



Proposal for a Recast of the DAC

Position Paper

27 September 2026

Table of Contents

1.	About the Irish Tax Institute.....	3
2.	Introduction	4
3.	DAC4 and DAC 9	5
4.	DAC6	6
5.	DAC7	8
6.	Conclusion	9

1. About the Irish Tax Institute

The Irish Tax Institute is the leading representative and educational body for Ireland's Chartered Tax Advisers (CTA) and is the country's only professional body exclusively dedicated to tax.

The Chartered Tax Adviser (CTA) qualification is the gold standard in tax and the international mark of excellence in tax advice. We benchmark our education programme against the very best in the world. The continued development of our syllabus, delivery model and assessment methods ensure that our CTAs have the skills and knowledge they need to meet the ever-changing needs of their workplaces.

Our membership of over 6,000 is part of the international CTA network which has more than 33,000 members. It includes the Chartered Institute of Taxation UK, The Tax Institute (Australia), the Taxation Institute of Hong Kong and the South African Institute of Taxation. The Institute is also a member of CFE Tax Advisers Europe (CFE), the European umbrella body for tax professionals.

Our members provide tax services and business expertise to thousands of Irish owned and multinational businesses as well as to individuals in Ireland and internationally. Many also hold senior roles in professional service firms, global companies, Government, Revenue, state bodies and in the European Commission.

The Institute is, first and foremost, an educational body but since its foundation in 1967, it has played an active role in the development of tax administration and tax policy in Ireland. We are deeply committed to playing our part in building an efficient and innovative tax system that serves a successful economy and a fair society. We are also committed to the future of the tax profession, our members, and our role in serving the best interests of Ireland's taxpayers in a new international world order.

Irish Tax Institute - Leading through tax education

2. Introduction

We welcome the publication of the European Commission's proposal of a Council Directive on administrative cooperation in the field of taxation (Recast of the DAC). The Institute supports the objective of the proposal for a Recast of the DAC together with the proposal for a Tax Omnibus Directive¹ to simplify EU tax rules and reduce compliance burdens for businesses. The Draghi Report² highlighted the impact of the regulatory burden on sustainable competitiveness and the need for simplification. We firmly believe that simplifying the Directives and reducing the administrative burden is essential to enhancing the competitiveness of the EU.

The proposed introduction of a single centralised notification for Country-by-Country (CbC) Reporting and the GloBE Information Return (GIR) within the EU, which would remove the need to file notifications in each relevant EU Member State, is a welcome development. We believe it would be appropriate for the notification deadline to be aligned with the deadline for the filing of CbC Reports which is within 12 months after the end of the fiscal year, rather than aligning it with the deadline that applies to CbC Reporting notifications which is the last day of the MNE group's fiscal year.

We welcome the proposed amendments to DAC6 to provide a carve-out from the rules for entities within the scope of Pillar Two; to extend the deadline for making disclosures and to clarify the trigger point for disclosure. We also welcome the proposed removal of the Category A hallmarks and the special 3-monthly reporting requirement for 'marketable arrangements.' However, we have serious concerns with any proposal to develop further substance criteria for existing hallmarks.

The proposed adjustments to the reporting obligation on platform operators under DAC7, to remove the transaction-based threshold for the sale of goods and to

¹ Proposal for a Council Directive amending Directives 2003/49/EC, 2009/133/EC, 2011/96/EU, (EU) 2016/1164, (EU) 2017/1852, (EU) 2025/50 as regards the simplification of the Union framework on direct taxation and supporting growth and competitiveness of the EU

² The Future of European Competitiveness: Report by Mario Draghi, September 2024

increase the monetary threshold from €2,000 to €3,000, are also positive steps. Consideration should be given to index-linking this threshold, similar to the position that is proposed in the Tax Omnibus Directive for the *de minimis* threshold applying to the ATAD Interest Limitation Rule (ILR).

In Sections 3 to 5 of this paper, we outline in more detail the specific feedback we received from our members on the Recast of the DAC.

3. DAC4 and DAC 9

The proposed introduction of a single centralised notification for CbC Reporting and the GIR within the EU, which would remove the need to file notifications in each relevant EU Member State is a welcome simplification measure.

Currently, an MNE Group must file its CbC Report no later than 12 months after the last day of the fiscal year to which the Report relates. CbC Reporting notifications must be filed no later than the last day of the fiscal year to which the CbC Report relates. Most EU Member States require Pillar Two notifications to be made by the same deadline as the GIR, i.e., within 15 months of the end of the relevant financial year and 18 months for the first filings.

It is proposed that the deadline for the combined notification would be aligned with the deadline that currently applies to CbC Reporting notifications which is the last day of the MNE group's fiscal year. As MNE groups have only recently begun making the required GIR notifications and filings, we believe they should be given as much time as possible to comply. Accordingly, we consider it would be more appropriate for the notification deadline to be aligned with the deadline for the filing of CbC Reports, which is within 12 months after the end of the fiscal year.

4. DAC6

We consider the proposed amendments to the Directive to provide a carve-out from the reporting provisions for entities within the scope of Pillar Two; to extend the deadline for making disclosures from 30 days to 90 days and to clarify the trigger point for disclosure to be very welcome measures for businesses operating in the EU. We also welcome the proposed removal of the Category A hallmarks and the special 3-monthly reporting requirement for ‘marketable arrangements.’

