

Mauritius

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. Mauritius does not 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 Mauritius take steps to 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 and put in place measures to ensure appropriate use.

Part A: Domestic legal and administrative framework

2. Mauritius has part of the legislation in place for implementing the BEPS Action 13 minimum standard. Mauritius indicates that it has primary legislation in place to implement CbC Reporting requirements and that the secondary legislation is currently being vetted by the State Law Office. At this time, Mauritius estimates that the secondary legislation will come into effect before the end of the year 2018. Mauritius intends to apply CbC requirements as from fiscal year starting 1 July 2018. It is recommended that Mauritius take steps to finalise the 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. Mauritius is a signatory to 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 it is also a signatory to the CbC MCAA; it has provided a full set of notifications under Section 8 of this agreement and intends to have the CbC MCAA in effect with a large number of jurisdictions that provide notifications under the same agreement. It is noted that Mauritius is in the process of negotiating a bilateral Competent Authority Agreement (CAA) with the United States. As of 12 January 2018, Mauritius has 49 bilateral relationships activated under the CbC MCAA. Mauritius 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. Against the backdrop of the still evolving exchange of information framework, at this point in time, Mauritius meets the terms of reference relating to the exchange of information framework aspects under review for this first annual peer review² process.

Part C: Appropriate use

Mauritius does not yet have measures in place to ensure the appropriate use of information in the six areas identified in the *OECD Guidance on the appropriate use of information contained in Country-by-Country reports* (OECD, 2017a).³ It is recommended that Mauritius take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. It is noted that Mauritius will not be exchanging CbC reports in 2018.

Part A: The domestic legal and administrative framework

4. 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.

5. Mauritius does not yet have complete legislation in place to implement the BEPS Action 13 minimum standard. It is however noted that Mauritius will not be exchanging CbC reports in 2018.

(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).

6. Mauritius does not yet have a complete legal and administrative framework in place to implement CbC Reporting. It is however noted that Mauritius will not be exchanging CbC reports in 2018.

7. Mauritius indicates that it has primary legislation in place to implement CbC Reporting⁵ and that secondary legislation is currently being vetted by the State Law Office. The secondary legislation is expected to be gazetted and to come into effect before the end of 2018.

Conclusion

In respect of paragraph 8 of the terms of reference (OECD, 2017b), Mauritius does not have a complete 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 Mauritius. It is recommended that Mauritius take steps to finalise the domestic legal and administrative framework to impose and enforce CbC requirements as soon as possible.

Part B: The exchange of information framework

8. 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, 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).

9. Mauritius has sufficient legal basis that permits the automatic exchange of CbC reports. It is a Party to (i) the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of

Europe, 2011) (signed on 23 June 2015, in force on 1 December 2015 and in effect for 2016) and (ii) multiple bilateral Double Tax Agreements (DTAs) and a Tax Information and Exchange Agreements (TIEA) which allow Automatic Exchange of Information.⁶

10. Mauritius signed the CbC MCAA on 26 January 2017 and has submitted a full set of notifications under Section 8 of the CbC MCAA on 25 April 2017. It intends to have the CbC MCAA in effect with a large number of jurisdictions that provide notifications under Section 8(1)(e) of the same agreement. It is noted that Mauritius is in the process of negotiating a bilateral CAA with the United States. As of 12 January 2018, Mauritius has 49 bilateral relationships activated under the CbC MCAA.⁷ Mauritius 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. Against the backdrop of the still evolving exchange of information framework, at this point in time Mauritius meets the terms of reference relating to the exchange of information framework aspects under review for this first annual peer review.

Conclusion

11. Against the backdrop of the still evolving exchange of information framework, at this point in time Mauritius meets the terms of reference regarding the exchange of information framework.

Part C: Appropriate use

12. 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).

13. 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), Mauritius indicates that measures are not yet in place to ensure the appropriate use of information in the six areas identified in the

OECD *Guidance on the appropriate use of information contained in Country-by-Country reports* (OECD, 2017a). It is recommended that Mauritius take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. It is however noted that Mauritius will not be exchanging CbC reports in 2018.

Conclusion

14. In respect of paragraph 12 (a), it is recommended that Mauritius take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. It is however noted that Mauritius 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 Mauritius finalise its 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	-
Part C	Appropriate use	It is recommended that Mauritius 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, 2017b).

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

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

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, 2017b).

⁵ Section 76 of the Income Tax Act has been amended by the Finance Act of 24 July 2017.

⁶ Mauritius indicates it has 42 DTAs and 1 TIEA with the United States in effect which allow for Automatic Exchange of Information. Mauritius indicates it has DTAs with the following countries: Bangladesh, Barbados, Belgium, Botswana, China, Congo, Croatia, Cyprus, Egypt, France, Germany, Guernsey, India, Italy, Kuwait, Lesotho, Luxembourg, Madagascar, Malaysia, Malta, Monaco, Mozambique, Namibia, Nepal, Oman, Pakistan, Qatar, Rwanda, Senegal, Seychelles, Singapore, South Africa, Sri Lanka, Swaziland, Sweden, Thailand, Tunisia, Uganda, United Arab Emirates, United Kingdom, Zambia and Zimbabwe.

Note by Turkey

The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the “Cyprus issue”.

Note by all the European Union Member States of the OECD and the European Union

The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

⁷ 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 (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.
- 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.
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