

Indonesia

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. Indonesia's implementation of the Action 13 minimum standard meets all applicable terms of reference for the year in review. The report, therefore, contains no recommendations.

Part A: Domestic legal and administrative framework

2. Indonesia has rules (primary and secondary laws) that impose and enforce CbC requirements on MNE Groups whose Ultimate Parent Entity is resident for tax purposes in Indonesia.¹ The first filing obligation for a CbC report in Indonesia commences in respect of fiscal years commencing on or after 1 January 2016. Indonesia meets all the terms of reference relating to the domestic legal and administrative framework.

Part B: Exchange of information framework

3. Indonesia is a signatory of 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 exchange information with a very large number of other signatories of this agreement which provide notifications. As of 12 January 2018, Indonesia has 46 bilateral relationships activated under the CbC MCAA. Indonesia 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 Indonesia meets the terms of reference relating to the exchange of information framework aspects under review for this first annual peer review.²

Part C: Appropriate use

4. Indonesia 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.³ Indonesia meets the terms of reference relating to the appropriate use aspects under review for this first annual peer review.⁴

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 of CbC Reporting.

6. Indonesia has primary and secondary laws in place⁵ which implement the BEPS Action 13 minimum standard which consists on amendments to the general legal basis for the establishment of any new filing obligations and secondary law establishing the necessary requirements, including the filing and reporting obligations. Guidance has been published on 29 December 2017.⁶

(a) Parent entity filing obligation

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

8. Under Article 1.8 of the Ministry of Finance Regulation number 213/PMK. (hereafter “the regulations”), a “parent entity” shall mean “*a member of a business group that satisfies the following criteria: a) directly or indirectly controls other members of the business group; and b) has the obligation to prepare consolidated financial statements according to Indonesian financial accounting standard and/or regulations that are binding to public companies in Indonesian stock exchange*”.⁸ This is narrower than the definition in the terms of reference (paragraph 18 of the terms of reference (OECD, 2017b)). However, Indonesia has clarified the definition in a Regulation of the Directorate General of Taxes published on 29 December 2017: the Regulation provides, in the context of parent entity filing, that a “Parent Entity” shall mean that “*a) there is no other Constituent Entity of such Business Group that owns directly or indirectly a sufficient interest of the parent entity; or in the case of the parent Entity is owned directly or indirectly by other entity, such entity is not obliged to consolidate the Parent Entity’s financial Statement*”.⁹

9. Under the terms of reference (paragraph 18 of the terms of reference (OECD, 2017b)), the Ultimate Parent Entity of an MNE Group includes an entity that does not prepare Consolidated Financial Statements, but would be required to do so if its equity interests were traded on a public securities exchange in its jurisdiction of tax residence (“deemed listing provision”). This requirement does not appear to be reflected in the Indonesian legislation. Indonesia however confirms that listed companies and non-listed companies, as well as any other type of entity (notably partnerships) are subject to a requirement to prepare Consolidation Financial Statements when they meet certain conditions of shareholding and / or control. Such requirement to prepare Consolidated

Financial Statements may arise under the Indonesian Financial Accounting Standard (PSAK) or the Indonesian stock exchange (IDX) regulation which follows the regulation in the PSAK.

10. The Indonesian legislation refers to the concept of a “business group” defined as a “group of taxpayers conducting business activities, which consists of parties which are affiliated with each other”.^{10 11} In addition, the Regulation of the Directorate General of Taxes published on 29 December 2017 has clarified that an “MNE Group” is a “*Business Group that includes two or more enterprises the tax residence of which is in different jurisdictions*”.¹² It is unclear whether these definitions fully reflect the definition of an MNE Group in paragraph 15 of the terms of reference (OECD, 2017b),¹³ in particular for situations where there is an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction. Indonesia however confirms that the definition of a “Business Group” also includes the situation where there is an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respects to the business carried out through a permanent establishment in another jurisdiction, because Indonesia treats a permanent establishment which is a foreign entity as if it is a resident taxpayer of Indonesia. The term “tax subject” in the “Business Group” definition in Indonesia includes permanent establishments.¹⁴

11. It is noted that the term “Constituent Entity” is defined in the provisions relating to local filing.¹⁵ Indonesia however confirms that by way of cross-reference,¹⁶ the definition of Constituent Entity also applies in the context of the parent entity filing. The operation of these rules will be monitored to make sure they apply consistently with the terms of reference.

12. No other inconsistencies were identified with respect to the parent entity filing obligation.

(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).

