

Singapore becomes BEPS Associate! What does this mean for you?

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On 16 June 2016, the Singapore's Ministry of Finance ("MoF") announced that ["Singapore joins the Inclusive Framework for Implementing Measures against Base Erosion and Profit Shifting \("BEPS"\)"](#).

This announcement should not come as a surprise to many as Singapore has consistently expressed support for the key principle underlying the Organisation for Economic Co-operation and Development ("OECD's") BEPS Project, which is profits should be taxed where the real economic activities generating the profits are performed and where value is created. The announcement however marks an important signal to all that Singapore is "at the table" to ensure the consistent implementation of measures under the BEPS Project and a level playing field across jurisdictions.

As part of the Framework, Singapore commits to implementing the four minimum standards under the BEPS project, namely.

- Transfer pricing ("TP") documentation and Country by Country Reporting ("CbCR");
- Enhancing dispute resolution;
- Countering harmful tax practices;
- Preventing treaty abuse.

Of these, CbCR is of particular interest to most Multinational ("MNC") groups as it will provide an overview of an MNC group's global profit allocation in relation to its various operations and activities in various territories. Our NewsAlert will discuss these points, particularly CbCR, in more detail.

These latest messages are consistent with MoF's previous communications on BEPS. Singapore's commitment under the inclusive framework therefore merely reinforces Singapore's support of the key principle underlying BEPS but the announcement that Singapore will be an active member of the Framework to ensure a balanced process should be a welcome assurance to our business and investor community. MNC groups look to many factors in determining the best location for their operations. The balanced approach taken by the Singapore government towards BEPS will continue to safeguard Singapore's reputation and distinction as an important and responsible member of the international business and tax communities operating under consistent and fair tax principles. This also enhances our sovereignty to choose a tax system that befits our specific circumstances.

Overview

Singapore commits to implement the following four minimum standards under the BEPS project:

- **TP documentation and CbCR** – As many would know, Singapore has implemented contemporaneous TP documentation requirements since January 2015 but has remained silent on CbCR till now. MoF's affirmation that Singapore will be implementing CbCR in Singapore is anticipated and in this sense, long awaited. Nonetheless, it reflects the consultative approach of the Singapore government which has taken time to consult and, to understand the potential impact that CbCR implementation may have on businesses and to address any administrative concerns to the extent possible. In this regard, MoF also mentioned that the Inland Revenue Authority of Singapore ("IRAS") will consult Singapore-headquartered MNC groups further on the implementation aspects before details are released by September 2016.

As of now, what is clear is the implementation of CbCR will predominantly affect MNC Groups whose ultimate parent entities are based in Singapore and whose group turnover exceeds SGD 1,125 million (or SGD 1.125 billion) for financial years beginning on or after 1 January 2017.

On automatic exchange of CbCR templates with other jurisdictions, the Singapore government has once again reassured and addressed concerns often expressed by many in the business and investor communities. The government maintains confidentiality of information and potential misuse of any information exchanged by imposing the following conditions for IRAS to exchange CbCR templates with jurisdictions where Singapore has entered into bilateral agreements with for automatic exchange of CbCR information:

- First, these jurisdictions have a strong rule of law and can ensure the confidentiality of the information exchanged and prevent its unauthorised use.
 - Second, there must be reciprocity in terms of the information exchanged.
- **Enhancing dispute resolution** – The IRAS continues to monitor closely the OECD initiatives around implementation of minimum standards for dispute resolution. It is clear that Singapore recognises the need of investors and businesses to have access to effective and expedient dispute resolution mechanisms under Singapore's various bilateral tax treaties through the Mutual Agreement Procedure ("MAP") facility provided therein.

This is of particular importance to businesses and investors given the rising number of incidents of cross-border tax disputes they already face currently and which they expect to increase as tax authorities globally may apply different standards or varying interpretations to the BEPS Action Plan items to enforce tax collection in this challenging tax environment. Specifically, the need for even more effective dispute resolution may increase as a result of enhanced risk assessment capability following the adoption and implementation of CbCR.

