Qatar

Summary of key findings

1. Consistent with the agreed methodology this first annual peer review covers: (i) the domestic legal and administrative framework, (ii) certain aspects of the exchange of information framework as well as (iii) certain aspects of the confidentiality and appropriate use of CbC reports. Qatar’s implementation of the Action 13 minimum standard meets all applicable terms of reference, except that it raises one interpretive, one timing and one substantive issue in relation to its domestic legal and administrative framework. The report, therefore, contains three recommendations to address these issues. In addition, it is recommended that Qatar complete the exchange of information framework as well as measures to ensure appropriate use. Qatar indicates that there is a commitment of the tax department to postpone the CbC requirements in Qatar to 1 January 2017.

Part A: Domestic legal and administrative framework

2. Qatar has draft legislation that imposes and enforces CbC requirements on the Ultimate Parent Entity of an MNE Group that is resident for tax purposes in Qatar. The first filing obligation for a CbC report in Qatar commences in respect of accounting years beginning on or after 1 January 2016. Qatar indicates that there is a commitment of the tax department to postpone the CbC requirements in Qatar to 1 January 2017. Qatar meets all the terms of reference relating to the domestic legal and administrative framework, with the exception of:

- the filing instructions to submit a CbC report which have not yet been published by Qatar (in the situation where CbC requirements would apply for fiscal years starting on 1 January 2016).
- the start date on local filing requirements, which is 1 January 2016. As Qatar’s legislation will only come into force in 2018, it is recommended that Qatar prorogue the local filing requirements (in the situation where CbC requirements would apply for fiscal years starting on 1 January 2016).
- the absence of penalties to enforce compliance.

Part B: Exchange of information framework

3. Qatar is part to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol (OECD/Council of Europe, 2011) (the “Convention”) (signed on 10 November 2017). The instruments of ratification have not yet been deposited, therefore the Convention will not be in effect at the start of the commencement of CbC Reporting requirements. This means that Qatar will not be able to exchange (either send or receive CbC reports with respect to the fiscal starting on 1 January 2016 under the Convention and CbC MCAA on the first exchange date in mid-2018. Qatar indicates that it has already begun the process of ratification. It is
recommended that Qatar take steps to enable exchanges of CbC reports, e.g. notably depositing its instrument of ratification, carrying on any internal process so that the Convention is brought into effect and lodging a Unilateral Declaration in order to align the effective date of the Convention with first intended exchanges of CbC Reports under the CbC MCAA, as permitted under paragraph 6 of Article 28 of the Convention, or relying on Double Tax Agreements or Tax Information and Exchange Agreements. Qatar is also a signatory of the CbC MCAA (signed on 19 December 2017), but did not yet provide a full set of notifications under section 8 of this agreement. As of 12 January 2018, Qatar does not have bilateral relationships activated under the CbC MCAA. With respect to the terms of reference relating to the exchange of information framework aspects under review for this first annual peer review process, it is recommended that Qatar take steps to bring the Convention into effect and have Qualifying Competent Authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, appropriate use and consistency conditions. It is however noted that Qatar indicates that there is a commitment of the tax department to postpone the CbC requirements in Qatar to 1 January 2017 and therefore Qatar would not be exchanging CbC reports in 2018.

Part C: Appropriate use

4. In respect of the terms of reference under review, Qatar does not yet have measures in place relating to appropriate use. It is recommended that Qatar take steps to finalise the measures for appropriate use ahead of the first exchanges of information. It is however noted that Qatar indicates that there is a commitment of the tax department to postpone the CbC requirements in Qatar to 1 January 2017 and therefore Qatar would not be exchanging CbC reports in 2018.

Part A: The domestic legal and administrative framework

5. Part A assesses the domestic legal and administrative framework of the reviewed jurisdiction by reviewing the (a) parent entity filing obligation, (b) the scope and timing of parent entity filing, (c) the limitation on local filing obligation, (d) the limitation on local filing in case of surrogate filing and (e) the effective implementation of CbC Reporting.

6. Qatar has draft legislation in place to implement the BEPS Action 13 minimum standard. No guidance has been published. The draft legislation has been approved by the Council of Ministers and Qatar expects it to come into force before the beginning of February 2018. It is however noted that Qatar indicates that there is a commitment of the tax department to postpone the CbC requirements in Qatar to 1 January 2017.