13. The first filing obligation for a CbC report in Indonesia commences in respect of periods commencing on or after 1 January 2016.^{17 18}

14. The CbC report must be made available no later than 12 months after the end of a taxable year and must be filed as an attachment of the Annual Corporate Income Tax return for the subsequent taxable year.¹⁹ This may result in a CbC report being filed later than the date in paragraph 8 (b) iii. of the terms of reference (OECD, 2017b).²⁰ As a result, the CbC report may subsequently be exchanged with a partner jurisdiction later than the timeline envisaged in the Action 13 Report.^{21 22} Indonesia has however introduced amended rules in a Regulation of the Directorate General of Taxes published on 29 December 2017:²³ a CbC report should be filed not later than 16 months after the end of the Fiscal Year 2016, or 12 months after the end of the Fiscal Year for the Fiscal Year 2017 and so forth. For the Fiscal Year 2016, Indonesia indicates that it intends to

exchange of information with its treaty partners according to the agreed deadlines in 2018. No recommendation is made but this aspect will be further monitored to ensure that the filing deadline for the fiscal year 2016 will not impact Indonesia's ability to meet its obligations relating to the exchange of information under the terms of reference.²⁴

15. No other inconsistencies were identified with respect to the scope and timing of parent entity filing.^{25 26}

(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).

16. Indonesia has introduced local filing requirements as from the reporting period starting on or after 1 January 2016.²⁷

17. With respect to the conditions under which local filing may be required (paragraph 8 (c) iv. b) of the terms of reference (OECD, 2017b)), under Indonesia's legislation, local filing applies where an MNE group has a "*resident taxpayer member of a business group and the parent entity of the business group is a non-resident taxpayer, where the country or jurisdiction of residence where the parent entity is resident does not have an agreement exchange of information on tax matters with Indonesia*".²⁸ Paragraph 8 (c) iv. b) of the terms of reference (OECD, 2017b) provides that a jurisdiction may require local filing if "the jurisdiction in which the Ultimate Parent Entity is resident for tax purposes has a current International Agreement to which the given jurisdiction is a Party but does not have a Qualifying Competent Authority Agreement in effect to which this jurisdiction is a Party by the time for filing the Country-by-Country Report". This is narrower than the above condition in Indonesia's legislation. Under Indonesia's legislation, local filing may be required in circumstances where there is no current international agreement between Indonesia and the residence jurisdiction of the Ultimate Parent Entity, which is not permitted under the terms of reference. Indonesia has however introduced rules in a Regulation of the Directorate General of Taxes published on 29 December 2017²⁹ to clarify the conditions for local filing: the terms "*country or jurisdiction of residence where the parent entity is resident does not have an agreement with the Government of Indonesia regarding the exchange of information on tax matters*" shall mean that a "*Partner Country or Partner Jurisdiction in which the Parent Entity domiciles does not have a QCAA in effect*".³⁰ It is noted that the same Regulation also defines "Partner Country or Partner Jurisdiction" as a country or jurisdiction that has an International Agreement with Indonesia in effect; and a "Qualifying Competent Authority Agreement (QCAA) as meaning an agreement that is between authorised representatives of those jurisdictions that are parties to an International Agreement and that requires the automatic exchange of CbC reports between the party jurisdictions."³¹ As such, no recommendation is made.

18. With respect to the conditions under which local filing may be required (paragraph 8 (c) iv. c) of the terms of reference (OECD, 2017b), under Indonesia's legislation, local filing applies where "there is an agreement with Indonesia regarding the exchange of information on tax matters but the CbC report cannot be obtained from the country or jurisdiction of the parent entity".³² It is unclear whether this provision relates to situations where there is an agreement to exchange information as well as a Qualifying Competent Authority Agreement in place. If this provision intends to cover situations where there is an agreement to exchange information as well as a Qualifying Competent Authority Agreement in place, it is noted that paragraph 8 (c) iv.) of the terms of reference (OECD, 2017b) provides that a jurisdiction may require local filing if there has been a Systemic Failure of the jurisdiction of tax residence of the Ultimate Parent Entity that has been notified to the Constituent Entity by its tax administration. This is narrower than the above condition in Indonesia's legislation. Under Indonesia's legislation, local filing may for example be required in circumstances where one CbC report may not have been obtained. This is unlikely to be considered as "Systemic failure" as per the terms of reference. This may also cover situations where the Ultimate Parent Entity of an MNE Group is required to file a CbC Report with the tax authority in its residence jurisdiction, but has not complied with this obligation; in this respect, local filing is not permitted under the terms of reference. Indonesia has however introduced rules in a Regulation of the Directorate General of Taxes published on 29 December 2017 to clarify the conditions for local filing: it is stated that the situations contemplated are those where a CbC report cannot be obtained because of systemic failure due to the following conditions:³³ "a) Partner Country or Partner jurisdiction has suspended the Automatic Exchange of Information of CbC reports for reasons other than those that are in accordance with the terms of that agreement; or b) Partner Country or Partner jurisdiction persistently failed to automatically provide to Indonesia the CbC report in its possession of MNE Groups that have Constituent Entities in Indonesia". Indonesia confirms that systemic failure should be understood as occurring only in situations where there is a QCAA in effect. As such, no recommendation is made and this will be monitored.

