



Council of the European Union
General Secretariat

**Interinstitutional files:
2026/0168 (CNS)**

Brussels, 07 September 2026

WK 13618/2026 INIT

LIMITE

**FISC
ECOFIN**

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Tax Questions (Direct Taxation – DAC) Fiscal Counsellors / Attachés
N° Cion doc.:	ST 11060 2026 INIT
Subject:	DAC Recast – Working Party on Tax Questions - presentation by the Presidency

Delegations will find attached the presentation made by the Presidency at the Working Party on Tax Questions (Direct Taxation) meeting on 4 September 2026.

Uachtaránacht na hÉireann ar
Chomhairle an Aontais Eorpaigh 2026



DAC Recast – Working Party on Tax Questions

4 September 2026



ÉIRE2026.EU
IRELAND2026.EU



Agenda

PUBLIC

1. Presidency Compromise Text – DAC6, DAC4 and DAC9
2. Exchange of Views – European Data Protection Supervisor Opinion (EDPS)
3. Commission Overview – TIN Validation Study (time permitting)

Meeting Structure

1. Compromise Text – DAC6

- Pillar Two Carve-out
- Hallmarks
- Definitions and Reporting
- Legal Professional Privilege
- Council Implementing Act

2. Compromise Text – DAC4 and DAC9

- All relevant provisions

Rationale

PUBLIC

- **March 2025 (European Council & ECOFIN) Conclusions**
 - Member States made a commitment to pursue a tax simplification and decluttering agenda
- **Balance the ambition of the Commission proposal with feedback from Member States**
- **Address the expectations of business and external stakeholders**



Presidency Compromise Text DAC6



ÉIRE2026.EU
IRELAND2026.EU

Pillar Two Carve-out – Details

The Presidency compromise text:

- retains the carve-out for groups within the scope of Council Directive (EU) 2022/2523 (the Pillar Two Directive) and the OECD GloBE Model Rules
- removes the additional qualifying conditions for participants with a UPE in a Side-by-Side (SbS) jurisdiction
- defers the application of the carve-out until 1 January 2031

Pillar Two Carve-out – Objectives

- **Simplification** – create a level playing field for all groups within scope
- **Tax certainty** – delete conditions that are unknown and unknowable
- **Alignment with the OECD** –
 - avoid calling the IF agreement on safe harbours into question
 - avoid creating a parallel EU system
- **Evidence based** – defer the application until 2031 to allow for a review mechanism

Pillar Two Carve-out – Article 3

- **Article 3(19), second subparagraph – carve-out:**

An arrangement referred to in the first subparagraph shall not be considered a cross-border arrangement where each of the participants in the arrangements is either:

- (i) part of an MNE group or a large-scale domestic group, which, for the fiscal year in which the reportable cross-border arrangement is implemented, falls within the scope of Directive (EU) 2022/2523; or
- (ii) part of an MNE Group which, for the fiscal year in which the reportable cross-border arrangement is implemented, falls within the scope of the OECD GloBE Model Rules.

Pillar Two Carve-out – Article 53

- **Article 53(2) – deferral:**

By [31 December 2029], the Commission shall submit a report to the Council evaluating the suitability of the second subparagraph of Article 3(19).

This report shall take into account relevant experience with the implementation of Directive (EU) 2022/2523 and the OECD GloBE Model Rules, including the interaction between those rules and the risk assessment information received by Member States on reportable cross-border arrangements. The report shall also examine relevant international developments, including the outcome of the evidence-based stocktake process undertaken by the OECD/G20 Inclusive Framework. The Commission shall invite input from Member States when drafting its report and Member States shall provide such input by [30 June 2029].

Where the Commission concludes in that report that the application of the second subparagraph of Article 3(19) is not suitable, it may submit a legislative proposal, together with that report, to amend or repeal that subparagraph.

Pillar Two Carve-out – Article 55

- **Article 55(2a) – transposition:**

Member States shall adopt and publish, by [31 December 2030], the laws, regulations and administrative provisions necessary to comply with the second subparagraph of Article 3 point 19. They shall immediately communicate the text of those measures to the Commission. They shall apply those measures from [1 January 2031].