(a) Parent entity filing obligation

Summary of terms of reference: Introducing a CbC filing obligation which applies to 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 (paragraph 8 (a) of the terms of reference).
7. Qatar has primary legislation 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).

8. The definition of “Excluded MNE group” refers to “a Group having, with respect to any Fiscal Year of the Group, total consolidated group revenue of less than (QAR 3 000 000 000) 3 billion Qatari Riyals during the Fiscal Year immediately preceding the Reporting Fiscal Year, as reflected in its Consolidated Financial Statements, for such preceding Fiscal Year”. While this provision would not create an issue for MNE Groups whose Ultimate Parent Entity is a tax resident in Qatar, it may however be incompatible with the guidance on currency fluctuations for MNE Groups whose Ultimate Parent Entity is located in another jurisdiction, if local filing requirements were applied in respect of a Constituent Entity (which is a Qatari tax resident) of an MNE Group which does not reach the threshold as determined in the jurisdiction of the Ultimate Parent Entity of such Group. Qatar indicates that it will issue a guidance note that clarifies the impact of fluctuations on the filing threshold. As such, no recommendation is made but this issue will be further monitored.

9. No other inconsistencies were identified in respect of the parent entity filing obligation.

(b) Scope and timing of parent entity filing

| Summary of terms of reference: Providing that the filing of a CbC report by an Ultimate Parent Entity commences for a specific fiscal year; includes all of, and only, the information required; and occurs within a certain timeframe; and the rules and guidance issued on other aspects of filing requirements are consistent with, and do not circumvent, the minimum standard (paragraph 8 (b) of the terms of reference). |

10. The first filing obligation for a CbC report in Qatar commences in respect of periods commencing on or after 1 January 2016. 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. It is however noted that Qatar indicates that there is a commitment of the tax department to postpone the CbC requirements in Qatar to 1 January 2017.

11. The filing instructions to submit a country-by-country report have not yet been published by Qatar. Qatar indicates that it is currently at drafting stage. It is recommended that Qatar publish the instructions relating to the format of a CbC report (in the situation where CbC requirements would apply for fiscal years starting on 1 January 2016).

12. No other inconsistencies were identified in respect of the scope and timing of parent entity filing.
(c) Limitation on local filing obligation

Summary of terms of reference: If local filing requirements have been introduced, that such requirements may apply only to Constituent Entities which are tax residents in the reviewed jurisdiction, whereby the content of the CbC report does not contain more than that required from an Ultimate Parent Entity, whereby the reviewed jurisdiction meets the confidentiality, consistency and appropriate use requirements, whereby local filing may only be required under certain conditions and whereby one Constituent Entity of an MNE Group in the reviewed jurisdiction is allowed to file the CbC report, satisfying the filing requirement of all other Constituent Entities in the reviewed jurisdiction (paragraph 8 (c) of the terms of reference).

13. Qatar has introduced local filing requirements as from the reporting period starting on or after 1 January 2016 or thereafter. Qatar indicates that there is a commitment of the tax department to postpone local filing to reporting periods starting on or after 1 January 2017 or thereafter. An administrative decision on this will be issued subsequently. As Qatar’s legislation will only come into force in 2018, it is recommended that Qatar prorogue the local filing requirements (in the situation where CbC requirements would apply for fiscal years starting on 1 January 2016).

14. No other inconsistencies were identified with respect to the limitation on local filing obligation.

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

Summary of terms of reference: If local filing requirements have been introduced, that local filing will not be required when there is surrogate filing in another jurisdiction when certain conditions are met (paragraph 8 (d) of the terms of reference).

15. Qatar’s local filing requirements will not apply if there is surrogate filing in another jurisdiction.

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

(e) Effective implementation

Summary of terms of reference: Providing for enforcement provisions and monitoring relating to CbC Reporting’s effective implementation including having mechanisms to enforce compliance by Ultimate Parent Entities and Surrogate Parent Entities, applying these mechanisms effectively, and determining the number of Ultimate Parent Entities and Surrogate Parent Entities which have filed, and the number of Constituent Entities which have filed in case of local filing (paragraph 8 (e) of the terms of reference).

