



THOMAS HUG

# HOW TO ADJUST YOUR CBCR TO ACCOUNT AS QUALIFIED CBCR IN LINE WITH PILLAR 2 RULES

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Webinar - How to adjust your CbCR to account  
as Qualified CbCR in line with Pillar 2 rules

# Agenda & Speakers

## Agenda

- Basic Principles
- CbCR Data Points
- CbCR Safe Harbour and QDMTT
- First Practical Experience
- Q&A

## Speakers



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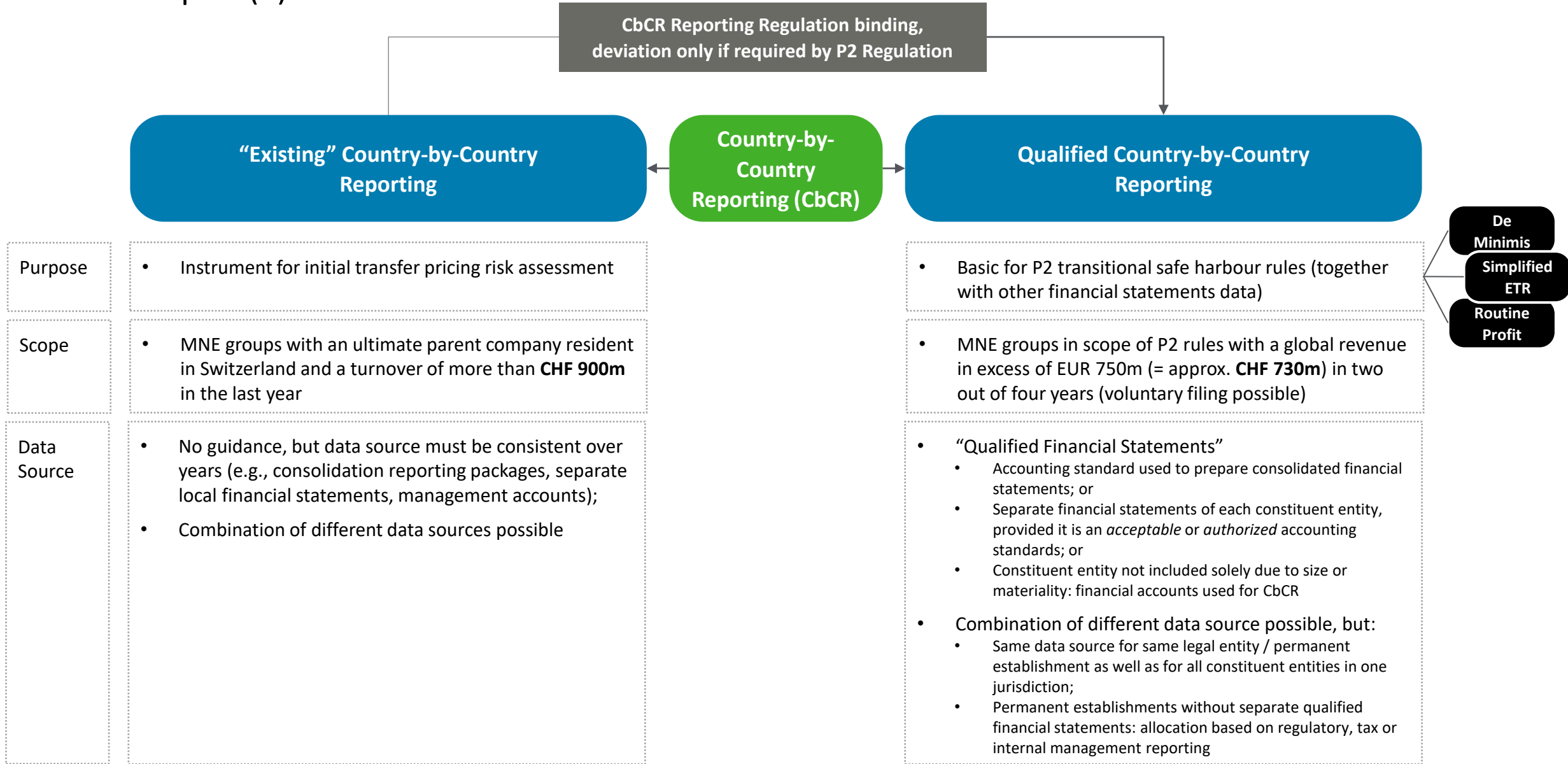
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# Abbreviations

