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# Global Tax Alert

## The Latest on BEPS and Beyond

March 2024

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### Highlights

Keeping track of all developments in the international tax policy environment is a difficult and time-consuming task given the number, novelty and complexity of the proposals and the many steps in the typical route to finalization. Further, tax reporting obligations have grown significantly since the publication of the 15 reports of the original BEPS project in October 2015. Most recently, the entry into force of the Pillar Two rules in the European Union (EU) and a number of other jurisdictions is demanding full attention.

In addition to these tax policy developments, non-tax legislative developments can also be important to watch. Tax professionals should be aware of two such non-tax developments that could affect the way tax data needs to be collected and (publicly) reported.

The first development relates to the Foreign Subsidies Regulation, which entered into force on 12 January 2023, with first notifications being required by 23 October 2023. The European Commission (the Commission) has the power to investigate financial contributions, including tax incentives, granted by public authorities of non-EU countries if these benefit companies engage in certain economic activities in the EU. The regulation comes with mandatory notification obligations for large mergers and acquisitions and public procurement processes. It also gives the Commission power to initiate

investigations on its own. As tax incentives in any form are considered financial contributions, the tax function of a group may suddenly be confronted with the need to provide data showing total tax incentives received outside the EU in the three years preceding a desired acquisition or merger in the EU or a procurement by an EU government in which the company wants to participate. This adds new data challenges on top of existing challenges related to other reporting obligations.

The second development relates to the Corporate Sustainability Reporting Directive (CSRD) and the related sister and subsidiary legislation in the EU Taxonomy and the European Sustainability Reporting Standards (ESRS). Although tax is not identified as one of the 10 mandatory reporting standards in the ESRS, these rules may nevertheless have implications for public reporting on tax matters. This could be the case, for example, if taxes or tax incentives are considered reportable in the context of one of the mandatory standards, such as the environmental standard on climate. This standard could trigger reporting the impact caused by carbon taxes, including the Carbon Border Adjustment Mechanism. Moreover, an open-ended provision indicating that reporting on other than the mandatory ESG topics needs to take place if a topic is assessed as being material by the companies suggests that, in specific circumstances, tax may also be considered a (sub) sustainability matter on which reporting is required.

For tax teams, these developments highlight the importance of noting developments outside the tax area that may create tax obligations. The Latest on BEPS and Beyond team will continue to help tax teams stay on top of the latest developments with an impact on tax matters.

## BEPS 2.0

### Other

#### **ATAF releases communication regarding Amount B**

On 19 February 2024, the African Tax Administration Forum (ATAF) released a [communication](#) on Amount B. According to the communication, many African countries have expressed their intention to incorporate the simplified and streamlined approach into their transfer pricing legislation, as it aligns with their use of the Organisation for Economic Co-operation and Development (OECD) Transfer Pricing Guidelines and the ATAF Suggested Approach to Drafting Transfer Pricing Legislation.

To facilitate the adoption of this approach, the ATAF will revise its Suggested Approach to Drafting Transfer Pricing Legislation, including a model text for enacting the simplified and streamlined approach. This revision aims to provide practical support to ATAF members in implementing Amount B and achieving fair and efficient transfer pricing practices.

#### **WATAF voices concerns over Amount B**

On 28 February 2024, the West African Tax Administration Forum (WATAF) Secretariat issued a [communiqué](#) expressing concerns about certain aspects of the newly released report on Amount B under Pillar One. The primary issues raised by WATAF centered around the definition of low-capacity jurisdictions, the design factors of the pricing methodology, the use of a single commercial database for the pricing matrix that lacks geographical representation, and the absence of a qualitative criteria to ensure that only baseline distributors fall within the scope of Amount B.

WATAF recommends that its members continue to use the OECD Transfer Pricing Guidelines alongside their transfer pricing legislation until the optional qualitative scoping criteria and the list of low-capacity jurisdictions are finalized on 31 March 2024, depending on their specific situations.

