



## **International Taxation: DAC 6 and the new reporting duties for professional intermediaries and taxpayers regarding cross-border transactions**

The intermediaries and taxpayers bound to report

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# SUBJECTS BOUND TO REPORT

**PRINCIPLES** expressed in EU Directive 2018/822, Whereas n. 8:

- all actors usually involved in designing, marketing, organising or managing the implementation of reportable cross-border transactions, or
- those who provide assistance or advice, or
- taxpayers benefitting from the arrangement

**INTERMEDIARY**

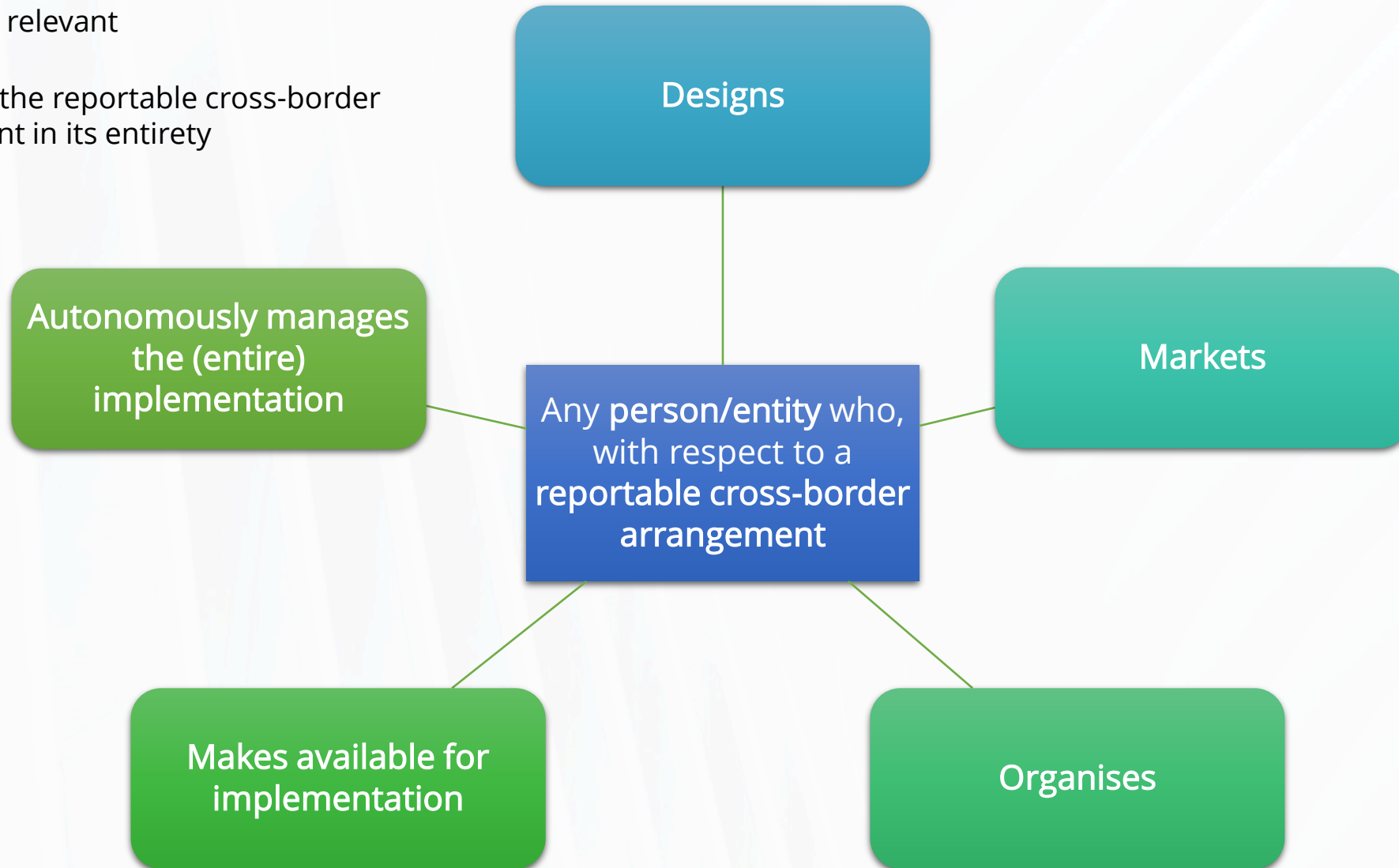
- Promoter
- Service provider

**TAXPAYER**

# INTERMEDIARY: THE PROMOTER

➔ Each one is relevant

➔ Relating to the reportable cross-border arrangement in its entirety



# INTERMEDIARY: THE SERVICE PROVIDER

Any person/entity who – **directly or indirectly** – provides

(aid)  
assistance  
advice

in designing, marketing, (organising), making available for implementation, managing the implementation (*i.e.*, the promoter's activities)



Arrangement already implemented

Knowledge standard: *reasonably-expected-to-know* test in line with OECD «*Model Mandatory Disclosure Rules for CRS Avoidance Arrangements and Opaque Offshore Structures*» based on

- relevant facts and circumstances
- available information (no additional due diligence)
- relevant expertise and **understanding required** to provide the service rendered



Evidence to the contrary



Routine functions of financial institutions

# INTERMEDIARY: TERRITORIAL LINK

An intermediary is bound to report in Italy if territorially linked with Italy

- i. Resident for tax purposes in Italy
- ii. Permanent establishment in Italy through which the services with respect to the arrangement are provided
- iii. Incorporated in, or governed by the laws of, Italy
- iv. Registered with a professional association related to legal, taxation or consultancy services in Italy

In case of more than one intermediary

- Intermediaries are all bound
- Territorial links provide an order for reporting

# TAXPAYER

A relevant taxpayer is any person/entity

Who **implements** the relevant cross-border arrangement (or a single – relevant – phase)  
To whom a reportable arrangements is **made available for implementation**  
(Ready to implement)  
Bound in case of **no intermediaries** or **exonerated intermediaries** or **lack of information about the communication** sent by the intermediaries







Territorially linked with Italy

**Resident** for tax purposes in Italy  
**Permanent establishment** in Italy that benefits from the arrangement  
**Receives or produces Italian-sourced income**  
**Carries on activity** in Italy

In case of more than one taxpayer

Taxpayers **bound**:  
Taxpayers **agreeing** the arrangement  
Taxpayers **managing the implementation** of the arrangements  
Territorial links provide an **order for reporting**

# SOME EXAMPLES/ISSUES

-  Definition of «*participants*» under Italian legislation
-  Intermediaries: financial institutions subject to CRS reporting obligations
-  Intermediaries: professionals subject to anti money-laundering obligations
-  Group of companies: intermediaries/taxpayers
-  Routine transactions of financial institutions
-  Service providers with/without legal status

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