While we welcome the carve-out from the reporting provisions for entities within the scope of Pillar Two, equivalent treatment is not extended to groups within scope of the Side-by-Side Safe Harbour. This approach could be considered contrary to the politically accepted equivalence of Side-by-Side regimes and Pillar Two and as a result, it could bring uncertainty and complexity to the EU tax framework.

Consideration should be given to respecting the politically agreed equivalence of the two regimes and extending the carve-out to groups in-scope of the Side-by-Side Safe Harbour on the same basis as it applies to Pillar Two groups.

We note that the proposal, as published on 26 June, included a new Article 52, which would require the Council of the European Union, within five years of the date of entry into force of the Directive, to adopt implementing acts establishing applicable substance criteria for Hallmark D.2(a) and (b). The Explanatory Memorandum notes that the implementing acts should provide taxpayers and tax administrations with detailed and clear rules on the criteria for the requirements set out in Part II, points D.2(a) and (b) of Annex IV, with the aim of ensuring uniform application of the Directive, reducing the compliance burden and level the playing field.

We understand that an Irish Presidency compromise text of 26 August amends Article 52 so rather than bringing forward a Council Implementing Act, the Commission would report on the feasibility of developing the criteria further. If the evidence gathered in the report suggests a tax risk gap, the Commission should first

evaluate the data already collected, identify specific abusive patterns and issue targeted guidance or amend the relevant substantive anti-abuse legislation.

The Commission has previously indicated that it would explore the feasibility of integrating into the simplified DAC framework the principles and concepts extensively examined by Council under the former Unshell proposal.³ Our members have serious concerns with any proposal to integrate the principles of the Unshell proposal into DAC6, in particular, the economic substance indicators.

As we outlined in the Institute's response to the consultation by the Commission on the Unshell proposal in April 2022⁴, the economic substance indicators contemplated in Unshell, which included an undertaking having their own premises or premises of which they have exclusive use in their Member State of residence, having full-time employees resident in, or near, the Member State where the undertaking is resident and having an active EU bank account, are arbitrary and do not consider the facts and circumstances of the businesses or industries concerned.

Low substance is not, by itself, evidence of tax avoidance. Many entities legitimately rely on group resources and outsourced administrators. Any reporting test should require a clearly defined tax-risk nexus, preferably a main-benefit test, rather than making ordinary commercial structures reportable solely because their operational footprint is limited.

We urge the Commission to be cautious about setting a minimum level of substance for a company. It is not unusual for some groups to split their activities between many entities. For example, it may be the case that all employees in a group are employed in a single undertaking with a separate entity holding premises or other property. Indeed, in certain sectors, where the group borrows to fund the acquisition of a significant capital asset, it is common for the financial institution to require that

³ Proposal for a Council Directive laying down rules to prevent the misuse of shell entities for tax purposes and amending Directive 2011/16/EU

⁴ <https://taxinstitute.ie/wp-content/uploads/2022/04/2022-04-06-ITI-Response-to-the-European-Commission-on-the-Proposed-Directive-on-Rule-to-Prevent-the-Misuse-of-Shell-Entities-for.pdf>

the asset be held in a separate entity for security purposes. In fact, it is common practice for investment fund documentation to include strict prohibitions on investment vehicles owning or leasing premises or having any employees. Instead, this is outsourced to third party asset managers who are responsible for the management of the assets owned by the investment fund.

Imposing such arbitrary factors could disproportionately impact smaller and commercially outsourced businesses, as a substance test based on directly employed staff or owned premises may favour large groups over SMEs, investment platforms and groups using legitimate shared-service or outsourcing models. That would create an uneven compliance burden unrelated to tax risk.

Given the significant volume of relevant data already available to tax authorities, we do not consider that further substance criteria are needed for existing hallmarks. In addition, Member States already apply domestic GAARs, transfer-pricing rules, CFC rules, beneficial-ownership principles and treaty anti-abuse provisions. A new DAC6 substance hallmark could create inconsistent classifications of common terms. If policymakers have concerns over the adequacy of anti-money laundering legislation, such concerns should be addressed via that legislation rather than through DAC6.

5. DAC7

We welcome the proposed adjustments to the reporting obligation on platform operators to remove the transaction-based threshold for the sale of goods and to increase the monetary threshold from €2,000 to €3,000. Consideration should be given to index-linking this threshold, similar to what has been proposed for the *de minimis* threshold under the ILR in the Tax Omnibus Directive.

6. Conclusion

The European Commission has highlighted the need to simplify the regulatory environment and reduce administrative burdens to strengthen competitiveness.⁵ The Irish Tax Institute strongly supports this endeavour and we consider the Recast of the DAC can deliver meaningful simplification of the reporting obligations placed on businesses operating in the Single Market. We believe the proposal is an important step in achieving the Commission's goal of reducing administrative burdens by 25% overall and 35% for SMEs, without lowering standards.⁶

⁵ European Commission, Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: A Competitiveness Compass for the EU, COM(2025) 30 final, 29 January 2025, https://commission.europa.eu/document/download/10017eb1-4722-4333-add2-e0ed18105a34_en

⁶ Commission Work Programme 2026