



**ANGUILLA**

# Country by Country Reporting Guidance

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Guidance issued under section 13 of The International Tax Compliance (CBC Reporting) Regulations, 2019

Issued: 20<sup>th</sup> May, 2019

Version: 1

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## Overview

### General

The OECD and G20 countries developed a 15-point Action Plan to address Base Erosion and Profit Shifting (BEPS). One of these actions was related to the transfer pricing documentation (“BEPS Action 13: Re-examine Transfer Pricing Documentation”). Country-by-Country Reporting (CbCR) is part of Action 13 of the OECD/G20 Action Plan on Base Erosion and Profit Shifting (BEPS).

CbCR requires Multinational enterprises (MNE) which meet certain criteria to file a Country-by-Country Report (CbC Report) with local authorities which would provide a breakdown of the amount of revenue, profits, taxes and other indicators of economic activities for each tax jurisdiction in which the MNE group does business. CbCR only applies to MNE groups with annual consolidated group revenue of not less than a specified threshold amount in the preceding fiscal year (MNE Groups). Anguilla has specified the threshold as US\$850 million but other jurisdictions may specify the threshold in Euros (€750 million). An Excluded MNE Group is a Group which does not meet the aforementioned threshold. CbCR does not apply to Groups below the threshold.

Country-by-Country Reporting requires MNE Groups to provide annually and for each jurisdiction in which they do business, aggregated information relating to the global allocation of the multinational enterprises income and taxes paid, together with certain indicators of the location of economic activity within the multinational enterprises groups, as well as information about which entities do business in a particular jurisdiction and the business activities each entity is engaged in. Insofar, Country-by-Country Reporting will provide a clear overview of where profits, sales, employees and assets are located and where taxes are paid and accrued.

All CbCR legislation and relevant resources are available on the [Competent Authority’s website](#)

### OECD Core Documents & Resources

Core elements of CbCR:

- [Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 - 2015 Final Report](#)
- [Guidance on the Implementation of Country-by-Country Reporting BEPS ACTION 13](#)
- [Country-by-Country Reporting XML Schema: User Guide for Tax Administrations](#)

## Other CbCR Resources

- [General Information](#)
- [CbCR FAQs](#)
- [Country by Country reporting - Handbook on effective implementation](#)
- [Country-by-Country Reporting: Handbook on Effective Tax Risk Assessment](#)

## Domestic Law and Operations

### Domestic Law

The CbCR is implemented in Anguilla through the Tax Information Exchange (International Cooperation) Act, 2016 which serves as the overarching legislation for all forms of exchange of information for tax purposes. Provisions for the CbCR are made by way of regulations, namely The International Tax Compliance (CBC Reporting) Regulations, 2019 (hereinafter referred to as the CbCR Regulations). The CbCR Regulations came into force on the 2<sup>nd</sup> April, 2019.

The CbCR Regulations require Reporting Entities resident in Anguilla to collect, maintain and report information for exchange with partner jurisdictions and impose a notification obligation on all Constituent Entities resident in Anguilla.

All jurisdictions participating in the BEPS project are implementing CbCR in line with the agreed CbCR implementation package. This package can be found at Annex IV to Chapter V (page 37) of the OECD Final Report and includes model legislation for the introduction of CbCR requirements (OECD Model Legislation). The purpose of the implementation package and in particular, the OECD Model Legislation, is to ensure a consistent and standard approach to CbCR across all implementing jurisdictions. For this reason, the CbCR Regulations closely mirror the OECD Model Legislation to the extent its provisions apply to Anguilla.

A good understanding of the OECD Final Report is critical to understanding and interpreting the CbCR Regulations and should be read in conjunction with applicable legislation and this Guidance. As Anguilla is a non-reciprocal jurisdiction, there are some variances between the OECD Model Legislation and the CbCR Regulations. Where there is a conflict between the OECD Model Legislation and the CbCR Regulations, the CbCR Regulations take precedence. A number of terms used in this Guidance are

defined in the CbCR Regulations, and whilst this Guidance provides further information to assist with the interpretation of some of these terms, the reader is referred to the CbCR Regulations for full definitions of all relevant terms.

**Constituent Entities resident in Anguilla are encourage to seek independent legal or other professional advice if unclear as to the obligations under the law.**

## Competent Authority

For the purposes of the MCAA, the Anguilla Competent Authority is the Permanent Secretary of Finance, whose functions are delegated. For the purposes of the CbCR, the Comptroller of Inland Revenue has been designated under the CbCR Regulations as the Competent Authority. Both hereinafter referred to as the 'Competent Authority'.

The Competent Authority is responsible for the administration of CbCR in Anguilla and for ensuring that the relevant Constituent Entities resident in Anguilla comply with their obligations under the CbCR legislation.

