

## South Africa

1. South Africa was first reviewed during the 2017/2018 peer review. This report is supplementary to South Africa's 2017/2018 peer review report (OECD, 2018<sup>[1]</sup>). The first filing obligation for a CbC report in South Africa applies to reporting fiscal years commencing on or after 1 January 2016.

### Summary of key findings

2. South Africa's implementation of the Action 13 minimum standard meets all applicable terms of reference (OECD, 2017<sup>[2]</sup>).

### Part A: The domestic legal and administrative framework

3. South Africa has primary and secondary laws in place for implementing the BEPS Action 13 minimum standard establishing the necessary requirements, including the filing and reporting obligations.<sup>1</sup>

#### *(a) Parent entity filing obligation*

4. No changes were identified with respect to the parent entity filing obligation.

#### *(b) Scope and timing of parent entity filing*

5. No changes were identified with respect to the scope and timing of parent entity filing.<sup>2 3</sup>

#### *(c) Limitation on local filing obligation*

6. No changes were identified with respect to the limitation on local filing obligation.

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

7. No changes were identified with respect to the limitation on local filing in case of surrogate filing.

#### *(e) Effective implementation*

8. South Africa's 2017/2018 peer review had a monitoring point relating to a specific process. The process was to allow appropriate measures in case South Africa is notified by another jurisdiction that they 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 its obligation to file a CbC report. South Africa indicates that a notification process is in place.<sup>4</sup> Therefore the monitoring point in South Africa's 2017/2018 peer review is removed.

### **Conclusion**

9. There is no change to the conclusion in relation to the domestic legal and administration framework for South Africa since the previous peer review. South Africa meets all the terms of reference relating to the domestic legal and administrative framework.

## Part B: The exchange of information framework

### *(a) Exchange of information framework*

10. As of 31 May 2019, South Africa has 64 bilateral relationships in place, including those activated under the CbC MCAA and under bilateral CAAs. Within the context of its international exchange of information agreements that allow automatic exchange of information, South Africa has taken steps to have qualifying competent authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions.<sup>5</sup> Regarding South Africa's exchange of information framework, no inconsistencies with the terms of reference were identified.

### *(b) Content of information exchanged*

11. South Africa has written procedures in place that are intended to ensure that each of the mandatory fields of information as required in the CbC template are present in the information exchanged. It has provided details in relation to these processes.

12. Peer input was received from one jurisdiction in relation to the content of information exchanged. No concerns were reported in respect of the content of information exchanged.

### *(c) Completeness of exchanges*

13. South Africa has 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 reporting template with which it should exchange information as per the relevant QCAAs. It has provided details in relation to these processes.

14. Peer input was received from one jurisdiction in relation to the completeness of exchanges. No concerns were reported in respect of the completeness of exchanges.

### *(d) Timeliness of exchanges*

15. South Africa has 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 QCAAs and terms of reference. It has provided details in relation to these processes.

16. Peer input was received from one jurisdiction in relation to the timeliness of exchanges. No concerns were reported in respect of the timeliness of exchanges.<sup>6 7</sup>

### *(e) Temporary suspension of exchange or termination of QCAA*

17. South Africa has written procedures in place that are intended to ensure that a temporary suspension of the exchange of information or termination of a relevant QCAA be carried out only as per the conditions set out in the QCAA. It has provided details in relation to those processes.

18. Peer input was received from one jurisdiction in relation to a temporary suspension of exchange or termination of a QCAA. No concerns were reported in respect of the temporary suspension of exchange or termination of QCAA.

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

19. South Africa has written procedures in place that are intended to ensure that the Competent Authority consults with the other Competent Authority prior to making a determination that there is or has been significant non-compliance with the terms of the relevant QCAA or that the other Competent Authority has caused a systemic failure. It has provided details in relation to those processes.

20. Peer input was received from one jurisdiction in relation to the requirement for a consultation before determining systemic failure or significant non-compliance. No concerns were reported in respect of consultation with the other Competent Authority before determining systemic failure or significant non-compliance.

***(g) Format for information exchange***

21. South Africa confirms that it uses the OECD XML Schema and User Guide (OECD, 2017<sup>[3]</sup>) for the international exchange of CbC reports.

22. Peer input was received from one jurisdiction in relation to the format for information exchange. No concerns were reported in respect of the format of information exchange.

***(h) Method for transmission***

23. South Africa indicates that it uses the Common Transmission System to exchange CbC reports.

24. Peer input was received from one jurisdiction in relation to the format for information exchange. No concerns were reported in respect of the format of information exchange.

***Conclusion***

25. South Africa has in place the necessary processes 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. South Africa meets all the terms of reference regarding the exchange of information.

## **Part C: Appropriate use**

26. No changes were identified in respect of appropriate use. There were no recommendations issued in the 2017/2018 peer review.

27. No information or peer input was received for the reviewed jurisdiction suggesting any issues with appropriate use. There are no concerns to be reported in respect of appropriate use.

***Conclusion***

28. South Africa meets all the terms of reference relating to the appropriate use of CbC reports.

## 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	-
Part B	Exchange of information framework	-
Part C	Appropriate use	-

## Notes

<sup>1</sup> Primary law consists of the amendment to the Tax Administration Act No. 28 of 2011. Secondary law published on 23 December 2016 consists of “[Regulations](#) for purposes of paragraph (b) of the definition of “international tax standard” in section 1 of the Tax Administration Act, 2011, promulgated under section 257 of the Act, specifying the changes to the Country-by-Country Reporting Standard for Multinational Enterprises” and a public notice published on 28 October 2016 that sets out the record keeping requirements of CbC Reporting. Other secondary legislation include [Public Notice 1117](#) published on 20 October 2017 that sets out the due dates for the CbC Reports, master files and local files (read with the extension thereof under [Public Notice 1308](#) published on 8 December 2017) and administrative penalties for failure to meet the due dates under [Public Notice 241](#) published on 1 March 2018.

<sup>2</sup> South Africa’s 2017/2018 peer review included a monitoring point for South Africa to issue an updated interpretation or clarification of the definitions of “Revenues – Unrelated Party” and “Revenues – Related Party” within a reasonable timeframe to ensure consistency with OECD guidance. This monitoring point remains in place.

<sup>3</sup> South Africa indicates that the extension of the first filing deadline until 28 February 2018 for reporting fiscal years commencing before 1 March 2016 (under the Public Notice 1308 published in section 25 of the Tax Administration Act 2011) did not have any negative impact on the ability of South Africa to meet its obligation to exchange information by the 30 June 2018 deadline.

<sup>4</sup> South Africa indicates that it did receive such a notification from a partner jurisdiction and was able to engage the MNE concerned and a correction message was transmitted to the notifying jurisdiction. South Africa further issued notifications in terms of Section 4 of the Country-by-Country Reporting Multilateral Competent Authority Agreement to other impacted partner jurisdictions.

<sup>5</sup> It is noted that a few Qualifying Competent Authority agreements are not in effect with jurisdictions of the Inclusive Framework that meet the confidentiality condition and have legislation in place: this may be because the partner jurisdictions considered do not have the Convention in effect for the first reporting period, or may not have listed the reviewed jurisdiction in their notifications under Section 8 of the CbC MCAA.

<sup>6</sup> Delays due entirely to the fact that an exchange partner was not able to participate in the exchange of CbC reports are not considered to raise concerns with respect to the jurisdiction under review.

<sup>7</sup> South Africa indicates that five MNE Groups were not able to file CbC reports in South Africa and that SARS is currently assisting these entities with the filing of the CbC reports.



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