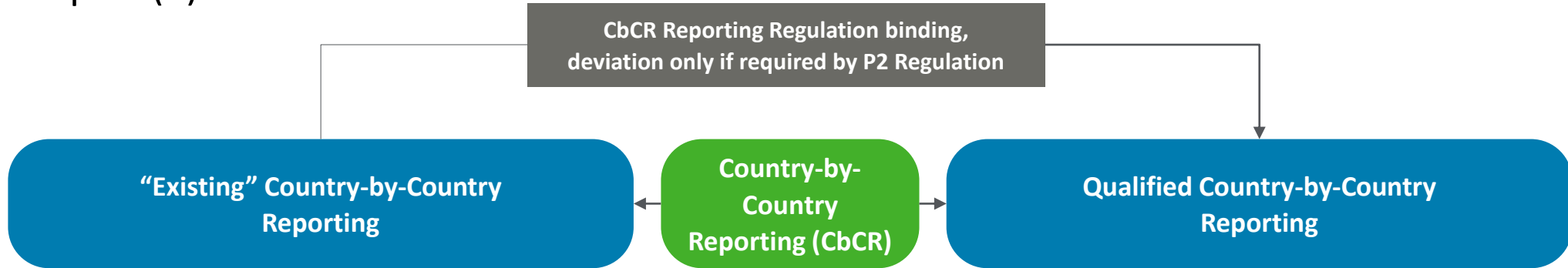
## Abbreviations

CbCR	Country-by-Country Reporting
JV	Joint Ventures
P2	Pillar 2
QDMTT	Qualified Domestic Minimum Top-up Tax
SBIE	Substance-based Income Exclusion

# Basic Principles (1)



# Basic Principles (2)



**Reporting Period**

- At the discretion of the MNE group, the CbCR should reflect on a consistent basis either:
  - information for the fiscal year of the relevant constituent entities ending on the same date as the fiscal year of the MNE group, or ending within the 12-month period preceding such date; *or*
  - information for all the relevant constituent entities reported for the fiscal year of the Reporting MNE

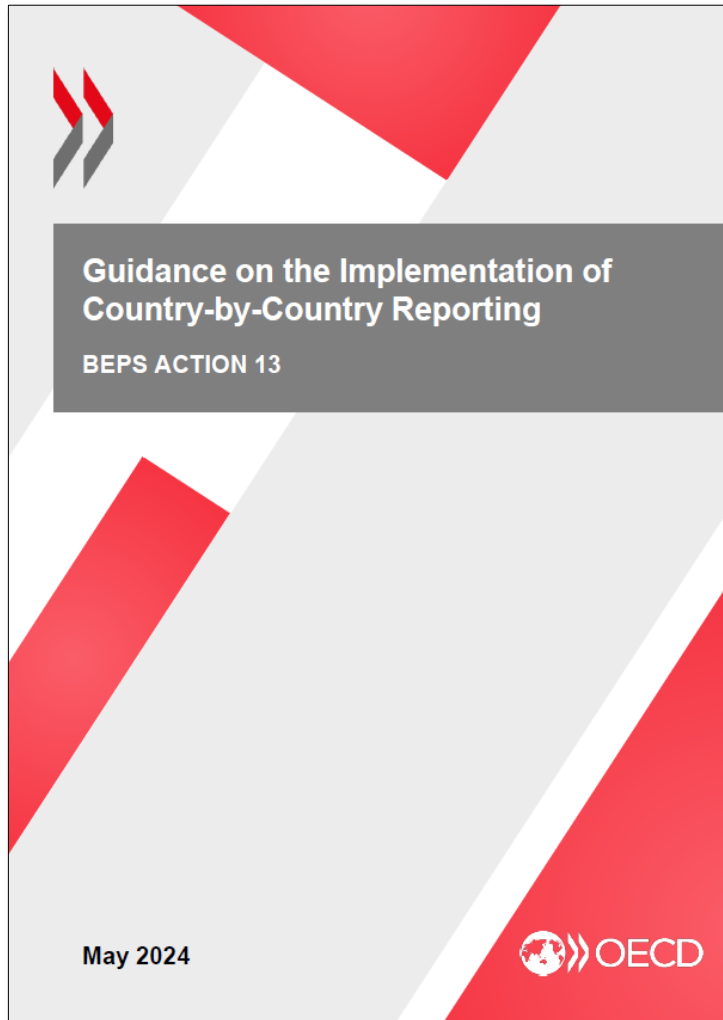
**Reporting**

Name of the MNE Group:						
Fiscal year concerned:						
Currency:						
Tax Jurisdiction	Revenue			Profit (loss) Before Income Tax		
	Unrelated Party	Related Party	Total			
Income Tax Paid (on cash basis)	Income Tax Accrued - Current Year	Stated Capital	Accumulated Earnings	Number of Employees	Tangible Assets (other Cash and Cash Equivalents)	

- No separate guidance, follows “existing” CbCR

Name of the MNE Group:					
Fiscal year concerned:					
Currency: --> <b>EUR</b>					
Tax Jurisdiction	Total Revenue	Profit (loss) Before Income Tax	Tax expense ./ UTP	Eligible Payroll Costs	Eligible Tangible Assets

