

## German Ministry of Finance amends draft Mandatory Disclosure Rules

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On 26 September 2019, the German Ministry of Finance (BMF) published an amended draft bill on the Mandatory Disclosure Rules (MDR) that is intended to transpose the European Union (EU) Directive 2018/822/EU of 25 May 2018 (the "EU Directive") into German national law. The draft amends the initial draft bill dated 30 January 2019 that was sent to professional organizations and associations to provide comments by 30 September 2019. There is currently no precise timetable on further legislative action, but it is expected that the legislative process will be finalized at the beginning of 2020 at the latest.

After the initial draft bill was sent to the other federal ministries on 30 January 2019<sup>1</sup> the parties of the German Federal Government (Bundesregierung) were divided on whether the legislation should include a reporting obligation for certain domestic tax arrangements, which was included in the internal draft bill. After controversial debates, the current draft bill does not include such a national reporting obligation. It is uncertain whether the domestic reporting obligation will be reintroduced in a separate legislative process at a later point in time, or if it is finally off the table.

The draft bill is broadly aligned with the EU Directive with respect to reportable arrangements and the scope of taxes covered (i.e., no extension of the rules to additional taxes and no introduction of additional hallmarks is envisioned) and has in that regard not significantly changed as compared to the first draft bill.

Further, the new draft describes the applicable reporting procedures with significantly more details, but without fundamentally altering the general reporting procedure.

What is new is that the Federal Central Tax Office, the tax office to which the notifications are to be addressed, assigns an individual registration number for a reported scheme as well as a disclosure number for the respective notification received.

A violation of the reporting obligation shall continue to be regarded as an administrative offense with a maximum fine of €25,000. Sanctions will only apply to schemes implemented after 30 June 2020. Incorrect or missing notifications for arrangements implemented in the so-called pre-implementation period (25 June 2018 to 30 July 2020), which are to be subsequently reported by 31 August 2020, would therefore not be penalized.

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## Endnote

1. See EY Global Tax Alert, [Germany publishes draft Mandatory Disclosure Rules](#), dated 20 March 2019.

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