

Russian Federation

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. Russia's implementation of the Action 13 minimum standard meets all applicable terms of reference, except that it raises three substantive issues in relation to its domestic legal and administrative framework.

Part A: Domestic legal and administrative framework

2. Russia has rules (primary law) that impose and enforce CbC requirements on the Ultimate Parent Entity (UPE) of a multinational enterprise group ("MNE" Group) that is resident for tax purposes in Russia. The first filing obligation for a CbC report in Russia commences in respect of fiscal years beginning on 1 January 2017 or later with a voluntary filing mechanism is allowed for financial years beginning from 1 January 2016. Russia meets all the terms of reference relating to the domestic legal and administrative framework,¹ with the exception of:

- the filing exemption which relates to information relating to military-industrial cooperation and strategic enterprises,²
- the conditions for local filing which do not appear to be in line with the terms of reference,³
- enforcement provisions not applied for the first three reporting periods.⁴

Part B: Exchange of information framework

3. Russia 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. Russia has provided its notifications under Section 8 of this agreement and intends to have the CbC MCAA in effect with a large number of other signatories of this agreement which provide notifications under the same agreement. As of 12 January 2018, Russia has 48 bilateral relationships activated under the CbC MCAA.⁵ Russia 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 Russia meets the terms of reference relating to the exchange of information framework aspects under review for this first annual peer review.⁶

Part C: Appropriate use

4. There are no concerns to be reported for Russia. Russia 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).⁷ It has provided details in relation to these measures, enabling it to answer “yes” to the additional questions on appropriate use. Russia meets the terms of reference relating to the appropriate use aspects under review for this first annual peer review.⁸

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. Russia has primary law (hereafter the “Tax Code”) in place for implementing the BEPS Action 13 minimum standard, establishing the necessary requirements, including reporting obligations.⁹ Secondary law has not yet been published.¹⁰ Guidance was not published.¹¹

(a) Parent entity filing obligation

Summary of terms of reference:¹² 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. Russia has introduced a domestic legal and administrative framework which imposes a CbC filing obligation on UPEs of MNE Groups above a certain threshold of revenue.¹³

8. With respect to paragraph 8 (a) iv. of the terms of reference (OECD, 2017b),¹⁴ Russia’s rules¹⁵ provide for a full or partial filing exemption as follows: “A country-by-country report and global documentation containing information which constitutes State secrets and (or) information which is directly and (or) indirectly indicative of military-industrial co-operation with foreign states which is carried on in accordance with Federal Law No. 114-FZ of 19 July 1998 “Concerning Military-Industrial Co-Operation of the Russian Federation with Foreign States” shall be submitted without the inclusion of information which constitutes State secrets and (or) information which is directly and (or) indirectly indicative of military-industrial co-operation with foreign states” and “Where a country-by-country report contains information regarding members of multinational group of companies which have been included in the list of strategic enterprises and strategic joint stock companies in accordance with the legislation of the Russian Federation and regarding subsidiary companies thereof, information concerning the activities of those members shall be transmitted to the competent authorities of foreign states (territories) in accordance with Article 142.5 of this Code only on condition that the taxpayer submitting the country-by-country report presents in relation to those members the appropriate prior consent of a federal executive body authorized by the Government of the Russian Federation to the submission of that information”. Russia does not detail the exact scope and grounds for this exemption under the minimum standard and / or the exchange of information framework. The minimum standard states

that “no exemptions from filing the Country-by-Country Report should be adopted apart from the exemptions outlined in this section [exemption based on the EUR 750 million threshold]. In particular, no special industry exemption should be provided, no general exemption for investment funds should be provided, and no exemption for non-corporate entities or non-public corporate entities should be provided”. Russia explained that in the first case, enterprises are not exempt from an obligation to prepare and submit a CbC report; a CbC report will be presented but it would not contain information, which constitutes State secrets.¹⁶ Other information would be shown. In the second case, the Tax Code does not exempt members of an international group of companies from submission of Country-by-Country Report, but imposes requirements on a particular category of participants on compliance with the special procedure that they must perform before submitting the report. Russia indicates this is an administrative formality. It is however unclear in the second case what the consequences would be in a situation where a taxpayer would not comply in practice with this special procedure and whether there may be cases where a CbC report may not be filed or not exchanged.¹⁷ It is recommended that Russia clarify the exact scope and legal basis under the minimum standard and/ or the exchange of information framework for such exemptions. However, it is noted that the first filing obligation for a CbC report in Russia commences in respect of fiscal years beginning on or after 1 January 2017.

