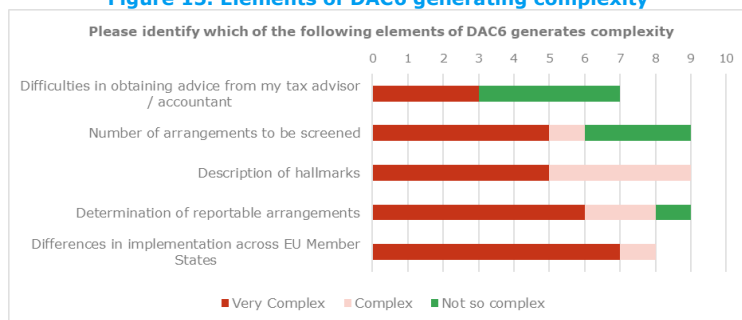
The last set of questions covered the assessment of DAC6⁽⁸⁾. Overall, stakeholders were relatively critical of DAC6.

⁽⁸⁾ None of the tax advisers who responded to the questionnaire advised their clients to use APAs/ATRs. Therefore, there is no evidence of a change in attitude towards the use of such arrangements following the implementation of DAC3. Similarly, none of the tax advisers who responded to the questionnaire advised on the use of cross-border arrangements. As per the questionnaire results, none of the companies responding to the consultation's questionnaire

Starting with the assessment of the **screening and reporting process for cross-border arrangements, respondents found both difficult, rating them as either very complex or complex.** The questionnaire also investigated the estimation of costs of screening and reporting under DAC6. According to stakeholders, **DAC6 has increased administrative costs**, particularly for companies with international contacts and professions such as tax advisors, auditors, and lawyers. The costs vary depending on the size, complexity, and the number of cross-border transactions. Larger multinational corporations with intricate structures face higher expenses, while smaller entities may incur proportionately higher costs due to fixed compliance expenses. Additionally, **the lack of clarity exposes entities to potential penalties, further complicating compliance.**

Figure 15 below shows that most of the elements listed are generally perceived as complex or very complex, with differences in implementation across EU Member States and **description of hallmarks⁽⁹⁾ being particularly challenging for stakeholders.**

Figure 15. Elements of DAC6 generating complexity



Respondents: 7 (Difficulties in obtaining advice from tax advisor); 9 (number of arrangements to be screened; description of hallmarks; determination of reportable arrangements); 8 (differences in implementation across EU Member States)

CFE Feedback and OPC Annexes

The results from the questionnaire were mirrored in the written contributions: practical suggestion related to the screening process was to link specific hallmarks to clearer criteria. Also, with regards to the reporting procedure 5 stakeholders suggested extending the 30-days reporting deadline to 90-days; 14 stakeholders also expressed concerns on reporting obligation by intermediaries (Article 8ab par.5) and legal professional privilege.

According to them, the transposition of the waiver from reporting obligations for intermediaries bound by the legal professional privilege has not been homogeneously implemented in all Member States. These stakeholders agree that despite the waiver, upheld by CJEU decision in case C-694/20, intermediaries must still inform their clients of their reporting obligations.

They suggest considering limiting this notification requirement to clients with an EU nexus, such as those who are tax residents in an EU Member State or have a permanent establishment within the EU, to reduce notifications to subcontracting intermediaries or relevant taxpayers who have no connection to the EU and are therefore not subject to DAC6 reporting obligations.

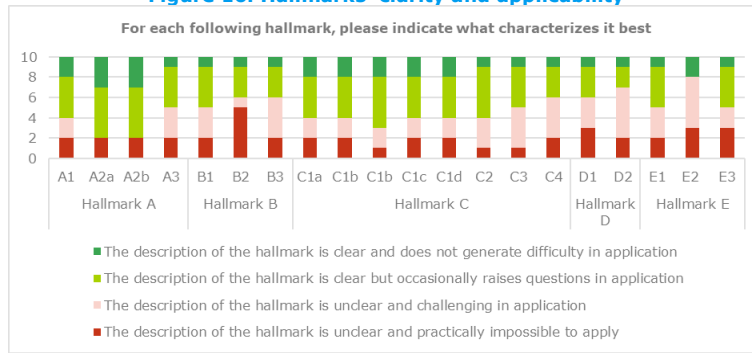
Figure 16 focuses on hallmarks, confirming that they have a mix of perceptions regarding clarity and applicability.

