

## Finland

### 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. Finland's implementation of the Action 13 minimum standard meets all applicable terms of reference. The report, therefore, contains no recommendations.

#### ***Part A: Domestic legal and administrative framework***

2. Finland has rules (primary and secondary laws, as well as guidance) that impose and enforce CbC requirements on the Ultimate Parent Entity (UPE) of a multinational enterprise group ("MNE" Group) that is resident for tax purposes in Finland. The first filing obligation for a CbC report in Finland commences in respect of fiscal years beginning on 1 January 2016 or later. Finland meets all the terms of reference relating to the domestic legal and administrative framework.<sup>1</sup>

#### ***Part B: Exchange of information framework***

3. Finland is a signatory to the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) which is in effect for 2016, and is also a signatory of the CbC MCAA; it has provided its notifications under Section 8 of this agreement and intends to have the CbC MCAA in effect with a large number of other signatories of this agreement which provide notifications under the same agreement. Finland has also signed a bilateral Competent Authority Agreement (CAA) with the United States. As of 12 January 2018, Finland has 53 bilateral relationships activated under the CbC MCAA or exchanges under the EU Council Directive (2016/881/EU) and under the bilateral CAA. Finland 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 (including legislation in place for fiscal year 2016). Against the backdrop of the still evolving exchange of information framework, at this point in time, Finland meets the terms of reference relating to the exchange of information framework aspects under review for this first annual peer review.<sup>2</sup>

#### ***Part C: Appropriate use***

4. There are no concerns to be reported for Finland. Finland indicates that measures are in place to ensure the appropriate use of information in all six areas identified in the *OECD Guidance on the appropriate use of information contained in Country-by-Country reports* (OECD, 2017a). It has provided details in relation to these measures, enabling it to answer "yes" to the additional questions on appropriate use.<sup>3</sup> Finland meets the terms

of reference relating to the appropriate use aspects under review for this first annual peer review.<sup>4</sup>

## 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. Finland has primary law and secondary laws in place for implementing the BEPS Action 13 minimum standard, establishing the necessary requirements, including the filing and reporting obligations.<sup>5</sup> Guidance has also been published.<sup>6</sup>

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

Summary of terms of reference:<sup>7</sup> 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. Finland has introduced a domestic legal and administrative framework which imposes a CbC filing obligation on UPEs 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 by the Action 13 report (OECD, 2015).

8. No inconsistencies were identified with respect to the parent entity filing obligation.<sup>8</sup>

### *(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).

9. The first filing obligation for a CbC report in Finland commences in respect of fiscal years beginning on 1 January 2016 or thereafter.<sup>9</sup> The CbC report must be filed within 12 months of the last day of the reporting fiscal year of the MNE Group.<sup>10</sup>

10. No inconsistencies were identified with respect to the scope and timing of parent entity filing.

*(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).

11. Finland has introduced local filing requirements in respect of fiscal years beginning on 1 January 2016 or thereafter.<sup>11</sup> No inconsistencies were identified with respect to the limitation on local filing obligation.<sup>12</sup>

*(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).

12. Finland's local filing requirements will not apply if there is surrogate filing in another jurisdiction by a group entity that is a tax resident of the European Union or another group entity as appointed by the Ultimate Parent Entity.<sup>13</sup> No inconsistencies were identified with respect to the limitation on local filing in case of surrogate filing.

*(e) Effective implementation*

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).

13. Finland has legal mechanisms in place to enforce compliance with the minimum standard: there are notification mechanisms in place that apply to taxpayers in Finland.<sup>14</sup> There are also penalties in place in relation to the filing of a CbC report or a notification of refusal to file:<sup>15</sup> (i) penalties for failure to file (ii) penalty for late filing and (iii) penalties for filing information with substantial deficiencies or inaccuracies.

14. There are no specific processes in place that would allow to take appropriate measures in case Finland 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. However, Finland has a penalty regime in place that would impose a penalty on the reporting entity in Finland that has submitted a deficient or inaccurate CbC report. The effective implementation of these provisions will be further monitored once the actual exchanges of CbC reports take place.