9. With respect to the CbC filing requirements, the Russian legislation¹⁸ states that the CbC filing requirement is not applicable for a Russian MNE group if the consolidated group revenue is less than RUB 50 billion (Russian roubles) in the immediately preceding fiscal year. While these provisions would not create an issue for MNE Groups whose Ultimate Parent Entity is a tax resident in Russia, they 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 Russian 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. Russia confirms that this rule 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 Russia. As such, no recommendation is made but this aspect will be further monitored.

10. 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).

11. The first filing obligation for a CbC report in Russia commences in respect of financial years beginning on 1 January 2017 or thereafter, with a voluntary filing mechanism is allowed for financial years beginning from 1 January 2016.¹⁹ The CbC report must be filed within 12 months of the last day of the reporting fiscal year of the MNE Group.²⁰

12. With respect to paragraph 8 b) ii. of the terms of reference (OECD, 2017b), it is noted that Russia's rules²¹ provide for a full of partial filing exemption as described in paragraph 7. Such exemptions may potentially lead to the filing of a CbC report that does not include all of the information as contained in the CbC report template in the Action 13 Report (OECD, 2015).²² It is therefore recommended that Russia clarify the exact scope and legal basis under the minimum standard and / or the exchange of information framework for such an exemption.

13. Russia indicates that the draft of filing instructions and format of a CbC report and the procedure for submission, which will be included in the secondary legislation (decree of the Federal Tax Service of Russian Federation), has been published, but does not yet have effect. Russia confirms that the filing instructions and format will be published in due course. As such, no recommendation is made but this aspect will be monitored.

14. No other inconsistencies were identified with respect to the scope and timing of parent entity filing.²³

(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).

15. Russia has introduced local filing requirements in respect of financial years beginning on 1 January 2017 or thereafter.²⁴

16. With respect to paragraph 8 c) iv. of the terms of reference (OECD, 2017b), it is noted that according to Russia's legislation,²⁵ local filing applies in Russia as a default rule and a CbC report has to be submitted by an entity of an MNE group with exemptions being provided if all the following conditions are met:²⁶

- *the legislation of the state (territory) in question requires the submission to the competent authorities of a country-by-country report containing information similar to the information provided for in clause 1 of Article 105.16-6 of the Code;*
- *the state (territory) in question is a Party to an international agreement of the Russian Federation on the international automatic exchange of country-by-country reports as at the end of the period specified in paragraph 3 of clause 2 of this Article for the submission of a country-by-country report for the relevant reporting period;*
- *the state (territory) in question is not on the list of states (territories) which systematically fail to fulfil obligations associated with the automatic exchange of country-by-country reports, as approved by the federal executive body in charge of control and supervision in the area of taxes and levies; and*

- the state (territory) in question has been notified by the appropriate member of the multinational group of companies of the member of the multinational group of companies which is responsible for submitting the country-by-country report (if the legislation of the state (territory) in question contains a requirement for such notification);

17. In addition, paragraph 7(1) of Article 105.16-3 of the Tax Code provides for another case of local filing: local filing can be required upon request of the Federal Executive Body if it possesses information received from Competent Authorities of foreign States indicating that the parent company or the surrogate parent entity of the MNE Group fails to fulfil the obligation to submit a CbC report.

18. The circumstances under which local filing may occur under Russia's legislation appear to be wider than permitted under the terms of reference. Examples of cases where local filing may be required under Russia's legislation, but would not be permitted under the minimum standard, include:

- where there is an international instrument and a QCAA in effect between Russia and the jurisdiction of residence of the Ultimate Parent Entity but the Ultimate Parent Entity has not complied with its obligation to file a CbC Report²⁷ or where there is no international instrument and 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.²⁸ These are normally situations for which it is up to the jurisdiction of residence of the Ultimate Parent Entity to deal with, through its enforcement measures.
- 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 there is no international agreement between Russia and this jurisdiction.²⁹ Russia indicates under paragraph 6 the Article 105.16-3 of the Tax Code, also taking in account number of signatories of Convention on Mutual Administrative Assistance in Tax Matters and double taxation treaties a taxpayer should submit a CbC report in case of the absence of a Qualifying Competent Authority Agreement (regardless of whether there is an International Agreement. Russia notes that in practice, the probability of filing a CbC report in such circumstances is extremely low.

