



CbyCR overview

An EU perspective on
country-by-country reporting

EU Tax Centre

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Introduction

This publication offers an overview of country-by-country reporting (CbyCR) from an European Union (EU) perspective. For more information, including on non-public CbC reporting and developments outside the EU, please visit the EU Tax Centre dedicated [website](#).

Tax transparency is here to stay. A combination of public pressure and political willpower at the G20/OECD and EU levels has resulted in a paradigm shift in the global tax landscape. Country-by-country reporting (CbyCR) plays a key role in these developments. We have already seen how voluntary public CbyCR in various sectors, such as the extractive and financial sectors, has shifted towards mandatory disclosure. Meanwhile, as part of its Base Erosion and Profit Shifting (BEPS) anti-tax avoidance program, the OECD has initiated CbyCR to tax authorities (BEPS Action 13) and the EU introduced parallel rules as part of its own anti-tax avoidance program. The EU has also introduced mandatory public disclosures of CbyCR for MNEs operating in all business sectors in EU Member States, potentially setting the bar for other jurisdictions as well.



Companies affected by the existing CbyCR rules have often called on KPMG firms to help build and refine their CbyCR process — collecting, aggregating, analyzing and reporting their global data. With the new wave of CbyCR regulations, this need has only increased over the years. However, forward-looking companies have not just been focusing on process, but are also reviewing and adjusting their tax business models and policies. This way, they can ensure that they comply with the rules, and be proactive, by, for example, avoiding unnecessary duplication or leveraging corporate communication opportunities.

So what are KPMG professionals seeing that has been developed as industry best practices in this area? A number of common themes are emerging:



Know what is going on. Staying on top of developments means staying in control. Be proactive rather than reactive.



Review and, if necessary, adjust tax transparency strategies and policies. Look into enhanced relationships with tax authorities and consider the public dimension.



Not all businesses are at the same point in their tax transparency journey. Tax transparency is often being used as a key metric for demonstrating a responsible attitude towards tax, especially with environmental, social and governance (ESG) issues rising on leadership agendas globally.



Understanding and progressing tax transparency within the business, helps to inspire both confidence and support from investors, customers and regulators.



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With the increasing multiplicity of CbyCR regulations, it is important to have a clear picture of what is currently on the table. Whereas the OECD and EU CbyCR initiatives follow largely the same course, the emergence of a new layer of public CbyCR in the EU, and possibly elsewhere in the world, makes it even more important to differentiate between the two. With this in mind, we have prepared a step-by-step comparative guide to the two EU initiatives, one on CbyCR to tax authorities and the other CbyCR to the public. This is followed by a tabular comparative overview, which also puts into context the OECD (BEPS Action 13) CbyCR initiative.

If you haven't done so already, do contact one of KPMG's core specialists listed at the end of this paper to find out how KPMG firms can help you.

To stay updated on CbyCR in the EU, visit our website at kpmg.com/eutax or our dedicated [webpage](#).

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EU non-public CbyCR to tax authorities

EU country-by-country reporting to tax authorities ('non-public CbyCR')

Status

The non-public rules were approved by EU Member States on March 8, 2016 and formally adopted on May 25, 2016 (Council Directive 2016/881). Member States had until June 4, 2017 to implement these rules into their domestic legislation.

Interaction with OECD's CbyCR initiative

The EU rules closely follow the OECD's final report on CbyCR to tax authorities (BEPS Action 13). Differences largely reflect the different context of the EU as opposed to individual tax jurisdictions. Member States have enacted one single set of rules for the EU and the OECD rules on CbyCR to tax authorities.

First reporting year

The rules apply to periods beginning on or after January 1, 2016, but Member States had the option to defer this date for one year in the case of non-EU-parented groups.

What are businesses required to do

The EU rules require affected multinationals to file with EU tax authorities a report on tax and related information concerning the whole group, i.e., including data concerning non EU-related operations.

What triggers a reporting obligation

A reporting obligation under the EU rules arise when there is a multinational group with consolidated group revenue of at least EUR 750 million or equivalent in local currency, in the fiscal year preceding the reporting fiscal year, and either the ultimate parent or another member of the group is

resident in an EU Member State.

Who has to report

The ultimate parent has to report if resident in an EU Member State. If it is not, all EU subsidiaries (but not branches) must report, unless, broadly speaking, the non-EU parent has to file a country-by-country report under its local rules and there is an effective information-exchange agreement in place between its tax authorities and those of the EU subsidiaries.