## Basic Principles (3)



Treatment of dividends for purposes of “profit (loss) before income tax”, “income tax accrued (current year)” and “income tax paid (on cash basis)” in Table 1 (September 2018; November 2019; May 2024 **(NEW)**)

**7.1 Does the profit (loss) before income tax in Table 1 include payments received from other Constituent Entities that are treated as dividends in the payer’s tax jurisdiction?<sup>4</sup> (NEW)**

This guidance clarifies that the expression “payments received from other Constituent Entities that are treated as dividends in the payer’s tax jurisdiction” refers to payments that are treated as dividends in the source of data used for the completion of Table 1 with respect to the tax jurisdiction of the payer. In a CbC report, payments between Constituent Entities should be treated consistently in the tax jurisdictions of the payer and the recipient. In practice this means that:

- a payment is excluded from Revenue and Profit (Loss) before Income Tax in the recipient’s tax jurisdiction if the source of data used to complete Table 1 of the country-by-country report for the payer’s tax jurisdiction treats such payment as a dividend; and,
- a payment is included in Revenue and Profit (Loss) before Income Tax in the recipient’s tax jurisdiction if the source of data used to complete Table 1 of the country-by-country report for the payer’s tax jurisdiction treats such payment as something other than a dividend, for instance, interest expense.

Inclusive Framework members are encouraged to apply this guidance as soon as possible, taking into account specific domestic circumstances and, in any event, this guidance applies to all reporting fiscal years of MNE groups commencing on or after 1 January 2025.

# CbCR Data Points (1)

Basic Term	CbCR Regulations <sup>1)</sup>	Qualified CbCR Regulations <sup>2)</sup>
Constituent Entity	<ul style="list-style-type: none"> <li>Any separate business unit of a MNE group included in the consolidated financial statements (anytime during the period and not at the end of the period) or that is not included solely on size or materiality grounds; <i>and</i></li> <li>Permanent establishment of constituent entities if it prepares a separate financial for financial reporting, regulatory, tax reporting or internal management control purposes</li> </ul>	<ul style="list-style-type: none"> <li>Any entity that is included in a group (excl. excluding entity, art. 1.5 MR); <i>and</i></li> <li>Any permanent establishment of a main entity</li> </ul> <p><i>(OECD Model Rules Definition, art. 1.3 MR)</i></p>
Permanent Establishment (“PE”)	<ul style="list-style-type: none"> <li>No definition, but requirement that it has “a separate financial statement for financial reporting, regulatory, tax reporting, or internal management control purposes”</li> </ul> <p><i>(P2 regulations tend to be stricter as they include certain qualitative requirements; e.g., representative offices in pharma industry)</i></p>	<ul style="list-style-type: none"> <li>Place of business (incl. deemed place of business) treated as PE in accordance with double tax treaty; <i>or</i></li> <li>Place of business (incl. deemed place of business) treated as PE in accordance with domestic law; <i>or</i></li> <li>Place of business (incl. deemed place of business) treated as PE in accordance with OECD Model Tax Convention; <i>or</i></li> <li>Place of business (incl. deemed place of business) with unilateral exemption</li> </ul> <p><i>(OECD Model Rules Definition, art. 10.1.1MR)</i></p>

<sup>1)</sup> Transfer Pricing Documentation & CbCR Reporting / Final Report on BEPS Action Point 13 (2015); Guidance on the Implementation of CbCR Reporting / BEPS Action Point 13 (Update 2024)

<sup>2)</sup> P2 Safe Harbours and Penalty Relief (2022); P2 Administrative Guidance 12/2023 (2023)



# CbCR Data Points (2)

Data Point	CbCR Regulations <sup>1)</sup>	Qualified CbCR Regulations <sup>2)</sup>	CbCR Safe Harbour Calculation
Tax Jurisdiction	<ul style="list-style-type: none"><li>• <u>Definition</u>: State which has fiscal autonomy;</li><li>• Jurisdiction in which constituent entity is “resident” for tax purposes;</li><li>• When a constituent entity is resident in more than one country, tie-breaker rule according to double tax treaty must be applied;</li><li>• If no double tax treaty exists: place of effective management according to art. 4 OECD Tax Model Convention;</li><li>• Separate line for all entities not resident in any tax jurisdiction (“stateless”)</li></ul>	<ul style="list-style-type: none"><li>• <u>Definition</u>: No separate definition;</li><li>• Jurisdiction, in which constituent entity is “located” (art. 10.3.1 MR)<ul style="list-style-type: none"><li>• Tax residency based on place of management or similar criteria;</li><li>• In all other cases: place of creation;</li><li>• Dual-location: tie-breaker rule according to double tax treaty or where more covered taxes are paid</li></ul></li><li>• Special rules for flow-through entity (art. 10.3.2 MR)<ul style="list-style-type: none"><li>• If ultimate parent entity or is required to apply IIR: place of creation;</li><li>• All other cases: stateless</li></ul></li><li>• Special rules for permanent establishments (art. 10.3.3 MR)<ul style="list-style-type: none"><li>• Location of business presence;</li><li>• All other cases: stateless</li></ul></li></ul> <p>(OECD Model Rules Definition, art. 10.3 MR)</p>	<ul style="list-style-type: none"><li>• No separate guidance, tax jurisdiction according to Qualified CbCR binding;</li><li>• Constituent entities which are stateless are not entitled to the safe harbours</li></ul>

