

## Brazil

1. Brazil was first reviewed during the 2017/2018 peer review. This report is supplementary to Brazil's 2017/2018 peer review report (OECD, 2018<sub>[1]</sub>). The first filing obligation for a CbC report in Brazil commences in respect of periods commencing on or after 1 January 2016.

### Summary of key findings

2. Brazil's implementation of the Action 13 minimum standard meets all applicable terms of reference (OECD, 2017<sub>[2]</sub>).

3. The 2017/2018 peer review included a recommendation to Brazil ensure that the annual consolidated group revenue threshold is applied in a manner consistent with the OECD guidance on currency fluctuations (OECD, 2018<sub>[5]</sub>). Brazil has now clarified the application of the threshold rule in its internal guidance. In light of the update provided by Brazil, this recommendation on the parent filing obligation is now removed.

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

4. Brazil has primary and secondary laws<sup>1</sup> (hereafter the "regulations") in place to implement the BEPS Action 13 minimum standard, establishing the necessary requirements including the filing and reporting obligations. Guidance has also been published<sup>2</sup>

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

5. Brazil's 2017/2018 peer review included a recommendation in relation to the annual consolidated group revenue calculation rule. The report mentioned that the operation of this rule would be further monitored, including by Brazil. It was recommended that if the operation of the rule became an issue, Brazil would at that time take steps to ensure that it applies in a manner consistent with the OECD guidance on currency fluctuations. Brazil has now clarified the application of the threshold rule in its internal guidance. In light of the update provided by Brazil, this recommendation on the parent filing obligation is now removed.

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

6. No changes were identified with respect to the scope and timing of parent entity filing.

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

7. No changes were identified with respect to the limitation on local filing obligation.

*(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. No changes were identified with respect to the effective implementation.<sup>3</sup>

*Conclusion*

10. Brazil 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, Brazil has 65 bilateral relationships, 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, Brazil 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.<sup>4</sup> Regarding Brazil's exchange of information framework, no inconsistencies with the terms of reference were identified.

*(b) Content of information exchanged*

12. Brazil 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 procedures.

*(c) Completeness of exchanges*

13. Brazil 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 procedures.

*(d) Timeliness of exchanges*

14. Brazil 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.<sup>5</sup>

15. Despite these process Brazil has confirmed that a number of reports were exchanged late. This was because of delays enrolling on CTS. As this issue has been addressed no recommendation is required.

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

16. Brazil 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. Brazil 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 procedures.

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

18. Brazil confirms that it uses the OECD XML Schema and User Guide (OECD, 2017<sup>[3]</sup>) for the international exchange of CbC reports.

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

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

***Conclusion***

20. Brazil has in place 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. Brazil 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. There were no recommendations issued in the 2017/2018 peer review.

22. No information or peer input was received for the reviewed jurisdiction suggesting any issues with appropriate use. No concerns were reported in respect of appropriate use.

***Conclusion***

23. Brazil 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

<sup>1</sup> Brazil's primary law consists of a general provision in the federal legislation granting power to the Secretariat of the Brazilian Federal Revenue to establish the necessary requirements related to taxes it manages, including the filing and reporting obligations (article 16 of Federal Law No. 9,779/1999). Brazil's secondary law consists of a Normative Instruction regulating the obligation of CbC reporting (Normative Instruction No. 1,681/2016).

<sup>2</sup> Guidance has been added to the generic guidance for filling the Tax Accounting Bookkeeping obligation (ECF) and can be accessed at: [http://sped.rfb.gov.br/estatico/2D/8816323A05FE605264E343A5E9A1AC265DC9A8/Manual\\_de\\_Orienta%C3%A7%C3%A3o\\_da\\_ECF\\_Dezembro\\_2018%20\(ver%2012-12-2018\).pdf](http://sped.rfb.gov.br/estatico/2D/8816323A05FE605264E343A5E9A1AC265DC9A8/Manual_de_Orienta%C3%A7%C3%A3o_da_ECF_Dezembro_2018%20(ver%2012-12-2018).pdf) (Pages 382-418 specifically refer to CbC Reporting). The guidance provides links to the OECD internet page on the BEPS project including the Action 13 Minimum Standard. Brazil has also published guidance in a FAQ format providing further explanations to taxpayers and to the tax administration with respect to CbC Reporting, and which also includes the provisions in the OECD's Guidance on the Implementation of CbC Reporting translated into Portuguese. The questions and answers can be accessed at: <http://sped.rfb.gov.br/estatico/D5/313BDE0FCDA063847CAC7DC1B5B40497258314/Perguntas%20e%20Respostas%20-%20DPP%2027072017.pdf>

<sup>3</sup> Brazil'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 Brazil 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.

<sup>4</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>5</sup> 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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