
Fourth Session Twelfth Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 2 of 2024

[L.S.]

AN ACT to provide for the Country-by-Country Reporting (CBCR) by Multinational entities relative to the Base Erosion and Profit Shifting Inclusive Framework and to provide for matters related thereto

[Assented to 19th March, 2024]

ENACTED by the Parliament of Trinidad and Tobago as Enactment follows:

PART I

1. This Act may be cited as the Base Erosion and Profit-Shifting Inclusive Framework (Country-by-Country) Reporting Act, 2024. Short title

Commencement

2. This Act shall come into operation on such day as is fixed by the President by Proclamation.

Interpretation

3. In this Act, unless the context otherwise requires—

“Board” means the Board of Inland Revenue established under section 3 of the Income Tax Act;

Chap. 75:01

“Consolidated Financial Statements” means the financial statements of an MNE Group in which the assets, liabilities, income, expenses and cash flow of the Ultimate Parent Entity and the Constituent Entities are presented as those of a single economic entity;

“Constituent Entity” means—

- (a) any separate business unit of an MNE Group that is included in the Consolidated Financial Statements of the MNE Group for financial reporting purposes, or would be so included if equity interests in such business unit of an MNE Group were traded on a public securities exchange;
- (b) any such business unit that is excluded from the MNE Group’s Consolidated Financial Statements solely on size or materiality grounds; and
- (c) any permanent establishment of any separate business unit of the MNE Group included in paragraph (a) or (b) provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting, or internal management control purposes;

“Excluded MNE Group” means, with respect to any Fiscal Year of the Group, a group having total consolidated group revenue of less than the equivalent of eight hundred and fifty million United States dollars during the Fiscal Year immediately preceding the Reporting Fiscal Year as reflected in its Consolidated Financial Statements for such preceding Fiscal Year;

“Fiscal Year” means an annual accounting period with respect to which the Ultimate Parent Entity of the MNE Group prepares its financial statements;

“Group” means a collection of enterprises related through ownership or control such that it is either required to prepare Consolidated Financial Statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange;

“International Accounting Principles” include International Financial Reporting Standards;

“International Agreement” means the Multilateral Convention for Mutual Administrative Assistance in Tax Matters, any bilateral or multilateral Tax Convention, or any Tax Information Exchange Agreement to which Trinidad and Tobago is a party, and that by its terms provides legal authority for the exchange of tax information between jurisdictions, including automatic exchange of such information;

“Minister” means the Minister with responsibility for finance;

“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;

“Qualifying Competent Authority Agreement” means an agreement that—

- (a) is between authorised representatives of those jurisdictions that are parties to an international Agreement; and
- (b) requires the automatic exchange of country-by-country reports;

“Reporting Entity” means the Constituent Entity that is required to file a country-by-country report conforming to the requirement in section 4 in its jurisdictions of tax residence on behalf of the MNE Group and the Reporting Entity may be the Ultimate Parent Entity, the Surrogate Parent Entity or entity described in section 4(2);

“Reporting Fiscal Year” means that Fiscal Year the financial and operational results of which are reflected in the country-by-country report defined in section 6;

“Surrogate Parent Entity” means one Constituent Entity of the MNE Group that has been appointed by such MNE Group, as a sole substitute for the Ultimate Parent Entity, to file the country-by-country report in the jurisdiction of tax residence of that Constituent Entity, on behalf of the MNE Group, when one or more of the conditions set out in section 4(2)(b) applies;

“Systemic Failure”, with respect to a jurisdiction, means that a jurisdiction has—

- (a) a Qualifying Competent Authority Agreement in effect with Trinidad and Tobago, but has suspended automatic exchange, for reasons other than those that are in accordance with the terms of that Agreement; or
- (b) otherwise persistently failed to automatically provide to Trinidad and Tobago country-by-country reports in its possession of MNE Groups that have Constituent Entities in Trinidad and Tobago; and

“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 such MNE Group, such that it is required to prepare Consolidated Financial Statements under accounting principles generally applied in its jurisdiction of tax residence, or would be so required if its equity interests were traded on a public securities exchange in its jurisdiction of tax residence; and
- (b) there is no other Constituent Entity of such MNE Group that owns directly or indirectly an interest directly described in paragraph (a) in the first mentioned Constituent Entity.

Filing Obligation

4. (1) Each Ultimate Parent Entity of an MNE Group that is resident for tax purposes in Trinidad and Tobago shall file a country-by-country report, conforming to the requirements of section 6, with the Board, with respect to its Reporting Fiscal Year on or before the date specified in section 7.