As an alternative to all EU subsidiaries filing individual reports in each of their respective jurisdictions, the group can appoint a single EU subsidiary to file with its local tax authorities. A single EU or non-EU subsidiary can also be appointed to file instead of all the EU subsidiaries, as a 'surrogate parent' (in the case of a non-EU surrogate, there must be an effective information-exchange agreement in place between the surrogate's jurisdiction and those of the EU subsidiaries).

Where the report is filed and what happens to it

Reports are filed with the tax authorities of the Member State where the reporting entity is resident (or local tax authorities in the case of a non-EU parent or surrogate parent). The local tax authorities then exchange the report with the Member States in which the group has resident subsidiaries or taxable permanent establishments. The reports may be used, in particular, for assessing high-level transfer pricing risks but not as such to serve as a basis for transfer pricing adjustments. EU tax authorities are required to apply their domestic confidentiality rules.

What should be reported

Data should be provided for the whole group on an aggregated basis for each jurisdiction in which it operates.

The data should consist of:

- revenue (related and unrelated party to be shown separately)
- profit/loss before income tax
- income tax paid
- income tax accrued
- stated capital
- accumulated earnings
- number of employees
- tangible assets other than cash or cash equivalents.

The report should also identify each member of the group (including permanent establishments) and indicate its tax residence (and, if different, its country of organization) as well as its main business activity.

When reports should be filed

The report should be drawn up annually for the fiscal year of the group and filed within 12 months of the end of the year.

Format, language and other reporting details

The report should be in the format of the model template annexed to the Directive (this is identical to that contained in the OECD's CbyCR report). The language is not specified but it is required to be at least in an official or working language of a Member State. The report should specify the currency used in the report.

Notifications, penalties and audit

The Directive prescribes various notification requirements, in particular as regards which entity is reporting. The Directive requires that Member States must provide for penalties, therefore the penalty regimes vary among Member States. Lastly, the Directive does not specify an audit requirement.

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EU Public CbCR

Status

Following a proposal put forward by the European Commission in April 2016 and lengthy negotiations among Member States, as well as between the Council of the EU and the European Parliament, EU legislation to introduce public CbyCR was adopted on November 24, 2021.

The text was published in the Official Journal of the EU on December 1, 2021 as Directive (EU) 2021/2101 and entered into force on December 21, 2021. EU Member States have until June 22, 2023 to transpose the Directive into national law. Individual Member States may choose to implement the rules at an earlier date.

Relationship with other CbyCR initiatives

The initiative is similar to the non-public CbCR, but differs in some important respects. It also builds on earlier EU public CbyCR initiatives, i.e., those applying to the extractive sector and to the financial sector (CRD IV).

First reporting year

The rules will apply 12 months after the transposition deadline, i.e. at the latest from the commencement date of the first financial year starting on or after June 22, 2024.

For calendar year taxpayers, the first reportable year will be 2025, with the report due by the end of 2026. However, Member States may set shorter reporting deadlines. Transposition by each Member State should therefore be monitored closely.

How will businesses be affected?

The rules will require in-scope multinationals to file a report on tax and related information concerning the whole group, i.e., including data concerning non EU-related operations, in an EU commercial register, and also to publish the report on their corporate website (unless an exemption applies).



What triggers a reporting obligation?

A reporting obligation will arise for multinational groups with a consolidated net turnover of at least EUR750 million in each of the last two consecutive financial years, if the group's ultimate parent undertaking is either:

- based in the EU, or
- based in a third-country and operates in the EU through a qualifying EU presence.

A qualifying EU presence is defined by reference to definitions laid down under the EU Directive on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings (Council Directive 2013/34/EU) and includes:

- medium-sized or large subsidiaries that meet two of the following three conditions: a balance sheet greater than EUR 4 million, net turnover greater than EUR 8 million, or an average number of employees exceeding 50
- branches which exceed the turnover threshold above (i.e., EUR 8 million) for each of the last two consecutive financial years.

Note that the thresholds may vary by Member State.

The disclosure obligation will also apply to EU entities that are not part of a group (i.e. standalone undertakings) that meet the size threshold.

However, the rules do not apply to standalone undertakings or groups (including their branches) that are established or have their fixed place of business or permanent business activity in a single Member State.

Who has to report?

