

Tunisia

1. This report is Tunisia's first annual peer review report. Consistent with the agreed methodology this first annual peer review covers: (i) the domestic legal and administrative framework, (ii) certain aspects of the exchange of information framework, as well as (iii) certain aspects of the appropriate use of CbC reports. The first filing obligation for a CbC report in Tunisia commences in respect of periods commencing on or after 1 January 2017.

Summary of key findings

2. Tunisia's domestic legal and administrative framework meets all applicable terms of reference (OECD, 2017^[2]) for the year in review, except for the following:

- It is recommended that Tunisia introduce or complete the definitions of "Group", "MNE Group", "Constituent Entity", "Consolidated Financial Statements", "Fiscal Year", "Reporting Fiscal Year", "Qualifying Competent Authority Agreement" and "International Agreement" in a manner that is consistent with the terms of reference;
- It is recommended that Tunisia take steps to ensure that the annual consolidated group revenue threshold calculation rule is applied in a manner consistent with the OECD guidance on currency fluctuations;
- It is recommended that Tunisia take steps to amend the conditions for local filing or otherwise take steps to ensure that local filing can only be required in the circumstances contained in the terms of reference.

3. It is recommended that Tunisia take steps to put in place an exchange of information framework that allows Automatic Exchange of Information and have QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites and with which Tunisia has an international exchange of information agreement in effect that allows for the automatic exchange of tax information.

4. It is recommended that Tunisia take steps to implement processes or written procedures to ensure that the exchange of information is conducted in a manner consistent with the terms of reference relating to the exchange of information framework ahead of the first exchanges of information.

5. It is recommended that Tunisia take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information.

Part A: The domestic legal and administrative framework

6. Tunisia has primary law in place for implementing the BEPS Action 13 minimum standard.¹ Tunisia indicates that a regulatory decree is to be published. No guidance has been published yet.

(a) Parent entity filing obligation

7. Tunisia has primary law to impose a CbC filing obligation on Ultimate Parent Entities of MNE Groups. The legislation is however incomplete at this moment. Tunisia indicates that it is currently updating its legal framework, which includes publishing a regulatory decree, which will introduce a number of details.

8. Tunisia does not have definitions of “Group” and “MNE Group” in its primary law. Although the law makes reference to MNE Groups in the definition of Constituent Entity, there is no definition of this term. There is also no definition of “Consolidated Financial Statements”, “Fiscal Year”, “Reporting Fiscal Year”, “Qualifying Competent Authority Agreement”² and “International Agreement” in Tunisia’s legislation. It is recommended that Tunisia introduce these definitions in its domestic legal and administrative framework. Tunisia notes that intends to introduce all these definitions when finalizing its legal framework.

9. According to Tunisia’s primary law, the filing of a CbC report is only requested with respect to MNE Groups with annual consolidated group revenue in the preceding fiscal year which is higher or equivalent to TND 1.638,800 million. While this provision would not create an issue for MNE Groups whose Ultimate Parent Entity is a tax resident in Tunisia, it may however be incompatible with the guidance on currency fluctuations for MNE Groups whose Ultimate Parent Entity is located in another jurisdiction, if local filing requirements were applied in respect of a Constituent Entity (which is tax resident in Tunisia) of an MNE Group which does not reach the threshold as determined in the jurisdiction of the Ultimate Parent Entity of such Group.³ It is recommended that Tunisia amend its rule for the calculation of the annual consolidated group revenue threshold calculation so that it applies in a manner consistent with the OECD guidance on currency fluctuations in respect of an MNE Group whose Ultimate Parent Entity is located in a jurisdiction other than Tunisia, when local filing requirements are applicable. No other inconsistencies were identified with respect to Tunisia’s domestic legal framework in relation with the parent entity filing obligation.

(b) Scope and timing of parent entity filing

10. No inconsistencies were identified with respect to the scope and timing of parent entity filing.

(c) Limitation on local filing obligation

11. Tunisia has introduced local filing requirements as from the reporting period starting on or after 1 January 2020.⁴ A legal person established in Tunisia that is owned or controlled, directly or indirectly, by a legal person established in a state or territory which is not listed in an officially published list of state or territories⁵ (which have adopted regulations imposing the filing of a CbC report similar to that required in Tunisia, which have concluded an agreement with Tunisia for the automatic exchange of CbC reports and which comply with the obligations arising from such agreement), and would be required to file the CbC report if it were established in Tunisia, shall file the CbC report(a) if it has been designated by the group for that purpose and has informed the tax authorities accordingly; or(b) if it cannot demonstrate that another entity of the group, located in Tunisia or in a country or territory included in the above list has been designated for that purpose.

