



Tax alert: OECD's Seventh Peer-Review Report on Country-by-Country Reporting Framework

23 September 2024

OECD reviewed 138 countries on their implementation of Country-by-Country framework under BEPS Action Plan 13 and provided recommendations to some of the jurisdictions as required, to adhere to the minimum standard of Country-by-Country Reporting requirements.

In a nutshell



The peer review report provides recommendations to jurisdictions to implement changes in their domestic laws and procedures for effective implementation of CbC reporting framework in line with the OECD template.



It covered the review of 138 jurisdictions and provided key recommendations to 37 jurisdictions for changes as well as improvements into specific areas of their framework and to 19 jurisdictions for enacting the domestic legal and administrative framework.



The review evaluates and provides insights into the framework adopted by jurisdictions for effective exchange of information, confidentiality and appropriate use of information.



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Background

Under BEPS¹ Action Plan 13 – CBC² reporting, all the large MNE³ groups with consolidated group revenue above an agreed threshold are required to file CbC report in the jurisdiction of the ultimate parent entity of the MNE group⁴. It requires global MNEs to file a report in a structured format providing aggregate data on the global allocation of income, profit, taxes paid and economic activities of the MNE group across the tax jurisdictions in which they operate. As a result of BEPS Action Plan 13, tax administrations around the world are now receiving information on foreign headquartered MNE groups that was not previously available / accessible, enabling them to better understand the group's structure and its operations in each jurisdiction. This enhances the risk assessment capability of the tax administrations around the world. CbC reporting is one of the minimum standards under BEPS that member countries who have committed to BEPS project are obligated to adopt.

Peer review

To ensure the timely and effective global implementation of the CbC reports, the OECD⁵ also implemented an annual peer review of the member countries to evaluate the effective implementation of the CbC framework in accordance with the OECD template. This is undertaken by an ad hoc group of delegates (referred to as “Working Party 6”) based on the following parameters:

- Domestic legal and administrative framework
- Exchange of information framework
- Confidentiality
- Appropriate use

The OECD has been conducting this peer review of the member countries since 2018 and has been releasing report on the status of the CbC framework implementation and its recommendations. Over time, the number of countries under review has increased from 95 to 138. Many countries have worked on these recommendations to strengthen their CbC framework, though some countries are still in the process of implementing the recommendations, while others have not yet adopted the CbC framework. The snapshot of the seventh annual peer- review report is as under:

Key findings of the OECD's seventh peer-review report

- This report reviews 138 jurisdictions⁶/ countries that provided legislation and /or information relating to their implementation of CbC Reporting.
- According to the report, over 115 jurisdictions have a comprehensive domestic legal framework for CbC reporting in place vis-à-vis 60 jurisdictions as per the first report published in May 2018, which is almost a two-fold increase. In addition, some jurisdictions have final legislation approved that is awaiting official publication. However, there are 19 jurisdictions that are still required to establish their domestic, legal and administrative framework.
- After detailed review of the legislative framework, the OECD provided recommendations to 37 jurisdictions for improvement on specific areas of their framework.

¹ Base Erosion and Profit Shifting

² Country-by-Country

³ Multinational Enterprises

⁴ Or designate alternate reporting entity being constituent entity of the MNE group.

⁵ Organisation for Economic Co-operation and Development

⁶ The Russian Federation and Belarus have not been included in the peer review process for this year. A copy of the Russian Federation's peer review report for 2021 and a copy of Belarus's report for 2022 are included in 2024 report for information.

- 93 Jurisdictions, part of the BEPS inclusive framework, have multilateral or bilateral competent authority agreements in place for exchange of CbC report. This represents over 3300 relationships⁷ for the exchange of CbC reports.
- OECD has provided satisfactory clearance to 84 Jurisdictions on the appropriate use of the CbC report which is a 78% increase from the mere 39 jurisdictions in the May 2018 report.
- 99 jurisdictions received clearance on confidentiality and data safeguards in implementing the Automatic Exchange of Information (AEOI) standard. This reassures MNEs that the confidentiality of their data has been held to be a priority by these jurisdictions.

India

India has been subjected to peer-review right from its beginning in 2018. The first peer review report by the OECD highlighted that India's domestic regulations provides total consolidated group revenue threshold in Indian currency. It also specifies the exchange rate to be used for conversion of the consolidated revenue stated in foreign currency. This may result in the consolidated group revenue threshold in Indian currency crossing the consolidated minimum group revenue threshold of EUR 750 million, and thereby resulting in local filing requirement of CBC report in India by the MNE Group. The recommendation suggested that a global MNE should not be required to file the CbC report if its global revenue is below the EUR 750 million threshold even if its global revenue exceeds the revenue threshold as defined in Indian currency under the Indian domestic regulations.

India has not yet taken any action on this recommendation.

In the first peer-review report, India was also recommended to implement the appropriate use condition⁸ before exchanging its first CbC reports, and the recommendation was implemented by India.

Concluding Remarks

The results of the peer review reports and the continuation of the disciplined annual reviews, demonstrate the unwavering commitment of OECD and G20 countries' to ensure fair taxation and transparency in combating tax base erosion through effective international collaboration. These peer review reports also provide assurance to MNEs about the close monitoring and effective implementation of CbC report and confidentiality of their data.

⁷ <https://www.oecd.org/en/topics/sub-issues/country-by-country-reporting-for-tax-purposes.html>

⁸ The ability of a jurisdiction to obtain and use CbC Reports is conditional upon it using CbCR information appropriately. This condition is described in paragraphs 25 and 59 of the Action 13 Report and is given effect through Article 6(1) of the model legislation and paragraph 2 of Section 5 of the multilateral and model bilateral CAAs. For these purposes, appropriate use is restricted to:

- high level transfer pricing risk assessment
- assessment of other base erosion and profit shifting related risks
- economic and statistical analysis, where appropriate

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