Pillar Two Carve-out – Recitals

- **Recital (27)** – genesis of the carve-out – Council conclusions of 11 March 2025
- **Recital (28)** – justification for the carve-out – groups within scope are subject to effective minimum taxation
- **Recital (29)** – rationale for the carve-out – additional compliance burden and reduced risk of aggressive tax planning
- **Recital (29a)** – conditions for the carve-out – within the scope of the GloBE Rules or Pillar Two Directive
- **Recital (29b)** – rationale for including SbS groups – OECD IF agreement on safe harbours
- **Recital (29c)** – rationale for the deferral – allow CION to report to Council on international developments and MS experience

Hallmarks – Details

- The Presidency compromise text:
 - retains the deletion of the A hallmarks from Part II of Annex VI
 - amends recitals for clarity and consistency

Hallmarks – Objectives

- **Simplification and burden reduction** – delete generic hallmarks that result in numerous reports but little risk activity
- **Legal certainty** – amendments to improve the clarity of the legislation
- **Effectiveness and proportionality** – retaining hallmarks which present the greatest risk of tax avoidance

Hallmarks – Annex and Recitals

- **Annex IV, Part II** – deletion of A hallmarks
- **Recital (24)** – amendments for the sake of decluttering and clarity – addition of “the concept of aggressive” before “tax planning arrangements”
- **Recital (25)** – rationale for limiting the common reporting rules to cross-border arrangements – “potential impact on the functioning of the internal market”
- **Recital (31)** – rationale for the deletion of the A hallmarks – “feedback” that they “generate disproportionate levels of reporting”

Definitions – Details

The Presidency compromise text:

Intermediary

- deletes the following from the definition of ‘intermediary’ in Article 3(22):
 - “or legal arrangement, such as a partnership, trust or foundation”
 - “designs”
 - “designing”

Relevant Taxpayer

- adds “cross-border” to the definition of ‘relevant taxpayer’ in Article 3(23)

Definitions – Objectives

- **Simplification** – deletion of superfluous language already contained within the definition of ‘person’
- **Proportionality** – reflect changes to the new reporting trigger contained within the definition of ‘relevant taxpayer’

Definitions – Article 3

- **Article 3(22) – ‘intermediary’**

‘intermediary’ means any person that markets, organises or makes available for implementation or manages the implementation of a reportable cross-border arrangement.

It also means any person that, having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, knows or could be reasonably expected to know that they have undertaken to provide, directly or by means of other persons, aid, assistance or advice with respect to marketing, organising, making available for implementation or managing the implementation of a reportable cross-border arrangement...

Definitions – Article 3

- **Article 3(23) – ‘relevant taxpayer’**

‘relevant taxpayer’ means any person who has implemented the first step of a reportable cross-border arrangement;

Definitions – Recitals

- **Recital (22)** – amendments for clarity and consistency:
 - addition of “within the definition of Article 3(22) of this Directive” to clarify how “intermediaries” is to be understood
 - addition of “for the tax authorities of Member States” to develop a more comprehensive “risk assessment” policy “to protect their national tax bases” to clarify why exchanges are necessary
- **Recital (23)** – amendments for clarity and consistency:
 - the terms “transaction” and “scheme” deleted in favour of “arrangement”
 - addition of “maximise the effectiveness of the disclosure framework provided for in Article 8 of this Directive” to clarify the rationale for the disclosure obligation

Reporting and Notification – Details

The Presidency compromise text:

- clarifies the obligations of an intermediary or a relevant taxpayer, as appropriate
- retains the extension of the reporting deadline to 90 days
- retains the first step in the implementation as the reporting trigger
- deletes the requirement that the exchange of information is to take place “as soon as the information becomes available”
- retains the requirement to exchange information “not more than one month after the end of the quarter in which the information was filed”



Reporting and Notification – Objectives

- **Legal Certainty** – amendments to improve the clarity of the legislation by removing “as soon as information becomes available”
- **Simplification and Burden Reduction** – retain the reporting trigger and the extension to the reporting deadline

Reporting and Notification – Article 8

- **Article 8(6):**

Each Member State shall take the necessary measures to require that, where there is no intermediary at the time when the first step of the implementation of the reportable cross-border arrangement has been made, the reporting obligation lies with the relevant taxpayer. Similarly, if an intermediary notifies another intermediary of the application of a waiver under paragraph 4, the reporting obligation in respect of a reportable cross-border arrangement lies with the other notified intermediary, or, if there is no such intermediary, the relevant taxpayer.

