

Sri Lanka

1. Sri Lanka was first reviewed during the 2017/2018 peer review. This report is supplementary to Sri Lanka's 2017/2018 peer review report (OECD, 2018_[1]). The first filing obligation for a CbC report in Sri Lanka applies to reporting fiscal years commencing on or after 1 April 2018.

Summary of key findings

2. Sri Lanka has introduced rules (primary¹ and secondary laws) that impose and enforce CbC requirements on the Ultimate Parent Entity of an MNE Group that is resident for tax purposes in Sri Lanka. Sri Lanka meets all the terms of reference (OECD, 2017_[2]) relating to the domestic legal and administrative framework, with the exception of:

- the annual consolidated revenue threshold calculation rules which may deviate from the guidance issued by the OECD. Although such deviation may be unintended, a technical reading of the provision could lead to local filing requirements inconsistent with the Action 13 minimum standard. It is thus recommended that Sri Lanka amend or otherwise clarify this rule so that it 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 Sri Lanka (OECD, 2018_[5]).
- Sri Lanka requires local filing despite not meeting the conditions to apply this requirement. It is recommended that Sri Lanka take steps to align its local filing implementation with that required by the Action 13 minimum standard.

3. It is recommended that Sri Lanka 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 Sri Lanka 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.

4. It is recommended that Sri Lanka 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 the first exchanges of information.

5. It is recommended that Sri Lanka 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

6. Sri Lanka has primary law in place to implement the BEPS Action 13 minimum standard to impose and enforce CbC requirements on MNE groups whose Ultimate Parent Entity is resident for tax purposes in Sri Lanka. Sri Lanka's 2017/2018 peer review

included a recommendation that it finalize its domestic legal and administrative framework in relation to CbC requirements as soon as possible. This recommendation is now removed.

(a) Parent entity filing obligation

7. Sri Lanka has introduced a domestic legal and administrative framework which imposes 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 (OECD, 2015).

8. Sri Lanka's Regulations on Transfer Pricing refer to the responsibility to prepare and maintain transfer pricing documentation including the Country-by-Country Report applying to enterprises carrying out controlled transactions with associated enterprises subject to sections of Sri Lanka's primary legislation. This narrows the population of MNEs required to file a CbC report in Sri Lanka and apparently applies an exemption from reporting to MNEs who meet the threshold requirement but do not carry out controlled transactions with associated enterprises. In practice this is very unlikely to be the case for MNEs who would otherwise meet the requirement so no recommendation is made but the situation will be monitored.

9. According to Sri Lanka's regulations, the filing of a CbC report may be requested from a Constituent Entity in the Sri Lanka in certain circumstances, this is local filing. The regulations provide for an annual consolidated revenue threshold of 115 Billion Sri Lankan rupees. While this provision would not create an issue for MNE Groups whose Ultimate Parent Entity is a tax resident in the Sri Lanka, it 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 resident in Sri Lanka) of an MNE group which does not reach the threshold as determined in the jurisdiction of the Ultimate Parent Entity of such Group². It is thus recommended that Sri Lanka amend or otherwise clarify this rule so that it 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 Sri Lanka.

(b) Scope and timing of parent entity filing

10. The first filing obligation for a CbC report in Sri Lanka commences in respect of periods commencing on or after 1 April 2018. 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.

(c) Limitation on local filing obligation

11. Sri Lanka has introduced local filing requirements as from the reporting period starting on or after 1 April 2018. This requirement implements local filing in circumstances which are not in line with those allowed for local filing under the terms of reference. It is recommended that Sri Lanka take steps to align its local filing implementation with that required by the Action 13 minimum standard.

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

12. Sri Lanka's local filing requirements will not apply if there is surrogate filing in another jurisdiction. No inconsistencies were identified with respect to the limitation on local filing in the case of surrogate filing.

(e) Effective implementation

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

Conclusion

14. The 2017/18 peer review, recommended that Sri Lanka take steps to implement a domestic legal and administrative framework to impose and enforce CbC reporting requirements as soon as possible. Sri Lanka has implemented legislation so this recommendation is removed.