### Country developments

#### **Bahamas announces intention to implement a QDMTT**

On 21 February 2024, the government of Bahamas announced its intention to introduce a Qualified Domestic Minimum Top-up Tax (QDMTT). According to the announcement, the government will release QDMTT draft legislation by the end of May 2024, subject to a public consultation over the summer. The aim is to finalize the legislation and submit it to Parliament after the summer.

The announcement does not include the rule's effective date and makes no reference to the introduction of either the Income Inclusion Rule (IIR) or the Undertaxed Profits Rule (UTPR).

## Denmark releases draft amending law for Pillar Two

On 26 February 2024, Denmark published a [draft amendment law](#) subject to public hearing until 22 March 2024 in relation to the Pillar Two legislation. Among other items, the amendments add some provisions from the July and December 2023 Administrative Guidance released by the OECD as well as provisions related to the anti-abuse rules for Transitional Country-by-Country Reporting (CbCR) Safe Harbor.

Furthermore, the amendment addresses a concern raised by different stakeholders regarding language in the legislation concerning the application of the UTPR. Currently, the UTPR legislation would appear to apply for fiscal years starting on or after 31 December 2023 in certain fact patterns, namely:

- ▶ An in-scope multinational with at least one Danish constituent entity that has an ultimate parent entity (UPE) resident in a jurisdiction that has not adopted an IIR
- ▶ The in-scope multinational has at least one low-taxed constituent entity in an EU Member State that has adopted Article 50 of the EU Minimum Tax Directive; this article allows the deferral of the IIR and UTPR to countries with fewer than 12 UPEs, namely Estonia, Latvia, Lithuania, Malta and Slovakia

The amendments intend to clarify that the application of the UTPR in 2024 would only apply for Multinational Enterprise (MNE) Groups that are headquartered in a Member State that has deferred the implementation of Pillar Two and have a low-taxed constituent entity in an EU Member State.

Following the hearing, a final bill will be presented to Parliament. The law is expected to be enacted before 1 July 2024 and would be effective for fiscal years starting on or after 31 December 2023.

## Greece releases Pillar Two draft legislation for public consultation

On 22 February 2024, the Greek government released a public consultation to incorporate the Pillar Two legislation into domestic law. This proposed legislation includes an IIR and a QDMTT for fiscal years starting on or after 31 December 2023. The legislation also includes the UTPR for fiscal years starting on or after 31 December 2024.

The draft legislation is generally in line with the EU Minimum Tax Directive and includes the transitional CbCR Safe Harbor, UTPR Safe Harbor and a QDMTT Tax Safe Harbor.

## Lithuania submits Pillar Two legislation to Parliament

On 6 March 2024, the Lithuanian government adopted a resolution to submit draft legislation implementing Pillar Two into domestic law. The draft legislation will be presented to Parliament for adoption.

In line with the EU Minimum Tax Directive, Lithuania has elected to delay the application of the IIR and UTPR until 31 December 2029. Consequently, the draft legislation does not address the specific application of the IIR or UTPR and focuses on filing obligations and administrative aspects.

If adopted by Parliament, the legislation will come into force on 1 July 2024.

## New Zealand's Parliament proposes changes to Pillar Two legislation

On 11 March 2024, New Zealand's Parliament's Finance and Expenditure Committee (FEC) has reported back the Taxation Bill (the Bill) to Parliament. The FEC has recommended several changes across the mix of proposals outlined in the Bill. Among other items, the Bill includes measures for the implementation of Pillar Two.

The recommended proposals include amending the Bill so that the IIR and UTPR apply from 1 January 2025, while the Domestic IIR applies from 1 January 2026. Additionally, the proposals clarify that tax paid under a QDMTT is eligible for a foreign tax credit and allow the Commissioner of Inland Revenue to make binding rulings on Pillar Two.

The Bill is set to be read a second time when Parliament recommences sitting on 19 March 2024. The plan is to progress the Bill through the final legislative stages under urgency, ensuring enactment by 28th March 2024.

