

JURISDICTIONS CONTEMPLATED IN ARTICLE 2(2)(ii)(b) OF THE COUNTRY-BY-COUNTRY REGULATIONS SPECIFYING THE CHANGES TO THE COUNTRY-BY-COUNTRY REPORTING STANDARD FOR MULTINATIONAL ENTERPRISES

One of the outcomes of the G20/OECD Base Erosion and Profit Shifting project was the introduction of Country-by-Country (CbC) Reports for Multinational Enterprise (MNE) Groups. In this context an MNE Group is essentially a group that does business in more than one jurisdiction and has a total consolidated group revenue of €750 million (R10 billion in a South African context) or more. For the purposes of applying the €750 million threshold, regard should be had to the guidance that has been provided that, if a near equivalent amount in domestic currency of €750 million as of January 2015 is reflected in the CbC reporting legislation of the jurisdiction of tax residence of the Ultimate Parent Entity (UPE) of an MNE Group, this near equivalent should be used. (See IV.1. of the [Guidance on the Implementation of Country-by-Country Reporting – BEPS Action 13](#) (OECD Guidance).)

In terms of Article 2(2) of the regulations specifying the changes to the CbC Reporting Standard for Multinational Enterprises, published in Government Gazette No. 40516 of 23 December 2016 (CbC Regulations), a member of an MNE Group resident in South Africa that is not the UPE of the MNE Group may be required to file a CbC Report with SARS under three sets of circumstances. If any one of these sets of circumstances applies and acceptable alternative arrangements are not made by the MNE Group under Article 2(3) of the CbC Regulations, the filing requirement with SARS stands.

- a. The first set of circumstances relates to the absence of an obligation for the UPE of an MNE Group to file a CbC Report in its jurisdiction of tax residence during the relevant Reporting Fiscal Year. For purposes of considering whether this set of circumstances applies, regard should be had to the guidance that has been provided in respect of “parent surrogate filing”. (See V.1. of the OECD Guidance.)
- b. The second set of circumstances relates to cases where the jurisdiction in which the UPE of the MNE Group is tax resident has an International Agreement in place with South Africa but does not have a Qualifying Competent Authority Agreement *in effect* by the time the CbC Report must be filed.
- c. The final set of circumstances relates to cases where there has been a Systemic Failure of the jurisdiction in which the UPE of the MNE Group is tax resident. SARS is not aware of any such failures at this time.

The lists below are intended to assist members of MNE Groups tax resident in South Africa in complying with their obligations under the Article 2(2)(ii)(b) of the CbC Regulations.

The process of concluding and activating Qualifying Competent Authority Agreements is ongoing. It is, therefore, the intention to update the list of jurisdictions contemplated in Article 2(2)(ii)(b) of the CbC Regulations for the purposes of Article 2(4) of the CbC Regulations in future. While Article 2(4) provides for the issue of a list for purposes of Article 2(2)(ii)(b), it does not require exclusive reference to the list. Updates [made available by the OECD](#) in respect of Qualifying Competent Authority Agreements for the provision of information to South Africa may also be referred to.

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	Jurisdictions with both an International Agreement and a Qualifying Competent Authority Agreement in effect	Effective for Reporting Fiscal Years commencing on or after
1.	Argentina	1 January 2016
2.	Australia	1 January 2016
3.	Austria	1 January 2016
4.	Belgium	1 January 2016
5.	Bermuda*	1 January 2016
6.	Brazil	1 January 2016
7.	Bulgaria	1 January 2016
8.	Canada	1 January 2016
9.	Cayman Islands*	1 January 2016
10.	Chile	1 January 2017
11.	Colombia	1 January 2016
12.	Costa Rica*	1 January 2016
13.	Croatia	1 January 2016
14.	Curaçao*	1 January 2016
15.	Cyprus*	1 January 2016
16.	Czech Republic	1 January 2016
17.	Denmark	1 January 2016
18.	Estonia	1 January 2016
19.	Finland	1 January 2016
20.	France	1 January 2016
21.	Germany	1 January 2016
22.	Greece	1 January 2016
23.	Guernsey	1 January 2016
24.	Hong Kong	1 January 2016
25.	Hungary	1 January 2016
26.	Iceland	1 January 2016
27.	India	1 January 2016
28.	Indonesia	1 January 2016
29.	Ireland	1 January 2016
30.	Isle of Man	1 January 2016
31.	Italy	1 January 2016
32.	Japan	1 January 2016
33.	Jersey	1 January 2016
34.	Korea	1 January 2016
35.	Latvia	1 January 2016
36.	Liechtenstein	1 January 2016
37.	Lithuania	1 January 2016
38.	Luxembourg	1 January 2016
39.	Malaysia	1 January 2016
40.	Malta	1 January 2016
41.	Mauritius	1 January 2016
42.	Mexico	1 January 2016
43.	Netherlands	1 January 2016
44.	New Zealand	1 January 2016

* Non-reciprocal: Jurisdictions will supply CbC Reports to South Africa.

	Jurisdictions with both an International Agreement and a Qualifying Competent Authority Agreement in effect	Effective for Reporting Fiscal Years commencing on or after
45.	Norway	1 January 2016
46.	Pakistan	1 January 2016
47.	Poland	1 January 2016
48.	Portugal	1 January 2016
49.	Romania*	1 January 2016
50.	Russia	1 January 2016
51.	Singapore	1 January 2016
52.	Slovak Republic	1 January 2016
53.	Slovenia	1 January 2016
54.	Spain	1 January 2016
55.	Sweden	1 January 2016
56.	Switzerland	1 January 2016
57.	United Kingdom	1 January 2016
58.	United States of America	1 January 2016
59.	Uruguay	1 January 2017

	Jurisdictions with an International Agreement but no Qualifying Competent Authority Agreement in effect
1.	Albania
2.	Algeria
3.	Andorra
4.	Anguilla
5.	Aruba
6.	Azerbaijan
7.	Bahamas
8.	Bahrain
9.	Barbados
10.	Belarus
11.	Belize
12.	Botswana
13.	British Virgin Islands
14.	Cameroon
15.	Chile [†]
16.	China
17.	Cook Islands
18.	Democratic Republic of Congo
19.	Egypt
20.	Ethiopia
21.	Faroe Islands
22.	Georgia
23.	Ghana
24.	Gibraltar
25.	Greenland
26.	Grenada
27.	Guatemala
28.	Iran
29.	Israel
30.	Kazakhstan
31.	Kenya
32.	Lebanon
33.	Lesotho
34.	Macau
35.	Marshall Islands
36.	Moldova
37.	Monaco
38.	Montserrat
39.	Mozambique
40.	Namibia
41.	Nauru
42.	Nigeria
43.	Niue
44.	Oman
45.	Panama
46.	Peru
47.	Qatar
48.	Rwanda

[†] Only for Reporting Fiscal Years commencing before 1 January 2017.

	Jurisdictions with an International Agreement but no Qualifying Competent Authority Agreement in effect
49.	Saint Kitts and Nevis
50.	Saint Lucia
51.	Saint Vincent and the Grenadines
52.	Samoa
53.	San Marino
54.	Saudi Arabia
55.	Senegal
56.	Seychelles
57.	Sint Maarten
58.	Swaziland
59.	Tanzania
60.	Tunisia
61.	Turkey
62.	Turks & Caicos Islands
63.	Uganda
64.	Ukraine
65.	United Arab Emirates
66.	Uruguay [†]
67.	Vanuatu
68.	Zimbabwe

[†] Only for Reporting Fiscal Years commencing before 1 January 2017.