In the case of groups where the ultimate parent company is based in the EU, the disclosure obligation lies with the EU parent.

For non-EU parent groups that operate in the EU through qualifying subsidiaries or branches, the main rule is that each of the EU subsidiaries and EU branches is required to publish and make accessible (on publicly accessible commercial registers and on their website) the report on income tax information of their ultimate parent (i.e. containing information for the entire group), to the extent that the information is available to them.

EU subsidiaries and branches that do not have access to the required information at group level will need to ask the non-EU parent to provide the data required to enable them to meet their obligations in the EU. If the parent does not provide all the required information, the subsidiary or branch will be required to publish the report based on all the information it possesses and a statement indicating that its parent did not make the necessary information available.

There is one exception to this rule, whereby the EU subsidiaries and branches are exempt from their obligations if the non-EU parent has published the report on its website and has assigned one of the EU subsidiaries or branches to file the report with their national commercial register.

Are there any carve-outs for certain sectors?

The Directive includes a provision aimed at avoiding double reporting for the banking sector.

Ultimate parent companies and standalone entities that are subject to a reporting requirement under Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms (the Capital Requirements Directive IV or CRD IV) are exempted from the scope of the EU Public CbyC rules. The exemption applies provided that the report made public based on CRD IV covers all activities performed by the entity and by the affiliated undertakings included in their consolidated financial statements.

EU-parented banks are already within the scope of CRD IV and would be exempt from the EU Public CbyC reporting, provided their existing disclosure covers all of the entities included in their consolidated financial statement. However, non-EU parent banks operating in the EU do not benefit from the exemption.

Where should the report be filed?

Reports must be filed in publicly accessible commercial registers in individual Member States as well as on applicable group websites. Member States may opt to exempt companies from publishing the report on their websites, if the report is already made publicly available to any third party located in the EU, free of charge, on the website of the commercial register.

What should be reported?

The report should cover specified data for the whole group. The data should be provided on the following basis:

- separately for each Member State;
- separately for each jurisdiction included on the EU list of non-cooperative jurisdictions (Annex I of the EU Council conclusions on non-cooperative jurisdictions), or that has been listed on the “Grey List” (Annex II or cooperative jurisdictions that are being monitored by the EU) for two consecutive years;
- aggregated for the rest of the world.

The last point reflects a different basis of preparation as compared to the EU non-public CbyC rules that require data to be reported for each tax jurisdiction.

The data should consist of:

- brief description of the nature of the activities;
- number of full time equivalent employees;
- net turnover, including turnover with related parties;
- profit/loss before income tax;
- income tax accrued (current year);
- income tax paid (cash basis);
- accumulated earnings.

Discrepancies between accrued and paid income taxes could be accompanied by an explanatory narrative.

Note that one of the differences between the data set above and that required under existing CbyC reporting requirements (i.e. non-public CbyC reports) is that the former does not require information on stated capital and on tangible assets (other than cash and cash equivalents), which do have to be disclosed in CbyC reports submitted to tax authorities.

Under a “safeguard clause,” EU Member States may allow companies, under certain conditions, to defer disclosure of commercially sensitive information for a maximum of five years. However, information concerning tax jurisdictions listed on the EU list of non-cooperative jurisdictions (both Annex I and Annex II) may never be omitted.

Please note that the EU Public CbyCR Directive does not define the term “commercially sensitive” and Member States would need to provide guidance on how the term should be interpreted in the context of the local rules. Consequently, differences could result between how the term is interpreted in different Member States.

When should reports be filed?

The report should be drawn up and published annually within 12 months after the balance sheet date for the financial year of the group.

The information would need to be submitted to the commercial register of the relevant EU Member State and also be made available on the internet, using a common template, and in a machine-readable format.

Online versions of the report should remain accessible for at least five years.

Format, language and other reporting details

The information should be presented using the common template and electronic reporting formats that the European Commission will design and publish (expected in the third quarter of 2024). The report should be drawn up in the same currency as the consolidated financial statements (exceptions apply).

Notifications, penalties and audit

No specific notifications are prescribed. Member States must provide for penalties and ensure that those penalties are enforced.

Auditors will be required to check and state whether a company falls within scope and whether the report was published. The auditor will not be required to provide assurance on the content of the report or its compliance with the directive.