## New Zealand opts out of Amount B

Recently, New Zealand decided not to adopt the OECD's recently published simplified and streamlined approach to in-country baseline marketing and distribution activities. Accordingly, existing transfer pricing rules and practice will continue to apply to determine arm's-length outcomes for both foreign-owned distributors operating in New Zealand and New Zealand-owned distributors operating in foreign jurisdictions.

New Zealand-owned distributors operating in foreign jurisdictions will equally need to continue to apply New Zealand transfer pricing rules in respect of their New Zealand tax obligations, regardless of whether the foreign jurisdiction has opted to apply the streamlined and simplified approach.

See EY Global Tax Alert, [New Zealand Government opts out of Pillar One, Amount B](#), dated 23 February 2024.

## Poland announces release of Pillar Two draft legislation

On 26 February 2024, the Polish government announced on its website that the draft bill implementing the EU Minimum Tax Directive was added to the list of legislative processes in Poland. The legislation will include an IIR, a QDMTT and a UTPR and is expected to be released in March 2024.

The legislation is expected to be adopted in the third quarter of 2024 and enter into effect for fiscal years starting on or after 1 January 2025.

See EY Global Tax Alert, [Poland announces date of the planned implementation of Global Minimum Tax \(Pillar 2\)](#), dated 4 March 2024.

## Thailand releases Pillar Two draft legislation for public consultation

On 1 March 2024, the Thai government released a public consultation on the implementation of Pillar Two into domestic law. The consultation document notes that Thailand intends to incorporate an IIR, a QDMTT and a UTPR consistently with the OECD Global Anti-Base Erosion (GloBE) Rules. The document also includes details on the compliance side of the rules and penalties.

The consultation document does not provide any details as to when the rules will enter into effect. The consultation ended on 15 March 2024.

## United Kingdom announces introduction of anti-abuse rules for Pillar Two

On 14 March 2024, the United Kingdom (UK) government [announced](#) that it will apply the anti-arbitrage rules in the OECD Administrative Guidance on Pillar Two published in December 2023. The rules include anti-abuse measures for hybrid arbitrage arrangements to qualify for the Transitional CbCR Safe Harbor.

The UK government intends to apply these rules from 14 March 2024 and will legislate in a future Finance Bill. The UK government will consult with interested stakeholders on how the provisions are legislated, with a view to ensuring the legislation operates as envisaged without any unintended outcomes.

## BEPS and other developments

### OECD

### OECD holds Tax and Development Days 2024

During its Tax and Development Days 2024 on 12 and 13 March, the OECD presented an update on several of its ongoing initiatives.

OECD officials shared insights into the perspectives of developing countries regarding the implementation of the Two-Pillar Solution. Developing countries have identified a range of challenges relating to the economic impact of the rules, such as impact on specific industries, incentive regimes and special economic zones. For some jurisdictions, accessing vital data and information of multinational enterprises could be difficult. The challenges trigger an essential need for targeted capacity building and training for tax administration staff. Politically, persuading stakeholders about the advantages of certain policies is another challenge. OECD officials also focused on the economic impact assessment related to the Two-Pillar Solution. This session highlighted the consequences of the two pillars on global allocation of taxing rights, corporate income tax profits and corporate profit shifting. In addition, OECD officials underscored potential strategies, particularly for developing countries, to conduct their own impact assessments with a specific focus on the QDMTT. They also elaborated on how the OECD is currently coordinating and assisting these countries. Moreover, the OECD also facilitated two other sessions. The first session focused on transfer pricing and international taxation capacity building programs, including an in-depth discussion of associated impacts and challenges. The

second session primarily revolved around tax transparency and cooperation with an aim to enhance tax compliance and uphold the fairness of the tax system. In this session, OECD officials explored the benefits that developing countries could reap in terms of tax compliance and revenue mobilization from the implementation and application of tax transparency and information exchange.

