

## Luxembourg

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

### Summary of key findings

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

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

3. Luxembourg has primary law in place for implementing the BEPS Action 13 minimum standard<sup>1</sup> (the "CbC Act") establishing the necessary requirements, including the filing and reporting obligations. Guidance has also been published.<sup>2</sup>

#### *(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. Luxembourg's 2017/2018 peer review included a monitoring point concerning the lack of a specific process. The process was to allow appropriate measures to be taken in case Luxembourg is notified by another jurisdiction that such other jurisdiction believes that an error may have led to incorrect or incomplete information reported 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, Luxembourg has provided updated information, explaining that, in case that the Luxembourg Tax Administration detected errors in the CbC report, a member of the CbC team would resend the report in case it is a mere technical issue. In case the issue concerns the content of the declaration, the team would contact the taxpayer to fill an amended CbC report. In addition, the taxpayer would have to explain the facts that led to the filing of an erroneous statement. If necessary, fines

will be imposed. Once a corrected CbC report has been submitted, it will then be exchanged with other jurisdictions shortly thereafter. In view of this update and specific process, the monitoring point is removed.

### ***Conclusion***

9. There is no change to the conclusion in relation to the domestic legal and administration framework for Luxembourg since the previous peer review. Luxembourg 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, Luxembourg has 68 bilateral relationships, including those activated under the CbC MCAA, under bilateral CAAs and under the EU Council Directive (2016/881/EU). Within the context of its international exchange of information agreements that allow automatic exchange of information, Luxembourg 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>3</sup> Regarding Luxembourg's exchange of information framework, no inconsistencies with the terms of reference were identified.

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

11. Luxembourg 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. Luxembourg 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. Luxembourg 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. Peer input was received from one jurisdiction in relation to the timeliness of exchanges. No concerns were reported in respect of the timeliness of exchanges.<sup>4</sup>

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

17. Luxembourg 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.

18. 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***

19. Luxembourg 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.

20. 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***

21. Luxembourg confirms that it uses the OECD XML Schema and User Guide (OECD, 2017<sup>[6]</sup>) for the international exchange of CbC reports.

22. 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***

23. Luxembourg indicates that it uses the Common Transmission System to exchange CbC reports.<sup>5</sup>

24. 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***

25. Luxembourg 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. Luxembourg 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. No concerns were reported in respect of appropriate use.

***Conclusion***

28. Luxembourg 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> Primary law consists of the Law of 23 December 2016 (the “CbC Act”) which transposed the European Union (EU) Council Directive 2016/881/EU of 25 May 2016 relating to the automatic and mandatory exchange of information in the tax field concerning country-by-country reporting for multinational enterprise groups. Luxembourg also indicates that the list of jurisdictions subject to CbC reporting will be drawn up by the Grand-Ducal Regulation (Article 4 (2) of the CbC Act).

<sup>2</sup> Guidance was issued in the form of FAQs:  
[www.impotsdirects.public.lu/fr/echanges\\_electroniques/CbCR/FAQ.html](http://www.impotsdirects.public.lu/fr/echanges_electroniques/CbCR/FAQ.html).

<sup>3</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>4</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.

<sup>5</sup> Countries exchanging under the EU Council Directive (2016/881/EU) use the Common Communication Network (CCN).



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