

# Global transfer pricing guide

Understanding the global transfer pricing landscape

2018



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# Foreword

Welcome to Grant Thornton's  
Global transfer pricing guide 2018.



**International taxation is undergoing the biggest shake-up for a generation. The already complex world of transfer pricing is at the front and centre of these disruptive changes, both in the rules that govern it and in the heightened scrutiny it now faces.**

The chief driver of change is the global roll-out of the OECD's Base Erosion and Profit Shifting (BEPS) Action Plan. More than a hundred countries have pledged to implement at least some of the Action Plan elements.

## **Demonstrating substance**

As part of the global tax reforms, your business needs to demonstrate that transfer pricing reflects the economic substance of value creation and exchange. Substance can appear quite straightforward in areas such as manufacturing, where it's obvious that a factory or warehouse exists. However, what we refer to here are the 'significant people functions' – where are the people controlling the important risks in the business, such as new product development, or procurement. Where substance gets even more complex, and makes transfer pricing all the more complicated, is in areas such as the creation and development of intellectual property and other intangible assets. Key questions include: does transfer pricing within your organisation reflect the substance of where and how value is created and exchanged?

## **Heightened risks**

By re-aligning taxation with economic substance, the BEPS Action Plan is meant to reduce the risk of double taxation. But this depends on how the rules are implemented and enforced in different jurisdictions. Given how much is open to interpretation, the risk of compliance lapses, disputes and double taxation could increase.

Many countries believe that they should be entitled to more tax revenue as a result of the BEPS Action Plan, which will almost certainly lead to an increase in inter-jurisdiction disputes as authorities vie over the taxing rights. The resulting questions include: 'How can you justify your transfer pricing approach?' It is also important to identify transactions that tax authorities could focus on as a basis for transfer pricing audit and additional tax demands.

## **Under the spotlight**

The risk of tax authority challenge is heightened by the increased levels of transfer pricing documentation and disclosure. This includes the transaction-level detail within the local file, which provides authorities with a revealing blueprint of profit drivers, intercompany financing and pricing policies within your business. The spotlight is intensified still further by requirements such as the breakdown of the intangible (DEMPE) lifecycle within the master file. As a result of country by country (CbC) reporting, authorities also have the opportunity to compare data such as the size of the workforce against the share of the tax take in each of your operating territories. Many tax authorities are using the CbC reporting to search for possible shortfalls in the tax being paid to them.

### Splintering rules

The third main challenge within this new transfer pricing landscape is the selectivity and varied speed at which BEPS recommendations are introduced within different jurisdictions. In some cases, local legislation goes beyond the requirements and guidance within the BEPS Action Plan. The resulting inconsistencies are creating a complex patchwork of local rules. Some countries are applying high penalties for missing locally-set deadlines for notifications. This approach is considered by many to be against the spirit of the BEPS project (which was intended to improve coherence and consistency as well as transparency) and it can look very like an attempt to raise revenues.

### Navigating through disruption and change

The 2018 edition of the annual Grant Thornton global transfer pricing guide provides invaluable information to help you steer through these difficult waters.

The guide includes a jurisdiction-by-jurisdiction overview of transfer pricing rules in place, how these are likely to be affected by BEPS and when changes are likely to be introduced. As you will see, developments are coming in fast and changes since our 2015/16 edition are considerable.

I hope you find this guide useful. You will also find plenty of information and insights on BEPS, transfer pricing and other key aspects of tax management on our global website [www.grantthornton.global](http://www.grantthornton.global).

#### Dan Powers

Tax service line leader  
Grant Thornton International Ltd

You should note that this is only a general guide, and you should not take action on the basis of this guide alone. If you would like further information and guidance geared to your particular business, please feel free to get in touch with the local advisors listed in each of the jurisdiction pages. Our specialist teams can help with:

- **audit support** – sophisticated economic arguments, research and databases can help defend transfer pricing policies before the tax authorities
- **documentation** – using expert local knowledge to prepare country-specific documentation to satisfy local tax regulations
- **planning** – the growth or restructuring of a company doing business internationally provides an opportunity to review transfer pricing and tax planning to minimise tax burden
- **supply chain re-engineering** – the critical analysis of the supply chain to gain operational efficiencies.



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### Does your country have local transfer pricing laws?

Yes, Albania has local transfer pricing law.

### Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes, Albania's transfer pricing rules are in compliance with OECD Guidelines.

### Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Albania is not member of the OECD, however the OECD transfer pricing guidelines have been introduced transfer pricing regulation issued by the tax authority which provides guidance on transfer pricing rules and procedures.

### What is the effective date of your transfer pricing regulations?

The effective date of Albania's transfer pricing regulations is 4 June 2014.

### Is the preparation of transfer pricing documentation mandatory?

Preparation of transfer pricing documentation is mandatory for entities reporting controlled transactions exceeding the threshold of ALL 50,000,000 annually. At the tax authorities' request, taxpayers should submit the transfer pricing documentation within 30 days of notice. Taxpayers are required to report all controlled transactions, on an annual basis, by filing a Controlled Transaction Notice not later than 31 March of the subsequent financial year.

### What transfer pricing methodologies are acceptable?

Albania's transfer pricing legislation follows the OECD guidelines in listing the most appropriate transfer pricing method as below:

- comparable uncontrolled price method;
- resale price method;
- cost plus method;
- transactional net margin method;
- transactional profit split method.

The law does not require the application of more than one method to determine consistency with the arm's length principle for a given controlled transaction. A taxpayer can apply a transfer pricing method other than one of the above, when it can be proven that none of the above methods can reasonably provide consistency with the arm's length principle for the controlled transaction. The taxpayer bears the burden of proving that the requirements have been satisfied.

### Does your revenue authority accept global or regional comparable companies, or are only local comparable companies accepted?

The tax authority accept global and regional comparable companies.

### When should transfer pricing documentation be prepared?

Transfer pricing documentation should be prepared within 30 days of the tax authorities' request.

### What are the penalties for not complying with your local transfer pricing rules?

When the tax authority makes a transfer pricing adjustment, the taxpayer is penalised for an amount equal to 0.06% of the unpaid tax liability for every day that the tax liability was not paid, up to a maximum of 365 calendar days.

### Are there transfer pricing related disclosures in the tax return?

Yes, the form of the Controlled Transactions Notice needs to be filled and submitted within 31 March of the following year.

### Are there exemptions to transfer pricing rules in your country?

No, there are not any exemptions to transfer pricing rules.

### Does transfer pricing documentation need to be prepared in a language other than English?

The local transfer pricing documentation need to be prepared in Albanian language.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	X
Are CbC Report requirements consistent with BEPS Action 13?	X
Are the Master File requirements consistent with BEPS Action 13?	X
Are the Local File requirements consistent with BEPS Action 13?	N/A
Revenue threshold for CbCR to apply	N/A
Signatory of the OECD Multilateral Competent Authority Agreement	N/A
Filing due date	N/A
Are the Master File and Local File lodged with the local tax authority?	N/A
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

No changes.

### What transfer pricing developments are expected over the next three years?

No information available yet.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

The tax authorities have set up a dedicated task force to enforce such rules and the first requests for submission of transfer pricing documentation have been issued to businesses.

### What are the current transfer pricing audit areas in your jurisdiction?

The current transfer pricing audit areas are selection of proper criteria for the query of similar companies in the region and globally, the use of properly accredited databases for the performance of queries, potential adjustments in the queries and subsequently, the use of the proper method in calculating the market price, etc.