19. No other inconsistencies were identified with respect to the limitation on local filing obligations.³⁴

(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).

20. With respect to paragraph 8 (d) of the terms of reference (OECD, 2017b), there are no provisions in the regulations to deactivate local filing in any circumstance. Indonesia has however introduced rules in a Regulation of the Directorate General of Taxes published on 29 December 2017 that provide for the deactivation of local filing in case of surrogate filing.³⁵

21. 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: 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).

22. Indonesia has legal mechanisms in place to enforce compliance with the minimum standard: there are notification mechanisms in place that apply to all Corporate Taxpayers which are Constituent Entities or that conduct affiliated transactions.³⁶ There are also penalties in place (according to General Provisions and Tax Procedures Law): (i) for a late filing of a CbC report (administrative fine as stated in Article 7), (ii) for a failure to file a CbC report (administrative fine as stated in Article 7) and/or a surcharge penalty of 50% from tax underpayment as stated in Article 13, (iii) for inaccurate filing of a CbC report (administrative penalty of interest 2% per months from tax underpayment as stated in Article 13), (iv) for negligence to file or file incorrect or incomplete filing of a CbC report (criminal sanctions as stated in Article 38), and (v) for deliberately failure to file, file a false or incomplete, and failure to maintain a CbC report (criminal sanctions as stated in Article 39). The compulsion powers lie in the imposition of administrative and/or criminal sanctions based on the General Provisions and Tax Procedures Law.

23. As regards specific processes in place that would allow to take appropriate measures in case Indonesia 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, Indonesia indicates that the above mentioned penalties would be applicable. This aspect will be further monitored once the actual exchanges of CbC reports will commence.

Conclusion

24. In respect of paragraph 8 of the terms of reference (OECD, 2017b), Indonesia 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 Indonesia. Indonesia meets all the terms of reference relating to the domestic legal and administrative framework.

Part B: The exchange of information framework

25. 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).

26. Indonesia indicates that it has sufficient legal basis in its domestic legislation to automatically exchange information on CbC reports.³⁷ It is part of (i) the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) (signed on 3 November 2011, in force on 1 May 2015 and in effect for 2016) and of (ii) 67 bilateral Double Tax Agreements which are in force, of which 65 allow for Automatic Exchange of Information.³⁸

27. Indonesia signed the CbC MCAA on 26 January 2016 and submitted a full set of notifications under section 8 of the CbC MCAA on 19 June 2017. It intends to have the CbC MCAA in effect with a very large number of other signatories of this agreement which provide notifications under Section 8(1)(e) of the same agreement.³⁹ As of 12 January 2018, Indonesia has 46 bilateral relationships activated under the CbC MCAA. Indonesia also indicates that it is in the process of negotiating other QCAAs. Indonesia 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).⁴⁰ Against the backdrop of the still evolving exchange of information framework, at this point in time Indonesia meets the terms of reference relating to the exchange of information framework aspects under review for this first annual peer review.

Conclusion

28. Against the backdrop of the still evolving exchange of information framework, at this point in time Indonesia meets the terms of reference relating to the exchange of information framework aspects under review for this first annual peer review.

Part C: Appropriate use

29. 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).

30. 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), Indonesia 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.

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

Conclusion

32. In respect of paragraph 12 (a) of the terms of reference (OECD, 2017b), there are no concerns to be reported for Indonesia. Indonesia 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

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

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

³ 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.

⁴ Paragraph 12 (a) of the terms of reference (OECD, 2017b).

