

# OECD aligns more closely with the EU on reporting obligations for digital platform operators

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## In brief

On 22 June 2021 the OECD issued a report entitled “[Model Reporting Rules for Digital Platforms: International Exchange Framework and Optional Module for Sale of Goods](#)” (‘the Report’). The Report introduces an optional module to the model reporting rules for digital platform operators published by the OECD in July 2020, extending the scope of the model reporting rules to the sale of goods and the rental of transportation means. Furthermore, the Report provides for an international legal framework to exchange information on income derived through digital platforms. With the Report, the OECD model reporting rules for digital platform operators are more aligned with DAC7. DAC7 imposes reporting obligations for digital platform operators which must be implemented by the European Member States not later than 31 December 2022.

## In detail

### Background: reporting obligations for digital platform operators

On 3 July 2020, the OECD released model reporting rules for digital platform operators. The rules require digital platform operators to collect and report information on certain ‘gig economy’ services offered by sellers through a ‘digital platform’, which is defined very broadly (see [Alert](#)). Only a few days later, on 15 July 2020, the European Commission published a draft Directive on reporting obligations for digital platform operators (see [Alert](#)), resulting in the adoption of an EU Directive on 22 March 2021, better known as DAC7. Following DAC7, EU and non-EU digital platform operators active in the European Union will have to report information about sellers carrying out any of the following activities through their platform: the rental of immovable property, a personal service, the sale of goods or the rental of any mode of transport. DAC 7 also includes other provisions in respect of administrative cooperation in the European Union.

The Report now seeks to complement the July 2020 model reporting rules for digital platform operators released by the earlier OECD document with a new Multilateral Competent Authority Agreement on Automatic Exchange of

Information on Income Derived through Digital Platforms ('the DPI MCAA') and by (optionally) extending its scope to cover additional categories of sellers.

## **Model Multilateral Competent Authority Agreement**

The aim of the DPI MCAA is to provide jurisdictions with the necessary legal framework to automatically and annually exchange information with respect to sellers carrying out activities through digital platforms. The Model MCAA contains a number of provisions seeking to clarify both the information subject to exchange and the mechanics in accordance with which the exchange will occur. In many respects the DPI MCAA resembles the process to which EU Member States must adhere under DAC7 (e.g. recipients of information and the need to establish systems facilitating reporting). Contrary to DAC7, however, the Model MCAA does not limit information exchange solely on the basis of reciprocity, but rather enables jurisdictions to provide information on another interested jurisdiction even if the latter has not itself implemented reporting rules for digital platform operators.

## **Extending the scope of the OECD model rules for digital platform operators**

Through the Report, the OECD provides jurisdictions the option to extend the scope of the model reporting rules for digital platform operators to cover the sale of goods and the rental of transportation means. By doing so, the scope of the OECD model reporting rules for digital platform operators is better aligned with DAC7's scope.

Platforms can fulfill their DAC7 obligation when they report in a non-EU country under the OECD model, and that OECD country has already entered into the DPI MCAA. This will only be the case for larger platforms. The OECD rules contain an optional exclusion for platforms that received a consideration of less than EUR 1 million in the previous year, i.e. compensation in any form that is paid or credited to a seller in connection with relevant activities. Those smaller platforms that notify the tax authority that they will elect for the de minimis threshold exemption, might still have to report under DAC7.

## **The takeaway**

The impact of the OECD and EU initiatives are far-reaching. Their implications are not only limited to digital platforms falling within their scope, but also extend to sellers whose information will also be exchanged pursuant to them. The seller due diligence requirements may prove to be extremely burdensome and business sensitive. Multinationals should not underestimate the operational impact for platforms with a high volume of sellers. The reporting obligations have a wide scope covering many business models. Compliance with these new reporting rules requires a thorough analysis of their scope and how to implement compliance procedures.

## Let's talk

For a deeper discussion of how these reporting obligations might affect your business, please contact:

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