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# Algeria

## Does your country have local transfer pricing laws?

Algeria's transfer pricing legislation is contained in the Direct Taxes Code CID (Articles: 141, 152 and 192-3). The transfer pricing legislation applies between an undertaking operating in Algeria and one outside Algeria, and one participates directly or indirectly in the management, control or capital of the other or that the same persons participate directly or indirectly in the management, control or capital or business of the other and in both cases both companies are, by their commercial or financial relations, bound by conditions which differ from those which would be agreed upon between independent companies. The additional profits which would have been realised by the company in Algeria, but could not be obtained by virtue of these different conditions, are included in the taxable profits of that company.

The products to be included in the tax base are those indirectly transferred to companies located outside Algeria through:

- the increase or decrease of purchase or sale prices
- the payment of excessive royalties or without consideration
- the granting of loans without interest or at a reduced rate
- the waiver of the interest stipulated in the loan agreements
- the attribution of an advantage out of proportion to the service obtained
- or by any other means.

Failure to reply to the request made in accordance with the provisions of Article 20 of the Tax Procedures Code results in the determination of the taxable income by the tax authorities on the basis of information available to it and in comparison with the taxable income of undertakings similarly exploited.

The companies referred to in Article 169 of the Tax Procedures Code are obliged to keep the relevant analysis, and to present it, at any requisition of the tax auditor.

Failure to produce, or incomplete production of the documentation, required under the provisions of Article 169 of the of Tax Procedures Code, within thirty (30) days of notification, by registered letter with acknowledgment of receipt, entails the application of a fine in the amount of 2,000,000 DA.

If the company has not complied with the declaratory obligation, an additional fine equal to 25% of the profits indirectly transferred within the meaning of the provisions of Article 141a of the Direct Taxes Code may be levied.

In the course of the checks provided for in Articles 20 and 20a above the tax authorities may, in the presence of evidence suggesting indirect transfers of profits within the meaning of Article 141a Of the Direct Taxes Code, request information and documents from the undertaking specifying the nature of the relationship between that undertaking and one or more undertakings situated outside Algeria, the method of determining transfer prices for industrial operations, commercial or financial activities with companies located outside Algeria, where appropriate, counterparties granted, activities carried out by companies outside Algeria linked by industrial, commercial or financial operations to the audited company, as well as the tax treatment reserved for these operations.

For companies belonging to a group of companies similar documentation is required.

Written requests from a tax auditor must state explicitly the points on which the inspector deems it necessary to obtain information and documents, including specifying the foreign business concerned, the product subject to the transaction or the activity concerned by the verification, and the country or territory concerned. The deadline for reply is 30 days.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	X
Are CbC Report requirements consistent with BEPS Action 13?	X
Are the Master File requirements consistent with BEPS Action 13?	N/A
Are the Local File requirements consistent with BEPS Action 13?	N/A
Revenue threshold for CbCR to apply	N/A
Signatory of the OECD Multilateral Competent Authority Agreement	X
Filing due date	30 April
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	2,000,000 DA

The companies referred to in Article 160 above, where they are related, are required to make available to the tax authorities, in addition to the declarations provided in Article 161 of the same code, documentation justifying the transfer pricing policy practiced in the context of operations of any kind carried out with related companies within the meaning of the provisions of Article 141 of the Direct Taxes Code. Failure to produce documentation entails the application of the provisions of article 192-3 of the of direct taxes code.

### Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes, Algeria's transfer pricing rules are consistent with the OECD Guidelines.

### Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. Article 9 of the OECD model is reproduced on all the agreements signed by Algeria. The Tax auditors shall determine the transfer pricing in accordance with the methods recommended by the OECD for the purpose of determining the conditions governing commercial or financial relations between related enterprises.

### What is the effective date of your transfer pricing regulations?

The effective date of Algeria's transfer pricing regulations is 1 January 2010.

### What transfer pricing developments have occurred in the past 12 months?

There has been a strengthening of legislative texts by the Financial law of 2017.

### What transfer pricing developments are expected over the next three years?

No specific expected developments.

### Is the preparation of transfer pricing documentation mandatory?

Yes, the preparation of transfer pricing documentation is mandatory. The filing deadline for documentation is 30 April of the subsequent financial year.

### What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

### Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Both global and regional comparable companies may be accepted by the tax authority.



**When should transfer pricing documentation be prepared?**

The transfer pricing documentation should be prepared with the annual tax return at the end of the financial year.

**What are the penalties for not complying with your local transfer pricing rules?**

Failure to produce or incomplete production of the documentation required under Article 169a of the Code of Tax Procedures, within thirty (30) days of the notification, by registered letter with acknowledgment of receipt, entails the application of a fine

**Are there transfer pricing related disclosures in the tax return?**

There are no transfer pricing related disclosures on the income tax return.

**Are there exemptions to transfer pricing rules in your country?**

There are no exemptions to the country's local transfer pricing rules.

**Does transfer pricing documentation need to be prepared in a language other than English?**

The transfer pricing documentation needs to be prepared in French or Arabic.

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# Argentina

## Does your country have local transfer pricing laws?

Yes. In force since 1999, transfer pricing is not a new topic in Argentina. The basic transfer pricing rules were introduced in the 1930s. These rules were modernized in 1998 to introduce the arm's length standard and, in 1999 finally, to introduce the current documentation requirements.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Argentina is not an OECD Member State, which explains why its regulations sometimes show discrepancies and sometimes convergences with the OECD Guidelines. Although Argentina follows the arm's length principle, some important topics should be highlighted: these relate to the definition of related party, transfer pricing methods, tested party and application of the interquartile range.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Even though Argentina is not an OECD member, the rules follow its guidelines regarding the main principles.

## What is the effective date of your transfer pricing regulations?

Currently in force: AFIP Regulation No. 1122 (Oct. 31, 2001, but applicable for fiscal years beginning from December 31, 1999).

## Is the preparation of transfer pricing documentation mandatory?

Yes. The Transfer Pricing Regulations include extensive transfer pricing documentation requirements. Taxpayers are required to submit and keep all the documents evidencing that prices, amounts received and profit margins have been adequately determined in the tax return. In addition, taxpayers are required to submit and keep Informative Returns and an Annual Transfer Pricing Study for related party transactions or independent party transactions subject to transfer pricing methods (location in low or no tax countries).

## What transfer pricing methodologies are acceptable?

The Argentinean regulations follow the OECD Guidelines and recognise the availability of traditional and profit methods (CUP, Resale Price, Cost Plus, Profit Split and TNMM) and require their application on a transactional basis. There is no hierarchy between the methods but the taxpayers are expected to test all of them so as to determine which one is the most appropriate to them and the one that provides the most reliable result. Also, as provided by OECD guidelines, the party subject to analysis will be the one that carries out the transactions easiest to identify and evaluate, and for which there's comparable and reliable information. Irrespective of the above, our TP legislation provides that to apply the methods or determining transfer prices, the comparability of the analysis and the justification of such prices will have to be done always on the local subject's situation. The law does not require the application of more than one method to determine consistency with the arm's length principle for a given controlled transaction. A taxpayer can apply a transfer pricing method other than one of the above, when it can be proven that none of the above methods can reasonably provide consistency with the arm's length principle for the controlled transaction. The taxpayer bears the burden of proving that the requirements have been satisfied.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	N/A
Are the Local File requirements consistent with BEPS Action 13?	N/A
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	Annual Form 8096: up to the last business day of the third month immediately following the end of the annual fiscal year
Are the Master File and Local File lodged with the local tax authority?	N/A
Maximum penalties for non-compliance	N/A

### Does your revenue authority accept global or regional comparable companies, or are only local comparable companies accepted?

