

Egypt

Summary of key findings

1. Consistent with the agreed methodology this first annual peer review covers: (i) the domestic legal and administrative framework, (ii) certain aspects of the exchange of information framework as well as (iii) certain aspects of the confidentiality and appropriate use of CbC reports. Egypt does not yet have a full legal and administrative framework in place to implement CbC Reporting. CbC requirements should first apply for taxable years commencing on or after 1 January 2018. It is recommended that Egypt finalise its domestic legal and administrative framework in relation to CbC requirements as soon as possible, as well as an exchange of information framework and measures to ensure appropriate use.

Part A: Domestic legal and administrative framework

2. Egypt indicates that it has updated its Transfer Pricing Guidelines in 2017 to take into account the BEPS project's recommendations and the Action 13 minimum standard. These Guidelines have incorporated the three-tiered approach to Transfer Pricing Documentation. These updated Guidelines should be released in March 2018, together with a Ministerial decree. The CbC Reporting requirements will apply for taxable years commencing on or after 1 January 2018. It is recommended that Egypt finalise its domestic legal and administrative framework in relation to CbC Reporting requirements as soon as possible, in particular in respect of the enforcement measures.¹

Part B: Exchange of information framework

3. Egypt is not a signatory of the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011), and is also not a signatory to the CbC MCAA. As of 12 January 2018, Egypt does not yet have bilateral relationships activated under the CbC MCAA. In respect of the terms of reference under review,² it is recommended that Egypt take steps to put in place an exchange of information framework that allows Automatic Exchange of Information and have QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites. It is however noted that Egypt will not be exchanging CbC reports in 2018.

Part C: Appropriate use

4. In respect of the terms of reference under review,³ Egypt does not yet have measures in place relating to appropriate use. It is recommended that Egypt take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. It is however noted that Egypt will not be exchanging CbC reports in 2018.

Part A: The domestic legal and administrative framework

5. Part A assesses the domestic legal and administrative framework of the reviewed jurisdiction by reviewing the (a) parent entity filing obligation, (b) the scope and timing of parent entity filing, (c) the limitation on local filing obligation, (d) the limitation on local filing in case of surrogate filing and (e) the effective implementation.

6. Egypt does not yet have legislation in place to implement the BEPS Action 13 minimum standard.

(a) Parent entity filing obligation

Summary of terms of reference:⁴ Introducing a CbC filing obligation which applies to Ultimate Parent Entities of MNE Groups above a certain threshold of revenue, whereby all required Constituent Entities of the MNE Group are included in the CbC report and no entity is excluded from CbC Reporting other than permitted (paragraph 8 (a) of the terms of reference).

7. Egypt indicates that it has been updating its existing Transfer Pricing Guidelines in 2017 to take into account the BEPS' project's recommendations and the Action 13 minimum standard.⁵ These Guidelines have incorporated the three-tiered approach to Transfer Pricing Documentation. As such, a requirement for CbC Reporting has been introduced in Chapter 5 of the Guidelines. A Ministerial Decree should also be issued to confirm and clarify the CbC Reporting requirements. The updated Guidelines should be released in March 2018, together with this Ministerial decree.

8. Chapter 5 of the Transfer Pricing Guidelines state that the CbC report requires jurisdiction-wide information regarding a "Group of Associated Enterprises" global allocation of income, taxes paid, and the location of key economic activity where the Group of Associated Enterprises (GAE) operates. As part of this CbC report, the GAEs are also required to report their number of employees, stated capital, retained earnings and tangible assets in each tax jurisdiction. The GAEs should also identify each entity within the group is doing business in a particular tax jurisdiction, and provide an indication of the business activities each entity engages in. It also requires a listing of all Constituent Entities for which financial information is reported, as well as their main business activities. A CbC report should be filed in the jurisdiction of tax residence of the ultimate parent entity and will be shared between the relevant tax administrations through Automatic Exchange of Information, pursuant to government-to-government mechanisms

9. Egyptian parented GAEs, i.e. Egyptian parent companies, will be required to file a CbC report with the Egyptian Tax Administration. Egypt indicates that it is currently considering the definition of an "Egyptian parented entity" for CbC purposes in the Transfer Pricing Guidelines, as well as the definitions of a "Constituent Entity", "Group", or an "MNE Group". This will be monitored.

