

Macau (China)

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. Macau 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 Macau 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) and put in place an exchange of information framework as well as measures to ensure appropriate use.

Part A: Domestic legal and administrative framework

2. Macau does not yet have complete legislation in place for implementing the BEPS Action 13 minimum standard. Macau indicates that the law providing for automatic and spontaneous as well as on-request exchange of tax information was passed in June and became effective as from 1 July 2017. Macau will now begin to design and draft the necessary law for CbC Reporting. At this time, Macau is unable to estimate when the legislation will come into effect. Macau will not apply CbC requirements for the 2016 fiscal year. It is recommended that Macau take steps to implement a domestic legal and administrative framework¹ 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. Macau currently does not have in place a network for exchange of information which would allow for Automatic Exchange of Information for CbC Reporting. As a consequence, Macau is not yet able to have QCAAs in effect yet with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites. With respect to the terms of reference relating to the exchange of information framework aspects under review for this first annual peer review process,² it is recommended that Macau take steps to put in place an exchange of information framework that allows Automatic Exchange of Information and have QCAAs in effect yet with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites. It is however noted that Macau will not be exchanging CbC reports in 2018.

Part C: Appropriate use

4. With respect to terms of reference under review for this first annual peer review,³ Macau does not yet have measures in place relating to appropriate use. It is recommended

that Macau take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. It is however noted that Macau will not be exchanging CbC reports in 2018.

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. Macau 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:⁴ 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. Macau does not yet have its legal and administrative framework in place to implement CbC Reporting and thus does not implement CbC Reporting requirements for the 2016 fiscal year.

8. Macau indicates that the law providing for automatic and spontaneous as well as on-request exchange of tax information was passed in June and became effective as from 1 July 2017. Macau will now begin to design and draft the necessary law for CbC Reporting. At this time, Macau is unable to estimate when the legislation will come into effect.

9. According to the latest tax returns, company registration records and related records of taxpayers from the tax department of Macau, Macau has identified less than ten multinational enterprise groups (hereafter "MNE Groups") which are likely to fall within the scope of Action 13 minimum standard.

10. Macau indicates that it has not yet decided whether or not it wishes to receive CbC reports on MNE Groups headquartered in other jurisdictions, and has not implemented local filing requirements on resident Constituent Entities of MNE Groups headquartered in another jurisdiction.

Conclusion

11. In respect of paragraph 8 of the terms of reference (OECD, 2017), Macau does not have a domestic legal and administrative framework to impose and enforce CbC Reporting requirements on MNE Groups whose Ultimate Parent Entity is resident for tax purposes in Macau. It is recommended that Macau 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

12. 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).

13. Macau does not have in place a network for exchange of information which would allow for Automatic Exchange of Information for CbC Reporting. As a consequence, Macau is not able yet to have QCAAs in effect yet with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites. Macau indicates that it is currently amending the law governing the exchange of tax information to provide for the Automatic Exchange of Information, a necessary element in the implementation of CbC Reporting.

14. It is recommended that Macau take steps to put in place an 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. It is however noted that Macau will not be exchanging CbC reports in 2018.

Conclusion

15. In respect of paragraph 9 (a) of the terms of reference (OECD, 2017), it is recommended that Macau take steps to put in place an exchange of information framework that allows Automatic Exchange of Information 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. It is however noted that Macau will not be exchanging CbC reports in 2018.

Part C: Appropriate use

16. 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).

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

Conclusion

18. In respect of paragraph 12 (a) of the terms of reference (OECD, 2017), it is recommended that Macau take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. It is however noted that Macau 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	It is recommended that Macau 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	Exchange of information framework	It is recommended that Macau take steps to put in place an 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 Macau take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information.

Notes

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

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

³ Paragraph 12 (a) of the terms of reference (OECD, 2017).

⁴ 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).

Reference

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.



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), “Macau (China)”, 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/10.1787/9789264300057-62-en>

This document, as well as any data and 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. Extracts from publications may be subject to additional disclaimers, which are set out in the complete version of the publication, available at the link provided.

The use of this work, whether digital or print, is governed by the Terms and Conditions to be found at <http://www.oecd.org/termsandconditions>.