

Curaçao

1. Curaçao was first reviewed during the 2017/2018 peer review. This report is supplementary to Curaçao's 2017/2018 peer review report (OECD, 2018^[1]). The first filing obligation for a CbC report in Curaçao applies to reporting fiscal years ending on or after 1 January 2018. Curaçao also allows its MNE groups to file a CbC report on a voluntary basis, for reporting fiscal years ending prior to 1 January 2018 (i.e. "parent surrogate filing").

Summary of key findings

2. Curaçao's implementation of the Action 13 minimum standard meets all the terms of reference (OECD, 2017^[2]).

3. Curaçao's 2017/2018 peer review included a recommendation that it finalise its domestic legal and administrative framework in relation to CbC requirements as soon as possible. This recommendation is now removed.

4. Curaçao's 2017/2018 peer review included a recommendation that Curaçao take steps to have QCAAs in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions. Bilateral relationships are now in place so the recommendation is therefore removed.

Part A: The domestic legal and administrative framework

5. Curaçao has primary and secondary legislation 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 Curaçao. Curaçao's 2017/2018 peer review included a recommendation that it finalise 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

6. Curaçao 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 and no entity is excluded from CbC Reporting other than permitted by the Action 13 report (OECD, 2015).

(b) Scope and timing of parent entity filing

7. The first filing obligation for a CbC report in Curaçao commences in respect of fiscal years ending after 1 January 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

8. Curaçao has legislative local filing requirements as from the reporting period starting on or after 1 January 2018. As a non-reciprocal jurisdiction, Curaçao has not been reviewed against the terms of reference concerning consistency, confidentiality and the appropriate use of CbC reports. As such, the conditions under which local filing may be applied are not met. Curaçao has issued a public notice that local filing is suspended until further notice and does not intend to re-implement the requirement unless it meets the conditions necessary to be a reciprocal jurisdiction.¹

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

9. Curaçao's local filing as legislated will not apply if there is surrogate filing in another jurisdiction. In any case local filing is currently suspended until further notice.

(e) Effective implementation

10. Curaçao has legal mechanisms in place to enforce compliance with the minimum standard: Curaçao monitors UPEs and SPEs and notifies them when they meet the threshold requirement and need to file a CbC report. Curaçao confirms that it has penalty provisions for non-compliance with CbC obligations including late or incorrect filing and also the power to audit where there is non-compliance with a filing obligation.

11. Curaçao indicates that it has a process in place that will allow it to take appropriate measures in case it is notified by another jurisdiction that there has been late, incomplete or missed filing in Curaçao. The other jurisdiction will be contacted to verify the reason why it believes that an error may have led to incorrect or incomplete information reporting or that there is non-compliance of a reporting entity. Afterwards the Inspectorate of Taxes will initiate an audit to verify if the reasons of the other jurisdiction are valid. In cases of non-compliance of the request of the Inspectorate of Taxes to correct the report or to file a report, following an audit initiated by the audit department, an administrative fine or a criminal sanction (after a criminal investigation) may be applied.

Conclusion

12. Curaçao has a domestic legal and administrative framework to impose and enforce CbC requirements on the Ultimate Parent Entity of an MNE Group that is resident for tax purposes in Curaçao. Curaçao meets all the terms of reference relating to the domestic legal and administrative framework.

13. The recommendation in the 2017/18 peer review, that Curaçao take steps to implement a domestic legal and administrative framework to impose and enforce CbC reporting requirements as soon as possible, is removed.

Part B: The exchange of information framework***(a) Exchange of information framework***

14. Curaçao's 2017/2018 peer review included a recommendation that Curacao take steps to have QCAAs in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions. Bilateral relationships are now in place and the recommendation is therefore removed.

15. As of 31 May 2019, Curaçao has 49 bilateral relationships in place for the exchange of CbC reports, activated under the CbC MCAA. Within the context of its international exchange of information agreements that allow automatic exchange of tax information,

Curacao has taken steps to have qualifying competent authority agreements in effect with jurisdictions of the Inclusive Framework that currently meet the confidentiality, consistency and appropriate use conditions. Regarding Curaçao's exchange of information framework, no inconsistencies with the terms of reference were identified.²

(b) Content of information exchanged

16. Curaçao has processes 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. It has provided details in relation to these processes.

