



EXCHANGE OF INFORMATION (INCLUDING ON BENEFICIAL OWNERSHIP): UPDATES, ISSUES AND COMMENTS

INTERNATIONAL TAXATION CONFERENCE – 2018

6 December 2018

Mumbai, India

Monica Bhatia, Head of the Global Forum Secretariat



The OECD's Work on Tax Transparency- the Global Forum

The Global Forum on Tax Transparency

154 members

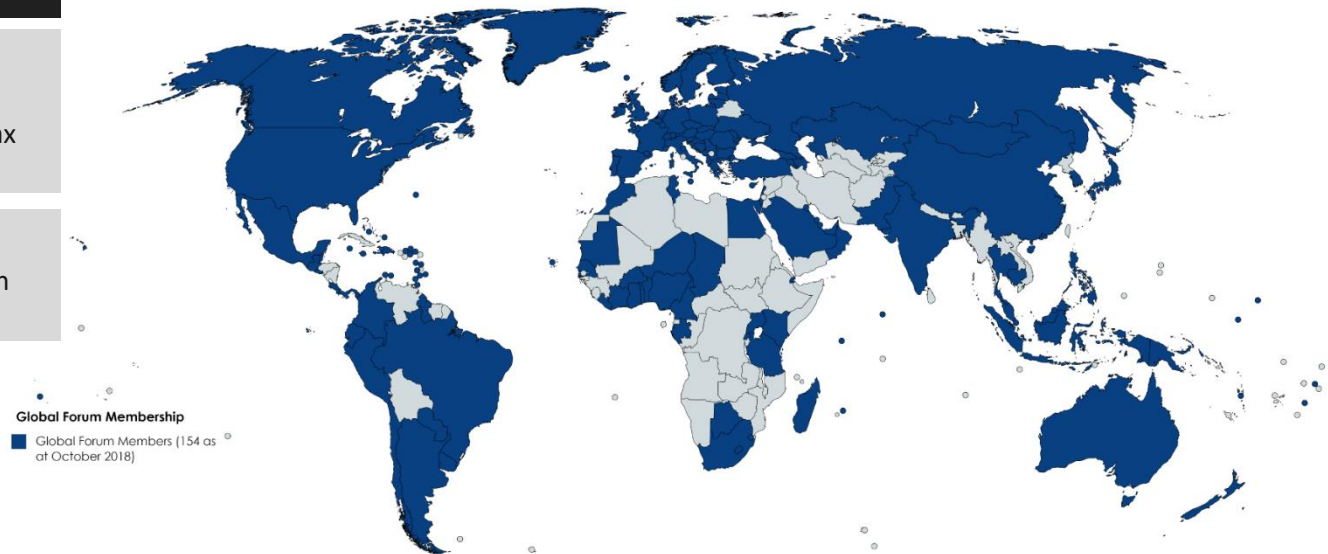
Standards

EOIR

Exchange of information
“foreseeably relevant for tax
purposes”

AEOI

Exchange of information on
financial accounts



➤ 7 jurisdictions joined in 2018 (Rwanda, Mongolia, Serbia, Montenegro, Eswatini, Cabo Verde, Bosnia and Herzegovina and most recently Oman)



The Status of AEOI Commitments

JURISDICTIONS UNDERTAKING FIRST EXCHANGES IN 2017 (49)

Anguilla, Argentina, Belgium, Bermuda, British Virgin Islands, Bulgaria, Cayman Islands, Colombia, Croatia, Cyprus*, Czech Republic, Denmark, Estonia, Faroe Islands, Finland, France, Germany, Gibraltar, Greece, Guernsey, Hungary, Iceland, India, Ireland, Isle of Man, Italy, Jersey, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Montserrat, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Seychelles, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Turks and Caicos Islands, United Kingdom

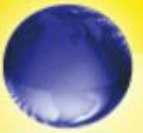
JURISDICTIONS UNDERTAKING FIRST EXCHANGES BY 2018 (52)

