

## Latvia

### 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. Latvia's implementation of the Action 13 minimum standard meets all applicable terms of reference, except that it raises one interpretative issue and one substantive issue in relation to its domestic legal and administrative framework. The report, therefore, contains two recommendations to address this issue. In addition, it is recommended that Latvia have in place measures to ensure appropriate use.

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

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

- the annual consolidated threshold calculation rule in respect of MNE Groups whose Ultimate Parent Entity is located in a jurisdiction other than Latvia<sup>2</sup> which may deviate from the guidance issued by the OECD. Although such deviation may be unintended, a technical reading of the provision could lead to local filing requirements inconsistent with the Action 13 minimum standard.
- the absence of a provision whereby a single Constituent Entity of the same MNE Group may be designated to file the CbC report which would satisfy the local filing requirement of all the Constituent Entities.

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

3. Latvia is a Party to the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) (signed on 29 May 2013, in force on 1 November 2014 and in effect for 2016). Latvia has also signed the CbC MCAA. It has provided its notifications under Section 8 of this agreement and intends to exchange information with all other signatories of this agreement which provide notifications. Latvia has also signed a bilateral Competent Authority Agreement (CAA) with the United States. As of 12 January 2018, Latvia has 54 bilateral relationships activated under the CbC MCAA or under the EU Council Directive (2016/881/EU) and under the bilateral CAA. Against the backdrop of the still evolving exchange of information framework, at this point in time Latvia meets the terms of reference relating to the exchange of information framework aspects under review for this first annual peer review.<sup>3</sup>

### *Part C: Appropriate use*

4. Because Latvia does not have measures in place in all six areas for appropriate use, it is recommended that Latvia take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information.<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 of CbC Reporting.

6. Latvia has primary legislation in place<sup>5</sup> which implements the BEPS Action 13 minimum standard for reporting fiscal years beginning on or after 1 January 2016. No secondary legislation and/or guidance have been published.

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

Summary of terms of reference:<sup>6</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. Latvia has introduced a domestic legal and administrative framework which imposes a CbC filing obligation on Ultimate Parent Entities of MNE Groups which have consolidated group revenue of EUR 750 million or more in the immediately preceding fiscal year, 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. With respect to the CbC filing requirements, Latvia's legislation states in its definition of "Excluded MNE Group" that the CbC filing requirement is not applicable if the consolidated group revenue is "*less than EUR 750 000 000 during the relevant fiscal year immediately preceding the reporting fiscal year (in accordance with the consolidated financial statement for such preceding fiscal year)*".<sup>7</sup> While this provision would not create an issue for MNE Groups whose Ultimate Parent Entity is a tax resident in Latvia, it may however be incompatible with the guidance on currency fluctuations for MNE Groups whose Ultimate Parent Entity is located in another jurisdiction, if local filing requirements were applied in respect of a Constituent Entity (which is a Latvian tax resident) of an MNE Group which does not reach the threshold as determined in the jurisdiction of the Ultimate Parent Entity of such Group.<sup>8</sup> It is thus recommended that Latvia amend or otherwise clarify this rule so that it would apply in a manner consistent with the OECD guidance on currency fluctuations in respect of an MNE Group whose Ultimate Parent Entity is located in a jurisdiction other than Latvia, when local filing requirements are applicable.

9. 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).

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

11. The primary legislation includes a description of the items to be included in a CbC Report. For “Revenues” (related parties),<sup>11</sup> this explains that “the revenues arisen in transactions with related entities shall be indicated”.<sup>12</sup> However, interpretative guidance issued by the OECD<sup>13</sup> explains that “for the third column of Table 1 of the CbC report, the related parties, which are defined as “associated enterprises” in the Action 13 report, should be interpreted as the Constituent Entities listed in Table 2 of the CbC report”. It is expected that Latvia issue an updated interpretation or clarification of the definitions of “Revenues” (related parties) within a reasonable timeframe to ensure consistency with OECD guidance, and this will be monitored.

12. No other inconsistencies were identified in respect of 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).

13. Latvia has introduced local filing requirements<sup>14</sup> as from the reporting period starting on or after 1 January 2016.

14. With respect to paragraph 8 (c) v. of the terms of reference (OECD, 2017b), there is no provision in Latvia’s legislation to provide that, where local filing is required and there is more than one Constituent Entity of the same MNE Group that is resident for tax purposes in Latvia, one Constituent Entity be designated to file the CbC report which would satisfy the filing requirement of all the Constituent Entities of such MNE Group that are resident for tax purposes in Latvia. It is recommended that Latvia implement this provision consistent with the terms of reference.<sup>15</sup>

15. No other inconsistencies were identified with respect to the limitation on local filing obligation.<sup>16</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).