<sup>1)</sup> Transfer Pricing Documentation & CbCR Reporting / Final Report on BEPS Action Point 13 (2015); Guidance on the Implementation of CbCR Reporting / BEPS Action Point 13 (Update 2024)

<sup>2)</sup> P2 Safe Harbours and Penalty Relief (2022); P2 Administrative Guidance 12/2023 (2023)

# CbCR Data Points (3)

Data Point	CbCR Regulations <sup>1)</sup>	Qualified CbCR Regulations <sup>2)</sup>	CbCR Safe Harbour Calculation
<p>Revenues – Unrelated Party</p> <p><b>De Minimis</b></p>	<ul style="list-style-type: none"> <li>• <u>Definition</u>: all revenues, gains, income and other inflows (e.g., sales of inventory and properties, sale of assets, services, royalties, interests, premiums, extraordinary income, gains from investment activities);</li> <li>• Exclusion of income/earnings recognized as other comprehensive income (“OCI”) and in equity;</li> <li>• Data should be reported on an aggregated basis, regardless of whether the transactions occurred cross-border or within the jurisdiction</li> </ul>	<ul style="list-style-type: none"> <li>• <u>Definition</u>: No separate definition, but general definition of “revenues” in Administrative Guidance 12/2023 broadly aligned</li> </ul>	<ul style="list-style-type: none"> <li>• No separation into revenues from unrelated or related parties;</li> <li>• Regulations are silent on whether unrealized and realized FX accounts need to be considered</li> <li>• Hybrid dividends (i.e. tax deductible in the payor’s tax jurisdiction) needs to be included in the safe harbour calculation</li> </ul>
<p>Revenues – Related Party</p> <p><b>De Minimis</b></p>	<ul style="list-style-type: none"> <li>• No separate guidance, see above;</li> <li>• <u>Definition “Related Party”</u>: see definition for constituent entity;</li> <li>• Exclusion of payments received from other constituent entities that are treated as dividends in the payor’s tax jurisdiction</li> </ul>	<ul style="list-style-type: none"> <li>• No separate definition, but see above</li> </ul>	

<sup>1)</sup> Transfer Pricing Documentation & CbCR Reporting / Final Report on BEPS Action Point 13 (2015); Guidance on the Implementation of CbCR Reporting / BEPS Action Point 13 (Update 2024)

<sup>2)</sup> P2 Safe Harbours and Penalty Relief (2022); P2 Administrative Guidance 12/2023 (2023)

# CbCR Data Points (4)

Data Point	CbCR Regulations <sup>1)</sup>	Qualified CbCR Regulations <sup>2)</sup>	CbCR Safe Harbour Calculation
<p>Profit (Loss) Before Income Tax</p> <ul style="list-style-type: none"> <li>De Minimis</li> <li>Simplified ETR</li> <li>Routine Profit</li> </ul>	<ul style="list-style-type: none"> <li>Profit (loss) must include all extraordinary income and expense items;</li> <li>Exclusion of payments received from other constituent entities that are treated as dividends in the payor’s tax jurisdiction (<i>since 1 Jan 2020 – OECD requested member states to change practice; partially still not reflect in domestic law</i>)</li> </ul>	<ul style="list-style-type: none"> <li>No separate guidance</li> </ul>	<ul style="list-style-type: none"> <li>No separate guidance expect that the profit (loss) before income tax must be reduced by net unrealized fair value loss exceeding EUR 50m in a jurisdiction per reporting period;</li> <li>Definition “net unrealized fair value loss”: sum of all losses, as reduced by any gains, which arise from changes in fair value of qualified participations of 10% and more (“non-portfolio shareholdings”);</li> <li>No exclusion of a net fair value gain (i.e., when fair value gains and reversals of impairments are higher than fair value losses and impairments)</li> </ul>

<sup>1)</sup> Transfer Pricing Documentation & CbCR Reporting / Final Report on BEPS Action Point 13 (2015); Guidance on the Implementation of CbCR Reporting / BEPS Action Point 13 (Update 2024)

<sup>2)</sup> P2 Safe Harbours and Penalty Relief (2022); P2 Administrative Guidance 12/2023 (2023)

