

# Country-By-Country Reporting Workshop dd. 28.10.2019

## Summary of the Questions & Answers (Q&As)

### PREAMBLE

The purpose of this document is to summarize the questions and answers discussed during the workshop dd. 28.10.2019 on the topic of Country-by-Country (CbC) Reporting requirements in the United Arab Emirates (UAE).

The answers provided in the present summary reflect the content and guidance under the applicable legislation (the UAE Cabinet Resolution N 32 of 2019) and the Frequently Asked Questions (FAQs) as at the date of the CbC workshop dd. 28.10.2019.

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## Category A: Administrative aspects

1. What is the expected timeline for the go-live of the CbC notification platform?

The CbC notification platform is expected to go-live at a reasonable timing prior to the applicable deadline for CbC notification filing in the UAE (the earliest deadline for filing of the CbC notification in the UAE is December 31, 2019). More information will be available through the UAE Ministry of Finance (MoF) website in this regard.

2. Will the CbC notification platform allow the generation of a confirmation message subsequent to the successful filing?

It is expected that a confirmation email would be sent to the email indicated in Section IV of the CbC notification form.

3. What contact details need to be provided in Section IV of the CbC notification form, i.e. local entity contact details or Ultimate Parent Entity (UPE) contact details?

Contact details of the entity submitting the CbC notification on behalf the UAE entities of the MNE Group should be provided accordingly which could either be the UAE UPE (in case of UAE headquartered MNE Groups) or any UAE constituent entity (in case of non-UAE headquartered MNE Groups).

4. Is it mandatory to obtain a UAE Tax Residency Certificate to be able to file a CbC report or a CBC notification in the UAE?

Obtaining a UAE Tax Residency (or Tax Domicile) Certificate is not required for this purpose.

5. What is the mechanism for submission of corrections to a CbC notification that has already been filed?

Guidance will be provided in respect of submission of corrections to a CbC notification that has already been filed, once the CbC notification platform is launched.

6. Would administrative penalties apply in case of voluntary / self-correction of mistakes in the CbC notification?

Based on Article 10 of the UAE Cabinet Resolution No. 32 of 2019 on CbCR, no penalty may arise if there is a reasonable excuse for the non-compliance with the CbC requirements. Such cases shall be assessed by the UAE Ministry of Finance (MoF), on a case-by-case basis.

7. Is it mandatory to provide any reconciliations for mismatches between the data reported in the CbC report and the financial statements used in this regard?

No reconciliation between the data in the CbC report and the financial statements is required at the moment of submission of the CbC report. At the same time, further clarifications may be provided in Table III of the CbC report.

8. How is data privacy and other safeguards being enforced?

The UAE MoF will ensure the confidentiality of the information contained in CbC reports provided to it, in accordance with the applicable provisions of the Cabinet Resolution No.32 of 2019 (Article 6) and the CbC MCAA.

## Category B: Legislative aspects

9. If the Ultimate Parent Entity (UPE) of a Multinational Group is located in the UAE, is it correct that the CbC report should be submitted in the UAE or can the CbC report be filed overseas, e.g. through a Surrogate Parent Entity (SPE)?

If the UPE of a Multinational Group is a UAE tax resident, the CbC report should be filed in the UAE accordingly.

10. Prior to the introduction of the CbC regulations in the UAE, a Multinational Group with a UPE in the UAE has already been filing the CbC report through an overseas SPE and would like to continue filing the CbC report using the same designated overseas SPE. Will the Group be required to file the CbC report in the UAE under the current UAE CbC legislation, or would it just be required to notify the MoF of the SPE filing and continue with the latter?

If the UPE of a Multinational Group is a UAE tax resident, the CbC report should be filed in the UAE accordingly.

11. The UPE of a Multinational Group X is situated in the UAE and has multiple UAE and non-UAE subsidiaries. The subsidiary Y of the Multinational Group X is situated in the UAE and has a number of subsidiaries across the world. Does subsidiary Y act as a UPE of the Group X and has to file its own CbC Report in the UAE in this case?

