

DRAFT LIST OF JURISDICTIONS CONTEMPLATED IN ARTICLE 2(2)(ii)(b) OF THE COUNTRY-BY-COUNTRY REGULATIONS SPECIFYING 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 of September 2017](#) (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. 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 draft 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 issue the first 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 by the end of November 2017. 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.

Comments on the revised draft lists must be submitted to acollins@sars.gov.za by no later than 3 November 2017.

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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.	Australia	1 January 2016
2.	Austria	1 January 2016
3.	Belgium	1 January 2016
4.	Bermuda*	1 January 2016
5.	Brazil	1 January 2016
6.	Canada	1 January 2016
7.	Chile	1 January 2017
8.	Cyprus*	1 January 2016
9.	Denmark	1 January 2016
10.	Estonia	1 January 2016
11.	Finland	1 January 2016
12.	France	1 January 2016
13.	Germany	1 January 2016
14.	Guernsey	1 January 2016
15.	Iceland	1 January 2016
16.	Indonesia*	1 January 2016
17.	Ireland	1 January 2016
18.	Isle of Man	1 January 2016
19.	Israel	1 January 2017
20.	Italy	1 January 2016
21.	Japan	1 January 2016
22.	Jersey	1 January 2016
23.	Korea	1 January 2016
24.	Latvia	1 January 2016
25.	Liechtenstein	1 January 2017
26.	Luxembourg	1 January 2016
27.	Malaysia	1 January 2018
28.	Mauritius	1 January 2016
29.	Mexico	1 January 2016
30.	Netherlands	1 January 2016
31.	New Zealand	1 January 2016
32.	Norway	1 January 2016
33.	Poland	1 January 2016
34.	Portugal	1 January 2016
35.	Singapore	1 January 2017
36.	Slovak Republic	1 January 2016
37.	Slovenia	1 January 2016
38.	Spain	1 January 2016
39.	United Kingdom	1 January 2016
40.	United States of America	1 January 2016
41.	Uruguay	1 January 2017

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

	Jurisdictions with an International Agreement but no Qualifying Competent Authority Agreement in effect
1.	Albania
2.	Algeria
3.	Andorra
4.	Anguilla
5.	Argentina
6.	Aruba
7.	Azerbaijan
8.	Barbados
9.	Belarus
10.	Belize
11.	Botswana
12.	British Virgin Islands
13.	Bulgaria
14.	Cameroon
15.	Cayman Islands
16.	Chile [†]
17.	China
18.	Colombia
19.	Cook Islands
20.	Costa Rica
21.	Croatia
22.	Curacao
23.	Cyprus
24.	Czech Republic
25.	Democratic Republic of Congo
26.	Egypt
27.	Ethiopia
28.	Faroe Islands
29.	Georgia
30.	Ghana
31.	Gibraltar
32.	Greece
33.	Greenland
34.	Grenada
35.	Guatemala
36.	Hong Kong
37.	Hungary
38.	India
39.	Iran
40.	Israel [†]
41.	Kazakhstan
42.	Kenya
43.	Lebanon
44.	Lesotho
45.	Liechtenstein [†]
46.	Lithuania

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

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Jurisdictions with an International Agreement but no Qualifying Competent Authority Agreement in effect	
47.	Malaysia [†]
48.	Malta
49.	Marshall Islands
50.	Moldova
51.	Monaco
52.	Montserrat
53.	Mozambique
54.	Namibia
55.	Nauru
56.	Nigeria
57.	Niue
58.	Oman
59.	Pakistan
60.	Panama
61.	Qatar
62.	Romania
63.	Russian Federation
64.	Rwanda
65.	Saint Kitts and Nevis
66.	Saint Lucia
67.	Saint Vincent and the Grenadines
68.	Samoa
69.	San Marino
70.	Saudi Arabia
71.	Senegal
72.	Seychelles
73.	Singapore [†]
74.	Sint Maarten
75.	Swaziland
76.	Sweden
77.	Switzerland
78.	Tanzania
79.	Tunisia
80.	Turkey
81.	Turks & Caicos Islands
82.	Uganda
83.	Ukraine
84.	United Arab Emirates
85.	Uruguay [†]
86.	Zimbabwe

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

[‡] Only for Reporting Fiscal Years commencing before 1 January 2018.