12. With respect to paragraph 8 v.(c) of the terms of reference, there is no provision in Tunisia’s primary legislation to provide that, where local filing is required and there is more

than one Constituent Entity of the same MNE Group that is resident for tax purposes in Tunisia, one Constituent Entity could be designated to file the CbC report which would satisfy the filing requirement of all the Constituent Entities of such MNE Group that are resident for tax purposes in Tunisia.

13. It is recommended that Tunisia take steps to amend the conditions for local filing or otherwise take steps to ensure that local filing can only be required in the circumstances contained in the terms of reference

14. No other inconsistencies were identified with respect to the limitation on local filing obligation.

(d) Limitation on local filing in case of surrogate filing

15. Tunisia's local filing requirements will not apply if there is surrogate filing in another jurisdiction.⁶ No inconsistencies were identified with respect to the limitation on local filing in case of surrogate filing.

(e) Effective implementation

16. Tunisia has legal mechanisms in place to enforce compliance with the minimum standard: there are notification mechanisms in place that apply to Ultimate Parent Entities as well as Constituent Entities in Tunisia. There are also penalties in place in relation to the filing of a CbC report for failure⁷: (i) to file a CbC report and (ii) to completely file a CbC report. It is not clear whether the penalty would apply for cases in which the report is not submitted on time.

17. There are no specific processes in place that would allow to take appropriate measures in case Tunisia is notified by another jurisdiction that such other jurisdiction has reason to believe that an error may have led to incorrect or incomplete information reporting by a Reporting Entity or that there is non-compliance of a Reporting Entity with respect to CbC reporting obligations. As no exchange of CbC reports has yet occurred, no recommendation is made but this aspect will be further monitored.

Conclusion

18. Tunisia's domestic legal and administrative framework meets all applicable terms of reference for the year in review, except for the following:

- It is recommended that Tunisia introduce or complete the definitions of a “Group”, “MNE Group”, “Constituent Entity”, “Consolidated Financial Statements”, “Fiscal Year”, “Reporting Fiscal Year”, “Qualifying Competent Authority Agreement” and “International Agreement” in a manner that is consistent with the terms of reference;
- It is recommended that Tunisia take steps to ensure that the annual consolidated group revenue threshold calculation rule is applied in a manner consistent with the OECD guidance on currency fluctuations;
- It is recommended that Tunisia take steps to amend the conditions for local filing or otherwise take steps to ensure that local filing can only be required in the circumstances contained in the terms of reference.

Part B: The exchange of information framework

(a) Exchange of information framework

19. As of 31 May 2019, Tunisia has no bilateral relationships in place for the exchange of CbC reports. It is recommended that Tunisia take steps to have qualifying competent authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions and with which Tunisia has an international exchange of information agreement in effect that allows for the automatic exchange of tax information. It is however noted that Tunisia will not be exchanging CbC reports in 2019.

(b) Content of information exchanged

20. Tunisia does not have processes or written procedures in place that are intended to ensure that each of the mandatory fields of information required in the CbC reporting template are present in the information exchanged.

(c) Completeness of exchanges

21. Tunisia does not have processes or written procedures in place that are intended to ensure that CbC reports are exchanged with all tax jurisdictions listed in Table 1 of a CbC report with which it should exchange information as per the relevant QCAA.

(d) Timeliness of exchanges

22. Tunisia does not have processes or written procedures in place that are intended to ensure that the information to be exchanged is transmitted to the relevant jurisdictions in accordance with the timelines provided for in the relevant QCAs.

(e) Temporary suspension of exchange or termination of QCAA

23. Tunisia does not have processes or written procedures in place that are intended to ensure that a temporary suspension of the exchange of information or termination of a relevant QCAA would be carried out only as per the conditions set out in the relevant QCAA.

(f) Consultation with other Competent Authority before determining systemic failure or significant non-compliance

24. Tunisia does not have processes or written procedures in place that are intended to ensure that its Competent Authority consults with the other Competent Authority before making a determination of systemic failure or significant non-compliance with the terms of the relevant QCAA by that other Competent Authority.