It is admitted the use of external comparables, generally provided by international data base suppliers.

### When should transfer pricing documentation be prepared?

Semi-Annual Form 742: Submission up to the day of the fifth month immediately following the end of the first semester of the annual fiscal year or calendar year.

Annual Form 8096: Submission up to the last business day of the third month immediately following the end of the annual fiscal year.

Annual Form 969: Submission up to the day of the fifteenth day immediately following the due date for income tax return.

Annual Form 743: Submission up to the day of the eighth month immediately following the end of the fiscal year.

Annual Special Report 4501: Submission up to the day of the eighth month immediately following the end of the fiscal year.

### What are the penalties for not complying with your local transfer pricing rules?

The Argentinean legislation incorporates specific rules for penalties to be imposed as a result of events on noncompliance with the rules governing international transactions, based on the practical experience our country had gained. Basically the penalties applies for non-compliance with regulations establishing or requiring fulfilment of formal obligations to assess tax liabilities, and verify and examine compliance by the taxpayers; and failure to submit informative returns of international transactions or returns with information about the taxpayer itself or about third parties as requested by the tax authority.

### What transfer pricing developments have occurred in the past 12 months?

Based on the BEPS initiative and the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Report, the local tax authority implemented the new CbCR regime (RG AFIP 4130), related to the economic information of the group of multinational entities (F.8097), and also an annual notification requirement for all resident entities in the country, members of multinational groups (F.8096). Said regimes are set in force for fiscal years beginning as of 01/01/2017.

### What transfer pricing developments are expected over the next three years?

Regarding the 2017 national fiscal reform, many issues related to transfer pricing await to be regulated by the tax authority, in the sense of BEPS guidelines.

### Are there transfer pricing related disclosures in the tax return?

Taxpayers are required to specify annually in their tax returns if they performed transactions with related parties, and whether an adjustment applies.

### Are there exemptions to transfer pricing rules in your country?

There are no minimum thresholds in Argentina.

**Does transfer pricing documentation need to be prepared in a language other than English?**

Transfer pricing documentation must be filed exclusively in Spanish.

**How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?**

There has been increased transfer pricing audit activity by the special transfer pricing audit team.

**What are the current transfer pricing audit areas in your jurisdiction?**

The allocation of management fees and certain corporate expenses to Argentinean subsidiaries constitutes one of the key topics that the tax authorities are considering at the time when making tax assessments.

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# Australia

## Does your country have local transfer pricing laws?

Australia's transfer pricing rules are contained in subdivisions 815-B, 815-C and 815-D of the Income Tax Assessment Act 1997 (ITAA 1997); and subdivision 284-E of the Taxation Administration Act 1953 (TAA 1953).

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Australia's transfer pricing rules are aligned with the international transfer pricing standards set out in the OECD Guidelines for multinational enterprises and tax administrations.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

The OECD Guidelines have been legislated as part of Australia's new transfer pricing rules which are effective for the first income year commencing on or after 29 June 2013.

## What is the effective date of your transfer pricing regulations?

Transfer pricing regulations have been effective in Australia since 1982. Australia's new transfer pricing rules are effective for the first income year commencing on or after 29 June 2013.

## Is the preparation of transfer pricing documentation mandatory?

Preparation of contemporaneous transfer pricing documentation is recommended but not required. However, transfer pricing documentation demonstrates may provide taxpayers with a Reasonably Arguable Position and access to penalty relief in the event of a transfer pricing adjustment.

## What transfer pricing methodologies are acceptable?

Australia applies the 'most appropriate method approach' for the selection of transfer pricing method(s). Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your revenue authority accept global or regional comparable companies, or are only local comparable companies accepted?

The ATO's preference is that local comparable companies are selected. However, the ATO may accept non-Australian based comparable companies where the taxpayer can demonstrate that they have searched for, but could not identify, sufficient Australian-based comparable companies.

## When should transfer pricing documentation be prepared?

Transfer pricing documentation should be prepared by the due date for filing the annual income tax return.

## What are the penalties for not complying with your local transfer pricing rules?

The ATO may apply a penalty rate of up to 50% to any tax avoided for transfer pricing arrangements.

## Are there transfer pricing related disclosures in the tax return?

Taxpayers with aggregate amounts of international related party transactions greater than A\$ 2 million need to disclose the details of their related party transactions, including type of transaction, magnitude of transaction and level of documentation to support the arm's length nature of the transaction in Section A of the International Dealings Schedule attached with their annual income tax returns.

## Are there exemptions to transfer pricing rules in your country?

There is no exemption to transfer pricing rules in Australia. The transfer pricing rules apply to all cross-border transactions, including transactions between third parties. All cross-border dealings are therefore subject to the arm's length principle.

## Does transfer pricing documentation need to be prepared in a language other than English?

Australian transfer pricing documentation needs to be in English, or readily accessible and convertible into English.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	X
Revenue threshold for CbCR to apply	A\$1 billion
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	A\$525,000

### What transfer pricing developments have occurred in the past 12 months?

The ATO has released guidance over the past 12 months focusing on MNEs that have setup offshore hubs or have cross border related party financing arrangements. The guidance allows taxpayers to assess the risk rating of their arrangements based on the ATO's pre-determined risk rating criteria.

### What transfer pricing developments are expected over the next three years?

The Australian Government introduced the Multinational Anti-Avoidance Law effective 1 January 2016 and the Diverted Profits Tax legislation effective 1 July 2017.

The Multinational Anti-Avoidance Law is focused on attacking taxpayers that are artificially avoiding a taxable presence in Australia. The Diverted Profits Tax is focused on Australian taxpayers paying fees to related parties located in low taxing jurisdictions where the payments lack economic substance.

These new provisions reflect the Australian Government's continual focus on targeting tax avoidance measures entered into by MNEs. We expect there will be greater number of companies being selected for review by the ATO over the next three years.

Australian Government's emphasis on greater compliance by taxpayers is reflected in new requirements for preparing financial statements and an increase of administrative penalties by a factor of 100 for failing to meet their reporting obligations.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

The ATO is considered to be extremely active enforcing Australia's transfer pricing rules. The ATO was provided funding of \$679 million to establish a new Tax Avoidance Taskforce. This contributed to the ATO selecting 175 taxpayers in 2016 to review the operating structures setup by MNEs in Australia. The taskforce is expected to raise \$3.7 billion in additional tax revenue between 2016 and 2020.

### What are the current transfer pricing audit areas in your jurisdiction?

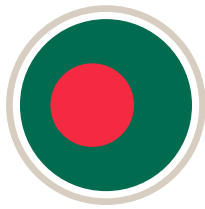
The main focus areas of the ATO include:

- MNEs artificially avoiding a taxable presence in Australia under Australia's new Multinational Anti-Avoidance Law
- intra-group finance and guarantee fees
- business restructures and transformations
- e-commerce business operations
- intellectual property transactions
- low-profit/loss making entities
- procurement and marketing hubs.

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# Bangladesh

## Does your country have local transfer pricing laws?

The Bangladesh transfer pricing laws are contained in the following:

- Chapter XIA, and sections 94 and 173 of Income Tax Ordinance (ITO), 1984
- Statutory Regulatory Order (SRO) 161/ Act/Income Tax/2014
- Rules 70 to 75A of Income Tax Rules, 1984
- Income Tax circulars 2014 [ie, paripatra: interpretation issued by the National Board of Revenue (NBR)].

