

Mandatory Disclosure Regime (MDR)

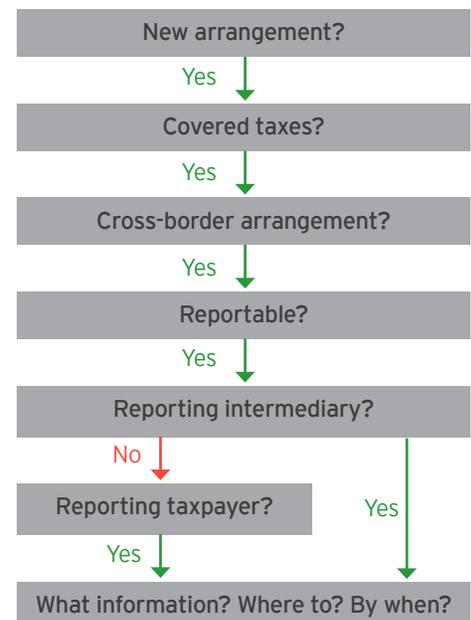
Support for intermediaries in managing reportable cross-border arrangements

Support for intermediaries in managing reportable cross-border transactions



The EU has issued a directive that requires intermediaries (including EU-based tax consultants, banks and lawyers) and, in some situations, taxpayers to report certain cross-border arrangements (reportable arrangements) to the relevant tax authority in the EU. This disclosure regime applies to all taxes except value-added tax, customs duties, excise duties and compulsory social security contributions. Cross-border arrangements will be reportable if they contain certain features (hallmarks). The hallmarks cover a broad range of structures and transactions – for example, a reliance on transfer pricing safe harbors will require reporting regardless of the absence of tax planning. Some of the hallmarks will only trigger reporting requirements when they also fulfill the main benefit test.

The primary reporting obligation lies with the intermediary. Where the intermediary is outside the EU or exempt from disclosing because of legal professional privilege, the obligation to disclose falls on another intermediary or, if none, the relevant taxpayers. The disclosure includes details of relevant taxpayers and other affected persons and the cross-border arrangement in question. For arrangements of which the first step of implementation is taken between 25 June 2018 and 1 July 2020, disclosures must be **filed by 31 August 2020**. From 1 July 2020, the reporting deadline is just **30 days** after an arrangement is made available to the taxpayer.



What does an intermediary need to consider?

Considerations	Impact	Consequences
<p>Develop a strategy, policy and guidance for MDR reporting:</p> <ul style="list-style-type: none"> ▸ Set up an in-house process for recognizing arrangements that need to be reported ▸ Establish clear MDR responsibilities and reporting lines ▸ Ensure that tax and other key personnel are trained to recognize arrangements that are likely to be reportable 	Missed or late disclosures where no other intermediary as reported	Penalties, increased controversy and reputational damage
<p>Establish a process for arrangements that may involve additional intermediaries:</p> <ul style="list-style-type: none"> ▸ Monitor arrangements where additional intermediaries may be involved in the same arrangement to establish who is making the disclosure ▸ Where possible, reduce the number of disclosures by agreeing on who will file and by ensuring that other intermediaries have the required proof they need for non-reporting 	<p>Inconsistent disclosures made by multiple intermediaries:</p> <ul style="list-style-type: none"> ▸ Intermediaries who only see their part in the arrangement ▸ Intermediaries who have to file unless they can rely on proof that disclosure has already been made 	
<p>Ensure that you understand where national legislation (for each EU Member State in the arrangement) departs from the EU directive in terms of additional disclosure criteria (e.g., application to domestic arrangements, and broad or narrow interpretation of terms)</p>	Under- or over-reporting in certain countries	
<p>Ensure that you have robust and complete documentation on transactions or arrangements to meet audit challenges</p>	MDR gives tax authorities a “menu” of activities to audit; increased activity seems likely	

Identify resources and technology to meet your obligations.

