

Saudi Arabia

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. Saudi Arabia does not have a legal and administrative framework in place to implement CbC Reporting. It is recommended that Saudi Arabia take steps to finalise the domestic legal and administrative framework to impose and enforce CbC requirements as soon as possible, taking into account its particular domestic legislative process and put in place an exchange of information framework as well as measures to ensure appropriate use.

Part A: Domestic legal and administrative framework

2. Saudi Arabia does not have complete legislation in place for implementing the BEPS Action 13 minimum standard. Saudi Arabia indicates that it has put in place its Enforcement rules (part of the primary legislation) to implement exchange of information provisions for tax purposes with other jurisdictions under the Saudi Arabia's effective treaties. The enforcement rules for CbC Reporting will be triggered once the CbC MCAA is ratified and once a Council of Ministers decision is granted to approve the application of the provisions of the enforcement rules on the CbC MCAA. Such enforcement rules once approved will be the basis for obliging reporting entities to submit the CbC information as per the implementation rules (secondary legislation), which will be issued by the Minister of Finance once the primary legislation is in place. It is recommended that Saudi Arabia take steps to finalise the domestic legal and administrative framework¹ to impose and enforce CbC requirements as soon as possible, taking into account its particular domestic legislative process.

Part B: Exchange of information framework

3. Saudi Arabia is a signatory to the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) which is in effect in 2017. Saudi Arabia indicates it is currently in the process of obtaining the necessary approval from the higher authorities to sign the CbC MCAA. As of 12 January 2018, Saudi Arabia 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 review² process, it is recommended that Saudi Arabia take steps to sign the CbC MCAA and also have Qualifying Competent Authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions. It is however noted that Saudi Arabia will not be exchanging CbC reports in 2018.

Part C: Appropriate use

4. Saudi Arabia does not yet have measures in place relating to appropriate use.³ It is recommended that Saudi Arabia take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. It is however noted that Saudi Arabia will 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.

6. Saudi Arabia does not yet have legislation in place to implement the BEPS Action 13 minimum standard.

(a) Parent entity filing obligation

Summary of terms of reference:⁴ 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).

(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).

(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).

(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).

(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).

7. Saudi Arabia does not yet have its legal and administrative framework in place to implement CbC Reporting. Saudi Arabia does not intend to implement CbC Reporting requirements for the 2016 fiscal year.

8. Saudi Arabia indicates that its primary legislation will consist of the ratification of the CbC MCAA after it is signed to bring it into effect as part of Saudi local law and the Enforcement rules⁵ to implement the exchange of information provisions for tax purposes with other jurisdictions under the Saudi Arabia's effective treaties. The enforcement rules for CbC Reporting will be triggered once the CbC MCAA is ratified and once a Council of Ministers decision is granted to approve the application of the provisions of the enforcement rules on the CbC MCAA. Such enforcement rules once approved will be the basis for obliging reporting entities to submit the CbC information as per the implementation rules (secondary legislation), which will be issued by the Minister of Finance once both of the CbC agreement and the enforcement rules are in force. Saudi Arabia also indicates that it will rely on domestic provision under their Income Tax Law to oblige reporting entities to comply with CbC requirements.⁶

9. At this time, Saudi Arabia estimates that the primary legislation implementing the CbC Reporting requirements will be in effect by the second quarter of 2018.

Conclusion

10. In respect of paragraph 8 of the terms of reference (OECD, 2017), Saudi Arabia has not yet implemented a domestic legal and administrative framework to impose and enforce CbC Reporting requirements on MNE Groups whose Ultimate Parent Entity is resident for tax purposes in Saudi Arabia. It is recommended that Saudi Arabia take steps to finalise the domestic legal and administrative framework to impose and enforce CbC requirements as soon as possible, taking into account its particular domestic legislative process.

Part B: The exchange of information framework

11. 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 network 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).

12. Saudi Arabia has sufficient legal basis that permits the automatic exchange of CbC reports. It is a Party to the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) (signed on 29 May 2013, in force on 1 April 2016 and in effect for 2017).

13. Saudi Arabia has not signed the CbC MCAA. Saudi Arabia indicated that it is currently in the process of obtaining the necessary approval from the higher authorities to sign the CbC MCAA. Once approved Saudi Arabia is going to ratify such agreement promptly to bring it into force as part of its local laws. As of 12 January 2018, Saudi Arabia does not have bilateral relationships activated under the CbC MCAA. It is recommended that Saudi Arabia take steps to sign the CbC MCAA and have Qualifying Competent Authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions. It is however noted that Saudi Arabia will not be exchanging CbC reports in 2018.

Conclusion

14. In respect of the terms of reference (OECD, 2017) under review, it is recommended that Saudi Arabia take steps to sign the CbC MCAA and have QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites. It is however noted that Saudi Arabia will not be exchanging CbC reports in 2018.

Part C: Appropriate use

15. 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).

16. Saudi Arabia does not yet have measures in place relating to appropriate use. It is recommended that Saudi Arabia take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. It is however noted that Saudi Arabia will not be exchanging CbC reports in 2018.

Conclusion

17. In respect of paragraph 12 (a), it is recommended that Saudi Arabia take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. It is however noted that Saudi Arabia will not be exchanging CbC reports in 2018.

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	It is recommended that Saudi Arabia finalise its domestic legal and administrative framework to impose and enforce CbC requirements as soon as possible, taking into account its particular domestic legislative process.
Part B	Exchange of information framework	It is recommended that Saudi Arabia sign the CbC MCAA and also take steps to have Qualifying Competent Authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions
Part C	Appropriate use	It is recommended that Saudi Arabia take steps to ensure that the appropriate use condition is met ahead of the first exchanges of CbC reports.

Notes

¹ Paragraph 8 of the terms of reference (OECD, 2017).

² Paragraph 9 (a) of the terms of reference (OECD, 2017).

³ Paragraph 12 (a) of the terms of reference (OECD, 2017).

⁴ 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).

⁵ Saudi Arabia indicates that the Enforcement rules was issued with the following title: “The Special Regulations for Addressing Failures to Report Information for Tax Purposes in Accordance with the Provisions of Conventions to which the Kingdom of Saudi Arabia is a Party” as per a decision of Council of Ministers no. (706) dated 30/11/1438H corresponding to 22 August 2017.

⁶ See Articles 59 and 61 of Saudi Arabia’s Income Tax Law.

References

- OECD (2017), “Terms of reference for the conduct of peer reviews of the Action 13 minimum standard on Country-By-Country Reporting” in *BEPS Action 13 on Country-by-Country Reporting – Peer Review Documents*, OECD/G20 Base Erosion and Profit Shifting Project, OECD, Paris.
www.oecd.org/tax/beps/beps-action-13-on-country-by-country-reporting-peer-review-documents.pdf.
 OECD/Council of Europe (2011), *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*, OECD Publishing, Paris,
<http://dx.doi.org/10.1787/9789264115606-en>.



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