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CbyCR initiatives applicable to all sectors*

A comparative overview

OECD BEPS Action 13 (non-public CbyR)	EU non-public CbyR ¹	EU Public CbyR ²	
Type of disclosure	Tax authorities	EU tax authorities	Public
Legal basis	OECD BEPS Action 13 recommendations	EU Directive	EU Directive
Legal status	In principle, binding on MCAA signatories, but only to the extent that there is domestic law to implement CbyCR	Adopted by Member States 25 May 2016	Entry into force: December 21, 2021
First reporting period	Fiscal years beginning on or after 1 January 2016 (OECD recommendation), or after such date as notified by jurisdiction on signing CAA	Fiscal years beginning on or after 1 January 2016 but option for Member States to defer secondary reporting to 1 January 2017	Intended for financial years starting on or after June 22, 2024, but EU Member States can apply earlier
Type of reporting	Filing with tax authorities according to model template	Filing with tax authorities according to model template	Publication through filing with local commercial register and on corporate website
Report timing	Annually, within 12 months of fiscal year end	Annually, within 12 months of fiscal year end	Annually, within 12 months from the date of the balance sheet for the financial year
Audit requirement	No	No	Yes, in respect of whether entity is in scope and if the report was published
Minimum (group) threshold	EUR750 million total consolidated group revenue	EUR750 million total consolidated group revenue	EUR750 million total consolidated group revenue. Also applies to EU standalone entities. For non-EU parented groups, obligation applies only if operating in EU through medium-sized or large subsidiaries or branches
Reporting entities	Ultimate parent or secondary reporting	Ultimate EU parent or secondary reporting	Ultimate EU parent / standalone entity Qualifying EU entities of non- EU parented group

■ Potentially significant difference ■ Overall similar provision

*Information may be simplified for comparison purposes

¹Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation

²Directive (EU) 2021/2101 of 24 November 2021 amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches



OECD BEPS Action 13 (non-public CbyR)	EU non-public CbyR ¹	EU Public CbyR ²	
Secondary reporting	Local entities if no effective exchange with ultimate parent jurisdiction	Local EU entities if no effective exchange with ultimate parent jurisdiction	N/A
Limited secondary reporting	One local entity can file for all entities in that jurisdiction	One EU entity can file for all EU entities	N/A
Surrogate reporting	One entity can file instead of secondary reporting, provided effective exchange with group tax jurisdictions	One EU or non-EU entity can file instead of secondary reporting, provided (if non-EU entity) effective exchange with group EU Member States	For non-EU parented groups: publication on website by ultimate non-EU parent and filing with commercial register by one EU entity/ branch identified in parent report
Reporting entity threshold	No	No	No reporting by 'small' EU entities (i.e. below balance sheet total: EUR 4,000,000, net turnover: EUR 8,000,000; average number of employees during the financial year: 50). For branches, only balance sheet total is relevant.
Reporting exclusions	No	No	EU-parented groups subject to prudential consolidation (if all activities covered)
Reportable entities	All EU and non-EU consolidated entities	All EU and non-EU consolidated entities	All EU and non-EU consolidated entities
Aggregation of data	By tax jurisdiction of operation	By tax jurisdiction of operation	(1) by EU Member State, (2) by EU non-cooperative jurisdiction, (3) by qualifying EU "grey listed" jurisdictions and (4) aggregate for rest of the world.
Penalties	Local rules apply	Local rules apply	Local rules apply

Potentially significant difference
 Overall similar provision

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EU CbyCR initiatives for all sectors*

Specific data

OECD BEPS Action 13 (non-public CbyR)	EU non-public CbyR ¹	EU Public CbyR ²
Identity, tax residence, governing law and business activity of entity	✓	✓
Unrelated party revenues	✓	✓
Related party revenues	✓	✓
Unrelated and related party revenues	✓	✓
Profit/loss before tax	✓	✓
Paid income tax	✓	✓
Accrued income tax	✓	✓
—	—	—
Stated capital	✓	✓
Accumulated earnings	✓	✓
Number of employees	✓	✓
Tangible assets (excl. cash)	✓	✓

 Potentially significant difference
 Overall similar provision

*Information may be simplified for comparison purposes

¹Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation

²Directive (EU) 2021/2101 of 24 November 2021 amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches

KPMG CbyCR contacts and resources

For further information on how KPMG firms can help you prepare for corporate transparency, please contact one of KPMG's CbyCR core group members, or your local KPMG advisor.

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