

Germany

1. Germany was first reviewed during the 2017/2018 peer review. This report is supplementary to Germany's 2017/2018 peer review report (OECD, 2018^[1]). The first filing obligation for a CbC report in Germany applies in respect of reporting fiscal years commencing on or after 1 January 2016.

Summary of key findings

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

3. Germany's 2017/2018 peer review included a recommendation for Germany to ensure that local filing only occurs in the circumstances contained in the terms of reference. Germany has issued internal guidance on this issue and will publish guidance and amended legislation in due course. This recommendation is removed.

Part A: The domestic legal and administrative framework

4. Germany has primary and secondary laws in place to implement the BEPS Action 13 minimum standard, establishing the necessary requirements, including the filing and reporting obligations.

(a) Parent entity filing obligation

5. No changes were identified with respect to the parent entity filing obligation.

(b) Scope and timing of parent entity filing

6. No changes were identified with respect to the scope and timing of parent entity filing.

(c) Limitation on local filing obligation

7. Germany's 2017/2018 peer review included a recommendation that Germany ensure that local filing only occurs in the circumstances contained in the terms of reference. Since that review Germany has issued guidance on the application of its local filing requirement internally to ensure that local filing only occurs in circumstances allowed by the terms of reference. This guidance is to be published externally and Germany also intends to change its legislation as soon as possible. The recommendation is removed and the situation will be monitored.

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

8. No changes were identified with respect to the limitation on local filing in case of surrogate filing.

(e) Effective implementation

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

Conclusion

10. There is no change to the conclusion in relation to the domestic legal and administration framework for Germany since the previous peer review. Germany meets all the terms of reference relating to the domestic legal and administrative framework, with the exception of the conditions for local filing (paragraph 8(c) iv. b) of the terms of reference).

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

11. As of 31 May 2019, Germany has 67 bilateral relationships in place for the exchange of CbC reports, including those activated under the CbC MCAA, under bilateral CAAs and under the EU Council Directive (2016/881/EU). Within the context of its international exchange of information agreements that allow automatic exchange of tax information, Germany 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 Germany's exchange of information framework, no inconsistencies with the terms of reference were identified.¹

(b) Content of information exchanged

12. Germany has procedures in place that are intended to ensure that each of the mandatory fields of information as required in the CbC template are present in the information exchanged. It has provided details in relation to these procedures.

(c) Completeness of exchanges

13. Germany has 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. It has provided details in relation to these procedures.

(d) Timeliness of exchanges

14. Germany has 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 and terms of reference. It has provided details in relation to these procedures.

15. Despite these procedures, Germany indicates that a number of CbC reports were exchanged late: Germany reports that these exchanges were late due to initial technical difficulties which have now been resolved therefore no recommendation is required.

(e) Temporary suspension of exchange or termination of QCAA

16. Germany has processes 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. It has provided details in relation to those processes.

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

17. Germany has 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. It has provided details in relation to those procedures.

(g) Format for information exchange

18. Germany confirms that it uses the OECD XML Schema and User Guide (OECD, 2017^[31]) for the international exchange of CbC reports.

(h) Method for transmission

19. Germany indicates that it uses the Common Transmission System to exchange CbC reports.²

Conclusion

20. Germany has in place the necessary processes and 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

21. No changes were identified in respect of appropriate use. There were no recommendations issued in the 2017/2018 peer review.

22. No information or peer input was received for the reviewed jurisdiction suggesting any issues with appropriate use.

Conclusion

23. Germany meets all the terms of reference relating to the appropriate use of CbC reports.

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 – limitation on local filing obligation	-
Part B	Exchange of information framework	-
Part C	Appropriate use	-

Notes

¹ 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.

² Countries exchanging under the EU Council Directive (2016/881/EU) use the Common Communication Network (CCN).



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