- **Countering harmful tax practices** – MoF has reiterated that Singapore's incentive regime has been designed based on robust principles with the aim to encourage substantive operations and contribute meaningfully to the growth of Singapore's overall economy. These comments serve to reaffirm Singapore's position that Singapore, like many other countries, will continue to selectively and appropriately use relevant tax incentives to achieve important economic and social objectives. However, we expect the Singapore authorities will continue to step up efforts, as they already do now, in enforcing the adherence to substance and various value-adding activities requirements of incentive awardees. These efforts may include, and therefore mean, more elaborate documentation and reporting requirements going forward.

- **Preventing treaty abuse** – MoF has also reinforced Singapore’s unchanging position that Singapore does not condone treaty shopping. It particularly pointed out that Singapore’s bilateral tax treaties already incorporate a number of anti-treaty shopping provisions. It also makes known that Singapore is currently part of a group of jurisdictions working together to develop a multilateral instrument for incorporating BEPS measures into existing bilateral treaties to counter treaty abuse.

- The above messages are all aligned with MoF’s previous communications on BEPS: “Singapore welcomes the OECD’s Recommendations to Counter Base Erosion and Profit Shifting” and Deputy Prime Minister and Finance Minister Tharman Shanmugaratnam’s 3 November 2014 announcement in Parliament on “Singapore’s Implementation of Global Standard for Automatic Exchange of Financial Account Information” by 2018.

For more information on how these specific action items will affect businesses in Singapore, please refer to our earlier communications:

- [Summary of impact of OECD BEPS Action Points on Singapore](#) [16 Oct 2014]
- [Observations on the finalization of the OECD BEPS project](#) [3 Nov 2015]
- [A new chapter in Singapore’s Transfer Pricing regime](#) [12 Jan 2015]

Quick recap: What is CbCR?

The CbCR template sets out the key financial information that MNC groups are required to report on the global allocation of income, the taxes paid and certain indicators of the location of economic activity for each tax jurisdiction in which they do business. The key financial information required includes revenue (split into related and unrelated party revenue), profit before tax, tax paid and accrued, capital, accumulated earnings, number of employees and tangible assets (excluding cash and equivalents). The template also requires the identification of the main business activities performed in each jurisdiction.

Such CbCR templates are to be submitted to the tax authorities of the relevant MNC group’s ultimate parent company jurisdiction. The tax authorities concerned will subsequently exchange such a CbCR report through the automatic Exchange of Information (“EoI”) platform.

Since the OECD issued additional guidance on CbCR in **February 2015** and released model documents for implementation of CbCR in **June 2015**, many OECD countries (e.g., the UK, Australia, the Netherlands, China, India and Japan) have announced the implementation of CbCR regimes in their respective jurisdictions. As CbCR will firstly result in additional (significant) compliance requirements and provide deeper insight of a MNC group’s global profit allocation, many groups have been eager to understand Singapore’s position with respect to CbCR and implications to Singapore-based enterprises.

Implementation of CbCR in Singapore

MoF's press release has confirmed the implementation of CbCR in Singapore based on the following principles:

	CbCR implementation in Singapore	Similarity to OECD recommendations
Scope	This will predominantly affect multinational enterprises whose ultimate parent entities are based in Singapore. Foreign multinationals will refer to the CbCR rules of their ultimate parent company to better understand the implications of these rules	Aligned
Materiality	Enterprises whose annual group turnover exceeds SGD 1,125 million will be required to prepare CbCR;	Aligned with OECD's threshold of Eur 750 mil.
Timing	CbCR to be prepared for financial years beginning on or after 1 January 2017 and submitted to the IRAS within 12 months from the last day of their financial year.	Like some countries, Singapore has decided to implement CbCR for financial years beginning on or after 1 January 2017, a year later than that suggested by the OECD.