### Conclusion

15. In respect of paragraph 8 of the terms of reference (OECD, 2017b), Finland has a domestic legal and administrative framework to impose and enforce CbC requirements on MNE Groups whose Ultimate Parent Entity is resident for tax purposes in Finland. Finland meets all the terms of reference relating to the domestic legal and administrative framework.

## 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 framework as specified in paragraph 9 (a) of the terms of reference (OECD, 2017b).

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. Finland has domestic legislation that permits the automatic exchange CbC reports. It is a Party to (i) the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011), (signed on 27 May 2010, in force on 1 June 2011 and in effect for 2016), (ii) multiple bilateral Double Tax Agreements<sup>16</sup> and (iii) the Nordic Convention on Administrative Assistance,<sup>17</sup> which allow Automatic Exchange of Information. Finland has also implemented EU Council Directive 2016/881/2016 amending Directive 2011/16/EU as regards mandatory Automatic Exchange of Information in the field of taxation.

18. Finland signed the CbC MCAA on 27 January 2016 and submitted a full set of notifications under section 8 of the CbC MCAA on 31 March 2017. It intends to have the CbC MCAA in effect with a large number of other signatories of this agreement which provide notifications under Section 8(1)(e) of the same agreement. Finland also signed a bilateral CAA with the United States. As of 12 January 2018, Finland has 53 bilateral relationships activated under the CbC MCAA<sup>18</sup> or exchanges under the EU Council Directive (2016/881/EU) and under the bilateral CAA. Finland 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 (including legislation in place for fiscal year 2016). Against the backdrop of the still evolving exchange of information framework, at this point in time, Finland meets the terms of reference regarding the exchange of information framework.

### Conclusion

19. Against the backdrop of the still evolving exchange of information framework, at this point in time, Finland meets the terms of reference regarding the exchange of information framework.

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

21. In order to ensure that a CbC report received through exchange of information or local filing can be used only to assess high-level transfer pricing risks and other BEPS-related risks, and, where appropriate, for economic and statistical analysis, and in order to ensure that the information in a CbC report 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; or is not used on its own as conclusive evidence that transfer prices are or are not appropriate; or is not used to make adjustments of income of any taxpayer on the basis of an allocation formula (including a global formulary apportionment of income), Finland indicates that measures are in place to ensure the appropriate use of information in all six areas identified in the OECD *Guidance on the appropriate use of information contained in Country-by-Country reports* (OECD, 2017a). It has provided details in relation to these measures, enabling it to answer “yes” to the additional questions on appropriate use.

22. There are no concerns to be reported for Finland in respect of the aspects of appropriate use covered by this annual peer review process.

### Conclusion

23. In respect of paragraph 12 (a) of the terms of reference (OECD, 2017b), there are no concerns to be reported for the Finland. Finland thus meets these 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

<sup>1</sup> Paragraph 8 of the terms of reference (OECD, 2017b).

<sup>2</sup> Paragraph 9 (a) of the terms of reference (OECD, 2017b).

<sup>3</sup> These questions were circulated to all members of the Inclusive Framework following the release of the Guidance on the appropriate use of information in CbC reports on 6 September 2017, further to the approval of the Inclusive Framework.

<sup>4</sup> Paragraph 12 (a) of the terms of reference (OECD, 2017b).

<sup>5</sup> Primary law consists of the Country-by-Country report for taxation included in Sections 14(d), 14(e) and 32(5) of the Act on Tax Assessment Procedure (1558/1995), as amended in Act 1489/2016: [www.finlex.fi/fi/laki/ajantasa/1995/19951558#L4P32](http://www.finlex.fi/fi/laki/ajantasa/1995/19951558#L4P32) (accessed 20 April 2018) and the Act implementing the EU Council Directive 2016/881/EU as regards mandatory Automatic Exchange of Information in the field of taxation (DAC4). Secondary law consists of a Decision (Number A260/200/2016) by the Finnish Tax Administration regarding the obligation to provide CbC information: [www.vero.fi](http://www.vero.fi) (accessed 20 April 2018).