⁵ Primary law consists of Article 28 paragraphs 11 and Article 48 Law Number 6 Year 1983 concerning General Provisions and Tax Procedures as lastly amended by Law Number 16 Year 2009: these provisions stipulate the obligation to retain documents for 10 years, including transfer pricing documentation and CbC report. Secondary law consists of Article 10 paragraph 3 Government Regulation Number 74 Year 2010 which gives mandate to Minister of Finance to regulate the procedures to retain documents, including transfer pricing documentation and CbC report. See also Ministry of Finance Regulation Number 213/PMK.03/2016, signed and enacted on 30 December 2016 which obliges taxpayer to prepare and retain the three-tiered transfer pricing documentation.

⁶ It is noted that Article 12 of the Ministry of Finance Regulation number 213/PMK.03/2016 gives mandate to Director General of Taxes to circulate guidance on CbC report. A Directorate General of Taxes Regulation nb. 29/PJ/2017 was published on 29 December 2017.

⁷ 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).

⁸ This definition is also reflected in Article 1.5. of the Directorate General of Taxes Regulation nb. 29/PJ/2017 published on 29 December 2017.

⁹ See Article 2 (3) of the Regulation of the Directorate General of Taxes published on 29 December 2017. It is noted that the sub provision under letter b) does not contain a reference to the deemed listing provision. The operation of the rule will be monitored to make sure it applies consistently with the terms of reference.

¹⁰ See Article 1.7 of the regulations. This definition has also been included in a Directorate General of Taxes Regulation nb. 29/PJ/2017 published on 29 December 2017: Business group shall mean a group of taxpayers conducting business activities, which consists of parties who have “Special Relationships”. Indonesia confirms that this refers to “Affiliated parties” which are to be understood as related either through ownership or control.

¹¹ It appears that Indonesia's regulations also serve as a tool for Indonesia to capture information from purely domestic groups headquartered in Indonesia. Indonesia indicates that this would have no impact for foreign entities; it will not exchange such information but will only exchange CbC reports submitted by an Indonesian parent entity that would fall into the definition of an "Ultimate Parent Entity" as per paragraph 18 of the terms of reference (OECD, 2017b).

¹² See Article 1.4. of the Directorate General of Taxes published on 29 December 2017.

¹³ "MNE Group" means any Group that (i) includes two or more enterprises the tax residence for which is in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction, and (ii) is not an Excluded MNE Group.

¹⁴ Indonesia further confirms that the situation of a head-office in Indonesia and a permanent establishment abroad would be captured under Indonesia's CbC requirements.

¹⁵ See Article 3 (2) of the Directorate General of Taxes Regulation nb. 29/PJ/2017 published on 29 December 2017: Constituent Entity is defined as "*(a) any separate business unit of an MNE group that is included in the Consolidated Financial Statements of the MNE group for financial reporting purposes, or would be so included if equity interests in such business unit of the MNE group were traded on a public securities exchange; (b) any such business unit that is excluded from the MNE group's Consolidated Financial Statements solely on size or materiality grounds; and/or (iii) any permanent establishment of any separate business unit of the MNE group included in (a) or (b) above provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting, or internal management control purposes*".

¹⁶ Article 1.6. provides that "Constituent Entity" shall mean Parent Entity and members of business group which are included in the CbC report. Indonesia confirms that this definition therefore applies for the parent entity filing provisions.

¹⁷ See Article 7 (3) of the regulations.

¹⁸ Under Indonesia's rules, Ultimate Parent Entities resident in Indonesia are required to prepare and attach to the CbC report a worksheet containing data at entity level. Indonesia indicates that it will only exchange the CbC report without the worksheet. Furthermore, the requirement to prepare the worksheet will only affect Indonesian parent entities: Indonesia has clarified that a taxpayer subject to local filing in Indonesia will not need to submit the worksheet with the CbC report.

¹⁹ See Article 4(2) and Article 7 (3) of the regulations.

²⁰ "The CbC report is required to be filed no later than 12 months after the last day of the reporting Fiscal year of the MNE Group".

²¹ See the Model Multilateral Competent Authority Agreement, Model Competent Authority Agreement on the basis of a DTC, Model Competent Authority Agreement on the basis of a TIAE in the Action 13 Report (OECD, 2015), which envisage that the CbC reports should be exchanged as soon as possible and no later than 18 months after the last day of the fiscal year of the Reporting entity of the MNE Group for the first year for which CbC requirements are applicable, and no later than 15 months after the last day of the fiscal year of the Reporting entity of the MNE Group for subsequent years.

²² For example, for an MNE Group with a fiscal year 1 January 2016 – 31 December 2016, the CbC report would have to be filed together with the Annual Corporate Income Tax return of the 2017 fiscal year, due in April 2018.