17. Qatar has legal mechanisms in place to enforce compliance with the minimum standards: there are notification mechanisms in place that apply to Ultimate Parent Entities, Surrogate Parent Entities as well as Constituent Entities. Qatar does not have
penalties in place in relation to the filing of a CbC report, but it indicates that it is currently implementing penalties into the Income Tax Law. It is recommended that Qatar introduce penalties to enforce compliance with the minimum standards.

Conclusion

18. In respect of paragraph 8 of the terms of reference (OECD, 2017), Qatar meets the terms of reference relating to the domestic legal and administrative framework, with the exception of (i) the rules or guidance on other aspects of the filing requirements of the CbC Report (paragraph 8 (b) iv. of the terms of reference (OECD, 2017)),17 (ii) the start date on local filing requirements (paragraph 8 (c) iv. (b) of the terms of reference (OECD, 2017))18 and (iii) the absence of penalties to enforce compliance (paragraph 8 (e) i. of the terms of reference (OECD, 2017)).

Part B: The exchange of information framework

19. Part B assesses the exchange of information framework of the reviewed jurisdiction. For this first annual peer review process, this includes reviewing certain aspects of the exchange of information framework as specified in paragraph 9 (a) of the terms of reference (OECD, 2017).

Summary of terms of reference: within the context of the exchange of information agreements in effect of the reviewed jurisdiction, having QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites (paragraph 9 (a) of the terms of reference).

20. Qatar is part to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol (OECD/Council of Europe, 2011) (the “Convention”) (signed on 10 November 2017). The instruments of ratification have not yet been deposited, therefore the Convention will not be in effect at the start of the commencement of CbC Reporting requirements. This means that Qatar will not be able to exchange (either send or receive CbC reports with respect to the fiscal starting on 1 January 2016 under the Convention and CbC MCAA on the first exchange date in mid-2018. Qatar indicates that it has already begun the process of ratification. It is recommended that Qatar take steps to enable exchanges of CbC reports, e.g. notably depositing its instrument of ratification, carrying on any internal process so that the Convention is brought into effect and lodging a Unilateral Declaration in order to align the effective date of the Convention with first intended exchanges of CbC Reports under the CbC MCAA, as permitted under paragraph 6 of Article 28 of the Convention,19 or relying on Double Tax Agreements or Tax Information and Exchange Agreements.

21. Qatar signed the CbC MCAA on 19 December 2017, but did not submit a full set of notification under section 8 of the CbC MCAA. As of 12 January 2018, Qatar does not have bilateral relationships activated under the CbC MCAA. It is recommended that Qatar take steps to bring the Convention into effect and have Qualifying Competent Authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, appropriate use and consistency conditions. It is however noted that Qatar indicates that there is a commitment of the tax department to postpone the CbC requirements in Qatar to 1 January 2017 and therefore Qatar would not be exchanging CbC reports in 2018.
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Conclusion

22. It is recommended that Qatar take steps to enable exchanges of CbC reports, e.g. notably depositing its instrument of ratification, carrying on any internal process so that the Convention is brought into effect and lodging a Unilateral Declaration in order to align the effective date of the Convention with first intended exchanges of CbC Reports under the CbC MCAA, as permitted under paragraph 6 of Article 28 of the Convention, or relying on Double Tax Agreements or Tax Information and Exchange Agreements and in addition to bring the Convention into effect and have Qualifying Competent Authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, appropriate use and consistency conditions. It is however noted that Qatar indicates that there is a commitment of the tax department to postpone the CbC requirements in Qatar to 1 January 2017 and therefore Qatar would not be exchanging CbC reports in 2018.

Part C: Appropriate use

23. Part C assesses the compliance of the reviewed jurisdiction with the appropriate use condition. For this first annual peer review process, this includes reviewing certain aspects of appropriate use.

Summary of terms of reference: (a) having in place mechanisms (such as legal or administrative measures) to ensure CbC reports which are received through exchange of information or by way of local filing are only used to assess high-level transfer pricing risks and other BEPS-related risks, and, where appropriate, for economic and statistical analysis; and cannot be used as a substitute for a detailed transfer pricing analysis of individual transactions and prices based on a full functional analysis and a full comparability analysis; and are not used on their own as conclusive evidence that transfer prices are or are not appropriate; and are not used to make adjustments of income of any taxpayer on the basis of an allocation formula (paragraphs 12 (a) of the terms of reference).

