

Montenegro

Overview of CbC reporting requirements

First reporting fiscal year: Commencing on or after 1 January 2024

Consolidated group revenue threshold: EUR 750 million

Filing deadline: 12 months following the end of the reporting fiscal year

Local filing required: Yes

Surrogate parent entity filing permitted: Yes

First review of the domestic legal framework: 2022/2023

Summary of recommendations

Area of implementation	Recommendations for improvement
Domestic legal and administrative framework	<p>It is recommended that Montenegro introduce or complete the definitions of a “Reporting Entity”, “Qualifying Competent Authority Agreement”, “International Agreement”, and “Systemic Failure” in a manner that is consistent with the terms of reference.</p> <p>It is recommended that Montenegro take steps to ensure that local filing only occurs in the circumstances permitted under the minimum standard.</p> <p>It is recommended that Montenegro 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 Montenegro.</p> <p>It is recommended that Montenegro clarify that the annual consolidated group revenue threshold calculation rule applies in line with the OECD guidance on currency fluctuations in respect of an MNE Group whose Ultimate Parent Entity is located in a jurisdiction other than Montenegro.</p>
Exchange of information framework	<p>It is recommended that Montenegro 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 Montenegro has an international exchange of information agreement in effect that allows for the automatic exchange of tax information.</p> <p>It is recommended that Montenegro 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.</p>
Appropriate use	<p>It is recommended that Montenegro take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information.</p>

The domestic legal and administrative framework

Montenegro’s 2021/2022 peer review confirmed that Montenegro has a legislative filing requirement in effect but did not include a review of that legislation. Montenegro’s legislation has now been reviewed.

A legislative filing requirement is in effect which applies to all Ultimate Parent Entities of MNE Groups above a certain threshold and which required inclusion of all constituent entities.^{1 2}

A CbC reporting filing obligation applies in Montenegro for fiscal years commencing on or after 1 January 2024 and filing is required within 12 months after the reporting year end. Montenegro has enforcement requirements to ensure compliance with rules on CbC reporting.

There are a number of areas where there are recommendations to improve the legislation.

The definition of Reporting Entity

Montenegro's legislation does not include a definition of "Reporting Entity". It is recommended that Montenegro amend its legislation to include a definition of "Reporting Entity" that is in line with the standard.

The definition of Qualifying Competent Authority Agreement

Montenegro's legislation does not include a definition of "Qualifying Competent Authority Agreement". It is recommended that Montenegro amend its legislation to include a definition of "Qualifying Competent Authority Agreement" that is in line with the standard.

The definition of International Agreement

The definition in Montenegro's legislation refers to an agreement that Montenegro has concluded in written form with one or several states or with one or several international organisations, under the regulations of international law.

The definition of international agreement is intended to include reference to an agreement which provides legal authority for the exchange of tax information between jurisdictions, including automatic exchange of such information". It is recommended that Montenegro amend the definition of "International Agreement" or otherwise clarify that is in line with the standard.

The definition of Systemic Failure

The definition in Montenegro's legislation refers to meaning that either that a tax jurisdiction has a Qualifying Competent Authority Agreement in effect with Montenegro but has suspended automatic exchange, or that a jurisdiction is otherwise not required to automatically provide to Montenegro reports in its possession of MNE Groups that have Constituent Entities in Montenegro.

The definition of "Systemic Failure" is not intended to extend to where a jurisdiction is otherwise not required to automatically provide to Montenegro reports in its possession of MNE Groups that have Constituent Entities in Montenegro. It is recommended that Montenegro amend the definition of "Systemic Failure" or otherwise clarify that is in line with the standard.

The local filing provision

Montenegro has a legislative requirement which is in effect despite Montenegro not yet meeting all of the consistency, confidentiality and appropriate use conditions. It is therefore recommended that Montenegro take steps to ensure that local filing only occurs in the circumstances permitted under the minimum standard.

Single entity filing

It is recommended that Montenegro 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 Montenegro.

Currency Fluctuations

Where an MNE Group draws up, or would draw up, its Consolidated Financial Statements in a currency other than that specified by Montenegro, the reference to Montenegro's threshold has the effect as if it

were a reference to the equivalent in that currency at the average exchange rate for the accounting period. While this provision would not create an issue for MNE Groups whose Ultimate Parent Entity is a tax resident in Montenegro, it may 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 a Montenegro tax resident) of an MNE Group which does not reach the threshold as determined in the jurisdiction of the Ultimate Parent Entity of such a Group.

It is recommended that Montenegro clarify that the annual consolidated group revenue threshold calculation rule applies in line with the OECD guidance on currency fluctuations in respect of an MNE Group whose Ultimate Parent Entity is located in a jurisdiction other than Montenegro.

Montenegro's primary legislation imposes a filing obligation on a "legal person". This definition could be interpreted more narrowly than the standard. Montenegro has indicated that its definition of Ultimate Parent Entity is consistent with the minimum standard, therefore no recommendation is made, but this issue will be monitored.

The exchange of information framework

Montenegro has no bilateral relationships in place for the exchange of CbC reports nor 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.

It is recommended that Montenegro 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 Montenegro has an international exchange of information agreement in effect that allows for the automatic exchange of tax information. This recommendation remains in place since the 2021/2022 peer review.

It is recommended that Montenegro 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. This recommendation remains in place since the 2021/2022 peer review.

Appropriate use of CbC reports

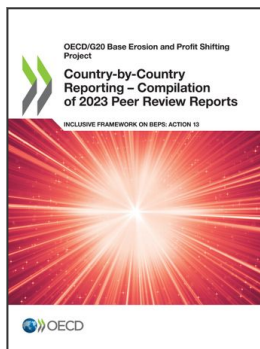
Montenegro does not yet have controls in place to ensure the appropriate use of CbC reports.

It is recommended that Montenegro take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. This recommendation remains in place since the 2021/2022 peer review.

Notes

¹ <https://www.gov.me/en/article/decreed-promulgating-the-law-on-tax-administration>.

² <https://www.gov.me/en/article/instructions-on-detailed-manner-of-filing-business-related-data-that-multinational-enterprise-group-constituent-entity-submits-to-administration-authority-competent-for-tax-affairs>.



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