17. No information or peer input was received for Curaçao in relation to the content of information exchanged. There are no concerns to be reported in respect of the content of information exchanged.

(c) Completeness of exchanges

18. Curaçao has processes in place that are intended to ensure that CbC reports are exchanged with all tax jurisdictions listed in Table 1 of a CbC report with which it should exchange information as per the relevant QCAA. It has provided details in relation to these processes.

19. No information or peer input was received for Curaçao in relation to the completeness of exchanges. There are no concerns to be reported in respect of the completeness of exchanges.

(d) Timeliness of exchanges

20. Curaçao has processes 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 and terms of reference. It has provided details in relation to these processes.

21. No information or peer input was received for Curaçao in relation to the timeliness of exchanges. There are no concerns to be reported in respect of the timeliness of exchanges.

(e) Temporary suspension of exchange or termination of QCAA

22. Curaçao has processes in place that are intended to ensure that a temporary suspension of the exchange of information or termination of a relevant QCAA would be carried out only as per the conditions set out in the relevant QCAA. It has provided details of these processes.

23. No information or peer input was received for Curaçao in relation to a temporary suspension of the exchange of information or termination of a QCAA. There are no concerns to be reported in respect of the temporary suspension of exchange or termination of a QCAA.

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

24. Curaçao has processes in place that are intended to ensure that its Competent Authority consults with the other Competent Authority before making a determination of systemic failure or significant non-compliance with the terms of the relevant QCAA by that other Competent Authority. It has provided details of these processes.

25. No information or peer input has been received for Curaçao in relation to the requirement for a consultation before determining systemic failure or significant non-compliance. There are no concerns to be reported in respect of consultation with the other Competent Authority before determining systemic failure or significant non-compliance.

(g) Format for information exchange

26. Curaçao confirms that it will use the OECD XML Schema and User Guide (OECD, 2017^[31]) for the exchange of CbC reports.

(h) Method for transmission

27. Curaçao confirms that it will use the Common Transmission System for exchanging CbC reports.

Conclusion

28. The recommendation in the 2017/2018 peer review for Curaçao to take steps to sign the CbC MCAA and have QCAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites and with which Curaçao has an international exchange of information agreement in effect that allows for the automatic exchange of tax information is removed.

29. Curaçao has in place the necessary processes 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. Curaçao meets all the terms of reference regarding the exchange of information.

Part C: Appropriate use

30. Curaçao is a non-reciprocal jurisdiction and, as such, will not receive CbC reports submitted to tax authorities in other jurisdictions, and will not apply local filing. It is therefore not necessary for this peer review evaluation to reach any conclusions with respect to appropriate use of the reports.

Conclusion

31. Curaçao is a non-reciprocal jurisdiction and, as such, will not receive CbC reports submitted to tax authorities in other jurisdictions, and will not apply local filing. It is therefore not necessary for this peer review evaluation to reach any conclusions with respect to Curaçao's compliance with paragraphs 11(a), (b), (c) and (d) and paragraph 12(a) of the terms of reference on appropriate use.

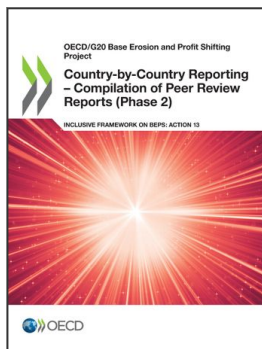
Summary of recommendations on the implementation of Country-by-Country Reporting

Aspect of the implementation that should be improved		Recommendation for improvement
Part A	Domestic legal and administrative framework	-
Part B	Exchange of information framework	-
Part C	Appropriate use	-

Notes

¹ www.gobiernu.cw/nl/landscourant/2019-11/ (then select bekendmaking from menu on the left of the page)

² No inconsistency with the terms of reference will be identified where a QCAA is not in effect with one or more jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions, but this is due to circumstances that are not under the control of the reviewed jurisdiction. This may include, for example, where the other jurisdiction intends to exchange CbC reports using the MCAA but it does not have the Convention in effect for the relevant fiscal period, or where the other jurisdiction has declined to have a QCAA in effect with the reviewed jurisdiction.



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