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Bangladesh is not a signatory country of the OECD. However, Bangladesh's transfer pricing regulations are broadly in line with OECD Guidelines.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

The OECD Guidelines have not been legislated as part of the local transfer pricing regulations but are followed for administrative practice purposes.

## What is the effective date of your transfer pricing regulations?

The effective date of the transfer pricing regulations is 1 July 2014.

## Is the preparation of transfer pricing documentation mandatory?

Yes. Every taxpayer who has entered into an international transaction shall provide a statement of international transactions as per rule 75A [ie transfer pricing return] to the revenue authority along with the return of income on an annual basis.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split. In addition, any other method may be applied where it can be demonstrated that the above methods cannot be reasonably applied to determine the arm's length price for the international transaction and such other method yields a result consistent with the arm's length price.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Only local comparable companies will be accepted.

## When should transfer pricing documentation be prepared?

The transfer pricing documentation should be prepared on a contemporaneous basis, and should be maintained by the taxpayer for a period of eight years from the end of the relevant assessment year.

Transfer pricing audit can be initiated by the tax authority within three years from the end of usual assessment year.

## What are the penalties for not complying with your local transfer pricing rules?

- For failure to provide a statement of international transaction (transfer pricing return), a penalty not exceeding 2% of value of each international transaction.
- For failure to keep or maintain or provide information, documents or records as required by transfer pricing regulation, a penalty not exceeding 1% of the value of each international transaction.
- For failure to comply with the notice issued by the Deputy Commissioner of Taxes regarding transfer pricing information, documents and records, a penalty of not exceeding 1% of the value of each international transaction.
- For failure to furnish a report from Chartered Accountants, a penalty not exceeding BDT300,000.

Also, under the general tax penalty regime, a transfer pricing adjustment may lead to a penalty based on a percentage of actual tax loss not exceeding 10%. Furthermore, interest at 10% per annum on additional tax arising from transfer pricing adjustments following tax audit, can be added to the tax demand.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	X
Are CbC Report requirements consistent with BEPS Action 13?	N/A
Are the Master File requirements consistent with BEPS Action 13?	X
Are the Local File requirements consistent with BEPS Action 13?	X
Revenue threshold for CbCR to apply	N/A
Signatory of the OECD Multilateral Competent Authority Agreement	X
Filing due date	N/A
Are the Master File and Local File lodged with the local tax authority?	N/A
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

None.

### What transfer pricing developments are expected over the next three years?

No developments are expected at this time.

### Are there transfer pricing related disclosures in the tax return?

Yes. Every taxpayer who has entered into an international transaction shall provide a statement of international transactions as per rule 75A (ie transfer pricing return) to the tax authority along with the return of income on annual basis.

The following information is to be disclosed in the transfer pricing return:

- total expense and total revenue of the international transactions
- total value of international transactions
- nature of the transactions
- transfer pricing method for determining arm's length price
- percentage of international transactions under each item compared to total value of international transactions for that category (eg revenue transactions, service related transactions, financial transactions, etc.).

### Are there exemptions to transfer pricing rules in your country?

No.

### Does transfer pricing documentation need to be prepared in a language other than English?

No. The English language is well accepted and used by the tax authority and also accepted medium of language in higher courts in Bangladesh. Tax laws are officially issued in both local language and English versions.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

While, the local transfer pricing regulation was effective from 1 July 2014, the local tax authority has not yet started any transfer pricing audits or assessments.

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# Belarus

## Does your country have local transfer pricing laws?

Article 30-1 of the Tax Code of the Republic of Belarus (introduced in 2012, sets out taxpayer's obligation to prepare a report on transfer pricing; effective since 1 January 2016).

Article 20 of the Tax Code of the Republic of Belarus defines related parties and companies in Belarus.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

The Republic of Belarus is not a member of OECD. Applicable regulations of Belarusian transfer pricing in the main part corresponds to the OECD Guidelines. Practical application of national regulations on transfer pricing may differ from OECD Guidelines.

The transaction price is considered market price and the tax base of income tax on such transactions is not subject to adjustment, if the price applied by the payer is in the market price range and does not deviate more than 20%.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Belarusian transfer pricing regulations do not use OECD Guidelines as statutory legal source.

## What is the effective date of your transfer pricing regulations?

Article 30-1 of the Tax Code of the Republic of Belarus was introduced 1 January 2012 and transfer pricing regulations have been effective since 1 January 2016.

## Is the preparation of transfer pricing documentation mandatory?

Yes, it is mandatory when carrying out of the following:

- transactions with immovable property (acquisition or alienation), when the price differs from the market price range by 20% for similar transactions
- transactions by large taxpayers in foreign economic activity, including transactions with strategic goods on the amount of more than 1,000,000 BYN (approximately 500,000 US dollars) within the calendar year
- transactions on the alienation\acquisition of goods, works, services and property rights between related parties (companies), with residents of offshore zones or through a third party in foreign economic activity or with a related party-resident of the Republic of Belarus which has the right not to calculate and not to pay income tax on the amount of more than 100,000 BYN (approximately 50,000 US dollars) within the calendar year.

## What transfer pricing methodologies are acceptable?

Belarusian transfer pricing regulations refer to five methods which can be used on preparation of documentation on transfer pricing, including: Comparable Uncontrolled Price (CUP); Resale Price; Cost Plus; Transactional Net Margin Method (TNMM) and the Profit Split Method.

Comparable uncontrolled price method prevails. If it's impossible to use comparable uncontrolled price method other methods are applied in succession.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Legislation requires to search for local comparable data, although there are no local databases on the market. Taking this into account, the data on the taxpayer's activities and information on their business in different markets, global/regional companies can be accepted as comparable companies on carrying out of comparable analysis.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	Not applicable in the Republic of Belarus. The Republic of Belarus adheres to the General principles of the OECD in the development of tax administration measures and their application, but the Republic of Belarus is neither a member nor an observer of the OECD, that is why the OECD documents cannot be part of the Belarusian legislation or be binding. At the same time the Republic of Belarus carries out the following activities reflecting the main provisions of the BEPS Action Plan. The Tax Code of the Republic of Belarus (edition came into force in 2017) is supplemented with previously adopted provisions intended at preventing of the withdrawal of profit under thin capitalization mechanism; transfer pricing regulations are improved, the provisions of legislation establishing the right of tax authorities to demand documents from a non-resident recipient of income in order to determine whether he is the real owner of income received from sources in the Republic of Belarus are expanded.
Are CbC Report requirements consistent with BEPS Action 13?	N/A
Are the Master File requirements consistent with BEPS Action 13?	N/A
Are the Local File requirements consistent with BEPS Action 13?	N/A
Revenue threshold for CbCR to apply	N/A
Signatory of the OECD Multilateral Competent Authority Agreement	N/A
Filing due date	N/A
Are the Master File and Local File lodged with the local tax authority?	N/A
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

The period for a tax audit has been decreased to five years, for other audits – and to three years before a new audit can be done.

### What transfer pricing developments are expected over the next three years?

It is expected that the price deviations of up to 20% from the arm's-length range will be unacceptable and a list of related parties will be extended. Certain steps are taken to bring national rules and standards regarding transfer pricing and information exchange between the tax authorities into alignment with international principles.

### When should transfer pricing documentation be prepared?

Belarusian legislation does not contain any requirements for the preparation of transfer pricing documentation by a certain date.