10. For Egyptian tax and transfer pricing purposes, a CbC report will be required for an Egyptian parented GAEs if the GAE for which an Egyptian taxpayer is the parent company achieved an annual consolidated group revenue of equal to or exceeding EGP 3 billion.⁶

(b) Scope and timing of parent entity filing

Summary of terms of reference: Providing that the filing of a CbC report by an Ultimate Parent Entity commences for a specific fiscal year; includes all of, and only, the information required; and occurs within a certain timeframe; and the rules and guidance issued on other aspects of filing requirements are consistent with, and do not circumvent, the minimum standard (paragraph 8 (b) of the terms of reference).

11. The first filing obligation for a CbC report in Egypt commences in respect of fiscal years starting on or after 1 January 2018.⁷ The CbC report must be filed within 12 months after the end of the fiscal year to which the CbC report of the MNE Group relates.^{8 9}

(c) Limitation on local filing obligation

Summary of terms of reference: If local filing requirements have been introduced, that such requirements may apply only to Constituent Entities which are tax residents in the reviewed jurisdiction, whereby the content of the CbC report does not contain more than that required from an Ultimate Parent Entity, whereby the reviewed jurisdiction meets the confidentiality, consistency and appropriate use requirements, whereby local filing may only be required under certain conditions and whereby one Constituent Entity of an MNE Group in the reviewed jurisdiction is allowed to file the CbC report, satisfying the filing requirement of all other Constituent Entities in the reviewed jurisdiction (paragraph 8 (c) of the terms of reference).

12. There are currently no legal or administrative rules providing for local filing in Egypt.

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

Summary of terms of reference: If local filing requirements have been introduced, that local filing will not be required when there is surrogate filing in another jurisdiction when certain conditions are met (paragraph 8 (d) of the terms of reference).

13. There are currently no legal or administrative rules providing for local filing in Egypt.

(e) Effective implementation

Summary of terms of reference: Providing for enforcement provisions and monitoring relating to CbC Reporting's effective implementation including having mechanisms to enforce compliance by Ultimate Parent Entities and Surrogate Parent

Entities, applying these mechanisms effectively, and determining the number of Ultimate Parent Entities and Surrogate Parent Entities which have filed, and the number of Constituent Entities which have filed in case of local filing (paragraph 8 (e) of the terms of reference).

14. There are currently no specific enforcement measures in relation to the filing of a CbC report. However, Egypt indicates that work is currently underway in view of introducing a “Unified Tax Procedures Law” in which enforcement measures and penalties relating to Transfer Pricing Documentation would be incorporated. It is recommended that Egypt introduce enforcement measures as soon as possible.

Conclusion

15. In respect of paragraph 8 of the terms of reference (OECD, 2017a), Egypt does not yet have a complete domestic legal and administrative framework to impose and enforce CbC requirements on the Ultimate Parent Entity of an MNE Group that is resident for tax purposes in Egypt. It is recommended that Egypt finalise its domestic legal and administrative framework in relation to CbC requirements as soon as possible, in particular in respect of the enforcement measures.

Part B: The exchange of information framework

16. Part B assesses the exchange of information framework of the reviewed jurisdiction. For this first annual peer review process, this includes reviewing certain aspects of the exchange of information network as specified in paragraph 9 (a) of the terms of reference (OECD, 2017a).

Summary of terms of reference: within the context of the exchange of information agreements in effect of the reviewed jurisdiction, having QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites (paragraph 9 (a) of the terms of reference).

17. Egypt is not a Party to the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) (“the Convention”) and is also not a signatory to the CbC MCAA. Egypt does not report any Double Tax Agreements or Tax Information Exchange Agreements that allow Automatic Exchange of Information.

18. As of 12 January 2018, Egypt does not yet have bilateral relationships activated under the CbC MCAA. It is recommended that Egypt take steps to put in place an exchange of information framework that allows Automatic Exchange of Information and have QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites. It is however noted that Egypt will not be exchanging CbC reports in 2018.

Conclusion

19. In respect of the terms of reference under review, it is recommended that Egypt take steps to put in place an exchange of information framework that allows Automatic

Exchange of Information and have QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites. It is however noted that Egypt will not be exchanging CbC reports in 2018.

Part C: Appropriate use

20. Part C assesses the compliance of the reviewed jurisdiction with the appropriate use condition. For this first annual peer review process, this includes reviewing certain aspects of appropriate use.

Summary of terms of reference: (a) having in place mechanisms (such as legal or administrative measures) to ensure CbC reports which are received through exchange of information or by way of local filing are only used to assess high-level transfer pricing risks and other BEPS-related risks, and, where appropriate, for economic and statistical analysis; and cannot be used as a substitute for a detailed transfer pricing analysis of individual transactions and prices based on a full functional analysis and a full comparability analysis; and are not used on their own as conclusive evidence that transfer prices are or are not appropriate; and are not used to make adjustments of income of any taxpayer on the basis of an allocation formula (paragraphs 12 (a) of the terms of reference).