## Notification and Reporting to the Competent Authority

### Notification

Every Entity that is resident in the Anguilla must determine whether it is a Constituent Entity of an MNE Group.<sup>1</sup>

Under Section 5 of the CbCR Regulations any Constituent Entity of an MNE Group that is resident for tax purposes in Anguilla needs to notify the Competent Authority:

1. If it is the Ultimate Parent Entity<sup>2</sup> of an MNE Group no later than the last day of the Reporting Fiscal Year of the relevant MNE Group.

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<sup>1</sup> "MNE Group" means any group that—

- (a) includes two or more enterprises the tax residence for which is in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction; and
- (b) is not an Excluded MNE Group;

<sup>2</sup> Ultimate Parent Entity" means a Constituent Entity of an MNE Group that meets the following criteria—

- (a) it owns directly or indirectly a sufficient interest in one or more other Constituent Entities of the MNE Group such that it is required to prepare Consolidated Financial Statements under accounting principles generally

2. If it is not the Ultimate Parent Entity, no later than the last day of the Reporting Fiscal Year of the MNE Group, and shall notify the Competent Authority of the identity and tax residence of the Reporting Entity

Notification is not required to be repeated annually, however, any changes to notification details must be advised to the Competent Authority.

#### Notifications Procedure

**All notifications are to be submitted via email to [Anguilla.EOI@gov.ai](mailto:Anguilla.EOI@gov.ai) . Caption the email “Notification under Section 5 (*insert subsection (1) or (2)*) of CbCR Regulations for (*insert name of constituent entity (ies)*)”.**

A letter of authorization must be attached to the notification email, appointing a Primary Contact for the MNE Group, this primary contact will be the Primary User for the CbCR portal. The letter must be signed by a Director or authorized Senior Manager of the Reporting Entity or Constituent Entity. The name and position of signatory must be clearly identified on the letter. See CbCR letter of authorization template. Each Constituent Entity of the same MNE must submit its notification, however, the Competent Authority will permit a single authorization letter to be used for multiple Constituent Entities, where these Entities form part of the same MNE Group. The letter shall be signed by a Director or Senior Manager of the Reporting Entity for the MNE Group. The letter shall be submitted in a pdf format only. The bio page of the primary contact’s passport must be provided.

The Primary Contact need not be resident (or have an address) in Anguilla and may be an agent of the Reporting Entity. The Primary Contact must provide his/her name and contact details. The Primary Contact is responsible for making the Notification (and any changes) on behalf of the MNE Group’s Constituent Entities in Anguilla. That is, every Constituent Entity in the same MNE Group must appoint the same Primary Contact to make their Notification. This is the method by which Constituent Entities must comply with their obligation under Section 5 of the CbCR Regulations.

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applied in its jurisdiction of tax residence, or would be so required if its equity interests were traded on public securities exchange in its jurisdiction of tax residence; and

(b) there is no other Constituent Entity of the MNE Group that owns directly or indirectly an interest described in paragraph (a) in the first mentioned Constituent Entity.

The Competent Authority requires each MNE Group with Constituent Entities in Anguilla to appoint one individual as its Secondary Contact.

The Primary Contact must provide the name of the UPE, country of residence and company registration number or equivalent if the UPE is not a company.

### Notification Deadlines

All Constituent Entities are required to submit notifications as prescribed under Section 5 of the CbCR Regulations no later than the last day of the Reporting Fiscal year of such MNE Group

### Changes to Notification details

Notification does **not** need to be repeated annually. However changes to notification details need to be communicated to the Competent Authority in a timely fashion. All changes to notification details are to be submitted via email to Anguilla.EOI@gov.ai .

A letter of authorization must be submitted by a Director or authorized Senior Manager of the Reporting Entity or Constituent Entity, identifying the current primary contact and providing the details of the new primary contact. The bio page of the new primary contact's passport must be likewise provided.

Changes to other Notification Details should be submitted by the Primary Contact, or the Director or authorized Senior Manager of the Reporting Entity or Constituent Entity.

If an entity ceases to be a Constituent Entity it shall notify the Competent Authority immediately via the Primary User, or the Director or authorized Senior Manager of the Reporting Entity or Constituent Entity.

## Reporting

### Reporting Timelines

Under Sections 3 and 4 of the CbCR Regulations, CbC Reports are required to be filed by Ultimate Parent Entities that are resident in Anguilla for tax purposes in respect of accounting periods beginning on or after 1 January, 2019.

By way of example, if an MNE Group who's fiscal year began on 1<sup>st</sup> January, 2019 would have an obligation to file a CbC Report no later than 31<sup>st</sup> December, 2020.

### Filing CbC Reports

The Competent Authority will issue further updates in the 4<sup>th</sup> Quarter of 2019 to confirm when the AEOI Portal will be able to accommodate CbC Returns. Revised guidance and a user guide will be issued shortly thereafter to assist Reporting Entities with the process of reporting via the electronic portal.

The reporting schema for the CbCR will be the published CbCR XML Schema.