However, tax authorities may request to submit transfer pricing report quarterly and the tax authorities may request to update the information in the provided report as of the end of the reporting quarter.

Since 1 July 2016 taxpayers must inform the tax authorities about controlled transactions during the tax period - calendar year. Information on controlled transactions must be provided to the tax authorities each month. The term of report provision is the tenth day of the month following the reporting month, in some cases the period may be different. The report is based on the information about electronic VAT invoices, which must be issued on the web portal of the Ministry of Taxes and Levies of the Republic of Belarus.

Also, the information on related parties/foreign participants of Belarusian entity should be provided to the tax authorities on filing of annual income tax return. The term for submission of the tax return is 20 March of the year following the reporting tax period.

Tax authorities may request transfer pricing documentation at quarterly basis.

The term of submission of transfer pricing documentation is not later than ten working days from the date of receiving the tax authority request on the results of desk tax audit and not later than five working days from the date of request on the results of field tax audit.

### What are the penalties for not complying with your local transfer pricing rules?

Belarusian legislation does not contain special regulations for non-compliance with transfer pricing rules. In case of non-provision of transfer pricing documentation on-demand or rejection of the tax authorities' conclusions on the transfer pricing documentation by the payer, the following sanctions can be applied to the payer:

- additional charge and payment of income tax
- non-payment or incomplete payment of income tax is subject to fine up to 20% of the amount of unpaid tax
- a fine in the amount of up to 30 basic units (up to 735 BYN) for non-provision or provision of documents containing invalid data
- penalty for late payment of tax in the amount of 1/360 of the refinancing rate of the National Bank of the Republic of Belarus for the period from the day following the date of the end of the tax payment term to the date of the actual payment of tax.

The penalties are not imposed if the payer himself additionally charge and pay the tax before tax inspection.

### Are disclosures related to transfer pricing required in tax declaration?

Information on the related parties shall be disclosed in paragraph 13 Section V of an income tax return.

### Are there exemptions to transfer pricing rules in your country?

Under paragraph 2 Article 30-1 of the Tax Code of the Republic of Belarus transfer pricing rules shall not be applied in respect of the following:

- transactions related to sale or purchasing of goods (works, services) in case the transaction value is determined by an international treaty with the Republic of Belarus
- banking transactions according to the list of the Banking Code of the Republic of Belarus
- operations involving securities and other financial instruments of term transactions traded in the organized securities market.

### What language should transfer pricing documentation be executed in?

Transfer pricing documentation shall be submitted either in the Russian language or in the Belarusian language.

Under Article 22 of the Tax Code of the Republic of Belarus, documents prepared in a foreign language and submitted to the tax authorities shall be translated into the Russian or Belarusian language. The correctness of the translation or the authenticity of a translator's signature shall be certified either by a notary or by diplomatic missions or consular offices of the Republic of Belarus.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

The Ministry of Taxes and Levies of the Republic of Belarus monitors compliance with the transfer pricing rules.

### What are the transfer pricing audit areas in your jurisdiction?

#### Transactions related to the sale/purchase of immovable property

Transactions with a related party which is a Belarusian tax resident that is exempt from income tax or applies a special taxation regime (including involvement of a third independent party).

Provided that the value of transactions related to the sale/purchase of goods, works, services, property rights with one party exceeds 100,000 BYN (that amounts approximately to 50,000 US dollars) within one tax period.

Transactions with a related party which is a foreign tax resident or an offshore zone resident (including involvement of a third independent party).

#### Foreign transactions

Large transactions:

- transactions with large taxpayers
- transactions related to the sale/purchase of strategic goods (oil products, timber products, potash fertilizers, etc.)

Provided that the value of transactions related to the sale/purchase of goods, works, services, property rights with one party exceeds 1,000,000 BYN (that amounts approximately to 500,000 US dollars) within one tax period.

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# Belgium

## Does your country have local transfer pricing laws?

Yes. In addition, Program Law of 1 July 2016 (Belgian Official Gazette, 4 July 2016) has introduced CbCR legislation and mandatory transfer pricing documentation requirements (Master File/Local File).

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. The transfer pricing documentation obligation is included in Belgian law. Furthermore, the OECD Guidelines are followed, without being completely implemented in Belgian law (but partly documented in administrative guidelines).

## What is the effective date of your transfer pricing regulations?

1 January 2016.

## Is the preparation of transfer pricing documentation mandatory?

Yes. multinational groups with consolidated gross revenues of at least €750 million are subject to the obligation to file a Country-by-Country Report.

Companies that are part of a multinational group and that are exceeding one of the following thresholds (to be evaluated based on the stand-alone financial statements of the Belgian entity) are subject to the new obligation to prepare and file a Master File and Local File:

- a total of €50 million operational and financial income (excluding extraordinary income)
- a balance sheet total of €1 billion
- an annual average number of employees of 100 FTEs.

## What transfer pricing methodologies are acceptable?

All methodologies included in the OECD Guidelines are accepted in Belgium. The most appropriate transfer pricing method for a specific situation needs to be applied.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Both global and regional comparable companies are accepted. However, in Belgium, in general, pan-European benchmarks are accepted to document an arm's length remuneration for intercompany transactions.

## When should transfer pricing documentation be prepared?

The Country-by-Country Report needs to be filed within 12 months after closing of the reporting period of the group by and in the state of the ultimate parent company. Furthermore, if the conditions to file CbC Reporting are fulfilled at group level and even in case the Belgian company is not the ultimate parent company of the group, a notification needs to be performed to the Belgian tax authorities to inform them which group entity will file the CbC Reporting.

It is included in the law that this notification needs to be performed at the latest on the last day of the reporting period (accounting year).

The Master File needs to be filed within 12 months after closing of the reporting period of the group. The Local File needs to be introduced at the moment of filing the corporate income tax return of the Belgian company.

These obligations are applicable for financial years started on 1 January 2016 or later.

## What are the penalties for not complying with your local transfer pricing rules?

Penalties for not complying with the new obligations range from €1,250 to €25,000.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	Ranging from €1,250 to €25,000

### What transfer pricing developments have occurred in the past 12 months?

Mandatory templates for documentation have been issued.

### What transfer pricing developments are expected over the next three years?

No information available yet.

### Are there transfer pricing related disclosures in the tax return?

No, but the Local File needs to be introduced via a separate electronic platform at the moment of filing the corporate income tax return of the Belgian company.

### Are there exemptions to transfer pricing rules in your country?

Yes. Companies not exceeding one of the above mentioned thresholds, are not obliged to prepare and file transfer pricing documentation.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

There has been increased transfer pricing audit activity by the special transfer pricing audit team.

### What are the current transfer pricing audit areas in your jurisdiction?

All areas, with a particular focus on business structuring, loss situations, financial transactions etc.

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### Does your country have local transfer pricing laws?

Yes. Section 247 of the Income Tax Act of Canada focuses exclusively on transactions that occur between the taxpayer and a non-resident party with whom the taxpayer does not deal at arm's length.

Section 247 requires Canadian taxpayers to price intercompany transactions as though the resident taxpayer and the related non-resident were at arm's length during the tax year. This is consistent with the arm's length principle advocated in the OECD Guidelines.

### Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes. The local transfer pricing rules follow the OECD Guidelines.

### Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

The OECD Guidelines are not incorporated into Canada's transfer pricing legislation; they are followed as administrative practice. Information Circular IC87-2R, International Transfer Pricing, provides guidance with respect to the application of the transfer pricing rules in section 247 of the Income Tax Act. IC87-2R contains numerous references to the OECD Guidelines.

