Australia introduced a Bill into the Parliament on 16 September 2015 containing the Country by Country (CbC), master file and local file reporting regime (CbC regime). This follows the exposure draft (ED) legislation released for comment on 6 August 2015. Under the new CbC regime, large multinational groups (MNEs) are required to lodge the three-tiered reports consistent with the OECD Action 13 Report. The Bill also proposes to double the administrative tax penalties relating to anti-avoidance and transfer pricing adjustments. These latter changes are substantially the same as those in the previous ED.

### CbC regime start date

Consistent with the ED, for periods starting on/after 1 January 2016, certain Australian MNEs or foreign MNEs with an Australian presence are required to lodge ‘statements’ with the Commissioner on an annual basis. Broadly, the statements must be provided within 12 months after the close of each income year.

### Which MNEs are subject to CbC regime?

A $1bn ‘annual global income’ threshold is retained but this is now determined by reference to global financial statements of the immediately preceding reporting period. ‘Annual global income’ is now defined by reference to the ‘total annual income’ of all entities in an MNE’s accounting consolidated group.

### Who has the obligation to report?

A ‘significant global entity’ with the requisite Australian connection has the obligation to lodge, where the income threshold is breached. The definition of ‘significant global entity’ means the ‘all-in’ approach in the ED largely remains unchanged.

### Timing of reports: clarity on the income periods to which the reports must relate and timing of lodgement

- Flexibility introduced in the Bill through a ‘replacement reporting periods’ provision to allow, for example, the ATO to accept CbC reports that relate to the parent’s year end.
- The Bill allows the ATO to grant lodgement deferrals. The EM indicates taxpayers may also choose to lodge the documentation with the tax return.

### Content of reports: clarify the content required and concerned with the duplication of transfer pricing documentation requirements

- Bill makes specific reference that the ‘statements’ are limited to the templates developed in the OECD guidance.
- EM has flagged entities may draw on existing transfer pricing documentation without modification for parts of the local file where the new law overlaps, but the exact details are left for the ATO to action.
- Materiality thresholds can apply in determining what to include or exclude. Whilst not explicitly quantified, the EM notes that transactions subject to safe harbours, Advance Pricing or Compliance Arrangements may benefit from such concessions.

### Transitional rules: lodging CbC reports ahead of foreign jurisdiction requirements

- EM merely acknowledges the ATO has scope to implement practical arrangements in the transition period.

### Exemptions: Exemptions be moved into the law

- ‘All-in’ approach largely unchanged and the ATO’s power to provide exemptions has been left broad.
- EM has flagged the amount of overseas dealings is a factor for the Commissioner to consider in deciding on exemptions, along with the compliance costs and any alternate means of receiving the required information.
- The reporting obligation of an Australian tax consolidated group will rest on the head company.

### ED issues | Bill/EM clarification

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### KPMG observations

- Australia is an early adopter of the OECD’s CbC regime. The CbC provisions included in today’s Bill are very broad and much of the detail has been left for the ATO to action.
- MNEs need to start thinking now about how their CbC reports will look and be construed by different revenue authorities.
- MNEs should think about doing a dry run. MNEs should also consider the CbC regime in the context of the wider tax transparency issue.