

India

1. India was first reviewed during the 2017/2018 peer review. This report is supplementary to India's 2017/2018 peer review report (OECD, 2018^[1]). The first filing obligation for a CbC report in India commences in respect of financial years beginning on or after 1 April 2016.

Summary of key findings

2. India's implementation of Action 13 minimum standard meets all applicable terms of reference (OECD, 2017^[2]) relating to the domestic legal and administrative framework, with the following exception:

- India's 2017/2018 peer review included a recommendation that India amend or otherwise clarify that the annual consolidated group revenue threshold calculation rule 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 India. This recommendation remains in place.
- India's 2017/2018 peer review included a recommendation that India amend its legislation or otherwise takes steps to ensure that local filing is only required in the circumstances contained in the terms of reference. This recommendation remains in place.

3. India does not yet have in place all the necessary processes and 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. It is recommended that India take steps to implement such processes and written procedures as soon as possible.

Part A: The domestic legal and administrative framework

4. India has primary and secondary laws in place to implement the BEPS Action 13 minimum standard, establishing the necessary requirements, including the filing and reporting obligations.

(a) Parent entity filing obligation

5. India's 2017/2018 peer review included a recommendation that India amend or otherwise clarify that the annual consolidated group revenue threshold calculation rule 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 India. This recommendation remains in place.

(b) Scope and timing of parent entity filing

6. India's 2017/2018 peer review included a monitoring point around India's description of the items to be included in a CbC Report. It was expected that India issue an updated interpretation or clarification of the definitions of "Revenues" within a reasonable

timeframe to ensure consistency with OECD guidance, and this was being monitored. India did update the definition in line with the standard so the monitoring point is removed.

(c) Limitation on local filing obligation

7. India's 2017/2018 peer review included a recommendation that India amend its legislation or otherwise takes steps to ensure that local filing is only required in the circumstances contained in the terms of reference. This recommendation remains in place.

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

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

(e) Effective implementation

9. There is no change to with respect to effective implementation.

Conclusion

10. There is no change in relation to the domestic legal and administration framework for India since the previous peer review. The recommendations in the 2017/18 peer review remain in place.

Part B: The exchange of information framework

(a) Exchange of information framework

11. As at 31 May 2019, India has 63 bilateral relationships activated under the CbC MCAA. Within the context of its international exchange of information agreements that allow automatic exchange of information, India 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.¹ Regarding India's exchange of information framework, no inconsistencies with the terms of reference were identified.

(b) Content of information exchanged

12. India has processes 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. India has provided details of these processes.

(c) Completeness of exchanges

13. India has processes and 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. India has provided details of these process.

(d) Timeliness of exchange

14. India does not yet 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. India has not provided any details of reports exchanged.

(e) Temporary suspension of exchange or termination of QCAA

15. India does not yet 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

16. India does not yet 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

17. India confirms that it uses the OECD XML schema and User Guide (OECD, 2017^[3]) for the international exchange of CbC reports

(h) Method for transmission

18. India indicates that it uses the Common Transmission System to exchange CbC reports.

Conclusion

19. India does not yet have in place all the necessary processes and 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. It is recommended that India take steps to implement such processes and written procedures as soon as possible.

Part C: Appropriate use

20. India's 2017/2018 peer review included a recommendation that India take steps to ensure that the appropriate use condition is met ahead of the first exchange of CbC reports. India has provided some information on its appropriate use processes. India indicates that that measures are in place to ensure the appropriate use of information in all six areas identified by the OECD Guidance on the appropriate use of information contained in Country-by-Country report. It has provided details in relation to these measure , enabling it to answer yes to the additional questions on appropriate use. The recommendation is therefore removed.

21. No information or peer input was received for the reviewed jurisdiction suggesting any issues with appropriate use.

Conclusion

22. India 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 | It is recommended that India provide detail of the process and enforcement of the administrative provision for a specified class of MNE to file a modified CbC report and confirm whether there are situations where a report may not be filed or may not be exchanged as a result of non-compliance with the provision. |
| Part A | Domestic legal and administrative framework | It is recommended that India amend its legislation or otherwise take steps to ensure that local filing is only required in the circumstances contained in the terms of reference. |
| Part B | Exchange of information framework | It is recommended that India 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 | - |

Notes

¹ No inconsistency with the terms of reference will be identified where a QCAA is not in effect with one or more jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions, but this is due to circumstances that are not under the control of the reviewed jurisdiction. This may include, for example, where the other jurisdiction intends to exchange CbC reports using the MCAA but it does not have the Convention in effect for the relevant fiscal period, or where the other jurisdiction has declined to have a QCAA in effect with the reviewed jurisdiction.



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), “India”, 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/10.1787/2c961f0e-en>

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries.

This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area. Extracts from publications may be subject to additional disclaimers, which are set out in the complete version of the publication, available at the link provided.

The use of this work, whether digital or print, is governed by the Terms and Conditions to be found at <http://www.oecd.org/termsandconditions>.