### What is the effective date of your transfer pricing regulations?

18 June 1998.

### Is the preparation of transfer pricing documentation mandatory?

No.

### What transfer pricing methodologies are acceptable?

The most appropriate method in a given set of circumstances will be the one that provides the highest degree of comparability between transactions. Once a taxpayer establishes comparability at a particular level within the hierarchy of methods, the taxpayer is not required to consider or apply a lower-ranking method. On the other hand, if the taxpayer cannot establish comparability at any level, other methods should be considered in order to determine the most appropriate method.

### Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Global or regional comparable companies are accepted. Companies outside of Canada can be used for benchmarking purposes.

### When should transfer pricing documentation be prepared?

Transfer pricing documentation provides penalty protection as noted in 247(3) and 247(4) of the Income Tax Act, but its preparation is not a requirement outside of the scope of 247(3) and 247(4). Preparing contemporaneous documentation on a yearly basis effectively protects the taxpayer from being assessed penalties in the event of a large reassessment by the Canada Revenue Agency (CRA). To qualify as contemporaneous, the documentation must be prepared by the Corporate Tax Return filing due date (six months following year end for corporations), or 30 June for December year-ends. There is no requirement to submit the documentation to the CRA unless requested, in which case taxpayers are afforded three months to submit.

### What are the penalties for not complying with your local transfer pricing rules?

Subsection 247(3) of the Income Tax Act applies a non-deductible penalty equal to 10% of the net upward income or capital adjustment arising from transfer pricing reassessments per subsection 247(2).

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	X
Are the Local File requirements consistent with BEPS Action 13?	X
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	\$24,000 CAD

### What transfer pricing developments have occurred in the past 12 months?

CbCR legislation, endorsement of BEPS initiatives. Signing of the Multilateral Competent Authority Agreement (MCAA).

### What transfer pricing developments are expected over the next three years?

Decision on Cameco court case and interpretation surrounding 247(2)(b) recharacterisation rule and 247(2)(a).

### Are there transfer pricing related disclosures in the tax return?

Yes. Form T106-Information Return of Non-arm's Length Transactions with Non-residents must be filed and is also due six months after year end for corporations. Taxpayers must disclose whether contemporaneous documentation had been prepared on this form when filed.

### Are there exemptions to transfer pricing rules in your country?

No. Form T106, Information Return of Non-Arm's Length Transactions with Non-Residents, is an annual return filed by reporting persons, including corporations, trusts, and individuals, and reporting partnerships. The Department uses the information provided on Form T106 to screen non-arm's length transactions for review and audit.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

The CRA has increased its funding for transfer pricing compliance and audit related matters.

### What are the current transfer pricing audit areas in your jurisdiction?

Transactions which have historically attracted a high level of scrutiny are management fees, royalty payments, intra-group loans, business restructuring and tax havens.

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# Chile

## Does your country have local transfer pricing laws?

Yes.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes, the local transfer pricing legislation is contained in Article 41 E of the Income Tax Law of Chile and was made using OECD Transfer Pricing rules.

## What is the effective date of your transfer pricing regulations?

27 September 2012.

## Is the preparation of transfer pricing documentation mandatory?

Yes. Just the Transfer Pricing Affidavit.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Global or regional comparable companies are both acceptable. The tax authority accepts global regional comparable companies if you can demonstrate that the comparable companies are similar to the tested party in Chile.

## When should transfer pricing documentation be prepared?

The affidavit must be sent before 30 June of each calendar year.

## What are the penalties for not complying with your local transfer pricing rules?

A fine can vary between US\$9,400 and US\$47,300. This is limited according to the capital of the company.

## Are there transfer pricing related disclosures in the tax return?

No.



## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	Six months after year end
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	US\$4,7300

### What transfer pricing developments have occurred in the past 12 months?

No changes.

### What transfer pricing developments are expected over the next three years?

No changes.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Very active with a specific team to enforce rules.

### What are the current transfer pricing audit areas in your jurisdiction?

All areas are subject to audit.

### Are there exemptions to transfer pricing rules in your country?

No.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes. Must be in Spanish.

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### Does your country have local transfer pricing laws?

Yes. Comprehensive transfer pricing rulings have been in place since 2009. The ruling has been gradually updated/expanded since 2016 for the latest BEPS action points including, but not limited to three-tiered documentation, CbCR, DEMPE value cycle for intangibles, streamlined process for APA and MAP.

### Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

No. While China broadly follows the OECD Guidelines, local deviations do exist. The local ruling has a stronger emphasis on 'China value' by means of location saving, market premium, local intangibles and etc, reflecting China State Administration of Taxation's (SAT's) mindset and belief that China subsidiaries of multinational companies warrant a bigger share of the profits derived from the global value chain.

### Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

No.

### What is the effective date of your transfer pricing regulations?

1 January 2008. The new transfer pricing regulation is effective from 1 January 2016.

### Is the preparation of transfer pricing documentation mandatory?

Yes. Local File becomes mandatory for a Chinese entity, if its annual amount of intercompany transactions crosses any of the following thresholds:

- RMB 200 million for normal buy-sell
- RMB 100 million for buy-sell of financial assets
- RMB 100 million for buy-sell of intangible properties
- RMB 40 million for non-buy-sell dealings (for example, service fee, royalty, interest and etc.)
- regardless of these thresholds, a single-functioned Chinese contract manufacturer, distributor which is in loss position is obliged to prepare a Local File.

Master File becomes mandatory for a Chinese entity, if its annual amount of intercompany dealings is over RMB 1 billion under aggregated basis, or if its ultimate parent company has prepared a Master File as so requested by its own country ruling.

In addition, a Special Purpose File is required if the Chinese entity has crossed the thin-capitalisation threshold, or if it has entered into a cost share arrangement with other group entities.

### What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin, profit split and asset valuation methods.

### Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Chinese local comparables are preferred, and if there is an insufficient sample size then APAC comparables are commonly accepted. Non-APAC comparables are normally challenged or rejected by the tax authority.

### When should transfer pricing documentation be prepared?

For Local File and Special Purpose File, the due date is 30 June the following year, while the Master File is due within 12 months of the ultimate parent company's fiscal year end.

Submission of any of the three files is not mandatory unless so requested by the in-charge tax authority, in which case the Chinese entity has 30 days to oblige.

### What are the penalties for not complying with your local transfer pricing rules?

Cash penalty and the possibility of being listed for official transfer pricing assessment.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	X
Are the Local File requirements consistent with BEPS Action 13?	X
Revenue threshold for CbCR to apply	RMB 5.5billion
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	31 May each year
Are the Master File and Local File lodged with the local tax authority?	Submitted on request
Maximum penalties for non-compliance	RMB 2,000-10,000

### What transfer pricing developments have occurred in the past 12 months?

Gradual update/local codification of the transfer pricing ruling in light of the BEPS Action Plans.

### What transfer pricing developments are expected over the next three years?

Still, more local codification for BEPS Action Plans.

### Are there transfer pricing related disclosures in the tax return?

Yes.

- Indication of whether the entity has triggered the legal obligation for preparing Local File, Master File or Special Purpose File.
- Disclosure of segmented P&L of the Local File, by domestic vs. overseas sales, and related vs. non-related sales.
- CbCR is part of the annual tax return.

### Are there exemptions to transfer pricing rules in your country?

Yes. If a Chinese entity has triggered the threshold of Local File, Master File or Special Purpose File and all its related party dealings are purely intra-China, it is exempted from preparing any of the files. Also, intra-China related dealings are technically exempted from official transfer pricing assessment, provided that no tax difference exists between the two transacting parties.