Replays of all sessions are available on the available on OECD's official [website](#).

### **OECD updates arbitration profiles of the Netherlands and Singapore**

On 29 February 2024, the OECD the updated Arbitration Profiles of [the Netherlands](#) and [Singapore](#), which contain information regarding their position with respect to applying Part VI (mandatory binding arbitration) of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI on BEPS).

Arbitration profiles contain references to (i) the jurisdictions' MLI positions; (ii) Mutual Agreement Procedure (MAP) profiles; (iii) synthesized texts obtainable from the MLI Matching Database; (iv) hyperlinks to the competent authority agreements concluded in respect to the Arbitration clause of the MLI; and (v) the type of arbitration process.

Singapore and the Netherlands have updated their competent authority agreements section, reciprocally including each other on their respective lists on mandatory binding arbitration.

### **Hong Kong notifies completion of domestic procedures for certain Covered Tax Agreements under the MLI**

On 22 February 2024, Hong Kong [notified](#) the OECD Depository of the MLI on the completion of its internal procedures for the entry into effect of the MLI provisions with respect to its Covered Tax Agreements (CTAs) with Mexico and Vietnam.

This notification is required when a Contracting Jurisdiction has made the reservation under Article 35(7)(a) of the MLI. Article 35(7)(a)(i) allows a Contracting Jurisdiction to reserve the right to delay the entry into effect of MLI provisions until 30 days after the Depository receives the last notification from all Contracting Jurisdictions making the reservation, informing the Depository that internal procedures for the entry into effect of the MLI with respect to that particular CTA are complete.

In line with the above, the MLI shall enter into effect for the CTAs mentioned above no sooner than 30 days after Hong Kong issued a notification that it has completed its internal procedures (Mexico and Vietnam have not made a similar reservation and have notified their ratification of the MLI at an earlier stage).

### **Global Forum Secretariat announces tool assisting effective implementation of AEOI standard**

On 21 February 2024, the Secretariat of the Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) [launched](#) the Model Manual for Common Reporting Standard (CRS) Compliance Audits. This new tool aims to assist jurisdictions in the effective implementation of the Standard for Automatic Exchange of Financial Account Information in Tax Matters (AEOI). Jurisdictions can use this tool when developing, improving or implementing their national procedures and methodologies for conducting CRS compliance audits. The tool is available on demand in English, French and Spanish to interested jurisdictions.

### **OECD approves update to Commentary of Article 26 of the OECD Model Tax Convention**

On 19 February 2024, the OECD Council approved an update to the [Commentary](#) on Article 26 (Exchange of information) of the OECD Model Tax Convention on Income and on Capital.

According to the OECD, this update clarifies the use of information received through administrative assistance on tax matters for other persons than those for whom the information was initially obtained. It also offers interpretative guidance on confidentiality, especially relating to a taxpayer's opportunity to access exchanged information that may impact its tax position and reflective non-taxpayer-specific information (i.e., information about or generated on the basis of the information that was received by a Contracting State through the exchange of information such as, statistical data, as well as non-taxpayer specific notes, summaries, and memoranda incorporating exchanged information). Further, it clarifies that reflective non-taxpayer-specific information may be disclosed to third parties if it does not, directly or indirectly, reveal the identity of the taxpayer and the sending and receiving states have consulted with each other in writing and concluded that the disclosure and use of the information would not impair their tax administrations.



## OECD Secretary-General Report provides update on tax progressivity and BEPS minimum standards

In advance of the 28-29 February 2024 meeting of the G20 Finance Ministers and Central Bank Governors, the OECD released the [Secretary-General Tax Report](#) (the Report), providing an update on international tax matters including progress on the implementation of the minimum standards of the original BEPS project, and the work on tax progressivity.