### Completion of CbC Reports

CbC Reports apply for a multitude of entity types across a broad range of industries. It is therefore not feasible to provide guidance on issues pertaining to every type of entity or industry in regards to the completion of CbC Reports. The OECD Final Report (page 31) includes detailed instructions and guidance on how to complete CbC Reports and should be reviewed in full in advance of completing CbC Reports. The Reporting Entity should adopt a reasonable, practical and consistent approach to completion of CbC Reports.

### Source of Data

The Reporting Entity should consistently use the same source of data from year to year in satisfying its reporting obligations.

## Exchanges of CbC Reports by the Competent Authority

### Exchanges

The Competent Authority will annually exchange on an automatic basis the CbC Report received from each Reporting Entity that is resident in Anguilla. The CbC Report will be included in the CbC Message transmitted to any other jurisdiction in which a Constituent Entity contained in the CbC Report is resident for tax purposes, if Anguilla has an Qualifying Competent Authority Agreement in effect with that jurisdiction. Qualifying Competent Authority Agreements (QCAAs) contain the rules on the modalities of the exchange between the Competent Authorities of participating jurisdictions in CbCR.



QCAAs also contain representations on confidentiality, safeguards and the existence of the necessary infrastructure for an effective exchange relationship.

Anguilla, like most jurisdictions participating in CbCR, has entered into the Multilateral Competent Authority Agreement (MCAA) on CbCR; the OECD maintains a list of signatories to the MCAA. The Authority will transmit a separate CbC Message to each Receiving Country which has Constituent Entities in the CbC Reports it contains. Each Receiving Country will transmit a CbC Status Message to the Competent Authority confirming whether the CbC Message is accepted or declined and, if accepted, whether there are any record level errors that must be corrected by the relevant Reporting Entities. All transmission of CbC Messages and CbC Status Messages will be made via the OECD's Common Transmission System (CTS).

### Confidentiality and Use of Information provided in CbC Reports

Anguilla is a non-reciprocal jurisdiction for Country by Country Reporting, as such the Competent Authority will use CbC Reports and any other information obtained pursuant to the CbC Regulations for the purposes of collaboration on compliance and enforcement with other Competent Authorities pursuant to a Qualifying Competent Authority Agreement.

Other Competent Authorities may use the CbC Reports for the purposes of assessing high-level transfer pricing risks and other base erosion and profit shifting related risks, including assessing the risk of non-compliance by members of the MNE Group with applicable transfer pricing rules. However, Competent Authorities will not conduct transfer pricing adjustments based solely on the CbC Reports. The OECD has published Guidance on the appropriate use of information contained in CbC Reports.

Anguilla will annually exchange information under CbCR with partner jurisdictions which have in place adequate measures to ensure the required confidentiality and data safeguards are met. Information provided to or received by the Competent Authority for the facilitation of the automatic exchange of information or otherwise for tax purposes shall be kept confidential as provided in accordance with Section 6 of the CbC Regulations and Section 22 of the Tax Information Exchange (International Cooperation) Act, 2016.

### Guidance on Technical Issues

## Constituent Entities required to report

The only type of Constituent Entities required to file CbC Reports in Anguilla is an Ultimate Parent Entity of an MNE Group resident in Anguilla for tax purposes.

**An Anguilla Constituent Entity of an MNE Group that is not an Ultimate Parent Entity is not required to file a CbC Report in Anguilla.**

## Surrogate Parent Entity

Filing via a Surrogate Parent Entity are not accommodated under the CbCR Regulations in Anguilla.

## Master files and Local files

Anguilla does not require a Reporting Entity to submit the “master file” and “local file” referred to the OECD Final Report as part of the normal reporting cycle.

## Deemed Listing Provision

The deemed listing provision in the definition of the term "Group" in the CbCR Regulations is only relevant where an enterprise would otherwise be the Ultimate Parent Entity (UPE), but it is not required to prepare Consolidated Financial Statements in the jurisdiction where it is a resident for tax purposes. In this case, the Group includes all entities that would be included in the Consolidated Financial Statements that the relevant enterprise would be required to prepare if it was listed on a public securities exchange. In applying the deemed listing provision, it is irrelevant whether or not a particular type of entity is in fact able to be listed, taking into account, among other things, the jurisdiction’s company law and/or regulations governing the relevant public securities exchange.

For instance, some jurisdictions differentiate between public entities and non-public entities (or private entities) in determining whether Consolidated Financial Statements are required to be prepared (e.g. the United States and Canada). In this case, the deemed listing provision would be relevant in determining the constituent entities in an MNE Group where the UPE is a non-public entity. The term “public entities” refers to entities which have instruments listed on a public securities exchange and the expression “non-public entities” refers to entities which have no instruments traded on a public securities exchange. The term “public entity” does not refer to an entity held by public sector bodies. In

accordance with paragraph 55 of the Action 13 Report, neither the deemed listing provision nor this guidance should be interpreted as giving rise to any exemption from the obligation to file the CbC Report other than as set out in paragraph 52 of the Action 13 Report and the CbCR Regulations in relation to Excluded MNE Group.