Transactions that are covered by an APA are also exempted from preparing such file.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes. All the files are required to be prepared in Chinese.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

The tax authority has setup a specific task-force to actively enforce the transfer pricing rules in China.

### What are the current transfer pricing audit areas in your jurisdiction?

The company with the following characteristic are more prone to be targeted:

- large related party transaction amount, varied types of related party transactions
- consecutive loss, low profitability or fluctuating profitability
- profit level is lower than the industry
- profit does not match the functional profile, the earnings do not match with the costs bared
- transacts with related parties located at low tax countries/ regions
- fails to declare the annual related party transaction forms or prepare the transfer pricing documentation
- debt to equity ratio exceed the stipulated standards
- the company was established in a country (region) with actual tax burden lower than 12.5% by a resident company or a resident company and a Chinese resident, which does not distribute profit or reduces profit distribution and such activity is not due to reasonable business needs
- implements tax planning or arrangements without reasonable business objectives.

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# **Hong Kong**

## **Does your country have local transfer pricing laws?**

No.

## **Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?**

Yes.

## **Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?**

No.

## **What is the effective date of your transfer pricing regulations?**

Not applicable.

## **Is the preparation of transfer pricing documentation mandatory?**

No.

## **What transfer pricing methodologies are acceptable?**

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## **Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?**

Global or regional comparable companies are acceptable.

## **When should transfer pricing documentation be prepared?**

There is proposed legislation to require transfer pricing documentation to be prepared in 2018 for the 2017 income year.

## **What are the penalties for not complying with your local transfer pricing rules?**

In the proposed transfer pricing legislation, the penalty is three times the tax underpaid.

## **Are there transfer pricing related disclosures in the tax return?**

There are currently no disclosures required in the tax return.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	X
Are CbC Report requirements consistent with BEPS Action 13?	N/A
Are the Master File requirements consistent with BEPS Action 13?	N/A
Are the Local File requirements consistent with BEPS Action 13?	N/A
Revenue threshold for CbCR to apply	N/A
Signatory of the OECD Multilateral Competent Authority Agreement	No
Filing due date	N/A
Are the Master File and Local File lodged with the local tax authority?	N/A
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

Proposing legislation.

### What transfer pricing developments are expected over the next three years?

Will be implemented in 2018.

### Are there exemptions to transfer pricing rules in your country?

There will be exemptions in the proposed legislation but no details as yet.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

It is understood that the Hong Kong Inland Revenue will be creating a new team to deal with transfer pricing matters.

### What are the current transfer pricing audit areas in your jurisdiction?

No specific areas, mainly focus on intercompany charges.

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# Cyprus

## Does your country have local transfer pricing laws?

Yes. The Cyprus Tax Department issued a circular with respect to the new rules for the taxation of intra-group financing arrangement (Back to Back). More specifically, a transfer pricing study is required for Back to Back loan activity. The new rules apply from 1 July 2017.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

The application of the transfer pricing methodology to such activities are based on the arms-length principles as advocated by the OECD.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

The OECD guidelines are followed as an administrative practice.

## What is the effective date of your transfer pricing regulations?

The transfer pricing regulations are effective from 1 July 2017.

## Is the preparation of transfer pricing documentation mandatory?

Yes, any intra-group financing transactions on back to back activity have to be supported by a transfer pricing study.

## What transfer pricing methodologies are acceptable?

There is currently no guidance in respect of the methodologies that will be accepted by the tax authorities. It is our understanding, that all traditional methods can be used depending on each case.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

There is currently no guidance on this issue. However based on our understanding, if the comparable companies can be justified then most probably both global and regional comparable will be accepted.

## When should transfer pricing documentation be prepared?

The transfer pricing documentation must be prepared in advance of any transaction. However it will be submitted to the tax authorities upon their request.

## What are the penalties for not complying with your local transfer pricing rules?

There are no specific penalties for not preparing transfer pricing documentation. However, in practice the tax authorities will proceed to impose higher deemed income on which taxes, penalties or interest will be triggered.

## Are there transfer pricing related disclosures in the tax return?

The relevant tax return has not been released yet by the tax authorities, but it is expected to include a section with regards to transfer pricing requirements.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	Upon request from the tax authorities
Maximum penalties for non-compliance	€10,000

### What transfer pricing developments have occurred in the past 12 months?

The transfer pricing rules are a new amendment in Cyprus tax legislation, no developments have occurred yet.

### What transfer pricing developments are expected over the next three years?

A possible requirement of a transfer pricing study on remaining areas.

### Are there exemptions to transfer pricing rules in your country?

Yes. The transfer pricing rules are only applied in Back to Back activity. Remaining related party transactions are exempt.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Due to the fact that the transfer pricing rules are a new amendment in Cyprus Tax Law, there is not a specific task force to enforce the aforementioned rules, yet is expected to be set up in the near future. However the rules are in place and there is an obligation for compliance.

### What are the current transfer pricing audit areas in your jurisdiction?

There is not adequate experience or expertise yet to identify the current audit areas.

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# Czech Republic

## Does your country have local transfer pricing laws?

Yes. Act No. 586/1992 of Coll., on income tax, as amended (ITA) is the fundamental national law regulating the application of transfer prices between related entities. Article 23 (7) of the ITA stipulates that if the prices negotiated between related entities differ from those negotiated between independent entities in regular business relations under the same or similar conditions and the difference is not satisfactorily substantiated, the tax administrator shall adjust the taxpayer's tax base for this difference.

The ITA also specifies which entities are considered associated. Further, Czech transfer pricing guidelines have a character of the instructions issued by the Ministry of Finance and follow OECD principles.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. The OECD Guidelines are incorporated in the instructions of the Ministry of Finance.

## What is the effective date of your transfer pricing regulations?

1 January 1993.

## Is the preparation of transfer pricing documentation mandatory?

No.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Both global and regional comparable companies are accepted. However, in practice a search is generally undertaken to find local comparables first but if the sample is insufficient we extend it to the EU region. This approach is acceptable by Czech tax authorities.

## When should transfer pricing documentation be prepared?

Even though the transfer-pricing documentation is not obligatory in the Czech Republic, a special annex to the corporate income tax returns gives tax authorities sufficient impulse to open a tax audit. Therefore, we recommend taxpayers have the transfer-pricing documentation drafted in advance for the purpose of having safer position vis-à-vis the competent tax authority and mitigating the risk of its eventual challenges in this area.

## What are the penalties for not complying with your local transfer pricing rules?

Standard penalties are applicable in the case of additional tax assessment from the tax authority. It means a penalty amounting to 20% of the additionally assessed tax plus interest from the late payment of the tax.

## Are there transfer pricing related disclosures in the tax return?

Yes.



## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

There have been an increasing number of tax audits focused on the transfer pricing and more experienced (due to the training) tax administrators – increase of their competency.

### What transfer pricing developments are expected over the next three years?

Introduction of CbCR.

### Are there exemptions to transfer pricing rules in your country?

No. The transfer-pricing documentation is not obligatory in the Czech Republic, however a special annex to the corporate income tax returns related to intra-group transactions needs to be completed provided that the:

- taxpayer carries out a transaction with a related party seated outside the Czech Republic
- taxpayer shows a tax loss and simultaneously carries out a transaction with a related party seated in the Czech Republic or abroad
- taxpayer was granted by investment incentives in a form of tax relief and simultaneously carries out a transaction with a related party seated in the Czech Republic or abroad.