A significant portion of responses indicate that many hallmarks are either unclear or occasionally raise questions, suggesting widespread uncertainty in the application of DAC6 hallmarks across the different categories.

falls in the scope of DAC4 and the exchange of CbCRs, hence no answers were provided to the general assessment of certain aspects of CbCR requirements.

⁽⁹⁾ A cross-border arrangement becomes reportable only if certain characteristics or features are present, referred to as 'hallmarks' in Annex IV of the DAC. There are five categories of hallmarks: category A: generic hallmarks linked to the Main Benefit test; category B: specific hallmarks linked to the Main Benefit test; category C: specific hallmarks related to cross-border transactions (some linked to the Main Benefit test); category D: specific hallmarks concerning automatic exchange of information and beneficial ownership; and category E: specific hallmarks concerning transfer pricing.

Figure 16. Hallmarks' clarity and applicability

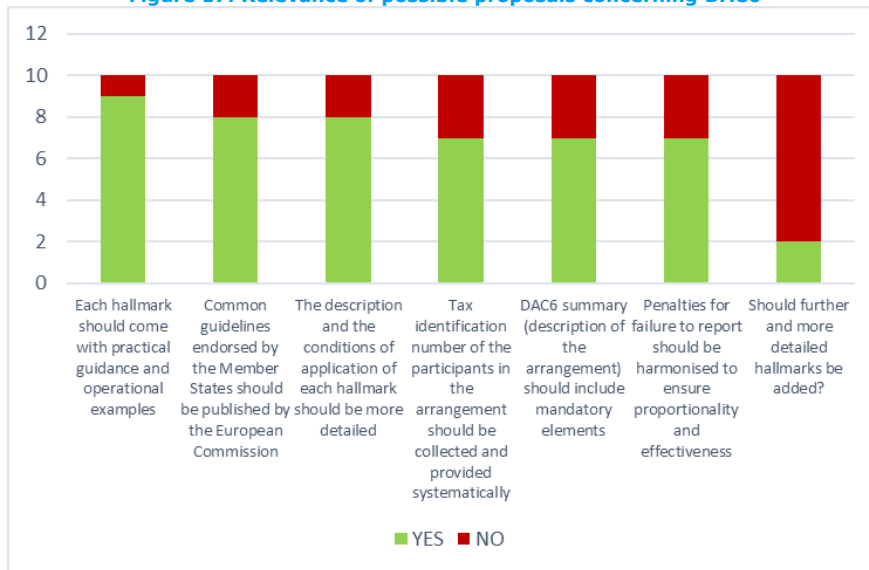


Respondents: 10.

This finding is consistent with the reactions provided by respondent to the questionnaire on possible proposal concerning DAC6. The majority view is that **more detailed and practical guidance is needed**, as the **development of practical guidance and operational examples at EU level for each hallmark** was the proposal with the higher positive responses (9 out of 10). This was followed by the **necessity for common guidelines endorsed by Member States** and the **need for a more detailed description** in terms of **conditions of application of each hallmark** (8 responses each).

There is also strong support for **systematic collection and provision** of participants' **tax identification numbers** and the **inclusion of mandatory elements in the DAC6 summary** (both indicated by 7 respondents), indicating a call for a more harmonised reporting. Harmonising penalties to ensure proportionality and effectiveness (7) is moderately supported, underscoring the importance of fair and effective enforcement. Conversely, there is less support for adding further detailed hallmarks (2) suggesting that **stakeholders favour a balanced approach that avoids excessive complexity and administrative burden**.

Figure 17. Relevance of possible proposals concerning DAC6



Note: Total number of respondents: 10.

CFE Feedback and OPC Annexes

Written contributions, point to inconsistencies in how DAC6 is applied among Member States, due to varied interpretations of hallmarks and differing legal protections, which increased administrative burdens. To avoid these issues, stakeholders suggest the Commission and the Member States to work on common guidance to clarify definitions and avoid discrepancies in application. With regards to penalties, 7 stakeholders mentioned that revising and harmonising penalties within Member States' national DAC6 implementing legislation would enhance confidence in the single market and ensure a level playing field in the EU.

3. NEXT STEPS

The data collected from the consultation activities will from part of the final report detailing the conclusions drawn on the second DAC evaluation which the Commission will submit to the European Parliament and the Council in accordance with Article 27 of the DAC. This report is due to be published in early 2025.