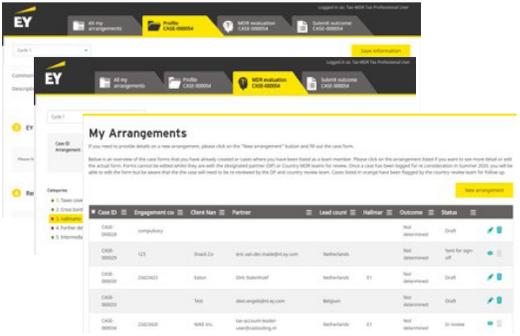
Critical dates



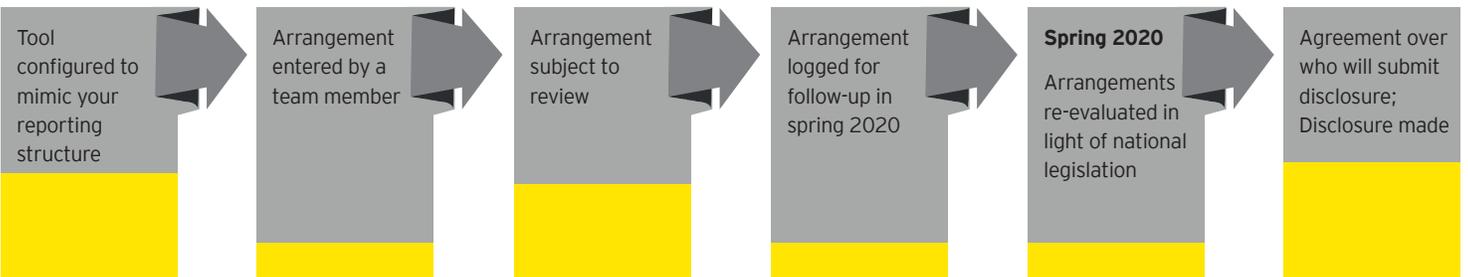
We have an MDR tool and the people to help you

MDR tool features

Intermediaries can use the EY MDR tool, available by accessing the EY server or acquiring a license, to recognize and document cross-border reportable arrangements.

	<p>Data input</p> <ul style="list-style-type: none"> ▶ Access for named users (intermediaries and/or EY) to log arrangements ▶ Functionality to capture proposed disclosures ▶ Data input guidance (technical explanations of MDR terms) ▶ Disclosure workflow management process ▶ Ability to attach and upload essential documents ▶ Capturing of details of client and other intermediaries requests in relation to whom will take the lead on making disclosures* 	
	<p>Analysis</p> <ul style="list-style-type: none"> ▶ Evaluates whether an arrangement is reportable ▶ Involves filtering system to maintain consistency of reporting for similar arrangements ▶ Highlights differences in individual Member State interpretations per hallmark to aid review pre-submission ▶ Includes notification system to update your clients with regard to their arrangements 	
	<p>Documentation and reporting**</p> <ul style="list-style-type: none"> ▶ An online repository of reportable arrangements during the transition phase (until July 2020) and beyond ▶ Dashboard for monitoring ▶ Report generation per arrangement and hallmark 	

Process



*Until national legislation is available, this section is provisional.

**At this time, the EY MDR tool does not include functionality to make submissions to tax authorities. Tax authorities have yet to release details of how disclosures should be submitted.



How EY can help

We may assist you in a collaborative manner to help you identify and manage your obligations under the MDR. This includes:

- ▶ Conducting strategy sessions to discuss and identify the impact of the MDR on you
- ▶ Conducting MDR workshops for your executive-layer teams (e.g., tax, M&A, internal compliance, transfer pricing, HR and law)
- ▶ Providing MDR e-learning programs for your operational teams
- ▶ Assisting you in identifying and logging your reportable cross-border arrangements by:
 - ▶ Using the EY MDR tool
 - ▶ Creating a repository as part of your systems
 - ▶ Outsourcing the creation and documentation of your reportable arrangementsOr
- ▶ Simply helping you understand how these rules apply to your company



Leverage knowledge and experience of the extensive EY tax services network



Use EY MDR tool to document and submit your reportable cross-border transactions



Get tailored advice specific to your industry or sector

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ED None

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