

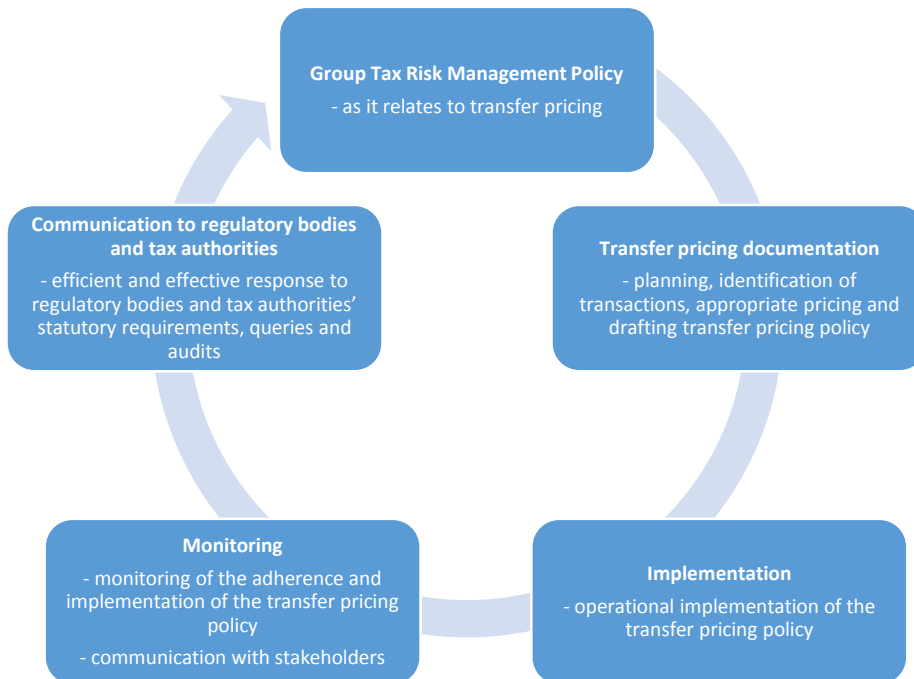
Transfer Pricing

Arm's Length Standard

Beyond Transfer Pricing Documentation – Transfer pricing life cycle

The Base Erosion and Profit Shifting (BEPS) project by the OECD has significantly increased the focus on transfer pricing.

As part of this enhanced focus it has transformed into a transfer pricing life cycle, depicted as:



While the planning, identification, appropriate pricing and transfer pricing documentation is the corner stone of transfer pricing, the operational implementation and monitoring of the transfer pricing policy is another crucial component of transfer pricing life cycle.

Traditionally the responsibility to plan, identify, appropriately price and document transfer pricing policies rested with the tax specialists within MNE's or MNE external advisors. However, the same cannot be said about the operational implementation and monitoring. Implementation and monitoring involves the cooperation and undertaking of most, if not all, functions of MNE's to carry the transactions set out in transfer pricing policies in the manner intended.

The implementation and monitoring of the transfer pricing policy is further complicated by the size, maturity, operating mode and reporting systems of each MNE.

The successful implementation of the transfer pricing policies set out by an MNE, is a collaborative effort of all functions. Aspects to be considered for implementation include, *inter alia*:

- Transfer pricing governance procedures;
- The manner in which implementation and monitoring will operate throughout the group i.e centralised or decentralised;
- Assigning responsibility and accountability within the MNE operating structure;
- Adherence to legal and regulatory requirements within the MNE Group countries of origin;
- Effective communication and training to all functions within an MNE on transfer pricing and the group's policy;
- Financial system capabilities and ability to effect change to the existing systems;
- Extraction of relevant financial information required for transfer pricing purposes;
- Retention of all data and legal agreements for statutory requirements, queries and audits (particularly important as taxation audits and queries are retrospective); and
- Timely feedback and communication of imperative information to key stakeholders.

The establishment of a monitoring function will ensure that all processes set out in implementation operate in the correct manner and ultimately that the transfer pricing policy has been adhered to.

Effective implementation and monitoring will then facilitate the final aspect of the transfer pricing life cycle i.e. the efficient response to regulatory bodies and tax authorities' statutory requirements, queries and audits. It should also minimize the disruption and cost of responding to queries as the information should be readily available and the process of extracting that information should be as automated as possible.

The BEPS project has highlighted the need to re-examine transfer pricing documentation as discussed in action 13. Therein contains the three tiered approach to the global standard for transfer pricing documentation and significant focus has been placed on ensuring that the documentation complies with the proposed standard. However has the same focus been applied to the remainder of the transfer pricing cycle? Truly effective transfer pricing management would only be complete if the policies set out in the documentation have been implemented and if the monitoring of such implementation is an ongoing process.

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