19. It is recommended that Russia amend its legislation or otherwise takes steps to ensure that local filing is only required in the circumstances contained in the terms of reference.

20. With respect to the conditions under which local filing may be required (paragraph 8 (c) iv. c) of the terms of reference, according to Russia's legislation³⁰ "*a state (territory) shall be included in the list of states (territories) which systematically fail to fulfil obligations associated with the automatic exchange of country-by-country reports if the competent authority of that state (territory) fails to fulfil (suspends the fulfilment of) obligations laid down in an international agreement of the Russian Federation on the automatic exchange of country-by-country reports or if for other reasons the automatic exchange of country-by-country reports with the Russian Federation is not maintained.*" Although this condition does not reflect the details of paragraphs 8 (c) iv. c) and 21 of the terms of reference (OECD, 2017b) in particular in regard of the concept of "Systemic Failure", and may be interpreted in a broader meaning than the situation of a "Systemic Failure", Russia confirms that it will apply this provision in accordance with the wording of these terms of reference. As such, no recommendation is made but this aspect will be monitored.

21. No other inconsistencies were identified with respect to the limitation on local filing obligation.

(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).

22. Russia's local filing requirements will not apply if there is surrogate filing in another jurisdiction by a group entity as appointed by the Ultimate Parent Entity.³¹ 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).

23. Russia has legal mechanisms in place to enforce compliance with the minimum standard: there are notification mechanisms in place that apply to taxpayers in Russia.³² There are also penalties in place in relation to the filing of a CbC report or a notification of participation:³³ (i) penalties for failure to file within the established time limit and (ii) penalties for filing information containing inaccurate information.

24. With respect to paragraph 8 e) ii. of the terms of reference (OECD, 2017b), it is noted that under Russia's legislation, the penalties in relation to the filing of the CbC report or the notification of participation will not be imposed for offences relating to reporting periods commencing in 2017, 2018 or 2019.³⁴ It is recommended that Russia amend its legislation or otherwise takes steps to ensure that enforcement provisions and monitoring relating to the CbCR's effective implementation are provided for as contained in the terms of reference as from the first reporting period.³⁵

25. There are no specific processes to take appropriate measures in case Russia 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 monitored.

Conclusion

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

framework, with the exception of (i) the filing exemption which relates to information relating to military-industrial cooperation and strategic enterprises (paragraph 8 (a) iv. and (b) ii. of the terms of reference (OECD, 2017b)), (ii) the local filing conditions (paragraph 8 (c) iv. of the terms of reference (OECD, 2017b)) and (iii) the enforcement provisions (paragraph 8 (e) ii. of the terms of reference (OECD, 2017b)).

Part B: The exchange of information framework

27. 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).

28. Russia has sufficient legal basis that permits the automatic exchange of CbC reports. It 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 3 November 2011, in force on 1 July 2015 and in effect for 2016).

29. Russia signed the CbC MCAA on 26 January 2017 and submitted a full set of notifications under section 8 of the CbC MCAA on 28 November 2017. Russia intends to have the CbC MCAA in effect with a large number of other signatories of this agreement which provide notifications under Section 8(1)(e) of the same agreement. As of 12 January 2018, Russia has 48 bilateral relationships activated under the CbC MCAA.³⁶ Russia 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.³⁷ Against the backdrop of the still evolving exchange of information framework, at this point in time, Russia meets the terms of reference relating to the exchange of information framework aspects under review for this first annual peer review.

Conclusion

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

Part C: Appropriate use

31. 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).

32. 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), Russia has provided information that the obligation to comply with the appropriate use of CbC reports is enshrined in writing in its law and this binds all tax administration employees. It has provided details in relation to all six areas identified in the *OECD Guidance on the appropriate use of information contained in Country-by-Country reports* (OECD, 2017a), enabling it to answer “yes” to the additional questions on appropriate use.