21. Egypt has not yet provided information on measures relating to appropriate use. Egypt however indicates that Chapter 5 of the Transfer Pricing Guidelines (section 5.8.) that the CbC report will be primarily used by the Egyptian tax Administration for performing high-level transfer pricing risk assessment, and evaluating other tax and BEPS related risks, as relevant. As such, a CbC report does not provide comprehensive evidence that transfer prices are or are not arm's length, and the information contained in there cannot be used as a substitute for the detailed transactional transfer pricing analysis as required under the master file and local file. It is recommended that Egypt take steps to ensure that the appropriate use condition is met ahead of the first exchanges of CbC reports. It is however noted that Egypt will not be exchanging CbC reports in 2018.

Conclusion

22. It is recommended that Egypt take steps to ensure that the appropriate use condition is met ahead of the first exchanges of CbC reports. It is however noted that Egypt will not be exchanging CbC reports in 2018.

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 Egypt finalise its domestic legal and administrative framework in relation to CbC requirements as soon as possible, in particular in respect of the enforcement measures.
Part B	Exchange of information framework	It is recommended that Egypt take steps to put in place an exchange of information framework that allows Automatic Exchange of Information and have QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites.
Part C	Appropriate use	It is recommended that Egypt take steps to ensure that the appropriate use condition is met ahead of the first exchanges of CbC reports.

Notes

¹ Paragraph 8 of the terms of reference (OECD, 2017a).

² Paragraph 9 (a) of the terms of reference (OECD, 2017a).

³ Paragraph 12 (a) of the terms of reference (OECD, 2017a).

⁴ The « summary of terms of reference » is provided to facilitate the reading of the report. Reference should be made to the exact wording of the terms of reference published in February 2017 (OECD, 2017a).

⁵ Egypt also indicates that Transfer Pricing was first introduced in Egypt in the Income Tax Law of 2005 through Article (30) and its executive regulations Articles (38),(39), and (40), which basically stipulate that associated parties transacting with each other should deal at arm's length, specifying the methods that should be used and the hierarchy in which they should be applied. Later in 2010, the Egyptian Transfer Pricing (“TP”) Guidelines were issued, with the purpose of providing a practical guide to the application of Article (30) of the Law. The 2010 Guidelines are based on the OECD Guidelines (OECD, 2017b), and provide a description of the key TP principles, methods, and local documentation requirements (including an Egyptian specific four-step approach). In 2017, Egypt has been working on refining and updating the Egyptian TP policy, and as part of this, the 2010 Transfer Pricing Guidelines have been updated. The Transfer Pricing Guidelines will be a “living document” which will updated over time, when necessary.

⁶ Egypt confirms it would only exchange the CbC reports of Egyptian parented GAEs when the parent company achieved an annual consolidated group revenue of equal to or exceeding EUR 750 million.

⁷ See Section 5.9.1. of the Transfer Pricing Guidelines: “Taxpayers are required to submit their transfer pricing documentation to ETA on an annual basis”. Egypt indicates that the Guidelines will state that the first CbC report should be prepared for the subject GAE’s fiscal year ending 2018, and should therefore be filed twelve months after the close of the GAE’s 2018 fiscal year.

⁸ See Section 5.9.1. of the Transfer Pricing Guidelines: “The CBCR should in general be submitted one year following the close of the relevant financial year that it covers”. Egypt indicates that the Guidelines will state that the first CbC report should be prepared for the subject GAE’s fiscal year ending 2018, and should therefore be filed twelve months after the close of the GAE’s 2018 fiscal year. They also clarify that the fiscal year relates to the consolidated reporting period for financial statement purposes and not to taxable years or to the financial reporting periods of the subsidiaries.

⁹ Section 5.8. of the Transfer Pricing guidelines state that Taxpayers who meet the filing threshold in any year, are required to prepare a CBCR for that given year using model template in the Action 13 report (OECD, 2015). Egypt indicates that it will provide for more filing instructions in due course. This will be monitored.

References

- OECD (2017a), “Terms of reference for the conduct of peer reviews of the Action 13 minimum standard on Country-By-Country Reporting” in *BEPS Action 13 on Country-by-Country Reporting – Peer Review Documents*, OECD/G20 Base Erosion and Profit Shifting Project, OECD, Paris.
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