Andorra, Antigua and Barbuda, Aruba, Australia, Austria, Azerbaijan**, The Bahamas, Bahrain, Barbados, Belize, Brazil, Brunei Darussalam, Canada, Chile, China, Cook Islands, Costa Rica, Curacao, Dominica, Greenland, Grenada, Hong Kong (China), Indonesia, Israel, Japan, Kuwait, Lebanon, Macau (China), Malaysia, Marshall Islands, Mauritius, Monaco, Nauru, New Zealand, Niue, Pakistan**, Panama, Qatar, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Singapore, Sint Maarten, Switzerland, Trinidad and Tobago, Turkey, United Arab Emirates, Uruguay, Vanuatu

JURISDICTIONS UNDERTAKING FIRST EXCHANGES BY 2019/2020 (6)

Ghana and Nigeria (2019); Albania, Kazakhstan, Maldives and Peru (2020)

JURISDICTIONS HAVING NOT YET SET THE DATE FOR FIRST AUTOMATIC EXCHANGE (47)



Highlights of 2018: AEOI

AEOI is gaining speed

- 85 jurisdictions have commenced exchanges
- 4,500 bilateral exchanges in 2018

The Staged Approach supports a level playing field

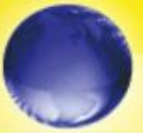
- Pre-exchange assessments of the key components in place almost completed
- The 2018 Implementation Report includes key results

Preparation for the full AEOI reviews continues

- The first set of documents, including ToR, adopted at the plenary meeting

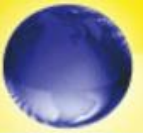
Developing countries moving towards AEOI

- Nearly 20 are receiving technical assistance
- Six members expressed their intention to move ahead by 2020



Where everything is in place, exchange is widespread

- **Jurisdictions sent to on average 53 partners** (24 are non-reciprocal and 9 more do not have the legal frameworks in place, so equivalent to 86)
- The majority of the remainder due to:
 - A lack of interest
 - Timing mismatches (too late for the partner)
- **The timing mismatches are transitional** so should be resolved by 2019, when interested appropriate partner issues will become clearer



Preventing and mitigating risks to the an effective AEOI Standard

- Circumvention through CBI/RBI Schemes-guidelines issued-100 schemes analysed and high risk schemes identified
- Assets that pose risks -new financial products offered or facilitated by providers other than the traditional financial institutions
 - Crypto-assets
 - E-money
- CRS Disclosure facility
- Mandatory Disclosure Rules



Highlights of 2018: EOIR

The 2nd round of EOIR peer reviews on schedule

- Nearly 20 reports adopted in 2018 and almost 40 reports overall
- 30 ongoing reviews, including 12 “Fast-Track” jurisdictions

Successful progress made by the reviewed jurisdictions

- 90% of the new ratings are satisfactory, i.e. “Compliant” or “Largely Compliant”

Follow-up monitoring also delivers encouraging results

- Many changes reported
- Yet, further actions are needed

Key challenges are emerging

- Beneficial ownership requirement
- Increasing number of requests



Outcomes of all 38 Second round Reports

- Compliant: 14
- Largely Compliant-21
- Partially Compliant-3
- Non-Compliant-None

Main Issues emerging:

- Beneficial ownership
- Increasing number of requests



Highlights of 2018: Technical Assistance

Political engagement takes a central stage

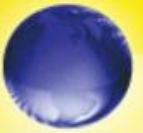
- The ministerial meeting in Yaoundé, followed by high-level events have taken place in Tbilisi (Georgia), Kyiv (Ukraine) and Punta del Este (Uruguay) in 2018

Practically all Developing County members receive support

- More than 60 members received assistance in 2018
- Over 30 ongoing induction programmes

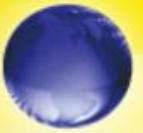
Intensive schedule of EOI trainings delivered

- More than 20 trainings organised around the world



Beneficial Ownership

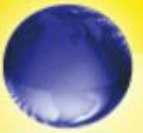
- Part of both tax transparency standards
- For EOIR – beneficial ownership essential for all legal entities and arrangements
- AEOI- where accounts are held by passive NFE, then look through provisions to find beneficial owners
- Intense technical assistance being provided to draft legislation and toolkits



