

Bermuda

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

Summary of key findings

2. Bermuda'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. Bermuda has primary and secondary laws (hereafter the "regulations") in place for implementing the BEPS Action 13 minimum standard¹ establishing the necessary requirements, including the filing and reporting obligations. Since the 2017/2018 peer review, guidance has been published and updated.² And Bermuda has provided an update with respect to the processes it has in place to ensure effective implementation.

(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.³

(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. Bermuda's 2017/2018 peer review included a general monitoring point concerning the fact that there was no specific process that would allow it to take appropriate measures in case Bermuda 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. Since the 2017/2018 peer review, Bermuda has provided updated information, explaining that, in such a situation, the Exchange of Information (EOI) Unit will notify the Reporting Entity within seven days. The Senior Automatic Exchange of Information Officer supported by the Assistant Financial Secretary will be in

charge of monitoring the process. In addition, the EOI Unit will impose a penalty pursuant to regulations if necessary. In view of this update and specific process, the monitoring point is removed.

9. No other changes were identified with respect to the effective implementation.

Conclusion

10. There is no change to the conclusion in relation to the domestic legal and administration framework for Bermuda since the previous peer review. Bermuda 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

11. As of 31 May 2019, Bermuda has 53 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, Bermuda 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 Bermuda's exchange of information framework, no inconsistencies with the terms of reference were identified.

(b) Content of information exchanged

12. Bermuda 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.

(c) Completeness of exchanges

13. Bermuda 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.

(d) Timeliness of exchanges

14. Bermuda 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.

15. Despite these procedures, Bermuda indicates that a number of CbC reports were exchanged late. These late exchanges were due to schema validation error and late filing by the Reporting Entity. Bermuda indicates that an upgrade to the reporting system was implemented in order to catch this specific schema validation error and late filing will be discouraged in future via enforcement measure and no recommendation is required.

(e) Temporary suspension of exchange or termination of QCAA

16. Bermuda 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.

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

17. Bermuda 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.

(g) Format for information exchange

18. Bermuda confirms that it uses the OECD XML Schema and User Guide (OECD, 2017^[31]) for the international exchange of CbC reports.

(h) Method for transmission

19. Bermuda indicates that it uses the Common Transmission System to exchange CbC reports.

Conclusion

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

Part C: Appropriate use

21. No changes were identified in respect of appropriate use. Bermuda is a non-reciprocal jurisdiction and, as such, will not receive CbC reports submitted to tax authorities in other jurisdictions, and will not apply local filing. As such, it is not necessary for this peer review evaluation to reach any conclusion with respect to Bermuda's compliance with paragraph 12 of the terms of reference on appropriate use.

Conclusion

22. There is no change to the conclusion in relation to the appropriate use for Bermuda since the previous peer review. Bermuda is a non-reciprocal jurisdiction and, as such, will not receive CbC reports submitted to tax authorities in other jurisdictions, and will not apply local filing. As such, it is not necessary for this peer review evaluation to reach any conclusion with respect to these paragraphs of the terms of reference.

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 law consists of the International Cooperation (Tax Information Exchange Agreements) Act 2005 Article 4B:

[www.bermulaws.bm/laws/Consolidated%20Laws/International%20Cooperation%20\(Tax%20Information%20Exchange%20Agreements\)%20Act%202005.pdf](http://www.bermulaws.bm/laws/Consolidated%20Laws/International%20Cooperation%20(Tax%20Information%20Exchange%20Agreements)%20Act%202005.pdf).

Secondary law consists of the “International Cooperation (Tax Information Exchange Agreements) Country-by-Country Reporting Regulations 2017”:

[www.bermulaws.bm/laws/Consolidated%20Laws/International%20Cooperation%20\(Tax%20Information%20Exchange%20Agreements\)%20Country-By-Country%20Reporting%20Regulations%202017.pdf](http://www.bermulaws.bm/laws/Consolidated%20Laws/International%20Cooperation%20(Tax%20Information%20Exchange%20Agreements)%20Country-By-Country%20Reporting%20Regulations%202017.pdf) and [http://www.bermulaws.bm/laws/Annual%20Laws/2017/Statutory%20Instruments/International%20Cooperation%20\(Tax%20Information%20Exchange%20Agreements\)%20Country-By-Country%20Reporting%20Amendment%20Regulations%202017.pdf](http://www.bermulaws.bm/laws/Annual%20Laws/2017/Statutory%20Instruments/International%20Cooperation%20(Tax%20Information%20Exchange%20Agreements)%20Country-By-Country%20Reporting%20Amendment%20Regulations%202017.pdf).

² Guidance on Country-by-Country Reporting has been published on 28 June 2018 as a new version on the Government of Bermuda site: www.gov.bm/sites/default/files/Bermuda-CbCR-Guidance-Notes-v2.0.pdf.

³ Bermuda’s 2017/2018 peer review included a monitoring point relating to the interpretation of the definition of “Revenue – Unrelated Party” and “Revenue – Related Party”. 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.



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