

## Slovenia

### 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. Slovenia's implementation of the Action 13 minimum standard meets all applicable terms of reference. The report, therefore, contains no recommendations.

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

2. Slovenia has rules (primary and secondary law, as well as guidance) that impose and enforce CbC Reporting requirements on MNE Groups whose Ultimate Parent Entity is resident for tax purposes in Slovenia. The first filing obligation for a CbC report in Slovenia commences in respect of fiscal years commencing on or after 1 January 2016. Slovenia meets all the terms of reference relating to the domestic legal and administrative framework.<sup>1</sup>

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

3. Slovenia 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. It is also a signatory to the CbC MCAA and 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. As of 12 January 2018, Slovenia has 53 bilateral relationships activated under the CbC MCAA or exchanges under the EU Council Directive (2016/881/EU). Slovenia 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 (including legislation in place for fiscal year 2016). Against the backdrop of the still evolving exchange of information framework, at this point in time, Slovenia meets the terms of reference relating to the exchange of information framework aspects under review for this first annual peer review.<sup>2</sup>

#### ***Part C: Appropriate use***

4. There are no concerns to be reported for Slovenia. Slovenia 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). It has provided details in relation to these measures, enabling it to answer "yes" to the additional questions on appropriate use.<sup>3</sup> Slovenia meets the terms of reference relating to the appropriate use aspects under review for this first annual peer review.<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. Slovenia has primary law (hereafter the “Tax Procedure Act”) and secondary law (hereafter the “Rules”) in place which implement the BEPS Action 13 minimum standard, establishing the necessary requirements, including the filing and reporting obligations.<sup>5</sup> Guidance has also been published.<sup>6</sup>

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

Summary of terms of reference:<sup>7</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. Slovenia has primary legislation to impose a CbC filing obligation on 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 by the Action 13 report (OECD, 2015).

8. No inconsistencies were identified with respect to Slovenia’s domestic legal framework in relation with 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).

9. The first filing of a CbC report in Slovenia commences in respect of periods commencing on or after 1 January 2016.<sup>8</sup> <sup>9</sup> The CbC report must be filed within 12 months after the end of the period to which the CbC report of the MNE Group relates.<sup>10</sup>

10. No inconsistencies were identified with respect to 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).

11. Slovenia has introduced local filing requirements as from the reporting period starting on or after 1 January 2017 or thereafter.<sup>11</sup>

12. No inconsistencies were identified with respect to the limitation on local filing obligation.<sup>12</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).

13. Slovenia's local filing requirements will not apply if there is surrogate filing in another jurisdiction.<sup>13</sup>

14. 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).

15. Slovenia has legal mechanisms in place to enforce compliance with the minimum standard: there are data comparison<sup>14</sup> mechanisms by the Agency of the Republic of Slovenia for Public Legal Records and Related Services. There are also penalties in place<sup>15</sup> in relation to the filing of a CbC report for failure: (i) to file a CbC report, (ii) to file a complete CbC report and (iii) to submit it on time. In addition, Slovenia indicates that the tax administration can verify whether all Slovene Ultimate Parent Entities have filed the CbC reports' by comparing the number of filed CbC reports' and the identity of those Ultimate Parent Entities with the number and identity of Slovene Ultimate Parent Entities that have exceeded the threshold of 750 million EUR consolidated group revenue

– the latter data is obtained from the Consolidated Financial Statements which are gathered by the Agency of the Republic of Slovenia for Public Legal Records and Related Services.

16. There are no specific processes in place that would allow Slovenia to take appropriate measures in case it is notified by another jurisdiction that such other jurisdiction has reason to believe that an error may have led to incorrect or incomplete information reporting by a Reporting Entity or that there is non-compliance of a Reporting Entity with respect to its obligation to file a CbC report, however Slovenia indicates that penalties may be imposed under article 397 of the Tax Procedure Act. As no exchange of CbC reports has yet occurred, no recommendation is made but this aspect will be further monitored.

