

## Chapter 1. The review of the BEPS Action 13 minimum standard on Country-by-Country Reporting

### Background

1. The Country-by-Country (CbC) reporting requirements contained in the 2015 Action 13 Report (OECD, 2015) form one of the four BEPS minimum standards. Each of the four BEPS minimum standards is 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.
2. The purpose of a peer review is to ensure the effective and consistent implementation of an agreed standard and to recognise progress made by jurisdictions in this regard.
3. The peer review is a review of the legal and administrative framework put in place by a jurisdiction to implement the CbC Reporting standard. This peer review is a separate exercise to the 2020 review to evaluate whether modifications to the CbC Reporting standard should be made.

### Outline of the key aspects assessed in the annual report

4. This annual report contains the findings of the first annual peer review process (“phase one”) which focuses on the domestic legal and administrative framework, as well as on certain aspects of the exchange of information network, and of appropriate use of CbC reports.
5. The structure of each individual section relating to each reviewed jurisdiction is as follows:
  - Overview of implementation: current status;
  - Domestic legal and administrative framework;
  - Exchange of information;
  - Appropriate use;
  - The jurisdictions’ response to the review (if any).<sup>1</sup>
6. Jurisdictions which have joined the Inclusive Framework later than February 2017 (i.e. when the first annual peer review commenced) have not necessarily been able to participate in this first annual peer review process. It is expected that they will be included in the following annual peer review process starting in 2018.
7. The peer review has been undertaken by an Ad Hoc Joint Working Party 6 – Working Party 10 sub-group (hereafter referred to as the “CbC Reporting Group”).<sup>2</sup>
8. The peer review evaluates the Inclusive Framework member’s implementation of the standard against an agreed set of criteria.<sup>3</sup> These criteria are set out in terms of

reference, which include each of the elements that a jurisdiction needs to demonstrate it has fulfilled in order to show proper implementation of the standard. The Action 13 Report (OECD, 2015) recommended that the first CbC Reports be required to be filed for fiscal years beginning on or after 1 January 2016. It was however acknowledged that some jurisdictions may need time to follow their particular domestic legislative process in order to make necessary adjustments to the law. In this respect, the peer review takes account of the specific timeline followed by certain jurisdictions, and the review will focus on the efforts taken by these jurisdictions in order to meet their commitment to implement the minimum standard.

9. The terms of reference focus on the following three key aspects of the CbC Reporting standard that a jurisdiction must meet:

- A) the domestic legal and administrative framework;
- B) the exchange of information framework; and
- C) the confidentiality and appropriate use of CbC reports.

10. The manner in which the peer review is undertaken is set out in an agreed methodology. The methodology sets out the procedural mechanisms by which jurisdictions will complete the peer review, including the process for collecting the relevant data, the preparation and approval of reports, the outputs of the review and the follow up process.

11. The methodology recognises that the three key aspects of CbC Reporting will be implemented and become operational over the coming years, starting with the domestic legal and administrative framework being put in place generally in 2016, followed by the international exchanges of CbC reports to occur for the first time by mid-2018, and the work to ensure that CbC reports are kept confidential and used appropriately in any subsequent tax compliance actions.

12. Given the fact not all of these three key aspects are being implemented at the same time, these three key aspects will be reviewed according to a staged approach. A staged review enables the review of aspects of CbC Reporting to occur as they are implemented, starting in 2017 and allowing for the early detection of inconsistencies in implementing the minimum standard as well as providing an opportunity for early remedial action to be taken by jurisdictions, if necessary.

13. There are three phases for the peer review structured into annual reviews, starting respectively in 2017, 2018 and 2019. Each phase will focus on different key aspects of jurisdictions' implementation so as to mirror the staged introduction of the different elements that make up the CbC Reporting and exchange of information framework.

14. An annual review process will allow the CbC Reporting Group to report annually to the Inclusive Framework and to take into account any updates since the previous review, as well as follow-up actions of reviewed jurisdictions further to any recommendation made by the Inclusive Framework.

15. The review of phase one (starting in 2017) focused on the domestic legal and administrative framework. It also covered certain items of the exchange of information network and included an initial review of certain aspects of confidentiality and appropriate use, as these are prerequisites for exchange of information.