- **Article 8(16):**

The automatic exchange of information shall take place not more than one month after the end of the quarter in which the information was filed.

Reporting and Notification – Recitals

- **Recital (30)** – for consistency with Article 8, amendment to clarify that information should only be reported when the first step of a reportable cross-border arrangement has been implemented

Legal Professional Privilege – Details

The Presidency compromise text:

- clarifies the concept of legal professional privilege (LPP)
- distinguishes the concept of legal professional privilege from that of professional secrecy
- clarifies when a waiver from a reporting obligation should be available and when a waiver from a notification obligation should be available



Legal Professional Privilege – Objectives

- **Legal Certainty** – alignment with the CJEU jurisprudence

Legal Professional Privilege – Article 8

- **Article 8(4)**

Each Member State shall take the necessary measures to give intermediaries the right to a waiver from a reporting obligation on a reportable cross-border arrangement where such intermediaries are bound by legal professional privilege under the national law of that Member State.

Legal Professional Privilege – Article 8

For the purpose of applying the first subparagraph, each Member State shall take the following measures to ensure that the reporting obligation provided for in paragraph 6 is satisfied:

- (a) Require intermediaries pursuing their professional activities under one of the professional titles referred to in Article 1(2), point (a), of Directive 98/5/EC to notify, without delay, their client of that client's reporting obligation and;
- (b) Require intermediaries which are legally authorised to ensure legal representation, but do not pursue their professional activities under one of the professional titles referred to in Article 1(2), point (a), of Directive 98/5/EC, to notify, without delay, any other intermediary or, if there is no such intermediary, the relevant taxpayer of their reporting obligation.

Legal Professional Privilege – Recitals

- **Recital (25a)** – clarifies the concept of LPP – distinguishes this from the concept of professional secrecy
- **Recital (26)** – amended to include the finding of the CJEU – enforcing a reporting obligation on an intermediary who is bound by LPP is in contravention of Article 7 of the Charter of Fundamental Rights of the European Union
- **Recital (26a)** – amended to clarify when a waiver from a reporting obligation should be provided
- **Recital (26b)** – amended to distinguish between lawyers and other professionals who are authorised under national law to provide legal representation

Council Implementing Act – Details

- The Presidency compromise text:
 - proposes that, within five years of the entry into force of the Directive, the Commission will submit a report on options to further develop the applicable criteria for the requirements set out in Part II, points D.2(a) and (b) of Annex IV (“the D2 Hallmark”).
 - On the basis of this report, the Council may, acting unanimously, adopt an implementing act.



Council Implementing Act – Objectives

- **Evidence Based** – requests the Commission provides a report to Council demonstrating the feasibility of adding substance criteria into the D2 Hallmark
 - makes the adoption of an implementing act dependent on the conclusions of the report (*“the Council may”*)
- **Legal Certainty** – clarifies the unanimity requirement in Council

Council Implementing Act – Article 52

- **Article 52**

1. Within five years from the date of entry into force of this Directive, the Commission shall submit a report to Council on the feasibility of options to further develop the applicable criteria for the requirements set out in Part II, points D.2(a) and (b) of Annex IV.
2. On the basis of the conclusions of this report, the Council may, acting unanimously upon a proposal from the Commission, adopt an implementing act, establishing the applicable criteria for the requirements set out in Part II, points D.2(a) and (b) of Annex IV.