# CbCR Data Points (5)

Data Point	CbCR Regulations <sup>1)</sup>	Qualified CbCR Regulations <sup>2)</sup>	CbCR Safe Harbour Calculation
Income Tax Paid	<ul style="list-style-type: none"><li>• Taxes paid during the relevant fiscal years by the constituent entity, both to the tax residence jurisdiction and to all other tax jurisdictions;</li><li>• Withholding taxes paid by other entities (both associated and independent entities) with respect to payment to the constituent entity must be reported by the constituent entity;</li><li>• Data point shall include payments both related to the current fiscal year and previous fiscal year(s) as well as refund of income taxes (unless treaty as income under the applicable accounting standard – disclosure required in table 3);</li><li>• Exclusion of income taxes related to excluded dividends from other constituent entities (see slide 8)</li></ul>	<ul style="list-style-type: none"><li>• No separate guidance</li></ul>	<ul style="list-style-type: none"><li>• The measure of taxes for the safe harbour is income tax expense as recorded in a constituent entity's financial accounts (including deferred taxes) provided that it does not include taxes that are not covered taxes and uncertain tax positions</li></ul>

<sup>1)</sup> *Transfer Pricing Documentation & CbCR Reporting / Final Report on BEPS Action Point 13 (2015); Guidance on the Implementation of CbCR Reporting / BEPS Action Point 13 (Update 2024)*

<sup>2)</sup> *P2 Safe Harbours and Penalty Relief (2022); P2 Administrative Guidance 12/2023 (2023)*

# CbCR Data Points (6)

Data Point	CbCR Regulations <sup>1)</sup>	Qualified CbCR Regulations <sup>2)</sup>	CbCR Safe Harbour Calculation
Income Tax Accrued	<ul style="list-style-type: none"><li>• Accrued current tax expense on taxable profits (or losses) of the relevant fiscal year of the constituent entity in the relevant tax jurisdiction;</li><li>• Exclusion of deferred tax expense and provision for uncertain tax positions (“UTP”);</li><li>• Data point shall also include taxes that have been paid in advance (e.g., preliminary tax assessments based on an estimate of the year's corporate income tax);</li><li>• Exclusion of income taxes related to excluded dividends</li></ul>	<ul style="list-style-type: none"><li>• No separate guidance</li></ul>	<ul style="list-style-type: none"><li>• The measure of taxes for the safe harbour is income tax expense as recorded in a constituent entity's financial accounts (including deferred taxes) provided that it does not include taxes that are not covered taxes and uncertain tax positions</li></ul>

<sup>1)</sup> *Transfer Pricing Documentation & CbCR Reporting / Final Report on BEPS Action Point 13 (2015); Guidance on the Implementation of CbCR Reporting / BEPS Action Point 13 (Update 2024)*

<sup>2)</sup> *P2 Safe Harbours and Penalty Relief (2022); P2 Administrative Guidance 12/2023 (2023)*

# CbCR Data Points (7)

Data Point	CbCR Regulations <sup>1)</sup>	Qualified CbCR Regulations <sup>2)</sup>	CbCR Safe Harbour Calculation
Stated Capital	<ul style="list-style-type: none"> <li>No definition of stated capital;</li> <li>Permanent establishment shall not report stated capital (to be reported in the head office's tax jurisdiction) unless there is a defined capital requirement for regulatory purposes;</li> <li>Reported amount must be positive</li> </ul>	<ul style="list-style-type: none"> <li>No separate guidance</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>
Accumulated Earnings	<ul style="list-style-type: none"> <li>No definition of accumulated earnings, but covers both positive and negative amounts (i.e. accumulated losses - disclosure required in table 3);</li> <li>Permanent establishment shall not report accumulated earnings (to be reported in the head office's tax jurisdiction)</li> </ul>	<ul style="list-style-type: none"> <li>No separate guidance</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>

<sup>1)</sup> *Transfer Pricing Documentation & CbCR Reporting / Final Report on BEPS Action Point 13 (2015); Guidance on the Implementation of CbCR Reporting / BEPS Action Point 13 (Update 2024)*

<sup>2)</sup> *P2 Safe Harbours and Penalty Relief (2022); P2 Administrative Guidance 12/2023 (2023)*