16. During phase two (starting in 2018), the review will focus on the exchange of information framework and appropriate use. During phase three (starting in 2019), the

review will cover all three key aspects of jurisdictions' implementation, including the actual exchange of CbC reports.

17. Each year's review process culminates in the production of an annual report on CbC Reporting implementation.

18. As per the agreed methodology, this phase one annual report (2017) covers only the review of the key aspects as follows:

Peer review – phase one (2017)	Components of terms of reference covered by the review
Domestic legal and administrative framework	Section A: all items
Exchange of information framework	Section B: item 9 a)
Confidentiality and appropriate use	Section C: items 11 a), 11 b), 11 c), 11 d), and 12 a)
Peer input	Section B: item 9 a)

19. In addition, the Inclusive Framework agreed to include additional questions relating to appropriate use of CbC reports in the peer review process, starting as from phase one. These additional questions were circulated in September 2017 as a separate questionnaire to the reviewed jurisdictions. The answers to these additional questions were taken into account throughout the process.

20. The Global Forum has conducted preliminary expert assessments of confidentiality and data safeguards with respect to the standard on Automatic Exchange of Information. Given its expertise in this area, the CbC Reporting Group has relied on the work and conclusions of the Global Forum. As it contains non-public information on jurisdictions' internal systems and procedures, the outcomes of that work are not published and no further details of the review of confidentiality are provided in this compilation of peer review reports.

21. The terms of reference and methodology do not alter the Action 13 minimum standard. Any terms used in the terms of reference or methodology take their meaning from the language and context of the Action 13 Report (OECD, 2015) and the references therein. Capitalised terms in this report take their meaning from the language and context of the Action 13 Report (OECD, 2015) and the references therein.

22. The jurisdictions' individual sections in this report generally reflect the status of implementation as of 12 January 2018.

## Notes

<sup>1</sup> Reviewed jurisdictions have not all provided a response to the review: this may be because there were no issues to be commented on, or the jurisdiction did not wish to comment, or the jurisdiction's response may have been submitted too late during the peer review process.

<sup>2</sup> The CbC Reporting Group was formed following the decision of the CFA Inclusive Framework at its 30 June – 1 July 2016 meeting in Kyoto to set up an Ad Hoc joint Working Party No. 6 (on the Taxation of Multinational Enterprises) - Working Party No. 10 (on Exchange of Information and Tax Compliance) sub-group with representatives of either Working Party. The mandate of this Group is threefold: (i) to prepare draft terms of reference and a methodology for carrying out the CbC reporting peer reviews, (ii) to conduct the peer reviews and (iii) to consider questions of interpretation of the CbC minimum standard.

<sup>3</sup> [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) (OECD, 2017, approved by the Inclusive Framework on 20 January 2017).

## References

- OECD (2017), “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).
- OECD (2015), *OECD/G20 Base Erosion and Profit Shifting Project - Transfer Pricing Documentation and Country-by Country Reporting – Action 13: 2015 Final Report*, OECD Publishing, Paris,  
<http://dx.doi.org/10.1787/9789264241480-en>.
- OECD/Council of Europe (2011), *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters* (OECD/Council of Europe, 2011): *Amended by the 2010 Protocol*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264115606-en>.



**From:**

## **Country-by-Country Reporting – Compilation of Peer Review Reports (Phase 1)**

**Inclusive Framework on BEPS: Action 13**

**Access the complete publication at:**

<https://doi.org/10.1787/9789264300057-en>

### **Please cite this chapter as:**

OECD (2018), “The review of the BEPS Action 13 minimum standard on Country-by-Country Reporting”, in *Country-by-Country Reporting – Compilation of Peer Review Reports (Phase 1): Inclusive Framework on BEPS: Action 13*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/9789264300057-4-en>

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries.

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

You can copy, download or print OECD content for your own use, and you can include excerpts from OECD publications, databases and multimedia products in your own documents, presentations, blogs, websites and teaching materials, provided that suitable acknowledgment of OECD as source and copyright owner is given. All requests for public or commercial use and translation rights should be submitted to [rights@oecd.org](mailto:rights@oecd.org). Requests for permission to photocopy portions of this material for public or commercial use shall be addressed directly to the Copyright Clearance Center (CCC) at [info@copyright.com](mailto:info@copyright.com) or the Centre français d'exploitation du droit de copie (CFC) at [contact@cfcopies.com](mailto:contact@cfcopies.com).