(g) Format for information exchange

25. Tunisia has not confirmed the format that will be used for the international exchange of CbC reports.

(h) Method for transmission

26. Tunisia has not indicated that it uses the Common Transmission System, or any other mechanism, to exchange CbC reports

Conclusion

27. It is recommended that Tunisia take steps to have QCAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and

appropriate use prerequisites and with which Tunisia has an international exchange of information agreement in effect that allows for the automatic exchange of tax information.

28. Further, it is recommended that Tunisia take steps to implement processes or written procedures to ensure that the exchange of information is conducted in a manner consistent with the terms of reference relating to the exchange of information framework ahead of its first exchanges of information. It is however noted that Tunisia will not be exchanging CbC reports in 2019.

Part C: Appropriate use

29. Tunisia does not yet have measures in place relating to appropriate use. It is recommended that Tunisia take steps to have measures in place relating to appropriate use ahead of the first exchanges of information.

Conclusion

30. It is recommended that Tunisia take steps to ensure that the appropriate use condition is met ahead of its first exchanges of information. It is however noted that Tunisia will not be exchanging CbC reports in 2019.

Summary of recommendations on the implementation of country-by-country reporting

Aspect of the implementation that should be improved		Recommendation for improvement
Part A	Domestic legal and administrative framework	It is recommended that Tunisia introduce or complete the definitions of a “Group”, “MNE Group”, “Constituent Entity”, “Consolidated Financial Statements”, “Fiscal Year”, “Reporting Fiscal Year”, “Qualifying Competent Authority Agreement” and “International Agreement” in a manner that is consistent with the terms of reference;
Part A	Domestic legal and administrative framework	It is recommended that Tunisia take steps to ensure that the annual consolidated group revenue threshold calculation rule is applied in a manner consistent with the OECD guidance on currency fluctuations;
Part A	Domestic legal and administrative framework	It is recommended that Tunisia amend the conditions for local filing or otherwise take steps to ensure that local filing can only be required in the circumstances contained in the terms of reference
Part A	Domestic legal and administrative framework	It is recommended that Tunisia implement a provision whereby a single Constituent Entity of the same MNE Group may be designated to file the CbC report which would satisfy the local filing requirement of all the Constituent Entities in Tunisia.
Part B	Exchange of information framework	It is recommended that Tunisia take steps to have qualifying competent authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions and with which Tunisia has an international exchange of information agreement in effect that allows for the automatic exchange of tax information.
Part B	Exchange of information framework	It is recommended that Tunisia take steps to implement the necessary processes or written procedures to ensure that the exchange of information is conducted in a manner consistent with the terms of reference relating to the exchange of information framework.
Part C	Appropriate use	It is recommended that Tunisia take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information.

Notes

¹ Tunisia’s primary law consists of Articles “17 ter” and “84 décies” of the Income Tax Act (primary law).

² Paragraph 19 of the terms of reference. There is a reference to “Qualifying Competent Authority Agreement” in the definition for “Systematic Failure”.

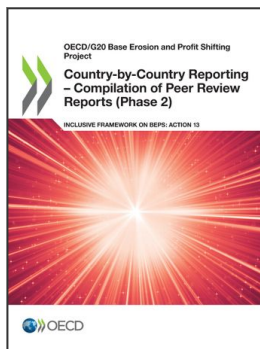
³ See question IV. 1. “Impact of currency fluctuations on the agreed EUR 750 million threshold (June 2016) of the “Guidance on the implementation of country-by-country reporting”: www.oecd.org/tax/guidance-on-the-implementation-of-country-by-country-reporting-beps-action-13.pdf.

⁴ See art. “17 ter” of the primary law.

⁵ Tunisia indicates that this list of states or territories which have adopted regulations imposing the filing of a CbC report similar to that required in Tunisia, which have concluded an agreement with Tunisia for the automatic exchange of CbC reports and which comply with the obligations arising from such agreement, will be prepared before the first filing obligation period to take into account jurisdictions which will meet the required conditions by then.

⁶ See article “17ter” of the primary law.

⁷ See article “84 décies” of the primary law.



From:

Country-by-Country Reporting – Compilation of Peer Review Reports (Phase 2)

Inclusive Framework on BEPS: Action 13

Access the complete publication at:

<https://doi.org/10.1787/f9bf1157-en>

Please cite this chapter as:

OECD (2019), “Tunisia”, in *Country-by-Country Reporting – Compilation of Peer Review Reports (Phase 2): Inclusive Framework on BEPS: Action 13*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/05a75b25-en>

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