If subsidiary Y is included in the consolidated financial statements of the UPE of the Multinational Group X (refer to definition of 'Constituent Entity' in Article 1 of the Cabinet Resolution No.32 of 2019), there is no requirement for subsidiary Y to file a separate CbC report in the UAE in this case.

12. If a Multinational Group submits a CbC report through its UPE in the United States of America (USA), does the Group need to additionally submit a CbC report in the UAE? If yes, the revenue threshold should be based on the UAE CbC requirements or rather the US applicable ones?

If the UPE of the Multinational Group is a tax resident in the USA, the Multinational Group may keep submitting the CbC report in the USA. There are no requirements for the secondary filing of the CbC Report in the UAE. There will be a separate announcement by MoF in this regard. Therefore there will be no requirement to file the CbC Report in the UAE in addition to the CbC report filing done in the USA. However, a CbC notification should still be submitted by the constituent entity(ies) that are tax resident in the UAE.

Further, the CbC revenue threshold to be taken into consideration is the one of the tax jurisdiction of the UPE, in this case it is the USA.

13. If a Multinational Group files its CbCR in a country that does not have an exchange relationship in place with the UAE, but such country is part of the CbCR Multilateral Competent Authority Agreement (MCAA), will filing of the CbC report be due in the UAE?

It has been communicated during the workshop dd. 28.10.2019 that the requirements for secondary filing of CbC reports in the UAE would not be applicable. There will be a separate announcement by MoF in this regard. Therefore, there is no requirement to file the CbC report in the UAE even if the CbC report is filed in the jurisdiction with which the UAE has no agreement on exchange of information for CbCR purposes.

14. Are there any exemptions from filing a CbC notification and/or a CbC report applicable to any specific types of entities?

In so far that the CbC requirements are met, there are no entity type specific exemptions.

15. Is CbC reporting applicable to Free Zone registered entities in the UAE?

Yes, the CbC reporting requirements are applicable to Free Zone registered entities in the UAE.

16. Are CbCR requirements applicable to government-owned multinational companies?

Companies with government ownership are subject to general CbCR requirements in the UAE.

17. Do CbCR requirements apply to Joint Ventures (JVs) in the UAE?

JVs are subject to general CbCR requirements in the UAE.

18. Do CbC notification requirements apply to branches in the UAE?

The CbC notification requirements apply to any qualifying constituent entity(ies) of Multinational Groups, which amongst others include any permanent establishments for which a separate financial statement is prepared for financial, regulatory, tax reporting, or internal management control purposes.

Based on the above, if the branch is considered a permanent establishment and if separate financial statements are prepared for a branch, it should be considered as a constituent entity subject to CbC notification requirements.

19. If a Multinational Group with a UPE in Country X has a branch in the UAE and there is no current exchange relationships between Country X and the UAE, what are the actions required from the UAE branch's perspective?

It has been communicated during the workshop dd. 28.10.2019 that the requirements for secondary filing of CbC reports in the UAE would not be applicable. There will be a separate announcement by MoF in this regard.

At the same time, the UAE branch would anyway need to submit a CbC notification in the UAE.

20. When is the deadline for filing the CbC report in the UAE?

The CbC report should be filed within 12 months from the end of the reporting year of the MNE Group. E.g. With respect to the financial year commencing on January 1<sup>st</sup> 2019 and ending by December 31<sup>st</sup> 2019, the CbC Report should be filed no later than December 31<sup>st</sup>, 2020.

21. What if the MNE Group's revenue drops below the threshold in the course of the financial / reporting year concerned?

The consolidated group revenue of the Group by the end of the preceding financial year should be considered for testing whether CbCR requirements should apply to the Group.

22. What is the definition of tax resident for UAE CbCR purposes?

Based on the existing UAE laws and international tax treaties, an entity should be considered as a tax resident in the UAE if it is incorporated or created under the laws of the UAE or has its place of effective management therein.

23. Where is the information on exchange relationships between tax jurisdictions, including the UAE, available?

The following link can be used to check on the status of the exchange relationships between selected tax jurisdictions:

<https://www.oecd.org/tax/beps/country-by-country-exchange-relationships.htm>

24. For a branch in the UAE owned by a Country X's company, which is jointly held by (e.g. 50:50) two parent entities in two different tax jurisdictions, does CbCR need to be filed at both parent entities' levels?