### Conclusion

17. In respect of paragraph 8 of the terms of reference (OECD, 2017b), Slovenia has a domestic legal and administrative framework to impose and enforce CbC requirements on the Ultimate Parent Entity of an MNE Group that is resident for tax purposes in Slovenia. Slovenia meets the terms of reference relating to the domestic legal and administrative framework.

## Part B: The exchange of information framework

18. 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).

19. Slovenia has sufficient legal basis in its domestic legislation to automatically exchange information on 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 27 May 2010, in force on 1 June 2011 and in effect for 2016) and (ii) multiple bilateral Double Tax Agreements which allow Automatic Exchange of Information.<sup>16</sup> It also implemented the Council Directive (EU) 2016/881 of 25 May 2016, amending Directive 2011/16/EU as regards mandatory Automatic Exchange of Information in the field of taxation.

20. Slovenia signed the CbC MCAA on 27 January 2016 and submitted a full set of notifications under Section 8(1)(e) (ii) of the CbC MCAA on 20 December 2016. It intends to have the CbC MCAA in effect with all other Competent Authorities that provide a notification under paragraph (1)(e) of Section 8 of the same agreement. As of 12 January 2018, Slovenia has 53 bilateral relationships activated under the CbC MCAA<sup>17</sup> or exchanges under the EU Council Directive (2016/881/EU). Slovenia 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 (including legislation in place for fiscal year 2016). Against

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

### **Conclusion**

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

## **Part C: Appropriate use**

22. 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).

23. 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), Slovenia 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). It has provided details in relation to these measures, enabling it to answer “yes” to the additional questions on appropriate use.

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

### **Conclusion**

25. In respect of paragraph 12 (a) of the terms of reference (OECD, 2017b), there are no concerns to be reported for Slovenia. Slovenia thus meets the 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	-
Part B	Exchange of information framework	-
Part C	Appropriate use	-

### Notes

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

<sup>2</sup> Paragraph 9 (a) of the terms of reference (OECD, 2017b).

<sup>3</sup> 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.

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

<sup>5</sup> Primary law consists of a Decree ratifying the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports and an Act amending the Tax Procedure Act (ZDavP-2J) to implement CbC Reporting requirements of the BEPS Action 13 and to transpose the EU Council Directive 2016/881/EU as regards mandatory Automatic Exchange of Information in the field of taxation (DAC4) – which is transposed in the Tax Procedure Act through Articles 248b, 255i, 255j, 255k, 255l and 397 of its consolidated text. The Decree can be accessed at [www.uradni-list.si/pdf/2016/Mp/m2016081.pdf](http://www.uradni-list.si/pdf/2016/Mp/m2016081.pdf) (accessed 23 April 2018) and the act amending the Tax Procedure Act can be accessed at [www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2016-01-2685?sop=2016-01-2685](http://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2016-01-2685?sop=2016-01-2685) (accessed 23 April 2018).

Secondary law entered into force on 1 July 2017 and consists of the rules amending the rules on the implementation of the Tax Procedure Act and can be accessed at [www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2016-01-2685?sop=2016-01-2685](http://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2016-01-2685?sop=2016-01-2685) (accessed 23 April 2018). The secondary legislation notably implements technical guidance based on the OECD CbCR XML Reporting Schema, detailed guidance for filing CbC reports and the content of the CbC Reporting Notification template. Slovenia has also published a Technical Protocol (hereafter: Technical Guidance) regarding the form and method of delivery of CbC Reports to the Slovene tax administration (Financial Administration of the Republic of Slovenia, hereafter the “tax administration”).

<sup>6</sup> Slovenia indicates that general online guidance is available on the internet page of the tax administration at [www.fu.gov.si/en/supervision/podrocja/mednarodna\\_izmenjava/cbcr/](http://www.fu.gov.si/en/supervision/podrocja/mednarodna_izmenjava/cbcr/) (accessed 23 April 2018). On this webpage, taxpayers can find general information about CbC Reporting. The webpage provides links to the OECD internet page on the BEPS project including the Action 13. Slovenia’s tax administration has also prepared a booklet in the form of Frequently Asked Questions (FAQs), which is published on the website and will be updated from time to time. An updated version of the FAQs was published in October 2017.

