

Guernsey

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

Summary of key findings

2. Guernsey's implementation of the Action 13 minimum standard meets all applicable terms of reference (OECD, 2017^[2]).

Part A: The domestic legal and administrative framework

3. Guernsey has primary and secondary laws in place for implementing the BEPS Action 13 minimum standard¹ establishing the necessary requirements, including the filing and reporting obligations. Guidance has also been published.²

(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.

(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. No changes were identified with respect to the effective implementation.³

Conclusion

9. There is no change to the conclusion in relation to the domestic legal and administration framework for Guernsey since the previous peer review. Guernsey 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, Guernsey has 62 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, Guernsey 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.⁴ Regarding Guernsey's exchange of information framework, no inconsistencies with the terms of reference were identified.

(b) Content of information exchanged

11. Guernsey 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.

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. Guernsey 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.

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. Guernsey 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 processes.

16. Despite these processes, Guernsey reports that a number of reports were exchanged late.⁵ However, Guernsey also indicates that it has taken steps in order to ensure that any future exchanges of CbC reports be carried out in accordance with the timelines provided for in the relevant QCAAs and terms of reference and therefore no recommendation is made.

17. Peer input was received from one jurisdiction in relation to the timeliness of exchanges. No concerns were reported.

(e) Temporary suspension of exchange or termination of QCAA

18. Guernsey 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.

19. 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

20. Guernsey 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.

21. 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

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

23. 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

24. Guernsey indicates that it uses the Common Transmission System to exchange CbC reports.

25. Peer input was received from one jurisdiction in relation to the method for transmission. No concerns were reported in respect of the method used for transmission.

Conclusion

26. Guernsey 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. Guernsey meets all the terms of reference regarding the exchange of information.

Part C: Appropriate use

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

28. 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

29. Guernsey 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

¹ Primary legislation consists of the Income Tax (Guernsey) Law, 1975 and secondary legislation (“The CbCR Regulations”) is made under sections 75CC and 203A of the Income Tax (Guernsey) Law.

² Guidance notes with respect to CbC Regulations are available at www.gov.gg/CHttpHandler.ashx?id=108888&p=0. The Director has also issued two bulletins providing further information on CbCR: 1) Bulletin 2017/8: CbCR update regarding manner and timing of CbC reports (available at www.gov.gg/CHttpHandler.ashx?id=111035&p=0) and 2) Bulletin 2017/12: Further CbCR update regarding manner and timing of CbC reports is available at www.gov.gg/CHttpHandler.ashx?id=111329&p=0.

³ Guernsey’s 2017/2018 peer review included a general monitoring point relating to a specific process to that would allow to take appropriate measures in case Guernsey 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. This monitoring point remains in place.

⁴ 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.

⁵ 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.



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