16. Latvia's local filing requirements will not apply if there is surrogate filing in another jurisdiction.<sup>17</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: 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).

17. Latvia has legal mechanisms in place to enforce compliance with the minimum standard. There are notification mechanisms in place that apply to the Ultimate Parent Entity, the Surrogate Parent Entity or any Constituent Entity.<sup>18</sup> There are no specific penalties for cases of non-compliance with the CbC rules, but Latvia indicates that it is planning to introduce such a rules. This will be monitored. At the moment, the pre-existing legislation regarding non-cooperation with the tax administration could be applied (Latvian Administrative Violations Code).<sup>19</sup>

18. It is noted that there is no specific process to take appropriate measures in case Latvia is notified by another jurisdiction that it has reason to believe with respect to a Reporting Entity that an error may have led to incorrect or incomplete information reporting or that there is non-compliance of a Reporting Entity with respect to its obligation to file a CbC report. As no exchange of CbC reports has yet occurred, no recommendation is made but this aspect will be further monitored in the next annual peer review process.

*Conclusion*

19. In respect of paragraph 8 of the terms of reference (OECD, 2017b), Latvia 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 Latvia. Latvia meets all the terms of reference relating to the domestic legal and administrative framework, with the exception of: (i) the annual consolidated group revenue threshold (paragraph 8 (a) ii. of the terms of reference (OECD, 2017b)) and (ii) the provision whereby a single Constituent Entity may be designated to file the CbC report which would satisfy the local filing requirement of all Constituent Entities (paragraph 8 (c) v. of the terms of reference (OECD, 2017b)).

## Part B: The exchange of information framework

20. 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).

21. Latvia indicates that it has a domestic legal basis for the exchange of information in place. Latvia is a Party to the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) (signed on 29 May 2013, in force on 1 November 2014 and in effect for 2016).

22. Latvia has signed the CbC MCAA on 21 October 2016. It has provided its notifications under Section 8 of this agreement on 16 June 2017 and intends to exchange information with all other signatories of this agreement which provide notifications. Latvia has also signed a bilateral Competent Authority Agreement (CAA) with the United States. As of 12 January 2018, Latvia has 54 bilateral relationships<sup>20</sup> activated under the CbC MCAA or under the EU Council Directive (2016/881/EU) and under the bilateral CAA. Against the backdrop of the still evolving exchange of information framework, at this point in time Latvia meets the terms of reference.

### Conclusion

23. Against the backdrop of the still evolving exchange of information framework, at this point in time Latvia meets the terms of reference.

## Part C: Appropriate use

24. 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).

25. 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), Latvia indicates that measures are in place to ensure the appropriate use of information, but not in all six areas identified in the OECD *Guidance on the appropriate use of information contained in Country-by-Country reports* (OECD, 2017a). Because Latvia does not have measures in place in all six areas, it is recommended that Latvia take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information.

### ***Conclusion***

26. In respect of paragraph 12 (a), it is recommended that Latvia take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information.

## 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 – annual consolidated group revenue threshold	It is recommended that Latvia amend or otherwise clarify that the annual consolidated group revenue threshold calculation rule applies without prejudice of the OECD guidance on currency fluctuations in respect of an MNE Group whose Ultimate Parent Entity is located in a jurisdiction other than Latvia.
Part A	Domestic legal and administrative framework – local filing	It is recommended that Latvia implement a provision whereby a single Constituent Entity of the same MNE Group may be designated to file the CbC report which would satisfy the local filing requirement of all the Constituent Entities in Latvia.
Part B	Exchange of information framework	-
Part C	Appropriate use	It is recommended that Latvia take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information.

### Notes

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

<sup>2</sup> Paragraph 8 (a) ii. of the terms of reference (OECD, 2017b).

<sup>3</sup> Paragraph 9 (a) of the terms of reference (OECD, 2017b).

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

<sup>5</sup> Primary law consists of the “Regulations regarding Country-by-Country report of multinational enterprise group” (Regulation No. 397 adopted on 4 July 2017, issued pursuant to Section 7, paragraph four, Section 15, paragraph nine, and Section 18, paragraph three of the Law on taxes and duties).

<sup>6</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>7</sup> Paragraph 2.3 of the regulation.

<sup>8</sup> See question IV. 1. “Impact of currency fluctuations on the agreed EUR 750 million threshold (June 2016) of the *“Guidance on the Implementation of Country-by-Country Reporting”* (OECD, 2018).

