

Poland

1. Poland was first reviewed during the 2017/2018 peer review. This report is supplementary to Poland's 2017/2018 peer review report (OECD, 2018^[1]). The first filing obligation for a CbC report in Poland commences in respect of periods commencing on or after 1 January 2016.

Summary of key findings

2. Poland's implementation of the Action 13 minimum standard meets all applicable terms of reference (OECD, 2017^[2]).

3. Poland's 2017/2018 peer review included two recommendations with respect to the domestic legal and administrative framework as follows:

- It included a recommendation that Poland amend or otherwise clarify its rule for the calculation of the annual consolidated group revenue threshold calculation so that it applies 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 Poland, when local filing requirements are applicable. Poland has confirmed that this is the case and has put legislation in place¹. The recommendation is removed.
- In addition, the previous peer review included a recommendation related to the definition of "accumulated earnings", as this definition lacks a specific rule relating to the treatment of permanent establishments. Poland has amended its regulations and the recommendation is removed.

4. Poland's 2017/2018 peer review included a recommendation that Poland take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. Poland now has measures 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 CbC Reports* (OECD, 2017^[4]). The recommendation with respect to appropriate use issued in the 2017/2018 peer review is removed.

Part A: The domestic legal and administrative framework

5. Poland has rules (primary and secondary law) in place to implement the BEPS Action 13 minimum standard, establishing the necessary requirements including the filing and reporting obligations.

(a) Parent entity filing obligation

6. Poland's 2017/2018 peer review included a recommendation that Poland amend or otherwise clarify its rule for the calculation of the annual consolidated group revenue threshold calculation so that it applies 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 Poland, when local filing requirements are applicable. Poland has confirmed that this is the case and has put legislation in place that clarifies this. The recommendation is removed.

(b) Scope and timing of parent entity filing

7. Poland's 2017/2018 peer review included a recommendation related to the definition of "accumulated earnings", as this definition lacks a specific rule relating to the treatment of permanent establishments. Poland has amended its regulations by including a specific rule relating to the treatment of permanent establishments to its definition of "accumulated earnings". As such, the recommendation is removed.

(c) Limitation on local filing obligation

8. No changes were identified with respect to the limitation on local filing obligation.

(d) Limitation on local filing in case of surrogate filing

9. No changes were identified with respect to the limitation on local filing in case of surrogate filing.

(e) Effective implementation

10. No changes were identified with respect to the effective implementation.

Conclusion

11. Poland meets all the terms of reference relating to the domestic legal and administrative framework.

Part B: The exchange of information framework

(a) Exchange of information framework

12. As of 31 May 2019, Poland has 67 bilateral relationships, including those activated under the CbC MCAA, under bilateral CAAs and under the EU Council Directive (2016/881/EU). Within the context of its international exchange of information agreements that allow automatic exchange of information, Poland 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. Regarding Poland's exchange of information framework, no inconsistencies with the terms of reference were identified.²

(b) Content of information exchanged

13. Poland has written procedures in place that are intended to ensure that each of the mandatory fields of information as required in the CbC template are present in the information exchanged. It has provided details in relation to these procedures.

14. No information or peer input was received for the reviewed jurisdiction in relation to the content of information exchanged. There are no concerns to be reported in respect of the content of information exchanged.

(c) Completeness of exchanges

15. Poland has an automated process in place that is intended to ensure that CbC reports are exchanged with all tax jurisdictions listed in Table 1 of a CbC reporting template with

which it should exchange information as per the relevant QCAAs. It has provided details in relation to these procedures.

16. No information or peer input was received for the reviewed jurisdiction in relation to the completeness of exchanges. There are no concerns to be reported in respect of the completeness of exchanges.

(d) Timeliness of exchanges

17. Poland has an automated process in place that are intended to ensure that the information to be exchanged is transmitted to the relevant jurisdictions in accordance with the timelines provided for in the relevant QCAAs and terms of reference. It has provided details in relation to these procedures.

18. No information or peer input was received for the reviewed jurisdiction in relation to the timeliness of exchanges. There are no concerns to be reported in respect of the timeliness of exchanges.³

(e) Temporary suspension of exchange or termination of QCAA

19. Poland has processes in place that are intended to ensure that a temporary suspension of the exchange of information or termination of a relevant QCAA be carried out only as per the conditions set out in the QCAA. It has provided details in relation to those processes.

20. Despite these processes Poland indicates that a number of CbC reports were exchanged late. These late exchanges were due to errors in the received data and corrections made by MNEs and therefore no recommendation is required

(f) Consultation with other Competent Authority before determining systemic failure or significant non-compliance

21. Poland has processes in place that are intended to ensure that the Competent Authority consults with the other Competent Authority prior to making a determination that there is or has been significant non-compliance with the terms of the relevant QCAA or that the other Competent Authority has caused a systemic failure. It has provided details in relation to those processes.

22. No information or peer input was received for the reviewed jurisdiction in relation to the requirement for a consultation before determining systemic failure or significant non-compliance. There are no concerns to be reported in respect of consultation with the other Competent Authority before determining systemic failure or significant non-compliance

(g) Format for information exchange

23. Poland confirms that it uses the OECD XML schema and User Guide (OECD, 2017^[3]) for the international exchange of CbC reports.

24. No information or peer input was received for the reviewed jurisdiction in relation to the format for information exchange. There are no concerns to be reported.

(h) Method for transmission

25. Poland indicates that it uses the Common Transmission System to exchange CbC reports.

26. No information or peer input was received for the reviewed jurisdiction in relation to the method for transmission. There are no concerns to be reported.

Conclusion

27. Poland has in place the necessary processes to ensure that the exchange of information is conducted in a manner consistent with the terms of reference relating to the exchange of information framework. Poland meets all the terms of reference regarding the exchange of information.

Part C: Appropriate use

28. The 2017/2018 peer review included a recommendation that Poland take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. Poland now has measures 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 CbC Reports* (OECD, 2017^[4]). Since the 2017/2018 peer review, Poland has provided details in relation to these measures, enabling it to answer “yes” to the additional questions on appropriate use and the recommendation is removed.

29. No information or peer input was received for the reviewed jurisdiction suggesting any issues with appropriate use.

Conclusion

30. Poland meets all the terms of reference relating to the appropriate use of CbC reports.

Summary of recommendations on the implementation of country-by-country reporting

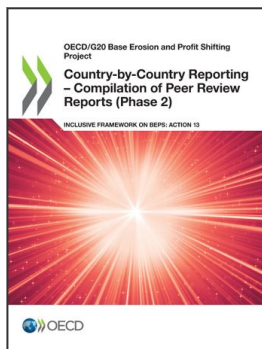
Aspect of the implementation that should be improved		Recommendation for improvement
Part A	Domestic legal and administrative framework	-
Part B	Exchange of information framework	-
Part C	Appropriate use	-

Notes

¹ <http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20190000694/O/D20190694.pdf>.

² No inconsistency with the terms of reference will be identified where a QCAA is not in effect with one or more jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions, but this is due to circumstances that are not under the control of the reviewed jurisdiction. This may include, for example, where the other jurisdiction intends to exchange CbC reports using the MCAA but it does not have the Convention in effect for the relevant fiscal period, or where the other jurisdiction has declined to have a QCAA in effect with the reviewed jurisdiction.

³ Delays due entirely to the fact that an exchange partner was not able to participate in the exchange of CbC reports are not considered to raise concerns with respect to the jurisdiction under review.



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