The approach for including the branch to the CbC reports of the parent entities should be consistent with the approach considered for purposes of preparing the financial statements, i.e. if the branch's information is included in the consolidated financial statements of both parent entities then it would be included into the CbC reports of both parent entities as well.

25. Can a UPE be an entity that prepares IFRS consolidated financial statements, but that is not the ultimate corporate holding company?

The UPE is an entity that owns interest in other entities and it is required to prepare Consolidated Financial Statements under accounting principles generally applied in its jurisdiction of tax residence, or would be so required if its equity interests were traded on a public securities exchange in its jurisdiction of tax residence. Further, there is no other entity that owns directly or indirectly an interest in this UPE, such that the other entity may be required to prepare the consolidated financial statements as above.

Hence, even in case the consolidated financial statements are not actually prepared by the ultimate corporate holding company, but would be so required to prepare based on the applicable accounting principles or if its equity interests were traded on a public securities exchange in its jurisdiction of tax residence, the ultimate corporate holding company may be considered as the UPE.

However, in case the entity which actually prepares the IFRS consolidated financial statements, is not / may not be consolidated with the ultimate corporate holding company, then it may be considered as the UPE.

E.g. for a MNE Group X, currently the consolidated financial statements are prepared by Company A. However, there is another Company B, which owns more than 50% interest in Company A. Company B does not prepare consolidated financial statements, however it is required to do so based on the applicable accounting principles / would have been required to prepare in case Company B was listed. In this case, Company B may be considered as the UPE, rather than Company A.

26. What is the role of the UAE Financial Free Zone Authority?

The UAE Financial Free Zone Authority has no role in the UAE CbC process. The UAE MOF should be referred to as the designated competent authority for CbCR purposes.

## Category C: Content of the CbC report and CbC notification

27. What should be included in the column “Tangible Assets” in Table I of the CbC report?

The information to be included under “tangible assets” category should be consistent with the approach taken for the purpose of preparation of the financial statements. It may not include cash or cash equivalents, intangible assets or financial assets.

28. If a Multinational Group has a UPE outside of the UAE and other constituent entities in the UAE, for purposes of the CbC notification in the UAE, which entity would qualify as the CbC “Reporting Entity”?

The CbC “Reporting Entity” for purposes of the CbC notification in the UAE, is the entity submitting the CbC report on behalf of the Group.

29. Does the CbC report have to include information on constituent entities with no tax residency?

Yes, all constituent entities of the MNE Group should be reflected in the CbC report, including constituent entities with no tax residency as ‘stateless entities’.

30. If Table I of the CbC report is filled on aggregate basis from the consolidated financial data of the Group, where should the intercompany elimination reconciliation be disclosed?

Reconciliation on elimination of intra-group transactions is not mandatory to be included in the CbC report. However, the Group may include in Table 3, any further brief information or explanation it considers necessary or that would facilitate the understanding of the compulsory information provided in Table 1 and Table 2 of the CbC report.

31. Should stated capital be reflected in Table I only for the parent entity of the Group or should all the investments in subsidiaries be disclosed accordingly?

Stated capital should be disclosed in Table I for all constituent entities.

Generally, stated capital is the residual equity other than the accumulated earnings (based on the applicable reporting / accounting framework). Hence, it would usually be the ordinary

share capital, preference share capital, share premium, other contributed capital and perpetual securities.

With regard to permanent establishments, the stated capital may be reported by the legal entity of which it is a permanent establishment unless there is a defined capital requirement in the permanent establishment tax jurisdiction for regulatory purposes.

32. In the revenue columns, are financial services entities allowed to report net revenue if on the face of the income statement net interest income is written in form of “interest received less interest paid”?

Revenue may be presented in Table 1 of the CbC report consistently with how it is presented in the source financial statements. If the revenue is presented in the financial statements as “interest received less interest paid”, a corresponding clarification may be added to Table 3 of the CbC report.