24. Qatar does not yet have measures in place relating to appropriate use. It is recommended that Qatar finalise the measures on appropriate use ahead of the first exchanges of information. Qatar indicates that there is a commitment of the tax department to implement measures with regards to appropriate use. These measures still need to be formalised and finalised. It is however noted that Qatar indicates that there is a commitment of the tax department to postpone the CbC requirements in Qatar to 1 January 2017 and therefore Qatar would not be exchanging CbC reports in 2018.

Conclusion

25. It is recommended that Qatar take steps to finalise the measures for appropriate use ahead of the first exchanges of information. It is however noted that Qatar indicates that there is a commitment of the tax department to postpone the CbC requirements in Qatar to 1 January 2017 and therefore Qatar would not be exchanging CbC reports in 2018.
Summary of recommendations on the implementation of Country-by-Country Reporting

<table>
<thead>
<tr>
<th>Aspect of the implementation that should be improved</th>
<th>Recommendation for improvement</th>
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<tr>
<td>Part A Domestic legal and administrative framework - scope and timing of parent entity filing content of CbC report</td>
<td>It is recommended that Qatar publish the instructions relating to the format of a CbC report (in the situation where CbC requirements would apply for fiscal years starting on 1 January 2016).</td>
</tr>
<tr>
<td>Part A Domestic legal and administrative framework – Limitation on local filing</td>
<td>It is recommended that Qatar prorogue the local filing requirements (in the situation where CbC requirements would apply for fiscal years starting on 1 January 2016).</td>
</tr>
<tr>
<td>Part A Domestic legal and administrative framework – Effective implementation – penalties</td>
<td>It is recommended that Qatar introduce penalties to enforce compliance with the minimum standards.</td>
</tr>
<tr>
<td>Part B Exchange of information</td>
<td>It is recommended that Qatar take steps to enable exchanges of CbC reports, e.g. notably depositing its instrument of ratification, carrying on any internal process so that the Convention is brought into effect and lodging a Unilateral Declaration in order to align the effective date of the Convention with first intended exchanges of CbC Reports under the CbC MCAA, as permitted under paragraph 6 of Article 28 of the Convention, or relying on Double Tax Agreements or Tax Information and Exchange Agreements and in addition to bring the Convention into effect and have Qualifying Competent Authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, appropriate use and consistency conditions.</td>
</tr>
<tr>
<td>Part C Appropriate use</td>
<td>It is recommended that Qatar take steps to finalise the measures for appropriate use ahead of the first exchanges of information.</td>
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Notes

1 Paragraph 8 of the terms of reference (OECD, 2017).
2 Paragraph 6 of Article 28 of the Convention reads as follows: “[…] Any two or more Parties may mutually agree that the Convention […] shall have effect for administrative assistance related to earlier taxable periods or charges to tax.”
3 Paragraph 9 (a) of the terms of reference (OECD, 2017).
4 Paragraph 12 (a) of the terms of reference (OECD, 2017).
6 The « summary of terms of reference » is provided to facilitate the reading of the report. Reference should be made to the exact wording of the terms of reference published in February 2017 (OECD, 2017).
7 Article 1 of the Decision.
9 Article 7 of the Decision.
10 The tax year is normally a calendar year, unless requested otherwise.
11 Article 5 of the Decision.
12 Article 7 of the Decision.

13 Notably in respect of paragraph 8 (c) iv. (b) of the terms of reference (OECD, 2017) for which the testing time is no later than 12 months after the last day of the Reporting Fiscal Year of the MNE Group.

14 Article 2(3) of the Decision.

15 Article 3 of the Decision.

16 Notification for the financial year ending on 31 December 2016 has been postponed by 31 December 2017 or at the date of which a decision of the President shall be issued.

17 In the situation where CbC requirements would apply for fiscal years starting on 1 January 2016.

18 In the situation where CbC requirements would apply for fiscal years starting on 1 January 2016.

19 Paragraph 6 of Article 28 of the Convention reads as follows: “[…] Any two or more Parties may mutually agree that the Convention […] shall have effect for administrative assistance related to earlier taxable periods or charges to tax.”

References