<sup>7</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>8</sup> See Article 65(1) of the Tax Procedure Act.

<sup>9</sup> A transitional provision regarding the first filing and exchange of the CbC report is provided for Constituent Entities (in case of local filing) and Surrogate Parent Entities, which shall first report

in respect of the fiscal year commencing on or after 1 January 2017: see Article 65(2) of the Tax Procedure Act.

<sup>10</sup> See Article 255i (2) of the Tax Procedure Act.

<sup>11</sup> See Article 255i (4) of the Tax Procedure Act, which refers back to the Directive; item B. 3.3. of the section “Method of completing the template – CbC Reporting Notification” of the rules; and question 7 of the guidance.

<sup>12</sup> It is noted that under item B. 3.3. of the section “Method of completing the template – CbC Reporting Notification” of the Rules, it is stated that where an MNE Group has more than one Constituent Entities that are resident for tax purposes in Slovenia and no other constituent entity of such MNE group has been appointed Reporting Entity, the entities that are resident for tax purposes in Slovenia may agree that only one of them will file the CbC report but they must notify the tax authority thereof.

<sup>13</sup> See article 255i (4) of the Tax Procedure Act; item B. 3.3. of the section “Method of completing the template – CbC Reporting Notification” of the rules; and question 7 of the guidance.

<sup>14</sup> Slovenia affirms that the tax administration can verify whether all Ultimate Parent Entities have filed the CbC reports by comparing the number of filed CbC reports as well as the identity of the Ultimate Parent Entities with the number and identity of Ultimate Parent Entities that have exceeded the threshold of 750 M EUR consolidated group revenue

<sup>15</sup> See article 397 of the Tax Procedure Act: (1) A fine of from EUR 800 to EUR 10 000 shall be imposed on individual sole traders or individuals who perform independent activities, a fine of from EUR 1 200 to EUR 15 000 shall be imposed on legal persons, and a fine of from EUR 3 200 to EUR 30 000 shall be imposed on legal persons deemed medium-sized or large companies under the Companies Act for failing to: 1. submit a tax return or failing to submit it in the prescribed manner or within the prescribed time limits (paragraphs three to five of Article 51, Articles 297, 297a, 297b, 307 and Articles 356 to 369); (...) failure by the ultimate parent entity to provide a country-by-country report or failure to provide it in the prescribed manner or within the specified time limit (paragraph two of Article 255i) (...) (2) The responsible person of an individual sole trader or the responsible person of an individual who performs independent activities shall be fined from EUR 400 and EUR 4,000 for the offences referred to in the preceding paragraph. (...) (3) The responsible person of a legal person shall be fined from EUR 600 to EUR 4 000 for the offences referred to in paragraph one of this Article, while the responsible person of a legal person deemed a medium-sized or large company under the Companies Act shall be fined for the aforementioned offences from EUR 800 to EUR 4 000.

<sup>16</sup> Slovenia lists bilateral tax treaties that allow for the Automatic Exchange of Information with the following jurisdictions: Albania, Armenia, Austria, Azerbaijan, Belgium, Belarus, Bosnia and Herzegovina, Bulgaria, Canada, China (People’s Republic of), Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Former Yugoslav Republic of Macedonia, France, Georgia, Germany, Greece, Hungary, Iceland, India, Iran, Ireland, Isle of Man, Israel, Italy, Japan, Kazakhstan, Korea, Kosovo, Kuwait, Latvia, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Qatar, Romania, Russia, Serbia, Singapore, Slovak Republic, Spain, Sweden, Switzerland, Thailand, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States and Uzbekistan.

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.

<sup>17</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 (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).
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