

## Spain

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

### Summary of key findings

2. Spain's implementation of the Action 13 minimum standard meets all applicable terms of reference (OECD, 2017<sup>[2]</sup>), except for the following:

- It is recommended that Spain amend its legislation or otherwise clarify that the annual consolidated group revenue threshold calculation 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 Spain, when local filing requirements are applicable.
- It is recommended that Spain amend its legislation or otherwise clarify the definition of a Constituent Entity to be included in a CbC report in a manner consistent with the terms of reference.
- It is recommended that Spain amend its legislation or otherwise clarify that local filing is only required in the circumstances contained in the terms of reference.

These recommendations remain unchanged since the 2017/2018 peer review. Spain indicates that it is in the process of issuing updated guidance to ensure that local filing is only required in circumstances contained in the terms of reference.

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

3. Spain has primary and secondary legislation<sup>1</sup> in place which implements the BEPS Action 13 minimum standard for reporting fiscal years beginning on or after 1 January 2016.

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

4. Spain's 2017/2018 peer review included a recommendation that Spain 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 Spain, when local filing requirements are applicable. This recommendation remains in place.

5. Spain's 2017/2018 peer review also included a recommendation that Spain amend or otherwise clarify the definition of a Constituent Entity to include those excluded from consolidated financial accounts only on size or materiality grounds. This recommendation remains in place.

6. Spain's 2017/2018 peer review included a monitoring point on the potential exclusion of companies which are not required to produce consolidated financial statements from the filing requirement. This monitoring point remains in place.<sup>2</sup>

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

7. No changes were identified with respect to the scope and timing of parent entity filing. Spain's 2017/2018 peer review included a monitoring point that remains in place.<sup>3</sup>

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

8. Spain's 2017/2018 peer review included a recommendation that Spain amend its legislation or otherwise take steps to ensure that local filing is only required in the circumstances contained in the terms of reference. This recommendation remains in place. Spain indicates that it is in the process of issuing updated guidance to ensure that local filing is only required in circumstances contained in the terms of reference

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

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

***(e) Effective implementation***

10. With respect to the monitoring point in Spain's 2017/2018 peer review relating to a specific process that would allow to take appropriate measures in case Spain 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 its obligation to file a CbC report, Spain indicates that the following procedure is applicable: the Reporting Entity will be notified and required to submit or correct or complete the information, without prejudice of the applicable sanctions.<sup>4</sup> In light of this procedure, the monitoring point in Spain's 2017/2018 peer review is removed.

***Conclusion***

11. There is no change to the conclusion in relation to the domestic legal and administration framework for Spain since the previous peer review. Spain meets all the terms of reference relating to the domestic legal and administrative framework, with the following exceptions:

- It is recommended that Spain amend its legislation or otherwise clarify that the annual consolidated group revenue threshold calculation 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 Spain, when local filing requirements are applicable.
- It is recommended that Spain amend its legislation or otherwise clarify the definition of a Constituent Entity to be included in a CbC report in a manner consistent with the terms of reference.
- It is recommended that Spain amend its legislation or otherwise clarify that local filing is only required in the circumstances contained in the terms of reference.

These recommendations remain unchanged since the 2017/2018 peer review. Spain indicates that it is in the process of issuing updated guidance to ensure that local filing is only required in circumstances contained in the terms of reference.

## Part B: The exchange of information framework

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

12. As of 31 May 2019, Spain has 64 bilateral relationships in place for the exchange of CbC reports, including those activated under the CbC MCAA, under bilateral CAAs<sup>5</sup> and under the EU Council Directive (2016/881/EU). Within the context of its international exchange of information agreements that allow automatic exchange of tax information, Spain 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. Regarding Spain's exchange of information framework, no inconsistencies with the terms of reference were identified.<sup>6</sup>

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

13. Spain has processes 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.

14. Peer input was received from two jurisdictions in relation to the content of information exchanged. There are no concerns to be reported in respect of the content of information exchanged.

### *(c) Completeness of exchanges*

15. Spain has processes 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.

16. Peer input was received from two jurisdictions in relation to the completeness of exchanges. There are no concerns to be reported in respect of the completeness of exchanges.

### *(d) Timeliness of exchanges*

17. Spain has processes 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 procedures.

18. Peer input was received from two jurisdictions in relation to the timeliness of exchanges. There are no concerns to be reported in respect of the timeliness of exchanges.

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

19. Spain has processes 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.

20. Peer input was received from two jurisdictions in relation to a temporary suspension of exchange or termination of a QCAA. There are no concerns to be 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***

21. Spain has processes 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.

22. Peer input was received from two jurisdictions in relation to the requirement for a consultation before determining systemic failure or significant non-compliance. There are no concerns to be reported in respect of consultation with the other Competent Authority before determining systemic failure or significant non-compliance.

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

23. Spain confirms that it uses the OECD XML Schema and User Guide (OECD, 2017<sup>[2]</sup>) for the international exchange of CbC reports. Peer input was received from two jurisdictions in relation to the format for information exchange. There are no concerns to be reported in respect of the format of information exchange.

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

24. Spain indicates that it uses the Common Transmission System to exchange CbC reports.<sup>7</sup> Peer input was received from two jurisdictions in relation to the method for transmission. There are no concerns to be reported in respect of the method used for transmission.

***Conclusion***

25. Spain 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. Spain 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. Spain 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 Spain amend its legislation or otherwise clarify that the annual consolidated group revenue threshold calculation 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 Spain, when local filing requirements are applicable.
Part A	Domestic legal and administrative framework	It is recommended that Spain amend its legislation or otherwise clarify the definition of a Constituent Entity to be included in a CbC report in a manner consistent with the terms of reference.
Part A	Domestic legal and administrative framework	It is recommended that Spain amend its legislation or otherwise clarify that local filing is only required in the circumstances contained in the terms of reference.
Part B	Exchange of information framework	-
Part C	Appropriate use	-

## Notes

<sup>1</sup> Primary law consists of Corporate Tax Law, 27/2014, 27th November (Article 18). Secondary legislation consists of Regulation of the corporate tax law (the “regulation”), approved by Royal Decree 634/2015, 10th July (Articles: 13 and 14)). Secondary law consists of an Order of 28 December 2016 approving the Form to be used for filing a CbC report in Spain (Orden HFP/1978/2016, de 28 de diciembre, por la que se aprueba el modelo 231 de Declaración de información país por país: [www.boe.es/buscar/doc.php?id=BOE-A-2016-12484](http://www.boe.es/buscar/doc.php?id=BOE-A-2016-12484)).

<sup>2</sup> With respect to the absence in the definition of a “dominant company” of the “deemed listing provision”.

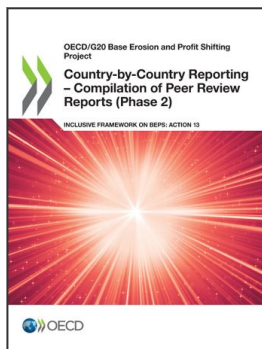
<sup>3</sup> With respect to the absence of a provision relating to the “Source of data” to complete a CbC report.

<sup>4</sup> Spain indicates that requests of information have already been made by the Competent Authority in Spain, the State Agency for Tax Administration, both to clarify discrepancies in the information and to require the submission of Country-by-Country reports.

<sup>5</sup> Spain signed a bilateral Competent Authority Agreement with the United States on 19 December 2017.

<sup>6</sup> 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.

<sup>7</sup> Countries exchanging under the EU Council Directive (2016/881/EU) use the Common Communication Network (CCN).



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