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

Conclusion

34. In respect of paragraph 12 (a) of the terms of reference (OECD, 2017b), there are no concerns to be reported for Russia. Russia 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 - Parent entity filing obligation – filing exemption and content of a CbC report	It is recommended that Russia clarify the exact scope and legal basis under the minimum standard and / or the exchange of information framework for the filing exemption in relation to military-industrial cooperation and strategic enterprises.
Part A	Domestic legal and administrative framework – Limitation on local filing obligation	It is recommended that Russia amend its legislation or otherwise takes steps to ensure that local filing is only required in the circumstances contained in the terms of reference.
Part A	Domestic legal and administrative framework – Effective implementation	It is recommended that Russia amend its legislation or otherwise takes steps to ensure that enforcement provisions and monitoring relating to the CbCR's effective implementation are provided for as contained in the terms of reference as from the first reporting period.
Part B	Exchange of information framework	-
Part C	Appropriate use	-

Notes

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

² Paragraphs 8 (a) iv. and (b) ii. of the terms of reference (OECD, 2017b).

³ Paragraph 8 (c) iv. b) of the terms of reference (OECD, 2017b).

⁴ Paragraph 8 (e) ii. of the terms of reference (OECD, 2017b).

⁵ This number includes two non-reciprocal relationships (Cyprus and Cayman Islands).

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.

⁶ Paragraph 9 (a) of the terms of reference (OECD, 2017b).

⁷ 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.

⁸ Paragraph 12 (a) of the terms of reference (OECD, 2017b).

⁹ Primary law consists of the Federal Law dated 27 November 2017 No340-FZ “On amending part one of the Tax Code of the Russian Federation with regard to implementing international exchange of information and documentation on multinational enterprise groups” (Tax Code). See <http://publication.pravo.gov.ru/Document/View/0001201711270075> (accessed 20 April 2018). See Chapter 14.4 of the Tax Code.

¹⁰ Russia indicates that secondary legislation (decree of the Federal Tax Service of the Russian Federation) will contain provisions of the regulations to include format of the CbC Report and instructions for its completion and that such regulation will be based on Action 13 Report (OECD, 2015) and related documents.

¹¹ Russia indicates that clarifications with respect to CbCR will be provided by the Ministry of Finance of the Russian Federation, as and when requested by the taxpayers.

¹² 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).

¹³ It is noted under paragraph 3 of Article 105.16-1 of the Tax Code that the Central Bank of Russia, State government bodies and local government bodies are not deemed to be members of the MNE group for the purposes of the CbC Reporting. Russia further indicates that the Central Bank of Russia is a public body and it does not carry out any commercial activity.

¹⁴ It is noted that the minimum standard does not envisage any exemptions from filing the CbC report (paragraph 55 of the Action 13 Report, OECD, 2015).

¹⁵ See paragraph 5 of Article 105.16-3 of the Tax Code

¹⁶ Russia indicates that within the BEPS framework approved during the G20 meeting in September 2013, the countries had committed to take all necessary separate and collective actions with due regards to sovereignty and that for Russia, the issues of military-industrial cooperation and issue of State secrets are directly related to the Russia's sovereignty. Russia further indicates that under Article 21 of the Multilateral Convention on Mutual Administrative Assistance in tax matters, the provisions of the Convention shall not be construed so as to impose the requested State the obligation to carry out measures at variance with its own laws or administrative practice or the laws or administrative practice of the applicant State, and to supply information which would disclose any trade, business, industrial, commercial or professional; secrets or trade process, or information the disclosure of which would be contrary to public policy.

¹⁷ Russia indicates that taxpayers (tax residents of the Russian Federation) are interested in filling a CbC report accurately in the Russian Federation, since a failure to submit a CbC report in the Russian Federation could trigger local filing in other jurisdictions.

¹⁸ See paragraph 6(3) of Article 105.16-3 of the Tax Code. It is also noted that for a Russian parent company that prepares consolidated financial statements in a currency other than the currency of Russia, the consolidated group revenue threshold will be determined using the average exchange rate of the currency of the consolidated financial statements to the rouble of Russia as established by the Central Bank of the Russian Federation for the financial year preceding the reporting period.