(2) A Constituent Entity, which is not the Ultimate Parent Entity of an MNE Group, shall file a country-by-country report that conforms to the requirements of section 6 with the Board, with respect to the Reporting Fiscal Year of a MNE Group of which it is a Constituent Entity, on or before the date specified in section 7, if the following criteria are satisfied:

- (a) the entity is resident for tax purposes in Trinidad and Tobago; and
- (b) one of the following conditions applies:
 - (i) the Ultimate Parent Entity of the MNE group is not obligated to file a country-by-country report in its jurisdiction of tax residence;
 - (ii) the jurisdiction in which the Ultimate Parent Entity is resident for tax purposes has a current International Agreement to which Trinidad and Tobago is a party but does not have a Qualifying Competent Authority Agreement in effect to which Trinidad and Tobago is a party by the date specified in section 7 for filing the country-by-country report for the Reporting Fiscal Year; or
 - (iii) there has been a Systemic Failure of the jurisdiction of tax

residence of the Ultimate Parent Entity that has been notified by the Board to the Constituent Entity resident for tax purposes in Trinidad and Tobago.

(3) Where there are more than one Constituent Entities of the same MNE Group that are resident for tax purposes in Trinidad and Tobago and one or more of the conditions set out in subsection (2) apply, the MNE Group may designate one of such Constituent Entities to file the country-by-country report conforming to the requirements of section 6 with the Board that is intended to satisfy the filing requirements of all the Constituent Entities of such MNE Group that are resident for tax purposes in Trinidad and Tobago.

(4) Notwithstanding subsection (2), a Constituent Entity shall not be required to file a country-by-country report with the Board, for a Reporting Fiscal Year where the MNE Group of which it is a Constituent Entity through a Surrogate Parent Entity, files a country-by-country report with respect to the Fiscal Year Reporting with the tax authority of its jurisdiction of tax residence on or before the period specified in section 7 and that satisfies the following conditions:

- (a) the jurisdiction of tax residence of the Surrogate Parent Entity requires the filing of country-by-country reports conforming to the requirements of section 6;
- (b) the jurisdiction of tax residence of the Surrogate Parent Entity has a Qualifying Competent Authority Agreement in effect to which Trinidad and Tobago is a party by the time specified in section 7 for filing the country-by-country report for the Reporting Fiscal Year;
- (c) the jurisdiction of tax residence of the Surrogate Parent Entity has not notified the Board of a Systemic Failure;

- (d) the jurisdiction of tax residence of the Surrogate Parent Entity has been notified, in accordance with section 5(1), by the Constituent Entity resident for tax purposes in its jurisdiction that it is the Surrogate Parent Entity; and
- (e) a notification has been provided to the Board in accordance with section 5(2).

Notification
requirements

5. (1) Any Constituent Entity of an MNE Group that is resident for tax purposes in Trinidad and Tobago shall notify the Board whether it is the Ultimate Parent Entity or the Surrogate Parent Entity, not later than the last day of the Reporting Fiscal Year of such MNE Group.

(2) Where a Constituent Entity of an MNE Group that is resident for tax purposes in Trinidad and Tobago is not the Ultimate Parent Entity nor the Surrogate Parent Entity, it shall notify the Board of the identity and tax residence of the Reporting Entity no later than the last day of the Reporting Fiscal Year of such MNE Group.

Country-by-country
report

6. (1) The Board shall, in accordance with section 22, issue guidelines in respect of the—

- (a) content and format of a country-by-country report; and
- (b) method for filing a country-by-country report.

(2) For the purposes of subsection (1), a country-by-country report with respect to an MNE Group is a report containing—

- (a) aggregate information relating to the amount of revenue, profit or loss before income tax, income tax paid, income tax accrued, stated capital, accumulated earnings, number of employees and tangible assets other than cash or cash equivalent with regard to each jurisdiction in which the MNE Group operates;

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- (b) an identification of each Constituent Entity of the MNE Group setting out the jurisdiction of residence of such Constituent Entity and where different from such jurisdiction of tax residence, the jurisdiction under the laws of which such Constituent Entity is organised, and the nature of the main business activity of such Constituent Entity,

and shall be in the form set out in Guidelines made under this Act.

(3) Where the Board makes provision for an electronic method of filing a country-by-country report, the Board shall cause an electronic validation process to be established.

(4) Where the Board specifies an electronic method for filing a country-by-country report, unless the contrary is proved—

- (a) the use of an electronic method is presumed to have resulted in the filing of the country-by-country report only if it has been successfully recorded by the electronic validation process;
- (b) the time of filing the of the country-by-country report is presumed to be the time as recorded by the electronic validation process; and
- (c) the person who forwards the country-by-country report is presumed to be the person identified as such any relevant feature of the electronic system.

(5) A country-by-country report which is not filed in accordance with the guideline issued under section 22 shall be treated as not having being filed or invalidly filed.

Time for filing

7. (1) The country-by-country report required by this Act shall be filed no later than twelve months after the last day of the Reporting Fiscal Year of the MNE Group.

(2) The first Reporting Fiscal Year for the purposes of this Act is any fiscal year beginning on or after the date of the coming into force of this Act.

Country-by- country
report may be used

8. The Board shall use the country-by-country report and any other information obtained pursuant to this Act for the purposes of collaboration on compliance and enforcement with other competent authorities pursuant to a qualifying competent authority agreement.

