



29 March 2016

### **1. OECD issues standardised electronic format for the exchange of BEPS country-by-country reports**

On 22 March 2016, the OECD released a standardised electronic format for the exchange of country-by-country (CbC) reports between jurisdictions as well as a user guide. This CbC XML scheme is part of the OECD's work to ensure the swift and efficient implementation of the BEPS measures. CbC reports should be electronically transmitted between the competent authorities.

The move is expected to help tax administrations obtain a complete understanding of the way in which multinational enterprises (MNEs) structure their operations.

Exchanges of CbC reports will start in 2018 containing information on the year 2016. The country-by-country reporting template applies to groups with an annual consolidated revenue in the immediately preceding fiscal year of at least EUR 750 million.

- OECD Press release: [EN](#)

### **2. European Parliament publishes ambitious draft report on ATAD**

The European Parliament has tabled a draft report on the Anti-Tax Avoidance Directive (ATAD) in response to the European Commission's proposal. The EC proposal on the ATAD is subject to unanimity in the EU Council, while the EP's opinion has only consultative character. The Council is hence not bound by the Parliament's position.

Rapporteur MEP Hugues Bayet (S&D/Belgium) suggests including further topics such as a definition of permanent establishment (relying on concepts such as "significant digital presence" discarded by the OECD), rules on transfer pricing and a legislative framework for patent box regimes. The EP should even be given the right to call for an investigation if it is of the view that abuse takes place.

Concerning measures included in the Commission's proposal, the draft suggests stricter rules, among other:

- For the interest limitation rule, the EU should allow the deduction of exceeding borrowing costs only up to a maximum of 10% of the taxpayer's earnings (EBITDA), instead of 30%, limiting also the carry-forward of unused EBITDA.
- For the switch-over clause, the draft proposes including foreign low-taxed income also from other EU member states (not only third countries), and applying an effective corporate tax rate threshold of 25% (instead of 40% of the taxpayer's country tax rate) to define such low-taxed income.
- A 25% effective tax rate threshold is also suggested for the application of the CFC (controlled foreign companies) rule.
- Rules on hybrid mismatches should extend to third countries.

EU member states should inform also the European Parliament on the implementation of the ATAD.

The ECON committee in the European Parliament will vote on the report on 23 May; the plenary vote is scheduled for 7 June 2016.

- EP draft report: [All EU languages](#)

### **3. Leaked information on upcoming EC proposal on CBCR**

On 12 April 2016, the European Commission is expected to table its proposal for public country-by-country reporting. According to press reports, the proposal would require large businesses with a revenue exceeding EUR 750 million to publish information on tax payments in the EU. The rules would target companies with headquarters or subsidiaries in the EU. The proposal would go beyond the OECD framework to the extent that the information will have to be published, but lags behind to the extent that it only concerns tax payments within the EU, and thus does not include most jurisdictions considered tax havens and developing countries, two points of great importance to tax justice campaigners.

- European Commission meetings timetable: [EN](#)

### **4. OECD consults on tax treaty entitlement of non-CIV funds**

On 24 March 2016, the OECD issued a public consultation on treaty benefits for non-CIV (collective investment vehicle) funds as part of the OECD's follow-up work to Action 6 of the BEPS project. Replies to the consultation should be sent until 22 April 2016.

Questions relate to specific concerns identified in previous comments on the BEPS Action 6 Report. The consultation document and the responses received will be discussed at the May 2016 meeting of Working Party 1 of the OECD Committee on Fiscal Affairs.

- OECD press release: [EN](#)

### **5. EC launches public consultation on common insolvency framework**

Since 23 March 2016, the European Commission consults on the establishment of an EU-wide insolvency framework, following the publication of an initial inquiry into insolvency law harmonisation earlier this month. The European Commission aims to support businesses in financial difficulties while at the same time maximising the value received by creditors, shareholders, employees, investors, tax authorities, and other parties concerned. The Commission intends to present a legislative proposal on insolvency by the end of 2016. Overall efficiency and effectiveness of insolvency frameworks should be increased while also building on national regimes.

Closing date is 14 June 2016.

- Dedicated Commission website: [EN](#) (DE/FR available; the Commission announced that the questionnaire will be made available in other EU languages during the following weeks)

\*\*\*\*\*

*The selection of the remitted material has been prepared by Piergiorgio Valente / Filipa Correia / Rudolf Reibel / Andrea Morass*

Follow us on [Linked in](#) 