Detailed implementation will be released by September 2016.

Please refer to PwC Singapore's NewsAlert of July 2015 detailing [the implications of CbCR for Singapore-based enterprises as well as our thoughts on how Singapore-based groups can consider to prepare for CbCR](#).

Territories committed to introducing the CbCR requirements since release of CbCR template by the OECD

Following the release of the CbCR template as part of the OECD deliverable for Action 13 in September 2014, 44 countries have formally committed to and are in various stages of implementing the CbCR requirement in line with the OECD recommendations. Among these countries are the UK, Australia, Germany, Switzerland, the Netherlands, Spain, France, China, India and Japan.

Many of them will require their respective local-based MNC groups with annual group turnover of at least the equivalent of Eur 750 million to implement CbCR for financial years starting on or after 1 January 2016. We expect that more territories will commit to implementing CbCR to meet their international obligations on tax transparency and exchange of information.

Some initial thoughts on Singapore's CbCR implementation

In our NewsAlert of July 2015, we highlighted a number of key questions around CbCR implementation in Singapore. In this NewsAlert, we consider a number of specific issues arising from the one year gap identified for the implementation of CbCR in Singapore:

- *Do Singapore-based groups need to prepare CbCR for financial years beginning on or after 1 January 2016?*

The OECD CbCR implementation package provides for a secondary reporting mechanism to address receipt of CbCR information from MNC groups whose ultimate parent entity is based in a territory which has not (yet) implemented CbCR and/or when there is a systematic failure in exchange of information facilities with the tax authorities of the group's ultimate parent company location. In these instances, the MNC group should identify a "surrogate parent" which will file the CbCR report on behalf of the ultimate parent entity for the entire group.

In other words, one possible practical implication arising from the one year difference in Singapore's implementation timeframe will mean that in the first year (i.e., financial year starting on or after 1 January 2016), Singapore-based MNC groups will have to identify a surrogate parent to file the group's CbCR report in such jurisdiction for automatic EoI.

It remains unclear whether there is scope for Singapore to delay the implementation of CbCR by one year without the above impact to Singapore-based MNC groups. Clarification is therefore needed from MoF/ IRAS as part of these detailed implementation guidance.

- *How should MNC groups complete the CbCR?*

While the OECD CbCR template has provided general principles around the definitions of the scope of the financial information to be provided, a number of implementation details will still need to be clarified, which were already noted in our NewsAlert of July 2015. Specifically, these continue to revolve around compatibility with accounting rules, accounting standards to be applied and other definitional clarifications.

What do you need to do to prepare for Singapore's CbCR implementation?

If your group is a Singapore-headquartered MNC group, you should prepare for the CbCR implementation in Singapore. You should review whether such group level financial information is readily available to you. We are aware of a few MNC groups which have commenced this process. For others, several are realising that there are significant challenges involved in collating relevant financial information and that significant lead time is required to ensure a suitable solution can be implemented. It would be prudent to consider the implications of how tax authorities may view the information reported in their respective territories. This information should be in relation to the MNC group's global activities and operations as well as functions performed, assets owned and risks assumed in the respective jurisdictions.

MNC groups may want to consider preparing a mock-up of the CbCR report based on existing data and (re)consider the robustness of its tax and transfer pricing policies, and whether its existing policies reflect the current realities of the globalized and digitized economy. In light of the broader BEPS project and the increasing transparency of tax information expected, it is important that MNC groups use this opportunity to reflect on relevant aspects such as their tax policies and approaches for their cross-border activities, legal structure and business structure (including TP) and also consider the implications the CbCR information for them and their tax profile.

With increased tax transparency, it is clear that tax information provided in the CbCR template will need to be consistent and coherent across the MNC group. MNC groups may also like to consider the use of tax technology to make such information collection and analysis more effective and accurate.

Your PwC contacts

If you would like to discuss the impact of these developments on your group's affairs, please feel free to reach out to any of the facilitators or your local PwC Contact.

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