

Jamaica

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. Jamaica does not yet have a complete legal and administrative framework in place to implement CbC Reporting and indicates that it will not apply CbC requirements for the 2016 fiscal year. It is recommended that Jamaica finalise the domestic legal and administrative framework to impose and enforce CbC requirements as soon as possible, taking into account its particular domestic legislative process.

Part A: Domestic legal and administrative framework

2. Jamaica does not yet have legislation in place to implement the BEPS Action 13 minimum standard.¹ Jamaica indicates that amendments are needed in primary law. Jamaica has embarked on the legislative process by first seeking Cabinet's approval to amend primary and secondary legislation. The amendments will be based on the model contained in Action 13. At this time, Jamaica estimates that amendments to primary legislation² will come into effect by the second half of 2018. Jamaica indicates that it will apply CbC requirements as of 1 January 2019 with respect to the 2018 fiscal year (Jamaica does have draft secondary legislation, following the model legislation provided by BEPS Action 13 which is to be passed sometime soon). It is recommended that Jamaica finalise the domestic legal and administrative framework to impose and enforce CbC requirements as soon as possible, taking into account its particular domestic legislative process.

Part B: Exchange of information framework

3. Jamaica currently has a network for exchange of information in effect which would allow for Automatic Exchange of Information for CbC Reporting.³ Jamaica is 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"), signed on 1 June 2016 and ratified on 8 December 2017, but which is not yet in force. Jamaica has in place a network for exchange of information which would allow for Automatic Exchange of Information for CbC Reporting: it has multiple bilateral Double Tax Agreements. Jamaica currently has one bilateral CAA not yet in effect with the United States and intends to sign the CbC MCAA with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites. It is recommended that Jamaica take steps to have the Convention in force for taxable years starting as from 1 January 2018 and have QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites.

Part C: Appropriate use

4. Jamaica does not yet have measures in place relating to appropriate use.⁴ It is recommended that Jamaica take steps to ensure that the appropriate use condition is met ahead of the first exchanges of CbC reports.

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. Jamaica 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:⁵ 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).

(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).

(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).

(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).

(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).

7. Jamaica does not yet have a legal and administrative framework in place to implement CbC Reporting and it indicates that it will implement CbC Reporting requirements for year of assessment 2018 to be filed by Ultimate Parent Entities starting 1 January 2019.

8. Jamaica indicates that the legislation for CbC Reporting is currently in draft stage. Jamaica has embarked on the legislative process by first seeking Cabinet's approval to amend primary and secondary legislation. The amendments will be based on the model contained in Action 13. At this time, Jamaica estimates that the legislation will come into effect by the second half of 2018.

9. Jamaica is willing to introduce an obligation on the Ultimate Parent Entities to file a CbC report within 12 months of the end of the fiscal year if the consolidated annual turnover is equal to or higher than JMD 100 billion (Jamaican dollars). Jamaica affirms that intends to introduce definitions in accordance with those in Action 13 minimum standard.

Conclusion

10. In respect of paragraph 8 of the terms of reference (OECD, 2017), Jamaica does not yet have 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 Jamaica. It is recommended that Jamaica take steps to implement a domestic legal and administrative framework to impose and enforce CbC requirements as soon as possible, taking into account its particular domestic legislative process.

Part B: The exchange of information framework

11. 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, 2017).

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).

12. Jamaica does not yet have domestic legislation that permits the automatic exchange of CbC reports in place and thus will not implement CbC Reporting requirements for the 2016 fiscal year. Jamaica is 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”), signed on 1 June 2016 and ratified on 8 December 2017, but the instruments of ratification have not yet been deposited. Therefore the Convention will not be in effect at the start of the commencement of CbC Reporting in Jamaica on 1 January 2018. Jamaica has a treaty network for exchange of information that include Double Tax Agreements with Canada, China, Denmark, France, Germany, Israel, Norway, Spain, Sweden, United Kingdom and United States which allow Automatic Exchange of Information.

13. Jamaica currently has one bilateral CAA not yet in effect with the United States and intends to sign the CbC MCAA with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites.

Conclusion

14. It is recommended that Jamaica take steps to complete its 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

15. 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).

16. Jamaica does not yet have measures in place relating to appropriate use. It is recommended that Jamaica take steps to ensure that the appropriate use condition is met ahead of the first exchanges of CbC reports. It is however noted that Jamaica will not be exchanging CbC reports in 2018.

Conclusion

17. In respect of paragraph 12 (a) of the terms of reference (OECD, 2017), Jamaica is recommended to take steps to ensure that the appropriate use condition is met ahead of the first exchanges of CbC reports. It is however noted that Jamaica 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 – parent entity filing obligation	It is recommended that Jamaica finalize its steps to implement a legal and administrative framework to impose and enforce CbC requirements as soon as possible, taking into account its particular domestic legislative process.
Part B	Exchange of information framework	It is recommended that Jamaica take steps to complete its 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 Jamaica take steps to ensure that the appropriate use condition is met.

Notes

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

² Jamaica affirms that intends to follow the model legislation provided by BEPS Action 13.

³ Paragraph 9 (a) of the terms of reference (OECD, 2017).

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

⁵ 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, 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.
- OECD/Council of Europe (2011), *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*, OECD Publishing, Paris,
<http://dx.doi.org/10.1787/9789264115606-en>.



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