Among other things, the Report provides an update on the work around inequality and progressivity of tax systems, noting that OECD analysis suggests there is considerable scope to enhance the design and effectiveness of taxes on capital to raise more revenue and reduce inequality. The Report indicates that the OECD intends to release two papers in 2024 focusing on the taxation of capital gains and closely held businesses. The Report also notes the need for further work in this area, including potential work to identify challenges involved in taxing high-net-worth individuals in a globalized economy.

In addition, the Report provides a status update on jurisdictions' implementation of the minimum standards established in the original BEPS project, relating to Actions 5 (harmful tax practices), 6 (tax treaty abuse), 13 (country-by-country reporting) and 14 (mutual agreement procedure). It also contains an update on the activity of the Global Forum on Transparency and Exchange of Information for Tax Purposes, as well as brief discussions of ongoing work in the areas of tax and development, tax and crime, and indirect tax.

At the conclusion of the 28-29 February 2024 meeting of the G20 Finance Ministers and Central Bank Governors, the Chair issued a meeting [summary](#) underscoring the importance of enhanced international economic cooperation and reiterating the G20's focus on finalizing the BEPS 2.0 project.

See EY Global Tax Alert, [G20 Finance Ministers continue focus on finalizing the BEPS 2.0 project](#), dated 6 March 2024.

## European Union

### EU Ministers revise list of noncooperative jurisdictions for tax purposes

On 20 February 2024, the Council of the EU (the Council) held a General Affairs Council meeting in which Ministers approved the [Council Conclusions](#) on the revised EU List.

In this update, the Council adopted a revised Annex I of the EU List that removes the Bahamas, Belize, the Seychelles and Turks and Caicos Islands. The revised Annex I of the EU List now includes 12 jurisdictions (American Samoa, Anguilla, Antigua and Barbuda, Fiji, Guam, Palau, Panama, Russia, Samoa, Trinidad and Tobago, the US Virgin Islands and Vanuatu).

The Council also amended the list of jurisdictions included on Annex II of the EU List, which covers jurisdictions that have made sufficient commitments to reform their tax policies but remain subject to close monitoring while they are fulfilling these commitments. The Council removed Albania, Aruba, Botswana, Dominica, Hong Kong and Israel from Annex II after they satisfied their respective requisite commitments. As a result, the revised Annex II now comprises 10 jurisdictions (Armenia, Belize, British Virgin Islands, Costa Rica, Curaçao, Eswatini, Malaysia, the Seychelles, Türkiye and Vietnam).

The Council will continue to review and update the EU List biannually, with the next update due in October 2024.

See EY Global Tax Alert, [EU Ministers revise list of noncooperative jurisdictions for tax purposes](#), dated 22 February 2024.

## Country developments

### Canada Revenue Agency issues guidelines on Advanced Pricing Arrangement rules

On 22 February 2024, the Canada Revenue Agency (CRA) released [Information Circular No. IC94-4R2](#) on International Transfer Pricing: Advance Pricing Arrangements (APAs) replacing Information Circulars 94-4R and 94-4RSR, dated 16 March 2001 and 18 March 2005, respectively.

A taxpayer might qualify for an APA with the CRA if the taxpayer adheres to transfer pricing rules under Section 247 of the Income Tax Act, conducts business in Canada or a tax treaty jurisdiction through a permanent establishment, or participates in international transactions with related parties. This information circular provides comprehensive guidance on APAs, focusing in particular on establishing the taxpayers' entry requirements to the APA program and the criteria the CRA uses to assess whether taxpayers and transactions are suitable for an APA. The goal of the guidelines is to enhance transparency with respect to the CRA's APA program by offering taxpayers explicit instructions on the process and requirements of the program.

The Information Circular provides a detailed, stage-by-stage guide for the APA process, ranging from prefiling to processing and casework, all the way through to resolution. It also addresses issues such as APA administration during audits or disputes, scenarios under which the CRA may revise, cancel, or revoke an APA, and the procedures and timing for taxpayers to request a renewal. Furthermore, the updated Informational Circular includes some revisions related to procedures and policies, largely to update the guidance to reflect how the Canadian APA program has been operating over the past decade.

