

UAE Country-by-Country Reporting Regulation – A Practical Insight for Multinational Groups Headquartered in the UAE and Multinational Groups having a presence in the UAE

Along with over 130 countries and jurisdictions in the world, the UAE has joined the Inclusive Framework on BEPS (“IF”). The implementation of the four minimum standards of the BEPS Actions (i.e. Action 5, 6, 13 and 14) is expected from each IF member. As for the UAE, the Economic Substance Regulation and the Cabinet Resolution No. (32) of 2019 on Organizing the Reports Submitted by Multinational Corporations (i.e. the Country-by-Country Reporting or “CbC-R” rules) were issued and came into effect on 30 April 2019. The earlier regulation is part of BEPS Action 5 and the latter is one of the three reporting tiers under BEPS Action 13.

This article offers some practical insight into the UAE CbC-R requirements for multinationals that have their Ultimate Parent Entity (“UPE”) or its Affiliated or Constituent Entity(ies) (“CE”) in the UAE (“UAE CE”).

Who is subject to the UAE CbC-R regulation?

In line with the original OECD principle to impose the CbC-R requirements on larger Multinational Enterprise (“MNE”) Groups, only MNE Groups with total consolidated revenues of equal to or more than AED 3,150,000,000 (i.e. three billion one hundred fifty million Emirati dirhams) (“Threshold”) are subject to the UAE CbC-R regulation. This Threshold is calculated from the fiscal year directly preceding the Financial Reporting Year¹, as shown in the MNE Group’s consolidated financial statements.

MNE Groups having their UPE in the UAE are now able to start filing the CbC-R locally in the UAE. If the filing of the CbC-R was undertaken by any of its CE in a country other than the UAE (Alternate Parent Company or “APE”) for the previous financial year(s), the formalities of notifying the tax authority in the country where the APE is located or has its permanent establishment need to be taken into consideration.

As an international business hub, the UAE also hosts direct and indirect CE of larger MNE Groups which are within or exceed the Threshold. Here arises the question as to the eligibility of the CE located in the UAE to report to and/or notify the UAE Competent Authority, which is the UAE Ministry of Finance. The CbC-R obligations of the UPE or APE and the jurisdictions where the UPE or APE is resident for tax purpose are crucial factors for this determination.

The information collected by the CbC-R will be exchanged automatically with other jurisdictions where a CE of the MNE Group is a tax resident or is subject to tax with respect to a business carried on through a permanent establishment. Thus, whether the UPE’s or APE’s jurisdiction has both an International Agreement permitting the automatic exchange of information and a Qualifying Competent Authority Agreement (“QCAA”)² for the exchange of CbC Reports, plays an important role to determine whether the UAE CE needs to submit the CbC Reports to the Competent Authority in the UAE.

When and how do the CbC Reports and obligatory notification need to be submitted?

For the Entity Responsible for Reporting³, the deadline will be not later than 12 months following the last day of the Financial Reporting Year of the MNE Group. The first Financial Reporting Year will commence from 1 January 2019 and therefore the first reporting deadline shall be 31 December 2020⁴.

As prescribed by the OECD, the content of the CbC Report shall consist of, among others:

- Global allocation by tax jurisdiction of an MNE Group’s third party revenues, related party revenues, profit (loss) before tax, income tax paid, income tax accrued, stated capital, accumulated earnings, number of employees and

tangible assets other than cash or cash equivalents with regard to each tax jurisdiction in which the MNE Group operates

- An identification of all CEs of the MNE Group by tax jurisdiction, where
 - it sets out the jurisdiction of tax residence of such CE
 - and the jurisdiction under which the CE is established, if it is different from the tax residence of the CE, together with their main business activities.

It is expected that the format of the CbC-R is based on the CbC-R XML Schema recommended by OECD if the report is required to be submitted electronically in the UAE.

A UAE CE needs to notify the UAE Competent Authority about whether it is acting as an APE for the MNE Group or not. If a UAE CE is not an APE or does not have any obligation to submit the CbC Report, it is still required to notify the Competent Authority in the UAE. This notification shall be submitted not later than the last day of the Financial Reporting Year of the MNE Group.

What if an Entity Responsible for Reporting is not in compliance with the UAE CbC-R regulation?

Administrative fines shall be imposed on an Entity Responsible for Reporting if it fails to fulfil the obligations stated in the UAE CbC-R regulation. These fines are:

Type of Offence	Administrative Penalties
Failure to keep the documents and information required in the context of fulfilling its obligations of reporting for a period of not less than five years from the date on which the Report is submitted to the Competent Authority. Failure to provide the Competent Authority with any information required in accordance herewith.	AED 100,000*
Failure to report the information required to be reported in accordance herewith on the reporting date fixed, or if the aforementioned entity fails to notify the Competent Authority, on or prior to the date fixed for reporting, of its intention to submit the Report with respect to a particular accounting period.	AED 1,000,000 plus AED 10,000 for each day of failure up to a maximum of AED 250,000
Failure to report the information required to be reported hereunder fully and accurately.	not less than AED 50,000 and not exceeding AED 500,000*

* the total fines imposed upon the Entity Responsible for Reporting for any violations hereof may not exceed, within any financial reporting year, the sum of AED 1,000,000.

How can Crowe UAE help?

- Provide guidance on determining the notification and reporting eligibility and requirements for UAE CE or MNE Groups with UPE in the UAE⁵
- Assess the readiness of the Entity Responsible for Reporting in the UAE for CbC-R
- Impact assessment on the global international tax compliance of the MNE Group.

1. The Fiscal Year during which the financial and operating results are included in the CbC-R.
2. An agreement duly concluded between the authorized representatives in the countries that are parties to an international agreement which requires an automatic exchange of the reports of each state on a case-by-case basis between the states parties thereto.
3. The entity required to submit the CBC-R in accordance with the provisions of Article (2) of the UAE CbC-R regulation.
4. Provided that the first Financial Reporting Year will end on 31 December 2019.
5. Detailed guidance on the UAE CbC-R requirements shall be provided upon the publication of reporting and notification requirements by the UAE Competent Authority.

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*Source: the ranking is based as per the International Accounting Bulletin's publication, April 2018, Issue 584.