15. Sri Lanka meets all the terms of reference relating to the domestic legal and administrative framework, with the exception of:

- the annual consolidated revenue threshold calculation rules which may deviate from the guidance issued by the OECD. Although such deviation may be unintended, a technical reading of the provision could lead to local filing requirements inconsistent with the Action 13 minimum standard. It is thus recommended that Sri Lanka amend or otherwise clarify this rule so that it 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 Sri Lanka.
- Sri Lanka requires local filing despite not meeting the conditions to apply this requirement. It is recommended that Sri Lanka take steps to change its legislation or issue guidance to cancel or suspend the local filing requirement until it meets the standards required.

Part B: The exchange of information framework

(a) Exchange of information framework

16. As of 31 May 2019, Sri Lanka has no bilateral relationships in place for the exchange of CbC reports. It is recommended that Sri Lanka 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 Sri Lanka has an international exchange of information agreement in effect that allows for the automatic exchange of tax information.

(b) Content of information exchanged

17. Sri Lanka does not yet have processes or written procedures in place that are intended to ensure that each of the mandatory fields of information required in the CbC reporting template are present in the information exchanged.

(c) Completeness of exchanges

18. Sri Lanka does not yet have processes or written procedures in place that are 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.

(d) Timeliness of exchanges

19. Sri Lanka does not yet have processes or written procedures 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.

(e) Temporary suspension of exchange or termination of QCAA

20. Sri Lanka does not yet have processes or written procedures 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.

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

21. Sri Lanka does not yet have processes or written procedures 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.

(g) Format for information exchange

22. Sri Lanka has not confirmed the format that will be used for the international exchange of CbC reports.

(h) Method for transmission

23. Sri Lanka has not confirmed that an appropriate encryption method and method for electronic data transmission are in place.

Conclusion

24. The recommendation in the 2017/2018 peer review for Sri Lanka to take steps to sign the CbC MCAA and have QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites remains in place.

25. Further, it is recommended that Sri Lanka 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.

Part C: Appropriate use

26. No changes were identified in respect of appropriate use.

27. No information or peer input was received for the reviewed jurisdiction in respect of appropriate use.

Conclusion

28. There is no change to the conclusion in relation to the appropriate use for Sri Lanka since the previous peer review. The recommendation for Sri Lanka to take steps to ensure that the appropriate use condition is met ahead of its first exchanges of information remains in place.

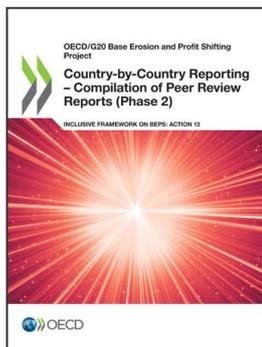
Summary of recommendations on the implementation of Country-by-Country Reporting

Aspect of the implementation that should be improved		Recommendation for improvement
Part A	Domestic legal and administrative framework	It is thus recommended that Sri Lanka amend or otherwise clarify the annual consolidated group revenue threshold calculation rule 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 Sri Lanka.
Part A	Domestic legal and administrative framework	It is recommended that Sri Lanka take steps to change its legislation or issue guidance to suspend local filing until they have met the conditions on appropriate use.
Part B	Exchange of information framework	It is recommended that Sri Lanka take steps to sign the CbC MCAA and have QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites and with which it has an international exchange of information agreement in effect that allows for the automatic exchange of tax information.
Part B	Exchange of information framework	It is recommended that Sri Lanka 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 Sri Lanka take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information.

Notes

¹ http://www.ird.gov.lk/en/publications/Acts_Income%20Tax_2017/IR_Act_No._24_2017_E.pdf

² See question IV. 1. “Impact of currency fluctuations on the agreed EUR 750 million threshold (June 2016) of the “Guidance on the implementation of country-by-country reporting”: www.oecd.org/tax/guidance-on-the-implementation-of-country-by-country-reporting-beps-action-13.pdf.



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