The CRA encourages APAs because they present several advantages, such as enhancing tax certainty across multiple jurisdictions, lowering the risk of audits, safeguarding against transfer pricing penalties, and simplifying resolution of complex issues. According to the Information Circular, these benefits can result in time and compliance cost savings for taxpayers who, in return, are anticipated to fully cooperate throughout the APA process by meeting all deadlines, promptly responding to information requests and proactively providing tax authorities with complete, up-to-date information.

See EY Local Tax Alert, [Canada Revenue Agency releases revised Information Circular on Advance Pricing Arrangements](#), dated 8 March 2024.

## Ecuador publishes updated list of Tax Havens

On 20 February 2024, the Ecuadorian Tax Authority published Administrative [Resolution](#) No. NAC-DGERCGC24-00000007 modifying the list of regimes and jurisdictions considered “Tax Havens.” According to the Administrative Resolution, the following jurisdictions have been added to the list of tax havens: Republic of Albania, Republic of Armenia, Georgia and Gibraltar.

These changes are effective as of 20 February 2024.

## Egypt tax authorities issue revised thresholds for transfer pricing documentation

On 21 February 2024, Egypt published a Ministerial Decree No. 52 of 2024 introducing revised materiality thresholds relating to the taxpayers’ obligation to prepare the Master and the Local Files following the amendments introduced in Article 12 of the Unified Procedures Law No 206 of 2020.

According to the Ministerial Decree, the materiality threshold for submitting a Master and a Local File has been increased from 8 million Egyptian pounds (EGP8m) to EGP15m.

The amendments entered into force on 22 February 2024.

## Estonia submits to Parliament draft bill implementing EU CbCR Directive into national law

On 12 February 2024, Estonia’s government submitted a [bill](#) to Parliament implementing the EU CbCR Directive into domestic law. The rules set forth in the Directive require both MNEs based in the EU and non-EU-based MNEs doing business in the EU through a branch or subsidiary with total consolidated revenue exceeding €750m in each of the last two financial years to publicly disclose additional information, including income taxes paid.

To lower the administrative burden and because the presence of in-scope entities in Estonia is limited and these are already subject to an obligation to submit a similar report to the Tax and Customs Board, Estonia has decided to transpose the Directive through amendments to tax legislation, allowing the tax authorities to publish online already-submitted Country-by-Country (CbC) reports instead of requiring taxpayers to submit an additional report.

Estonia has not opted to grant the “website exemption” (i.e., exemption from publication of the report on the website of a subsidiary or a branch) nor the safeguard clause (i.e., option of temporarily withholding information from the report if its disclosure would be prejudicial to the commercial position of the MNE group to which the report refers).

The deadline for publishing the report is 12 months after the balance sheet date of the reporting year for which the CbC report is prepared. The rules will apply for financial years beginning on or after 22 June 2024.

The first reading of the draft bill has now been completed and amendments can be submitted until 20 March 2024.

## France updates list of Non-Cooperatives States and Territories

On 17 February 2024, the French Minister of Finance published in the *Official Gazette* the updated [list](#) of Non-Cooperatives States and Territories (NCST) (Decree of 16 February 2024). Following the update of the EU list of noncooperative jurisdictions in October 2023, France added Antigua and Barbuda, Belize and Russia to the updated NCST list with effect from 1 May 2024, and removed the British Virgin Islands.

The updated list includes the following jurisdictions: American Samoa, Anguilla, Antigua and Barbuda, Bahamas, Belize, Fiji, Guam, Palau, Panama, Russia, Samoa, Seychelles, Trinidad and Tobago, Turks and Caicos Islands, US Virgin Islands and Vanuatu.

## Italy shortens deadlines for preparing transfer pricing documentation

On 12 January 2024, the [Legislative Decree of 8 January 2024 no.1](#) (so-called “Compliance Decree”) was published in the *Official Journal*. The Decree explains and simplifies certain rules on tax obligations, implementing Law no. 111/2023.

