

Spain

1. Spain was reviewed as part of the 2017/2018 and the 2018/2019 peer reviews. This report is supplementary to those previous reports (OECD, 2019^[1]) (OECD, 2018^[2]).
2. 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

3. Spain's implementation of the Action 13 minimum standard meets all applicable terms of reference (OECD, 2017^[3]), 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 in place since the 2017/2018 peer review.

Part A: The domestic legal and administrative framework

4. Spain has legislation in place which implements the BEPS Action 13 minimum standard.

(a) Parent entity filing obligation

5. It is recommended 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 since the 2017/2018 peer review.
6. It is recommended 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 since the 2017/2018 peer review.¹

(b) Scope and timing of parent entity filing

7. No changes were identified.²

(c) Limitation on local filing obligation

8. It is recommended 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 unchanged since the 2017/2018 peer review³.

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

9. No changes were identified.

(e) Effective implementation

10. No changes were identified.

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.

Part B: The exchange of information framework**(a) Exchange of information framework**

12. As of 31 March 2020, Spain has 75 bilateral relationships in place for the exchange of CbC reports, including those activated under the CbC MCAA, under bilateral CAAs⁴ 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.⁵

(b) Content of information exchanged

13. No changes were identified.

(c) Completeness of exchanges

14. No changes were identified.

(d) Timeliness of exchanges

15. No changes were identified.

(e) Temporary suspension of exchange or termination of QCAA

16. No changes were identified.

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

17. No changes were identified.

(g) Format for information exchange

18. No changes were identified.

(h) Method for transmission

19. No changes were identified.

Conclusion

20. Spain meets all the terms of reference regarding the exchange of information.

Part C: Appropriate use

Appropriate use

21. No changes were identified.

Conclusion

22. Spain meets all the terms of reference relating to 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	-

References

- OECD (2019), *Country-by-Country Reporting – Compilation of Peer Review Reports (Phase 2): Inclusive Framework on BEPS: Action 13*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://dx.doi.org/10.1787/f9bf1157-en>. [1]
- OECD (2018), *Country-by-Country Reporting – Compilation of Peer Review Reports (Phase 1): Inclusive Framework on BEPS: Action 13*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264300057-en>. [2]
- OECD (2017), *Terms of reference for the conduct of peer review of the Action 13 minimum standard on country-by-country reporting*, OECD Publishing, <https://www.oecd.org/tax/beps/beps-action-13-on-country-by-country-reporting-peer-review-documents.pdf>. [3]

Notes

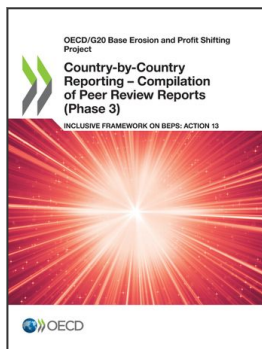
¹ Spain's 2017/2018 peer review included a monitoring point on the potential exclusion of companies which are not required to produce consolidated financial statements from the filing requirement with respect to the absence in the definition of a "dominant company" of the "deemed listing provision". This monitoring point remains in place

² Spain's 2017/2018 peer review included a monitoring point with respect to the absence of a provision relating to the "Source of data" to complete a CbC report. This monitoring point remains in place.

³ Spain has draft legislative amendments to address this issue which are currently in the process to be put into effect.

⁴ Spain signed a bilateral Competent Authority Agreement with the United States on 19 December 2017.

⁵ 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.



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