Confidentiality

9. The Board shall preserve the confidentiality of the information contained in the country-by-country report at least to the same extent that would apply if such information were provided to it under the provisions of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters Act.

Records

10. (1) A reporting entity shall establish and keep a record of—

- (a) the steps undertaken for the performance of the obligations under section 4;
- (b) any evidence relied upon for the performance of its obligations under section 4; and
- (c) the information submitted to the Board for the purposes of section 4.

(2) A reporting entity under subsection (1) shall, before disposing of any records made pursuant to subsection (1), ensure that the records are kept for a period of six years.

(3) For the purposes of this section, the period referred to in subsection (2) shall commence after the end of the Reporting Fiscal Year to which the records pertain.

11. (1) The Registrar General shall forward to the Board at least once every six months a list of enterprises registered under the—

Information to be
forwarded to the
Board by Registrar

- (a) Companies Act, Chap. 81:01;
- (b) Registration of Business Names Act, Chap. 82:85; and
- (c) Non-Profit Organisations Act, No. 7 of 2019.

(2) Subject to subsection (1), the Board shall utilise the list and information to verify whether enterprises specified in the list or information received are constituent entities resident in Trinidad and Tobago for tax purposes.

12. (1) The Board may, in writing and within such times as it may request a Constituent Entity to provide or make available to it, information including—

Provision of
information to the
Board

- (a) copies of relevant books, records or other documents; or
- (b) electronically stored information,

in its possession or control as the Board may reasonably require to determine whether the Constituent Entity is compliant within this Act.

(2) Where any information which is required to be provided to the Board is located outside of Trinidad and Tobago, the Constituent Entity shall take all necessary steps to bring the information to Trinidad and Tobago, within the time specified by the Board.

(3) A Constituent Entity shall retain for six years any book, document, electronically-stored information or other record that relates to the information required to be reported to the Board under this Act.

13. Where the Board discovers an error in a country-by-country report, the Board shall, in writing—

Errors in CBC
Reporting

- (a) notify the relevant Reporting Entity of an error;

- (b) require the Reporting Entity to correct the error and submit a corrected report within twenty-eight days after the date of service of the notice; and
- (c) state that failure to comply with the requirements of the notice amounts to a breach of the Act and such breach may render every director or officer concerned in the management of the Reporting Entity liable and subject on summary conviction to a fine of two hundred and fifty thousand dollars unless he proves that the breach was committed without his knowledge or connivance or that he exercised reasonable diligence to prevent the breach.

Avoidance of
Obligation

14. Where a person enters into an agreement or engages in a practice, for which the main purpose or one of the main purposes of the person entering in the agreement or engaging in the practice is to avoid any obligation under this Act, the person is subject to the obligation as if the person had not entered into the agreement or engaged in the practice.

Fake country-by-
country report

15. Where a person knowingly makes or submits a false country-by-country report, whether in its entirety or in part thereof, he commits an offence and is liable on conviction on indictment to a fine of five hundred thousand dollars and to imprisonment for a term of ten years.

Alter, destroy
mutilate or obliterate
a country-by-country
report

16. Where a person, without written authorisation from the Board—

- (a) alters, destroys, mutilates, obliterates, hides or removes a country-by-country report which is submitted to the Board pursuant to this Act; or
- (b) causes another person to do anything referred to in paragraph (a),

he commits an offence is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for ten years.

17. Any person who hinders or obstructs the Board from performing a function under this Act, commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for ten years. Hindering or obstructing Board

18. A person aggrieved by a decision of the Board under this Act, may appeal that decision to the High Court. Right of Appeal

19. The Board may administer administrative fines for breaches under this Act in accordance with the procedures set out in Regulations made under this Act. Power of Board to administer administrative fines

20. (1) Where a Reporting Entity fails to comply with the reporting requirements for the country-by-country report, as required under this Act, it commits an offence and is liable on summary conviction to a two hundred and fifty thousand dollars and to imprisonment for ten years. Penalties

(2) Notwithstanding subsection (1), a Reporting Entity which contravenes sections 4, 5, 6, 7 and 10 and Guidelines made under section 22 may be liable to an administrative fine not exceeding twenty thousand dollars in the manner provided for Regulations made under this Act.

21. (1) The Minister may make Regulations for the purpose of giving effect to this Act and such Regulations shall be subject to negative resolution of Parliament. Regulations

(2) Regulations made under subsection (1) may carry an administrative fine of one hundred thousand dollars and a fine of two hundred and fifty thousand dollars.

Guidelines

22. (1) The Board may issue Guidelines in such form as it considers appropriate for the purpose of assisting with compliance with this Act.

(2) Guidelines under subsection (1), shall be published in the *Gazette*.

Passed in the Senate this 20th day of February, 2024.



Clerk of the Senate (Acting)

Passed in the House of Representatives this 6th day of March, 2024.



Clerk of the House