Among the changes, deadlines for submitting Corporate Income Tax returns have been shortened by two months (i.e., nine months after fiscal-year end, rather than the 11 months previously applicable). Consequently, natural persons, partnerships and entities subject to Corporate Income Tax must file their respective tax returns by 30 September (instead of 30 November) of the tax period following the close of the fiscal year. For tax returns relating to 2023, the deadline has been postponed for an additional 15 days (i.e., to 15 October).

Considering that the possession of transfer pricing (TP) documentation qualifying for the penalty protection regime should be communicated in the tax return, deadlines for preparing Italian Local File and Group Master File have also been shortened by two months. Taxpayers must prepare their TP documentation with an electronic signature and time stamp within the new deadline for submitting the tax return. In line with paragraph 9 of the Circular Letter n. 15 of 26 November 2021 of the Italian Revenue Agency, a taxpayer also may communicate possession of TP documentation by submitting a “late return” or a “supplementary/replacing return,” amending the one already presented, within 90 days from the ordinary deadline for submitting the tax return.

See EY Global Tax Alert, [Italy shortens deadlines for preparing TP documentation](#), dated 5 March 2024.

## Luxembourg updates list of reportable jurisdictions for CbCR purposes

On 28 February 2024, the Government Council of Luxembourg adopted an updated [list](#) of Reportable Jurisdictions for purposes of CbCR. This expanded the scope to include Costa Rica, Israel and Thailand for fiscal years commencing from 1 January 2023. The Faroe Islands was also added to the list for fiscal years starting from 1 June 2023 onwards. The amendments came into effect on 27 February 2024.

## Netherlands gazettes bill implementing EU Public CbCR Directive

On 1 March 2024, the Netherlands published on its *Official Gazette* the [Decree](#) implementing the EU Public CbCR Directive into domestic law. The Decree mandates the Dutch Ultimate Parent Entity of multinational enterprises (MNEs) with annual consolidated revenues exceeding €750m in each of the last two consecutive financial years and stand-alone Dutch entities with similar revenue to annually publish a CbC report.

Dutch subsidiaries of non-EU parent companies (i.e., non-EU-headquartered MNE groups meeting the €750m threshold) that (on a standalone basis) qualify for at least two of the following three criteria should also submit a groupwide CbC report: (i) balance sheet exceeding €6m; (ii) net turnover equal to or exceeding €12m; and (iii) an average of more than 50 employees. Dutch branches of non-EU MNEs meeting the €750m threshold should submit a CbC report as well (unless there is already a Dutch subsidiary of a non-EU MNE that has a reporting obligation).

In line with the Directive, the CbC report should be published in the *Commercial Register* within 12 months following the closing date of the financial year for which the report is drawn up and it should remain accessible on the website for at least five consecutive years. The Netherlands has chosen not to grant an exemption from the requirement to publish the report on the website of a subsidiary or a branch.

The Netherlands has opted for the safeguard clause (i.e., option of temporarily withholding information from the report if its disclosure would be prejudicial to the commercial position of the MNE group to which the report refers) for a period of up to five years after the publication of the report. However, information concerning noncooperative jurisdictions may never be omitted.

In line with the Directive, the new provisions will be applicable for financial years starting on or after 22 June 2024.

## Poland publishes draft bill implementing DAC7 into domestic law

In February 2024, the Polish Council of Ministers issued a [draft bill](#) introducing amendments to the act on the exchange of tax information with other countries. The amendments include rules implementing DAC7 into national law. DAC7 expands reporting obligations and exchange of information to cover sales through digital platforms. The draft bill is closely aligned with the Directive and includes penalties for noncompliance up to 1 million Polish zloty (PLN1m).



If approved by the Council, the bill will be sent to the Parliament for discussion and voting, and once approved will be signed into law by the President. Upon enactment, the rules are expected to enter into force on 1 July 2024. For sellers registered on the platforms as of the law's effective date, the reporting obligation starts on 31 December 2024. However, the reporting obligation also extends to entities identified as reporting platform operators as of 1 January 2023.