<sup>6</sup> See updated guidance on the Finnish Tax Administration website at [www.vero.fi/yritykset-ja-yhteisot/tietoa-yritysverotuksesta/siirtohinnoittelu/maakohtainen\\_raportti\\_ja\\_ilmoitus\\_selvi/](http://www.vero.fi/yritykset-ja-yhteisot/tietoa-yritysverotuksesta/siirtohinnoittelu/maakohtainen_raportti_ja_ilmoitus_selvi/) (accessed 20 April 2018). The updated guidance reflects the rule on the threshold calculation for currency fluctuation and contains updated guidance concerning XML published on 13 June 2017 under the heading “Tekninen soveltamisohje”: [www.vero.fi](http://www.vero.fi) (accessed 20 April 2018).

<sup>7</sup> 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, 2017b).

<sup>8</sup> Finland has published updated guidance in respect of the threshold calculation for currency fluctuations for MNE groups whose Ultimate Parent Entity is located in a jurisdiction other than Finland. The rule will be applied in accordance with OECD guidance.

<sup>9</sup> See Section 32(3) of the Act on Tax Assessment Procedure (1558/1995), as amended in Act 1489/2016 and Section 3 of the Decision (Number A260/200/2016) of the Finnish Tax Administration.

<sup>10</sup> See Section 14(d)(10) of the Act on Tax Assessment Procedure (1558/1995), as amended in Act 1489/2016.

<sup>11</sup> See Section 32(3) of the Act on Tax Assessment Procedure (1558/1995), as amended in Act 1489/2016 – the same filing deadline applies to all reporting entities.

<sup>12</sup> See Section 14(d)(5) of the Act on Tax Assessment Procedure (1558/1995), as amended in Act 1489/2016. It is noted that in accordance with the Council Directive 2016/881/EU, the local filing requirements require the Constituent Entity to report only the information it has received from its Ultimate Parent.

However, there is a mandatory notification procedure for the Constituent Entity with its jurisdiction of tax residence, in case the Ultimate Parent Entity has refused to provide the necessary information to the Constituent Entity or that it has in its possession.

<sup>13</sup> See Section 14(d)(7) of the Act on Tax Assessment Procedure (1558/1995), as amended in Act 1489/2016.

<sup>14</sup> See Section 14(d)(9) of the Act on Tax Assessment Procedure (1558/1995), as amended in Act 1489/2016

<sup>15</sup> See Section 32 of the Act on Tax Assessment Procedure (1558/1995), as amended in Act 1489/2016: the penalty imposed is no higher than EUR 25 000.

<sup>16</sup> Finland reports tax treaties with Argentina, Armenia, Australia, Austria, Azerbaijan, Barbados, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, China (People's Republic of), Croatia, Cyprus, Czech Republic, Estonia, Former Yugoslav Republic of Macedonia, France, Georgia, Germany, Greece, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Kazakhstan, Korea, Kosovo, Kyrgyzstan, Latvia, Lithuania, Luxembourg, Macedonia, Malaysia, Malta, Mexico, Moldova, Montenegro, Morocco, Netherlands, New Zealand, Pakistan, Philippines, Poland, Portugal, Romania, Russia, Serbia, Singapore, Slovenia, Slovak Republic, South Africa, Spain, Sri Lanka, Switzerland, Tajikistan, Tanzania, Thailand, United Arab Republic, Turkey, Turkmenistan (the agreement will be in effect as of 2018), Ukraine, United Arab Emirates, United Kingdom, United States, Uruguay, Uzbekistan, Viet Nam and Zambia.

#### Note by Turkey

The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the “Cyprus issue”.

#### Note by all the European Union Member States of the OECD and the European Union

The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

<sup>17</sup> Finland mentions that the Nordic Convention includes Denmark, Faroe Islands, Finland, Greenland, Iceland, Norway and Sweden.

<sup>18</sup> It is noted that a few Qualifying Competent Authority agreements are not in effect with jurisdictions of the Inclusive Framework that meet the confidentiality condition and have legislation in place: this may be because the partner jurisdictions considered do not have the Convention in effect for the first reporting period, or may not have listed the reviewed jurisdiction in their notifications under Section 8 of the CbC MCAA.

## References

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- OECD (2017b), “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. [www.oecd.org/tax/beps/beps-action-13-on-country-by-country-reporting-peer-review-documents.pdf](http://www.oecd.org/tax/beps/beps-action-13-on-country-by-country-reporting-peer-review-documents.pdf).
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