<sup>9</sup> Paragraph 8 of the regulation.

<sup>10</sup> Paragraph 9 of the regulation.

<sup>11</sup> Paragraph 21.2.1. of the regulation.

<sup>12</sup> Paragraph 21.2.1 of the regulation.

<sup>13</sup> See [www.oecd.org/tax/guidance-on-the-implementation-of-country-by-country-reporting-beps-action-13.pdf](http://www.oecd.org/tax/guidance-on-the-implementation-of-country-by-country-reporting-beps-action-13.pdf) (OECD, 2018).

<sup>14</sup> Paragraph 10 of the regulation. Paragraph 11 provides that a Constituent Entity of the MNE Group in accordance with paragraph 10 has an obligation to prepare and submit the report shall request the parent entity to provide it with all the information provided for in the regulation which is necessary for preparing the report. In addition, Paragraph 12 provides that if a Constituent Entity of an MNE Group has not obtained or acquired all the required information necessary for

completing the report for the MNE Group, this Constituent Entity shall submit the report containing all information in its possession, and concurrently notify the State Revenue Service that the parent entity has refused to make the necessary information available.

<sup>15</sup> It is noted that Latvia's regulation provides in paragraph 14 that in case there is more than one Constituent Entity of the same MNE Group that are resident for tax purposes in European Union, and one or more of the conditions foreseen in paragraph 10 are applicable, the MNE Group may designate one of those Constituent Entities to file the country by country report regarding any Reporting Fiscal Year, and it should notify the State Revenue Service that such report is intended to satisfy the filing requirement of all the Constituent Entities of such MNE Group that are resident for tax purposes in the European Union.

<sup>16</sup> It is noted that paragraph 10 of the regulation reads as follows:

*10. A constituent entity of the MNE group which is a resident for tax purposes in the Republic of Latvia and which is not a parent entity of the MNE group by complying with the time period referred to in Paragraph 9 of this Regulation shall prepare the report with respect to the reporting fiscal year of an MNE Group of which it is a constituent entity and submit it to the State Revenue Service, if any of the following criteria are satisfied:*

*10.1. the parent entity is not obligated to prepare and submit the report in the country or territory of residence selected for tax purposes;*

*10.2. the country in which the parent entity is resident for tax purposes has a current international agreement but does not have a relevant Qualifying Competent Authority Agreement in effect for preparing and submitting the report for the reporting fiscal year referred to in Paragraph 8 of this Regulation;*

*10.3. there has been a systemic failure of the country of residence selected for tax purposes of the parent entity that has been notified by the State Revenue Service to the constituent entity of the MNE group resident for tax purposes in the Republic of Latvia.*

The wording in paragraph 10.2 does not comprise the wording that should say that the QCAA is in effect "by the time for filing the CbC report". However, Latvia indicates that it is implied that the conditions described in this paragraph have to be met by the time of filing a CbC report. This will be monitored.

<sup>17</sup> Paragraph 15 of the regulation.

<sup>18</sup> Paragraphs 16 and 17 of the regulation.

<sup>19</sup> Section 159(9) Failure to Co-operate with Officials of the Tax Authority:

*In the case of failure to provide the necessary requested information regarding tax administration and control to the tax authority a fine shall be imposed on natural persons or a member of the board in an amount up to EUR 700, with or without the suspension of the right for the member of the board to hold certain offices in commercial companies.*

<sup>20</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

- OECD (2018), *Guidance on the Implementation of Country-by-Country Reporting*, OECD, Paris.  
[www.oecd.org/ctp/exchange-of-tax-information/guidance-on-country-by-country-reporting-beps-action-13.htm](http://www.oecd.org/ctp/exchange-of-tax-information/guidance-on-country-by-country-reporting-beps-action-13.htm).
- OECD (2017a), *BEPS Action 13 on Country-by-Country Reporting: Guidance on the appropriate use of information contained in Country-by-Country reports*, OECD/G20 Base Erosion and Profit Shifting Project, OECD, Paris. [www.oecd.org/tax/beps/beps-action-13-on-country-by-country-reporting-appropriate-use-of-information-in-CbC-reports.pdf](http://www.oecd.org/tax/beps/beps-action-13-on-country-by-country-reporting-appropriate-use-of-information-in-CbC-reports.pdf).
- 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).
- 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: Amended by the 2010 Protocol*, OECD Publishing, Paris,  
<http://dx.doi.org/10.1787/9789264115606-en>.



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