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Global Tax Alert

Luxembourg publishes draft legislation extending MDR reporting deadlines for six months

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Executive summary

The Luxembourg Ministry of Finance has transmitted to Parliament a draft law (Draft Law) introducing a six-month deferral to the Mandatory Disclosure Rules (MDR) Law (Law of 25 March 2020). The Draft Law is in line with previous announcements by the Ministry of Finance and follows the adoption on 24 June 2020 by the Council of the European Union (EU) of amendments to the EU Directive 2011/16 allowing Member States an option to defer for up to six months the time limits for the filing and exchange of information on cross-border arrangements under Directive 2018/822 (DAC6).¹ The Draft Law also introduces a three-month deferral of the communication of information with respect to 2019 under the Foreign Account Tax Compliance Act (FATCA) Law (Law of 24 July 2015) and the Common Reporting Standards (CRS) Law (Law of 18 December 2015).

Detailed discussion

Under the Draft Law, the reporting deadline of 30 days with respect to reportable arrangements that are made available for implementation, that are ready for implementation or for which the first step of implementation has been made between 1 July 2020 and 31 December 2020 only starts on 1 January 2021.

The same deferral is granted to service providers that have rendered aid, assistance or advice in respect of a reportable arrangement. This new deadline applies to both intermediaries and relevant taxpayers.

In the case of marketable arrangements, the periodic update report to be made by the intermediary every three months containing new reportable information shall be established for the first time by 30 April 2021 with respect to reportable arrangements that are made available for implementation, that are ready for implementation or for which the first step of implementation has been made between 1 July 2020 and 31 December 2020.

Under Luxembourg's MDR Law, intermediaries benefiting from an exemption from reporting (lawyers, certified accountants and independent auditors) are required to inform within a period of 10 days other intermediaries and, in the absence of any intermediary not benefitting from a reporting exemption, relevant taxpayers of their obligations to report and, absent any intermediary not covered by the reporting exemption, to provide the concerned taxpayers with the relevant information they need to comply with their reporting obligation. The Draft Law postpones the

beginning of this 10-day period to 1 January 2021 with respect to reportable arrangements that are made available for implementation, that are ready for implementation or for which the first step of implementation has been made between 1 July 2020 and 31 December 2020.

For reportable arrangements that are made available for implementation, that are ready for implementation or for which the first step of implementation is made on or after 1 January 2021, the standard 30-day period (for reporting by intermediaries or if applicable, relevant taxpayers) and the standard 10-day period (for notifications by intermediaries with a reporting exemption) apply.

With respect to reports covering the transitional period, i.e., arrangements for which the first step was implemented between 25 June 2018 and 1 July 2020, the Draft Law postpones the initial reporting deadline of 31 August 2020 to 28 February 2021.

Finally, in line with Council Directive (EU) 2020/876 of 24 June 2020, for the purposes of the automatic exchange of information, the first information shall be communicated by 30 April 2021 (instead of 31 October 2020 as currently set forth by the MDR Law).

Endnote

1. See EY Global Tax Alert, [Council of the EU adopts amendments for deferral of MDR filing deadlines](#), 24 June 2020.

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