- **[Recital (105)]**



Presidency Compromise Text DAC4 and DAC9



ÉIRE2026.EU
IRELAND2026.EU

DAC4 and DAC9 – Provisions

- **Reporting and exchange**
 - Articles 7, 15 and 43
 - Annex VII, section II
 - Recitals (20a), (52), (56), (60), (61) and (61a)
- **Optional single notification**
 - Article 16
 - Recital (62), (62a) and (62b)

Reporting and Exchange – Details

The Presidency compromise text:

- retains deletion of reporting templates in Annexes III (DAC4) and VII (DAC9)
- introduces targeted technical amendments to Article 7 (DAC4) and Article 15 (DAC9) to:
 - improve clarity
 - align terminology with OECD Country-by-Country and GloBE Model Rules (Pillar Two) reporting requirements

Reporting and Exchange – Objectives

- **Consistency** – aligning terminology with OECD and ensuring accuracy
- **Legal Certainty** – amendments to improve the clarity of the legislation in respect of exchange deadlines, by the deletion of “without delay” and “as soon as the information is available”

Reporting and Exchange – Article 7 and 15

Article 7

- replaces the word “form” with “template” in Article 7(1)
- adds the words “if any,” in Article 7(3)(b)
- deletes the words “without delay and” in Article 7(4)

Article 15(1)

- adds the phrase “file a Top-up tax information return”
- replaces the word “form” with “template”
- adds the phrase “the procedure set out in”

Reporting and Exchange – Article 7 and 15

Article 15(3)

- deletes the words “without delay and”

Article 15(4)

- deletes the words “as soon as the information is available and”

Article 15(5)

- deleted in full

Reporting and Exchange – Recitals

- **Recital (20a)** – inserts a new recital to state that the DAC4 template will remain aligned with the OECD BEPS Action 13 Country-by-Country Report
- **Recitals (56) and (60)** – replaces the word “form” with “template”
- **Recital (57)** – deletes reference to the “first Reporting fiscal year”
- **Recital (61a)** – inserts a new recital to state that the Top-up tax information return will remain aligned with the OECD GloBE Information Return

Optional Single Notification – Details

The Presidency compromise text:

- retains the optional single DAC4/DAC9 notification
- amends the relevant recitals and Articles to provide further clarity
- adds a paragraph to address concerns on the implications of a notification not being received where one was expected

Optional Single Notification – Objectives

- **Simplification** – reducing administrative burden

Optional Single Notification – Article 16

- **Article 16(1) – text amended to:**
 - clarify that a single notification may be submitted in respect of DAC4, DAC9, or both combined
 - require a constituent entity to provide its location where it has no tax residence
 - specify what report or return is to be filed as part of the single notification
- **Article 16(2)**
 - delete the words “without delay and”

Optional Single Notification – Article 16

- **Article 16(2a)**

When the competent authority of a Member State expects to receive a notification by way of automatic exchange of information in respect of one or more constituent entities located in its Member State, but that information was not received within the deadlines specified in paragraph 2, it shall, without undue delay, contact the expected filing entity to determine whether the notification was filed centrally in another Member State. Where this is the case, the competent authority that expected to receive the notification shall notify the competent authority that was expected to send the information of the missing exchange. The competent authority that was expected to send the information shall exchange the notification without undue delay. To the extent that a notification is not filed centrally, the obligations of Section II of Annex III of this Directive and Article 44(4) of Directive (EU) 2022/2523 apply.

Optional Single Notification – Recitals

- **Recital (62)** – the text is amended to clarify that a single notification may be made in respect of DAC4, DAC9, or both
- **Recital (62a)** – inserts a new recital to clarify that, where a constituent entity has no tax residence, the notification should include the constituent entity's location as determined in accordance with the Pillar Two Directive
- **Recital (62b)** – inserts a new recital to clarify the process a Member State should follow if it does not receive a notification that it expected to receive



Opinion of the European Data Protection Supervisor (EDPS)



ÉIRE2026.EU
IRELAND2026.EU

DAC Recast Roadmap

17 September* PM only	23 September	30 September*
• Focused examination of DAC1 and DAC5 related provisions	<u>High Level Working Party on Taxation</u> • DAC recast • Update from Presidency • Exchanges of views	• Possible continuation of focused examination of DAC1 and DAC5 related provisions • Focused examination of further improvements and updates (“Miscellaneous provisions”) not already covered

* Topics to be covered on 17 and 30 September are subject to change and will be confirmed closer to the time



ÉIRE2026.EU
IRELAND2026.EU

Contact Details

PUBLIC

DACRecast@Revenue.ie

and

intltax@finance.gov.ie



ÉIRE2026.EU
IRELAND2026.EU