# CbCR Data Points (8)

Data Point	CbCR Regulations <sup>1)</sup>	Qualified CbCR Regulations <sup>2)</sup>	CbCR Safe Harbour Calculation
Number of Employees	<ul style="list-style-type: none"><li>• Number of employees on a full-time equivalent (“FTE”);</li><li>• Either as of the year-end, on the basis of average employment levels for the year, or on any other basis consistently applied from year to year;</li><li>• Independent contractors participating in the ordinary operating activities may be reported as employees</li></ul>	<ul style="list-style-type: none"><li>• No separate guidance (but relevant for UTPR allocation)</li></ul>	<ul style="list-style-type: none"><li>• For the purpose of the routine profit test, the Substance-based Income Exclusion (“SBIE”) shall be computed in accordance with the GloBE Rules. The SBIE amount computed for purposes of the routine profit test does not consider the payroll of entities that are not constituent entities under the CbCR (e.g., entities held for sale) or under GloBE (e.g., excluded entities);</li><li>• The administrative guidance 12/2023 clarified that if an eligible employee spends more than 50% of its working time at the location of the assigned entity, the full payroll carve-out can be allocated to this jurisdiction;</li><li>• Definition of employees under P2 rules is consistent with CbCR as the term employees generally refers to FTEs. However, independent contractors may be reported for CbCR purposes whereas for P2, their salary should be reported when they are participating in the ordinary activities of the MNE Group under the direction and control of the MNE Group. Therefore, for consistency purposes, it is recommended to also include independent contractors participating in the ordinary operating activities of the constituent entity in the CbCR.</li></ul>

<sup>1)</sup> *Transfer Pricing Documentation & CbCR Reporting / Final Report on BEPS Action Point 13 (2015); Guidance on the Implementation of CbCR Reporting / BEPS Action Point 13 (Update 2024)*

<sup>2)</sup> *P2 Safe Harbours and Penalty Relief (2022); P2 Administrative Guidance 12/2023 (2023)*

# CbCR Data Points (9)

Data Point	CbCR Regulations <sup>1)</sup>	Qualified CbCR Regulations <sup>2)</sup>	CbCR Safe Harbour Calculation
Tangible Assets	<ul style="list-style-type: none"><li>• Sum of the net book values of tangible assets;</li><li>• Tangible assets do not include cash, cash equivalent, intangibles, or financial assets;</li><li>• Permanent establishments shall report its tangible assets separately (together with tangible assets of other constituent entities in the same jurisdiction)</li></ul>	<ul style="list-style-type: none"><li>• No separate guidance (separate guidance for eligible tangible assets required for SBIE and UTPR allocation)</li></ul>	<ul style="list-style-type: none"><li>• The SBIE amount computed for purposes of the routine profit test does not take into account the tangible assets of Entities that are not Constituent Entities under the CbCR (e.g., entities held for sale) or under GloBE (e.g., excluded entities);</li><li>• In the context of the Substance-Based Income Exclusion, it is required that those assets are located in the jurisdiction in which the Constituent Entity is located. Additional guidance is expected in that respect. Carrying value of property (including land or buildings) held for investment, sale, or lease is excluded</li></ul>

<sup>1)</sup> *Transfer Pricing Documentation & CbCR Reporting / Final Report on BEPS Action Point 13 (2015); Guidance on the Implementation of CbCR Reporting / BEPS Action Point 13 (Update 2024)*

<sup>2)</sup> *P2 Safe Harbours and Penalty Relief (2022); P2 Administrative Guidance 12/2023 (2023)*



# CbCR Data Points (10)

## Special Topics

### Investment Funds/ Investment Entity

## CbCR Regulations <sup>1)</sup>

- Term: CbCR Regulations only use the term ‘investment funds’, but not ‘investment entity’;
- Investment funds shall only be reported in the CbCR if they are included in the consolidated financial statements of the reporting group (i.e., treatment depends on IFRS/US GAAP);
- Investment funds must be reported in their jurisdiction of tax residence; if not tax resident in any jurisdiction (e.g., transparent investment funds): to be reported as “stateless” (see slide 7);
- Separate reporting of investment funds could result in double reporting of profit both in the jurisdiction of the investment fund and in the jurisdiction of the owner (e.g., owner reports investment in fund on mark-to-market basis);

## Qualified CbCR Regulations <sup>2)</sup>

- No separate guidance;
- Financial statements of investment funds are often prepared in accordance with local funds GAAPs; to be checked whether accounting standard is in line with requirement of “qualified financial statements” (see slide 4)

## CbCR Safe Harbour Calculation

- Term: P2 regulations use both terms ‘investment funds’ and ‘investment entity’, respectively, although ‘investment entity’ is broader;
- Safe harbour calculation depends on treatment of investment entity under P2 regulations:
  - Qualified as *excluded entities* (art. 1.5.1 (e/f) MR): not entitled to safe harbour since not subject to P2;
  - Qualified as *flow-through entities without permanent establishments* (incl. tax transparency election, art. 7.5 MR): not entitled to safe harbour since (i) not subject to P2 and (ii) reported as “stateless” (see slide 7), but data included in owner’s safe harbour calculation (ownership proportion);

(continued on next slide)

<sup>1)</sup> *Transfer Pricing Documentation & CbCR Reporting / Final Report on BEPS Action Point 13 (2015); Guidance on the Implementation of CbCR Reporting / BEPS Action Point 13 (Update 2024)*

