

## Brunei Darussalam

Brunei Darussalam has met all aspects of the terms of reference (OECD, 2017<sup>[3]</sup>) (ToR) for the calendar year 2018 (year in review) that can be met in the absence of rulings being issued in practice.

In the prior year report, Brunei Darussalam did not receive any recommendations.

Brunei Darussalam can legally issue five types of rulings within the scope of the transparency framework. In practice, Brunei Darussalam has not issued any rulings within the scope of the transparency framework.

As no exchanges were required to take place, no peer input was received in respect of the exchanges of information on rulings received from Brunei Darussalam.

## Introduction

This peer review covers Brunei Darussalam's implementation of the BEPS Action 5 transparency framework for the year 2018. The report has four parts, each relating to a key part of the ToR. Each part is discussed in turn. A summary of recommendations is included at the end of this report.

### A. The information gathering process

Brunei Darussalam can legally issue the following five types of ruling within the scope of the transparency framework: (i) rulings related to preferential regimes;<sup>1</sup> (ii) cross-border unilateral advance pricing arrangements (APAs) and any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the application of transfer pricing principles; (iii) cross-border rulings giving a unilateral downward adjustment; (iv) permanent establishment rulings; and (v) related party conduit rulings.

#### ***Past rulings (ToR I.4.1.1, I.4.1.2, I.4.2.1, I.4.2.2)***

For Brunei Darussalam, past rulings are any tax rulings within scope that are issued either: (i) on or after 1 January 2015 but before 1 April 2017; or (ii) on or after 1 January 2012 but before 1 January 2015, provided they were still in effect as at 1 January 2015.

In the prior year peer review report, it was determined that Brunei Darussalam's undertakings to identify past rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard in the absence of rulings being issued in practice. Brunei Darussalam's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

#### ***Future rulings (ToR I.4.1.1, I.4.1.2, I.4.2.1)***

For Brunei Darussalam, future rulings are any tax rulings within scope that are issued on or after 1 September 2017.

In the prior year peer review report, it was determined that Brunei Darussalam's implementation of a system to identify future rulings and all potential exchange jurisdictions was sufficient to meet the minimum standard in the absence of rulings being issued in practice. Brunei Darussalam's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

#### ***Review and supervision (ToR I.4.3)***

In the prior year peer review report, it was determined that Brunei Darussalam's review and supervision mechanism was sufficient to meet the minimum standard. Brunei Darussalam's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

#### ***Conclusion on section A***

Brunei Darussalam has met all of the ToR for the information gathering process and no recommendations are made.

## B. The exchange of information

### ***Legal basis for spontaneous exchange of information (ToR II.5.1, II.5.2)***

Brunei Darussalam has the necessary domestic legal basis to exchange information spontaneously. Brunei Darussalam notes that there are no legal or practical impediments that prevent the spontaneous exchange of information on rulings as contemplated in the Action 5 minimum standard.

Brunei Darussalam is a party to international agreements permitting spontaneous exchange of information, including (i) double tax agreements in force with 17 jurisdictions.<sup>2</sup> Brunei Darussalam signed the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) (“the Convention”) on 12 September 2017 and was in the process of ratifying the Convention during the year in review. The Convention was ratified in March 2019 and entered into force on 1 July 2019.

### ***Completion and exchange of templates (ToR II.5.3, II.5.4, II.5.5, II.5.6, II.5.7)***

In the prior year peer review report, it was determined that Brunei Darussalam’s process for the completion and exchange of templates were sufficient to meet the minimum standard. Brunei Darussalam’s implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

As Brunei Darussalam did not issue any rulings in scope of the transparency framework in the relevant period, Brunei Darussalam was not required to exchange any information on rulings in the year in review and no data on the timeliness of exchanges can be reported.

### ***Conclusion on section B***

Brunei Darussalam has the necessary legal basis to undertake spontaneous exchange of information. Brunei Darussalam has met all of the ToR for the exchange of information process that can be met in the absence of rulings being issued and exchanged in practice and no recommendations are made.

## C. Statistics (ToR IV)

As no rulings are issued, no statistics can be reported.

## D. Matters related to intellectual property regimes (ToR I.4.1.3)

Brunei Darussalam does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015<sup>[5]</sup>) were imposed.

## Summary of recommendations on implementation of the transparency framework

Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
	No recommendations are made.



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