²³ Directorate General of Taxes Regulation nb. 29/PJ/2017 published on 29 December 2017.

²⁴ Paragraph 9 (d) of the terms of reference (OECD, 2017b).

²⁵ Indonesia indicates that there is no definition of “Fiscal year” and “Reporting Fiscal Year” but the definition of “Fiscal Year” in the Minister of Finance Regulation refers to the definition in the General Provisions and Tax Procedures Law. It has the similar meaning and consistent with the meaning under BEPS Action 13.

²⁶ With respect to the content of a CbC report, it is noted that the template for Table 2 of a CbC report in Indonesia’s legislation does not mention the requirement to report the tax jurisdiction of organisation if different from the tax jurisdiction of residence for the Constituent Entities of the MNE Group. Indonesia however confirms that this is included in the instructions. In addition, Indonesia indicates that it will soon publish instructions to file a CbC report in XML format with reference to the OECD XML template. This will be monitored.

²⁷ See Article 7 (3) of the regulations.

²⁸ See Article 2 (4) b. of the regulations.

²⁹ Directorate General of Taxes Regulation nb. 29/PJ/2017 published on 29 December 2017.

³⁰ See Article 3 (3) of the Directorate General of Taxes Regulation nb. 29/PJ/2017 published on 29 December 2017.

³¹ See Articles 1.8 and 1.9 of the above mentioned Regulation.

³² See Article 2 (4) c. of the regulations.

³³ See Article 3 (4) of the Directorate General of Taxes Regulation nb. 29/PJ/2017 published on 29 December 2017.

³⁴ Indonesia confirms that it will not apply local filing requirements in situations other than permitted under the terms of reference.

³⁵ See Article 2 (5) of the Directorate General of Taxes Regulation nb. 29/PJ/2017 published on 29 December 2017. It is noted that one of the conditions for surrogate filing is that the jurisdiction where the Surrogate Parent Entity is resident “*has a QCAA in effect and the CbC report could be obtained by Indonesian Government from that Partner Country or Partner Jurisdiction*”. This provision does not detail when the QCAA should be in place but Indonesia confirms that it is understood that there is no requirement that a QCAA should be in effect before the time for filing the CbC report. This will be monitored.

³⁶ See Articles 4 (1) and 5 of the Directorate General of Taxes Regulation nb. 29/PJ/2017 published on 29 December 2017. The notification shall contain a statement regarding the identification of the taxpayer as a parent entity, or as a non parent entity, or regarding the fact that the taxpayer is obliged or not to file a CbC report.

³⁷ For domestic legal basis related to CBC reports, Indonesia has the following regulation in place:

(1) Minister of Finance Regulation Number 213/PMK.03/2016 concerning The Type of Additional Documents and/or Information Mandatory to be Kept by Taxpayers who Conduct Transactions with Related Parties and Its Management Procedures, as a legal basis to ensure the availability of CBC reports and the obligation of taxpayer to provide CBC reports to DGT.

(2) Minister of Finance Regulation Number 39/PMK.03/2017 of Procedures for Exchange of Information based on International Agreements, as a legal basis to ensure the authority of Indonesian Tax Authority to automatically exchange CBC reports.

³⁸ Indonesia reports bilateral tax treaties with Algeria, Armenia, Australia, Austria, Bangladesh, Belgium, Brunei Darussalam, Bulgaria, Canada, China (People’s Republic of), Croatia,

Czech Republic, Democratic People's Republic of Korea, Denmark, Egypt, Finland, France, Germany, Hong Kong (China), Hungary, India, Iran, Italy, Japan, Jordan, Korea, Kuwait, Lao People's Democratic Republic, Luxembourg, Malaysia, Mexico, Mongolia, Morocco, Netherlands, New Zealand, Norway, Pakistan, Papua New Guinea, Philippines, Poland, Portugal, Qatar, Romania, Russia, Seychelles, Singapore, Slovak Republic, South Africa, Spain, Sri Lanka, Sudan, Suriname, Sweden, Syrian Arab Republic, Chinese Taipei, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Uzbekistan, Venezuela and Viet Nam.

³⁹ Indonesia clarifies that Article 7 of Directorate General of Taxes Regulation nb. 29/PJ/2017 published on 29 December 2017 has stipulated that CbCR will be exchanged with other countries or jurisdictions which have Qualifying Competent Authority Agreement in effect to Indonesia.

⁴⁰ It is noted that some 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.

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