<sup>2)</sup> *P2 Safe Harbours and Penalty Relief (2022); P2 Administrative Guidance 12/2023 (2023)*

# CbCR Data Points (11)

## Special Topics

Investment Funds/  
Investment Entity

## CbCR Regulations <sup>1)</sup>

## Qualified CbCR Regulations <sup>2)</sup>

## CbCR Safe Harbour Calculation

- Qualified as *flow-through entities with permanent establishments*: entitled to safe harbour rules, blended with other constituent entities in respective jurisdiction;
- Qualified as *constituent entities*:
  - *General rule*: entitled to safe harbour rules if (i) both the investment entity and the owner(s) are in the same country and (ii) no election right (art. 7.5/7.6 MR); double reporting: profit before income taxes and revenue of investment entity (incl. associated taxes) shall only be reflected once;
  - *Not in the same country*: investment entity not entitled to safe harbour, but owner(s) entitled; double reporting: profit before income taxes and revenue of investment entity (incl. associated taxes) shall only be reflected at the level of the owner (ownership proportion);

**(continued on next slide)**

<sup>1)</sup> *Transfer Pricing Documentation & CbCR Reporting / Final Report on BEPS Action Point 13 (2015); Guidance on the Implementation of CbCR Reporting / BEPS Action Point 13 (Update 2024)*

<sup>2)</sup> *P2 Safe Harbours and Penalty Relief (2022); P2 Administrative Guidance 12/2023 (2023)*

# CbCR Data Points (12)

Special Topics	CbCR Regulations <sup>1)</sup>	Qualified CbCR Regulations <sup>2)</sup>	CbCR Safe Harbour Calculation
Investment Funds/ Investment Entity			<ul style="list-style-type: none"> <li>• <i>Tax transparency election</i> (art. 7.5 MR): see slide 15 on flow-through entities without permanent establishments - not entitled to safe harbour, but data included in owner's safe harbour calculation;</li> <li>• <i>Taxable distribution method election</i> (art. 7.6 MR): not entitled to safe harbour, but deemed distribution included in owner's safe harbour calculation</li> </ul>
Partnerships / Flow-through entities	<ul style="list-style-type: none"> <li>• Partnerships shall only be reported in the CbCR if they are included in the financial statements;</li> <li>• To the extent that the partnership is not tax resident in a tax jurisdiction and not attributable to a permanent establishment qualifying as a separate constituent entity, it shall be reported separately as "stateless"</li> </ul>	<ul style="list-style-type: none"> <li>• <u>Term</u>: Instead of 'partnerships' the P2 regulations use the broader term 'flow-through entity';</li> <li>• No separate guidance</li> </ul>	<ul style="list-style-type: none"> <li>• Safe harbour calculation follows CbCR treatment. In case the partnership / flow-through entity is treated as "stateless", not entitled to safe harbour calculation (see slide 7)</li> </ul>
Entities for Sale	<ul style="list-style-type: none"> <li>• Normally not included in CbCR as they are not consolidated anymore</li> </ul>	<ul style="list-style-type: none"> <li>• No separate guidance</li> </ul>	<ul style="list-style-type: none"> <li>• Entities for sale are not entitled to the routine profit test (but other two tests)</li> </ul>

<sup>1)</sup> *Transfer Pricing Documentation & CbCR Reporting / Final Report on BEPS Action Point 13 (2015); Guidance on the Implementation of CbCR Reporting / BEPS Action Point 13 (Update 2024)*

<sup>2)</sup> *P2 Safe Harbours and Penalty Relief (2022); P2 Administrative Guidance 12/2023 (2023)*

# CbCR Data Points (13)

Special Topics	CbCR Regulations <sup>1)</sup>	Qualified CbCR Regulations <sup>2)</sup>	CbCR Safe Harbour Calculation
Joint Ventures (“JV”)	<ul style="list-style-type: none"> <li>Treatment of JV (incl. JV subsidiaries) depends on applicable accounting standard:                             <ul style="list-style-type: none"> <li><u>Full consolidation</u>: JV considered as constituent entity and hence included in CbCR;</li> <li><u>Pro-rata consolidation (e.g. Swiss GAAP FER)</u>: JV considered as constituent entity, but only pro-rata share of data;</li> <li><u>Equity consolidation</u>: JV not considered as constituent entity and hence not included in CbCR</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>No separate guidance</li> </ul>	<ul style="list-style-type: none"> <li>JV (incl. JV subsidiaries) – <u>according to definition in OECD Model Rules (art. 10.1.1 MR)</u> – require separate safe harbour calculation (separately from other constituent entities in the same jurisdiction)</li> </ul>
Purchase Price Accounting Adjustments (PPA)	<ul style="list-style-type: none"> <li>No guidance</li> </ul>	<ul style="list-style-type: none"> <li>No separate guidance</li> </ul>	<ul style="list-style-type: none"> <li>If “pushdown values” are included in the CbCR, those values can be considered for safe harbour calculations if the following conditions are met:                             <ul style="list-style-type: none"> <li>(1) Goodwill impairment adjustments must be made to add back goodwill impairments relating to transactions entered into after 30 November 2021;</li> <li>(2) Pushdown values must be included in the CbCR (as of CbCR 2023) unless not allowed by law or regulation</li> </ul> </li> </ul>