¹⁹ See paragraph 2 and paragraph 5 of the Article 2 of the Federal Law dated 27 November 2017 # 340-FZ «On amending part one of the Tax Code of the Russian Federation with regard to implementation international exchange information and documents on multinational enterprise group.

²⁰ See paragraph 2(3) of Article 105.16-3 of the Tax Code.

²¹ See paragraph 5 of Article 105.16-3 of the Tax Code.

²² See Annex III to Chapter V Transfer Pricing Documentation – Country-by-Country Report (OECD, 2015).

²³ It is noted that the second point of paragraph 3 of Article 105.16-6 of the Tax Code relates to the source of data and includes “tax records” as a possible source of data.

²⁴ See paragraphs 2 and 5 of Article 2 of the Tax Code.

²⁵ See paragraph 2 of Article 105.16-3 of the Tax Code.

²⁶ See paragraphs 6, 6(1) and 6(2) of Article 105.16-3 of the Tax Code

²⁷ Assuming there is no systemic failure.

²⁸ See paragraph 7(1) of Article 105.16-3 of the Tax Code. Local filing would not be permitted in this circumstance under paragraph 8 (c) iv. a) of the terms of reference (OECD, 2017). Russia however indicates that: this provision will apply if the FTS (Federal Tax Service) of Russia has information from competent authorities on non-performance of an obligation by a parent company of the MNE group on the base of cooperation of competent authorities (on the request of the FTS of Russia or voluntary delivery of such information from foreign competent authorities). According to Russia, this provision would avoid a situation where Russia would be forced to consider another jurisdiction as non-cooperative because of failure of filing by another parent company of an MNE group and inability or non-effectiveness of enforcement measures by the competent authority.

²⁹ Local filing would not be permitted in this circumstance under paragraph 8 (c) iv. b) of the terms of reference (OECD, 2017b).

³⁰ See paragraph 8 of Article 105.16-3 of the Tax Code.

³¹ See paragraphs 6 and 6(1) of Article 105.16-3 of the Tax Code.

³² See Article 105.16-2 of the Tax Code.

³³ Under Article 129.9 of the Tax Code, an unlawful failure to submit a notification of participation in a multinational group of companies within the established time limit or the submission of a notification of participation in a multinational group of companies containing inaccurate information will result in the recovery of a fine of RUB 50 000; and under Article 129.10, an unlawful failure to submit a country-by-country report within the established time limit or the submission of a country-by-country report containing inaccurate information will result in the recovery of a fine of RUB 100 000.

³⁴ See paragraph 7 the Article 2 of the Federal Law on November 27, 2017 # 340-FZ «On amending part one of the Tax Code of the Russian Federation with regard to implementing international exchange of information and documentation on multinational enterprise groups». Russia explains that penalties will not be imposed for offences relating to financial years 2017, 2018 and 2019 to allow time for the taxpayers to adopt the new rules of CbC Reporting. Russia further submits that taxpayers are committed to filling the CbCR accurately to avoid local filing in other jurisdictions and also that failure to file a CbC report would constitute an additional risk factor for analysing the activities of the taxpayer.

³⁵ Russia indicates that in accordance with Article 15.6 of the Administrative Offences (Violations) Code of the Russian Federation, an administrative penalty in the amount of RUB 300 - 500 is to be imposed on chief executives who fail or refuse to submit to the tax authorities, documents or other data drawn up in the established procedure as well as distorted or incomplete data of such type, necessary for exercising tax control. See www.multitrans.ru/c/m.exe?t=4195720_1_2&sl=%CA%EE%C0%CF (accessed 20 April 2018).

Additionally, taking into consideration that CbCR applies to large taxpayers, the imposition of administrative sanctions to chief-executives can damage business reputation. In Russia's view, this measure will force taxpayers to fulfil their obligations.

³⁶ This number includes two non-reciprocal relationships (Cyprus and Cayman Islands).

³⁷ 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, or the reviewed jurisdiction may not have listed all signatories of the CbC MCAA. Russia confirms that it will further update its list of exchange partners.

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