



OECD issues additional guidance on CbC reporting Global Transfer Pricing Alert 2016-038

The OECD on 5 December issued additional guidance on the implementation of the country-by-country (CbC) reporting requirement introduced in the BEPS Action 13 Final Report. This guidance updates and expands the additional guidance issued on 29 June 2016 [for prior coverage, see [Global TP Alert 2016-023](#)].

In an effort to support consistent implementation of CbC reporting, the OECD added guidance covering CbC reporting notification requirements for MNE groups during the transitional implementation phase. It also provides the expanded list of countries that have indicated they will allow parent surrogate filing (that is, voluntary filing in parent jurisdiction), including Hong Kong, Liechtenstein, Nigeria, and Russia, along with Japan, Switzerland, and the United States, which had previously declared their intention to allow voluntary filing.

The OECD's additional guidance covers:

- Transitional filing options for MNEs to address differences in effective dates (*updated*)
- CbC reporting notification requirements for MNE groups during the transitional phase (*new*)
- The application of CbC reporting to investment funds (*unchanged*)
- The application of CbC reporting to partnerships (*unchanged*)
- The impact of currency fluctuations on the agreed EUR 750 million filing threshold (*unchanged*)

Notification requirements during transitional phase

Approximately 20 countries have passed or introduced rules that may require local constituent entities of foreign-parented MNE groups to file CbC reports for fiscal years beginning on or after 1 January 2016, unless the CbC report is received by automatic exchange of information from a parent or surrogate parent jurisdiction. Several of these countries have indicated that local entities must identify their group's reporting entity by 31 December 31 2016, even though some of these jurisdictions have not finalized the procedures for providing this notification to the local tax authority. For further information regarding the status of the notification procedures in specific countries, please contact your local Deloitte Transfer Pricing professional.

Recognizing the practical difficulties for taxpayers that may not yet know the identity of their group's reporting entity, and the fact that some jurisdictions have not finalized their domestic legal framework, the OECD guidance provides that jurisdictions may allow some flexibility regarding the date for the notification requirement. Noting that the Action 13 standard does not require that notification be provided at the end of the reporting period, the OECD states that jurisdictions may want to choose a later date, such as the date for filing of the corporate tax return.

The OECD also suggests that jurisdictions that require notifications may provide administrative guidance to allow transitional relief by, for example, allowing constituent entities to provide notification based on a preliminary assessment of the identity and tax residence of the reporting entity, with the possibility of updating the notification prior to filing the CbC report. In addition, the OECD suggests that jurisdictions may also provide transitional relief from penalties in connection with MNE groups updating their notification.

The OECD also updated a [chart](#) that provides a high-level snapshot of CbC reporting implementation in 48 participating jurisdictions that have submitted information. The chart provides information on the first CbC reporting period, the availability of surrogate filing (including voluntary filing in the parent jurisdiction), and local filing.

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