

# Kenya

1. Kenya was reviewed as part of the 2017/2018 and the 2018/2019 peer reviews. This report is supplementary to those previous reports (OECD, 2019<sup>[1]</sup>) (OECD, 2018<sup>[2]</sup>).
2. There is no filing obligation for a CbC report in Kenya yet.

## Summary of key findings

3. It is recommended that Kenya take steps to implement a domestic legal and administrative framework to impose and enforce CbC reporting requirements as soon as possible. This recommendation remains unchanged since the 2017/2018 peer review.
4. It is recommended that Kenya take steps to have qualifying competent authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions and with which Kenya has an international exchange of information agreement in effect that allows for the automatic exchange of tax information. This recommendation remains unchanged since the 2017/2018 peer review.
5. It is recommended that Kenya take steps to implement processes or written procedures to ensure that the exchange of information is conducted in a manner consistent with the terms of reference (OECD, 2017<sup>[3]</sup>) relating to the exchange of information framework ahead of the first exchanges of information. This recommendation remains unchanged since the 2018/2019 peer review.
6. It is recommended that Kenya take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. This recommendation remains unchanged since the 2017/2018 peer review.

## Part A: The domestic legal and administrative framework

7. Kenya does not yet have legislation in place for implementing the BEPS Action 13 minimum standard.

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

### ***(b) Scope and timing of parent entity filing***

### ***(c) Limitation on local filing obligation***

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

### ***(e) Effective implementation***

### ***Conclusion***

8. It is recommended that Kenya take steps to implement a domestic legal and administrative framework to impose and enforce CbC reporting requirements as soon as possible.

## Part B: The exchange of information framework

### **(a) Exchange of information framework**

9. As of 31 March 2020, Kenya has no bilateral relationships in place for the exchange of CbC reports. It is recommended that Kenya take steps to have qualifying competent authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions and with which they have an international exchange of information agreement in effect that allows for the automatic exchange of tax information. This recommendation remains unchanged since the 2017/2018 peer review.

### **(b) Content of information exchanged**

10. No changes were identified.

### **(c) Completeness of exchanges**

11. No changes were identified.

### **(d) Timeliness of exchanges**

12. No changes were identified.

### **(e) Temporary suspension of exchange or termination of QCAA**

13. No changes were identified.

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

14. No changes were identified.

### **(g) Format for information exchange**

15. No changes were identified.

### **(h) Method for transmission**

16. No changes were identified.

### **Conclusion**

17. It is recommended that Kenya 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 and with which Kenya has an international exchange of information agreement in effect that allows for the automatic exchange of tax information. This recommendation remains unchanged since the 2017/2018 peer review.

18. It is recommended that Kenya take steps to implement processes or written procedures 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 ahead of its first exchanges of information. This recommendation remains unchanged since the 2018/2019 peer review.

## Part C: Appropriate use

### ***Appropriate use***

19. No changes were identified.

### ***Conclusion***

20. It is recommended that Kenya take steps to ensure that the appropriate use condition is met ahead of its first exchanges of information. This recommendation remains unchanged since the 2017/2018 peer review.

## 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 Kenya take steps to implement a domestic legal and administrative framework to impose and enforce CbC requirements as soon as possible.
Part B	Exchange of information framework	It is recommended that Kenya take steps to have QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisite and with which it has international agreement that allow the automatic exchange of information.
Part B	Exchange of information framework	It is recommended that Kenya take steps to implement the necessary processes or written procedures 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.
Part C	Appropriate use	It is recommended that Kenya take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information.

## References

- OECD (2019), *Country-by-Country Reporting – Compilation of Peer Review Reports (Phase 2): Inclusive Framework on BEPS: Action 13*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://dx.doi.org/10.1787/f9bf1157-en>. [1]
- OECD (2018), *Country-by-Country Reporting – Compilation of Peer Review Reports (Phase 1): Inclusive Framework on BEPS: Action 13*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264300057-en>. [2]
- OECD (2017), *Terms of reference for the conduct of peer review of the Action 13 minimum standard on country-by-country reporting*, OECD Publishing, <https://www.oecd.org/tax/beps/beps-action-13-on-country-by-country-reporting-peer-review-documents.pdf>. [3]



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