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<sup>2)</sup> P2 Safe Harbours and Penalty Relief (2022); P2 Administrative Guidance 12/2023 (2023)

# CbCR Data Points (14)

Special Topics	CbCR Regulations <sup>1)</sup>	Qualified CbCR Regulations <sup>2)</sup>	CbCR Safe Harbour Calculation
Transfer Pricing Adjustments	<ul style="list-style-type: none"> <li>No guidance</li> </ul>	<ul style="list-style-type: none"> <li>No guidance, but: since the Qualified CbCR must be prepared based on qualified financial statements and in such statements prior-year transfer pricing adjustments are not reflected (“accounting follows actual payments”), they are most probably not included</li> </ul>	<ul style="list-style-type: none"> <li>Qualified CbCR cannot be adjusted for prior-year transfer pricing adjustments for the purpose of calculating the safe harbours</li> </ul>
Hybrid Arrangements	<ul style="list-style-type: none"> <li>No guidance</li> </ul>	<ul style="list-style-type: none"> <li>No guidance</li> </ul>	<ul style="list-style-type: none"> <li>Special rules to consider (e.g., dividends which are tax deductible in the payor’s tax jurisdiction)</li> </ul>

<sup>1)</sup> *Transfer Pricing Documentation & CbCR Reporting / Final Report on BEPS Action Point 13 (2015); Guidance on the Implementation of CbCR Reporting / BEPS Action Point 13 (Update 2024)*

<sup>2)</sup> *P2 Safe Harbours and Penalty Relief (2022); P2 Administrative Guidance 12/2023 (2023)*

# CbCR safe harbour and QDMTT (1)

118.45 In general, the QDMTT is designed to impose top-up tax where there would otherwise be a Top-up Tax liability under the GloBE Rules. Consistent with that design principle, a QDMTT should also contain safe harbours that align with the safe harbours agreed under the GloBE Rules, including the transitional safe harbours. Otherwise, the MNE Group will be forced to undertake the detailed income and covered taxes computations solely for purposes of the QDMTT where the Inclusive Framework has determined there is little risk of top-up tax liability.

Countries to decide whether they also introduce a CbCR safe harbour for QDMTT purposes

Country	Comment
Australia	No information available
Austria	Yes, broadly aligned with P2 regulations
Belgium	Yes
Bulgaria	Yes
Canada	Yes (draft legislation)
Denmark	Yes, broadly aligned with P2 regulations
European Union	Member States shall apply transition rules
France	No information available

Country	Comment
Germany	Yes, PPA must be excluded
Greece	No information available
Hong Kong SAR	Yes (draft legislation)
Hungary	Yes (detailed not yet known)
Ireland	Yes, broadly aligned with P2 regulations
Italy	Yes (detailed not yet known)
Liechtenstein	Yes
Luxembourg	Yes (details not yet known)

## CbCR safe harbour and QDMTT (2)

Country	Comment
Netherlands	Yes, broadly aligned with P2 regulations
New Zealand	Yes (draft legislation)
Norway	Yes, broadly aligned with P2 regulations
Poland	No information available
Portugal	No information available
Romania	Yes, broadly aligned with P2 regulations
Singapore	No information available

Country	Comment
South Africa	No information available
South Korea	No information available
Spain	No information available
Sweden	Yes, broadly aligned with P2 regulations
Switzerland	Yes
UK	Yes, broadly aligned with P2 regulations

### Overall Trend:

Most countries to introduce CbCR safe harbour for QDMTT which is (broadly) aligned with P2 regulations

# First Practical Experience

## De Minimis

- Prior-year transfer pricing adjustments could have positive / negative impact;
- De minimis-amounts are in EUR and not functional currency (common mistake when applying);
- Impact of participation valuations (net unrealized fair value loss-rule) to be assessed case-by-case

## Routine Profit

- Test always fulfilled in countries with loss-making entities;
- Prior-year transfer pricing adjustments could have positive / negative impact;
- Impact of participation valuations (net unrealized fair value loss-rule) to be assessed case-by-case

## Simplified ETR

- Use of tax losses carried forward (without a deferred tax asset recognized) reduced ETR below threshold (issue specifically in countries with nominal tax rate above 15/16/17%);
- Impact of participation valuations (net unrealized fair value loss-rule) to be assessed case-by-case



# Q&A





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