The OECD and EU Listing processes

- OECD Criteria (as updated in 2018)- Tax Transparency
 - Rating on EOIR Peer Review-at least LC
 - Automatic Information Exchanges to commence in 2018
 - Signature and ratification of MAC or equivalent network
- G20 Leader’s Declaration-

....We welcome the commencement of the automatic exchange of financial account information and acknowledge the strengthened criteria developed by the OECD to identify jurisdictions that have not satisfactorily implemented the tax transparency standards. Defensive measures will be considered against listed jurisdictions. All jurisdictions should sign and ratify the multilateral Convention on Mutual Administrative Assistance in Tax Matters...



The OECD and EU Listing processes

- EU Criteria- Tax Transparency, Fair Taxation and BEPS
 - Tax transparency-3 sub-criteria
 - Fair Tax Competition-no harmful tax regimes and criteria for low or no tax rate jurisdictions
 - BEPS Implementation



The OECD's Work on Tax Transparency- the BEPS Inclusive Framework

The Inclusive Framework on BEPS

124 members

Minimum standards	Reinforced international standards	Common approaches & best practices	Analytical reports & measuring BEPS
Action 5 Counter harmful tax practices	Action 7 Prevent the artificial avoidance of PE status	Action 2 Neutralise the effects of hybrid mismatch arrangements	Action 1 Digital economy
Action 6 Prevent treaty abuse	Actions 8 - 10 Aligning transfer pricing outcomes with value creation: Intangibles; Risk and capital; and Other high-risk transactions	Action 3 Strengthen CFC rules	Action 11 Data analysis
Action 13 Re-examine transfer pricing documentation		Action 4 Limit interest deductibility	Action 15 Develop a multilateral instrument
Action 14 Dispute resolution		Action 12 Mandatory disclosure rules	



BEPS Action 5: Exchange of Tax Rulings

Status and first results

- Second annual peer review
- Implementation in 2017
- **92** IF jurisdictions covered
- **10** deferred for next year
- Report to be published later this year

- **+15,000** rulings issued (2016-17)
- **+ 20,000** exchanges performed (2016-17)
- **60** recommendations made for the year 2017
- Out of **49** recommendations in 2016, **29** have been removed
- **58** jd. with no recommendations



BEPS Action 13: Exchange of Country-by-Country Reports

Status and first results

- **Domestic framework:**
 - 57 jurisdictions either required or permitted CbC reporting for 2016
 - Over 70 jurisdictions already have a filing obligation in place (including those that start exchanging in the future)
- **Exchange of information network:**
 - 74 signatories of the CbC MCAA, more to come
 - 1800+ exchange relationships activated, including under multilateral and bilateral QCAAs
- **Guidance:**
 - Guidance published in September 2018 on the **implementation of CbC Reporting** and in September 2017 **on the appropriate use** of information contained in CbC Reports
 - **Handbooks on Effective Implementation and on Effective Tax Risk Assessment** published in September 2017
 - **CbC Reporting implementation** – update December 2017
- **Peer review:**
 - First annual peer review carried out from February 2017 to February 2018. **First annual peer review report** approved by the Inclusive Framework in April 2018 and published in May 2018
 - Second annual peer review launched in April 2018 and expected to be completed in the second quarter of 2019

**First deadline for exchange:
June 2018**



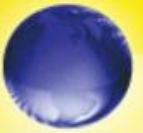
The Bottom Line

- Automatic exchange of information is here and will intensify in 2019
- Other forms of exchanges happening as well
- International cooperation between tax administrations is strengthening
- Governments looking to leverage tax transparency for fighting other financial crimes and corruption



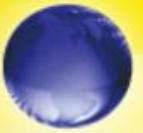
What's ahead in 2019?

- EOIR-Approx 40 peer reviews
- AEOI-More extensive exchanges-
finalization of peer review of effectiveness
- ETR to continue
- CbC –second annual peer review report



Looking through the Crystal Ball

- Requests for information to grow following other types of automatic and spontaneous exchanges
- Automatic exchanges of other types of information?
- Use of Information to fight other financial crimes and corruption?



THANK YOU