

## *Executive summary*

### **Context of Country-by-Country Reporting**

1. A key component of the transparency pillar of the BEPS minimum standards is the obligation for all large multinational enterprise groups (MNE Groups) to file a Country-by-Country (CbC) report: the Action 13 Report (*Transfer Pricing Documentation and Country-by-Country Reporting – Action 13: 2015 Final Report*, OECD, 2015) provides a template for these MNE Groups to report annually and for each tax jurisdiction in which they do business the amount of revenue, profit before income tax and income tax paid and accrued, as well as the number of employees, stated capital, retained earnings and tangible assets. MNE Groups should also identify each entity within the group doing business in a particular jurisdiction and provide an indication of the business activities each entity engages in. In 2018 for the first time, tax authorities around the world will receive information on large MNE Groups which was not previously available, enabling them to grasp the structure of the business structure while enhancing their risk-assessment capacity.
2. In general, the Ultimate Parent Entity of an MNE Group will prepare and file its CbC report with the tax administration in its jurisdiction of tax residence. That tax administration will automatically exchange the CbC report with the tax administrations in the jurisdictions listed in the CbC report as being a place in which the MNE Group has a Constituent Entity resident for tax purposes. This will be carried out under an International Agreement (such as the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters* (OECD/Council of Europe, 2011) or a Double Tax Convention or a Tax Information Exchange Agreement) permitting Automatic Exchange of Information. A “Qualifying Competent Authority Agreement” which sets out the operational details of the exchange of CbC reports will need to be put in place.
3. As one of the four BEPS minimum standards, the Country-by-Country (CbC) reporting requirements contained in the 2015 Action 13 Report (OECD, 2015) are subject to peer review in order to ensure timely and accurate implementation and thus safeguard the level playing field. All members of the Inclusive Framework on BEPS commit to implementing the Action 13 minimum standard and to participating in the peer review, on an equal footing. The peer review process focuses on three key elements of the minimum standard: (i) the domestic legal and administrative framework, (ii) the exchange of information framework and (iii) the confidentiality and appropriate use of CbC reports.
4. Implementation of CbC Reporting is well underway as the peer review process evidences: over 60 jurisdictions have now introduced an obligation for relevant MNE Groups to file a CbC report in their domestic legal framework.

## Scope of this review

5. This is the first annual peer review for the Action 13 minimum standard. It covers 95 jurisdictions which provided legislation and/ or information relating to the implementation of CbC Reporting.
6. The review focused on the domestic legal and administrative framework and covered some aspects of the exchange of information framework as well as confidentiality and appropriate use.

## Key findings

Peer review reports were prepared for the 95 jurisdictions which provided legislation and/or information relating to the implementation of CbC Reporting. Sixteen jurisdictions were not yet able to submit material for the peer review process, or to do so in time for phase one.

7. As of 12 January 2018, the key findings are as follows:
  - **Domestic legal and administrative framework:** 60 jurisdictions have a comprehensive domestic legal and administrative framework in place, while a few jurisdictions have final legislation awaiting official publication. In addition, a few other jurisdictions have primary law in place which needs to be completed with secondary law or guidance. With respect to the domestic legal and administrative framework, 28 jurisdictions received one or more recommendations for improvement on specific areas of their framework. For 33 jurisdictions, a general recommendation to put in place or finalise their domestic legal and administrative framework has been issued (noting that the vast majority of these jurisdictions do not apply CbC Reporting requirements for fiscal year 2016, but for later fiscal years).
  - **Exchange of information framework:** 58 jurisdictions of the Inclusive Framework have multilateral or bilateral competent authority agreements in place, effective for taxable periods starting on or after 1 January 2016, or on or after 1 January 2017.
  - **Appropriate use:** 39 jurisdictions provided detailed information relating to appropriate use, enabling the CbC Reporting Group to reach sufficient assurance that measures are in place to ensure the appropriate use of CbC reports.
8. The following jurisdictions have not been included in this annual report. This is due to a variety of reasons, including capacity constraints, impacts of natural disasters,<sup>1</sup> the fact that these jurisdictions are new joiners to the Inclusive Framework (and joined after the start of the peer review process) or have opted-out of the peer review as they have confirmed that they do not currently have any MNE Groups headquartered in their jurisdiction.<sup>2</sup> The OECD is engaging with these jurisdictions in order for them to participate in the CbC Reporting framework including the peer review process as soon as possible.
  - Bahamas
  - Botswana
  - Burkina Faso
  - Congo
  - Djibouti

- Mongolia
- Montserrat
- Oman
- Papua New Guinea
- Saint Kitts and Nevis
- Sierra Leone
- Trinidad and Tobago
- Tunisia
- Turks and Caicos Islands
- Viet Nam
- Zambia

### Next steps

9. The peer review of the Action 13 minimum standard is an annual review taking place in 2017, 2018 and 2019. The next annual peer review (“phase two”) will commence during the course of 2018 and will aim at reviewing all the jurisdictions of the Inclusive Framework, focusing on progress made by jurisdictions where relevant.

### *Notes*

<sup>1</sup> Turks and Caicos Islands.

<sup>2</sup> Botswana.





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