



Platform for tax good governance

11 January 2021

DAC8: Objectives and options for achieving them

European Commission
DG Taxation and Customs Union

Background

The 2020 Action Plan for Fair and Simple Taxation Supporting the Recovery Strategy

- The Action Plan refers to:
 - ✓ The need for tax administrations to ensure fair taxation;
 - ✓ The need for efficient tax controls aided by the exchange of information with other Member States;
 - ✓ The risk that crypto-assets and e-money undermines the progress made on tax transparency and pose substantial risks for tax evasion.
- The Action Plan sets out:
 - To update the directive on administrative cooperation to expand its scope;
 - To strengthen the administrative cooperation framework.

Need for consistency with other relevant initiatives

- EU level:
 - Digital Finance Strategy adopted on 24 September 2020
 - Market in Crypto assets proposal
 - Ongoing work on AML in relation to crypto-assets
- International level - OECD:
 - ongoing work on new reporting obligations for Virtual Assets

Objectives

DAC8 objectives

- General Objectives:
 - Ensure the proper functioning of the Internal Market
 - Reduce tax evasion and other forms of tax abuses
 - Simplify compliance
 - Increase the confidence of European citizens in the fairness of the tax system
- Specific objectives:
 - Enable tax administrations to obtain necessary information
 - Further improve cooperation across tax administrations
 - Keep compliance costs to a minimum through a common EU reporting standard

Problem Definition

Problem Definition - 1

- Lack of information at the level of national tax administrations about the use of crypto-assets and of e-money;
- Resulting in revenue losses;
- Issues with respect to
 - consumer and investor protection
 - market integrity,
 - tax evasion,
 - money laundering and terrorist financing

Problem Definition - 2

- Directive on Administrative Cooperation (DAC) does not include an obligation to report crypto-assets and/or e-money or the relevant intermediaries;
- Level of tax transparency is very low as this new technology is used to create, hold and transfer financial assets without traditional third-party intermediaries
- Developments could lead to the erosion of the integrity of DAC2 exchanges as a tool in tackling offshore tax evasion

Problem Definition - 3

- **The classification** and the tax compliance relating to crypto-assets is complicated due to the potential use of assets for investments and/or payments.
- **The constant and rapid development** of crypto-assets and their use makes it challenging to determine definitions.
- **The inherent mobility** of crypto-asset intermediaries means that extra attention needs to be paid to the level playing field, also in relation to third countries.

Problem Definition - 4

- The disparity in the sanctions applied based on the current provisions in DAC lead to a risk of opportunities for aggressive tax planning and distortions of the Internal Market.
- Other necessary updates of the DAC to improve administrative cooperation.
- Potential adaptations to international developments such as updates of the CbCR and the CRS.

Crypto-assets and e-money

The integration of new concepts in the DAC

- Determine the most appropriate way to integrate the new provisions in the DAC.
- Define the crypto-assets to be in scope of the DAC.
- Define the crypto-asset intermediaries to be in scope of DAC.
- Establish reporting requirements adapted to the specificities of crypto-assets and e-money.

The integration of new concepts in the DAC

Determine the most appropriate way to integrate the new provisions in the DAC:

- Include crypto-assets and e-money in the scope of DAC2.
- Define a specific stand-alone framework within DAC for crypto-assets and e-money.

To consider:

- Account for the specific characteristics of crypto-assets and e-money.
- Minimise increased compliance burden.

The integration of new concepts in the DAC

Defining the crypto-assets to be in scope of the DAC.

- All relevant existing crypto-assets should be covered.
- Potential future crypto-assets should be covered.



A definition would need to be abstract and sufficiently open to cover all relevant assets and to be future-proof.

The integration of new concepts in the DAC

Defining the crypto-asset intermediaries to be in scope of the DAC.

- All relevant existing intermediaries should be covered.
- Potential future intermediaries should be covered.



A definition would need to be abstract and sufficiently open to cover all relevant intermediaries and to be future-proof.

The integration of new concepts in the DAC

Establishing reporting requirements adapted to the specificities of crypto-assets and e-money.

- The current reporting requirements in DAC are based on aggregate reporting to enable a risk analysis by administrations.
- An alternative is a detailed transaction-by-transaction reporting that would significantly increase the volume of the exchanges and allow detailed analysis.

Penalties/Compliance measures

Completing the DAC to ensure effectiveness and transparency

- DAC currently states only that penalties should be “effective, proportionate and dissuasive”.
- DAC should provide a higher degree of coordination to avoid distortions and abuse.
- DAC needs to take into account the need for compliance measures/penalties that are adapted to the situations covered by the different iterations of the DAC.
- DAC should leave room for Member States to adopt provisions that are coherent with general national provisions on penalties/compliance measures.

Next steps

Planning

- Public consultation → February 2021
- Targeted consultations → January-April 2021
- Impact Assessment → first half of 2021
- Proposal → second half of 2021

Questions for participants

Questions

- 1. Do you agree with the objectives outlined for DAC8 ?*
- 2. Do you have suggestions for further objectives to improve the exchange of information under DAC?*
- 3. Do you agree with the definition of problems outlined in this note as a basis for EU action?*
- 4. Do you believe that the scope of the directive should be wide enough to be “future proof”?*
- 5. Do you agree that a proposal should cover third country intermediaries reporting obligations in order to ensure a level playing field?*

Questions

6. *Are you aware of taxation of crypto assets in Member States?*
7. *Are you aware of reporting from crypto-asset intermediaries in Member States?*
8. *The proposal needs to align with EU proposals on the crypto-assets market as well as on anti-money laundering. In addition, international initiatives need to be taken into account. How important is it to stay close to international initiatives and to what degree?*
9. *What is your opinion on the content of reporting considering the effects on intermediaries as well as administrations: Should it allow a risk-analysis or should it make more detailed assessments possible?*
10. *Would a more precise definition of the requirements in the DAC for penalties/compliance measures have the effects outlined in the text?*

Thank you



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