### Senegal issues implementing order for CbCR

On 22 January 2025, the Minister of Finance of Senegal issued Implementing Order No. 001697 outlining the format and content requirements for CbCR set out in the domestic General Tax Code as of 2018.

According to the Implementing Order, the CbC report should include financial and tax data of the group, such as income taxes paid, and details of the group's structure and primary activities, including management or support services and dormant activities. The Implementing Order includes an Annex embedding the standardized form to be used for filing the CbC report electronically, and it mandates a penalty of 25 million African Financial Community francs (F.CFA25m) in the event of failure to file, or filing an incomplete or inaccurate report, within the prescribed time limit.

### Singapore updates list of jurisdictions for exchange of CbC reports

On 23 February 2024, the Inland Revenue Authority of Singapore published its updated [list](#) of jurisdictions with which it will exchange CbC reports under the Multilateral Competent Authority Agreement on the exchange of CbC reports. Updating the preceding update (19 January 2024), Singapore added to the list Papua New Guinea, with which the exchange relationship is effective from fiscal years beginning on 1 January 2024.

Following this update, Singapore has an exchange relationship with a total of 92 jurisdictions.

### Swiss Federal Tax Authorities release practical Q&A guidance on applying transfer pricing rules

On 23 February 2024, the Swiss Federal Tax Authorities released comprehensive [guidance](#) in question and answer (Q&A) format on the practical application of transfer pricing rules in Switzerland. This guidance is intended to clarify selected issues and assist companies in complying with transfer pricing regulations, emphasizing the importance of adhering to the arm's-length principle to ensure fair taxation of cross-border intra-group transactions.

The Swiss Federal Tax Authorities' Q&A guidance offers helpful insights and analysis concerning the application of transfer pricing principles in Switzerland, further reinforcing the application of the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations and providing examples of application of specific methods, comparability analysis and the treatment of financial transactions and adjustments within the context of Swiss tax law.

See EY Global Tax Alert, [Swiss Federal Tax Authorities release practical Q&A guidance on applying transfer pricing rules](#), dated 29 February 2024.

### Trinidad and Tobago approves Bill implementing CbCR

On 6 March 2024, the House of Representatives of Trinidad and Tobago [approved](#) a bill implementing CbCR (BEPS Action 13) into domestic law. The bill is part of a larger legislative package aiming to comply with one of the three criteria for which Trinidad and Tobago is placed under the EU list of noncooperative jurisdictions for tax purposes. The bill also strengthens the jurisdiction's legislative, administrative, and operational frameworks to align with international standards.

The bill specifies that UPEs of MNE groups, if tax residents in Trinidad and Tobago, should submit a CbC report within 12 months after the last day of the relevant reporting fiscal year. Non-parent constituent entities in Trinidad and Tobago should also comply with secondary local filing rules under specific conditions.

The rules prescribe that the MNE group should designate the parent entity to file the CbC report if multiple of its constituent entities are required to submit one. An exemption to this requirement can be invoked if the designated parent entity is required to file the report in another jurisdiction, given that specific conditions are met, including sharing the CbC report with Trinidad and Tobago.

Additionally, the bill includes provisions on the CbC notification requirements. Any MNE group's constituent entity that is a tax resident in Trinidad and Tobago should inform the Board of Inland Revenue (BIR) about its status as an ultimate or designated parent by the end of the reporting fiscal year.

In case of an error in the report, the BIR should notify the reporting entity in writing and instruct it to correct the error. The entity should submit a corrected report within 14 days. Failure to comply might lead to penalties of up to 500,000 Trinidad and Tobago dollars (TTD500k) and/or imprisonment for up to 10 years.

As for next steps, the bill needs to be assented by the President and will come into effect after its publication in the *Official Gazette* at a date to be fixed by Proclamation.

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