However, this obligation relates only to a taxpayer who meets at least one of the following conditions:

- total of assets exceeds MCZK 40
- yearly net turnover exceeds MCZK 80
- average number of employees is more than 50.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes. Czech tax authorities require a Local File drafted in Czech language.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Teams of experienced tax administrators were created to perform tax audits focused on transfer pricing. The analysis made is based on the data filled in the special annex to the CITR enables the tax authorities choose the entity which should be subject to a further procedure.

### What are the current transfer pricing audit areas in your jurisdiction?

Generally, long term loss making position of the contract manufacturing companies (especially toll manufacturers), situations where a company's functional profile does not correspond to its profitability, provision of the various intra-group services or royalties are focus areas for transfer pricing audits.

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# Denmark

## Does your country have local transfer pricing laws?

Yes, Denmark has very few rules, but all rules refer to the OECD guidelines.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes, all rules follow the OECD guidelines.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes.

## What is the effective date of your transfer pricing regulations?

April 2016.

## Is the preparation of transfer pricing documentation mandatory?

Yes, if the following thresholds are met:

- more than 250 employees
- a turnover greater than 250,000 DKK or a balance sheet of 125,000 DKK.

However, if requested the entity must always be able to prove arm's length principle.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Both global and regional comparable companies are accepted by the tax authority.

## When should transfer pricing documentation be prepared?

From 2018, if a company is in the scope of the complete documentation requirement, the documentation should be prepared no later than the tax return.

## What are the penalties for not complying with your local transfer pricing rules?

Penalty is 250,000 DKK plus 10% of the revenue.

## Are there transfer pricing related disclosures in the tax return?

Yes, entity obligation to inform if any intergroup transactions.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	5,600,000,000 DKK
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	1 January 2018
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	Fine amount is not fixed, but based on a holistic and proportionality approach. Imprisonment of upto six years

### What transfer pricing developments have occurred in the past 12 months?

The time to deliver transfer pricing documentation, after a request by the tax authorities has changed from 60 days to no later than the due date of the tax return.

### What transfer pricing developments are expected over the next three years?

No significant developments are expected.

### Are there exemptions to transfer pricing rules in your country?

Small and medium-sized enterprises (SMEs) don't need to provide transfer pricing documentation according to the requirements in the guidelines, but must, on request, give proof of using the arm's length principle.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Yes, Denmark has had a special tax force for the last ten years – and it is very aggressive.

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# Dominican Republic

## Does your country have local transfer pricing laws?

Yes. In the Dominican Republic, transfer pricing rules are established by the Dominican Tax Code (Law 11-92). In addition, a transfer pricing regulation was established by Decree No. 78-14.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

The Dominican Republic is not a member of the OECD. Nonetheless, the transfer pricing regulations adhere to the OECD Guidelines and are followed as administrative practice.

## What is the effective date of your transfer pricing regulations?

1 January 2013.

## Is the preparation of transfer pricing documentation mandatory?

The Dominican Tax Law does not establish a specific deadline to file contemporaneous transfer pricing documentation. However, it must be available upon request by the Dominican Tax Administration.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Only local comparable companies will be acceptable.

## When should transfer pricing documentation be prepared?

The informative return for related transactions (D.I.O.R for its acronym in Spanish) should be filed within 60 calendar days after the income tax return is filed.

## What are the penalties for not complying with your local transfer pricing rules?

Failure to comply with the filing of the transfer pricing informative return will result in the payment of five to 30 national minimum wages and 0.25% of the gross revenues declared on prior fiscal year.

## Are there transfer pricing related disclosures in the tax return?

Yes. Section 281 ter of the Dominican Tax Code established that Dominican taxpayers are required to file an informative return for related transactions within the next 60 calendar days after the income tax return is filed (180 days after the tax period close).

Also, taxpayers should have all the information and sufficient analysis to demonstrate that its operations with related parties comply with the arm's length principle.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	X
Are CbC Report requirements consistent with BEPS Action 13?	N/A
Are the Master File requirements consistent with BEPS Action 13?	N/A
Are the Local File requirements consistent with BEPS Action 13?	N/A
Revenue threshold for CbCR to apply	N/A
Signatory of the OECD Multilateral Competent Authority Agreement	X
Filing due date	N/A
Are the Master File and Local File lodged with the local tax authority?	N/A
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

No transfer pricing developments on the past 12 months.

### What transfer pricing developments are expected over the next three years?

The implementation of BEPS Action 13.

### Are there exemptions to transfer pricing rules in your country?

No.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes. They need to be prepared in Spanish, the official language of the country.

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### Does your country have local transfer pricing laws?

Yes. The arm's length requirement is established in the Income Tax Act and applies to a taxpayer's transactions with resident as well as non-resident associated enterprises.

Regulation No. 53 of Ministry of Finance 'Methods for determining the value of transactions conducted between associated persons' provides the detailed legal framework for transfer pricing and documentation of transactions between related parties.

### Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

### Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

It is recommended the OECD Guidelines are followed upon applying the local transfer pricing regulations where these guidelines do not conflict with the Regulation No 53 of Ministry of Finance 'Methods for determining the value of transactions conducted between associated persons'.

### What is the effective date of your transfer pricing regulations?

1 January 2000.

### Is the preparation of transfer pricing documentation mandatory?

Yes. Documenting the process undertaken to determine the market value of transfer prices shall follow the general requirements for documenting economic transactions.

The additional requirements for detailed documentation apply:

- 1 for resident credit institution, insurance undertaking and business association registered in a securities market
- 2 if one transaction party is a person situated in a low tax rate territory
- 3 for a resident business association having together with associated persons 250 or more employees, or turnover of €50 million or more, or having a consolidated balance sheet total of €43 million or more
- 4 for a non-resident being active in Estonia via a permanent establishment and having together with associated persons 250 or more employees, or turnover or €50 million or more, or having a consolidated balance sheet total of €43 million or more.

### What transfer pricing methodologies are acceptable?

Estonia accepts all standard transfer pricing methods: including the comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split methods. In addition, the law allows for the use of alternative methods if the provided methods cannot be reliably applied due to the circumstances related to the transaction.

### Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Global or regional comparable companies are accepted.

Upon comparing transactions, data of transactions between the taxpayer and a non-associated person shall generally be preferred to data of transactions between a third party and a non-associated person. In addition, data in Estonian databases shall be preferred to data in databases of foreign states.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	€3,200

### What transfer pricing developments have occurred in the past 12 months?

Adoption of CbC reporting rules.

### What transfer pricing developments are expected over the next three years?

Transfer pricing developments are generally in line with international developments in the field.

### When should transfer pricing documentation be prepared?

Documentation must be provided at the tax authority's request within 60 days.

### What are the penalties for not complying with your local transfer pricing rules?

The difference between transaction value and arm's length value is taxed with income tax (effective tax rate as at the time of this survey is 20/80), plus 0.06% interest per day calculated from the following day the tax obligation became due.

### Are there transfer pricing related disclosures in the tax return?

The taxpayer is required to make disclosures (in monthly presented tax declarations) if it is known to the taxpayer that transaction value differs from the market value and shall pay income tax from the difference (effective tax rate as at the time of this survey is 20/80).

General information on transactions with related parties must be disclosed together with the annual financial report prepared within six months from the end of the financial year.

### Are there exemptions to transfer pricing rules in your country?

No.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes. Transfer pricing documentation should be prepared in Estonian, however, the taxpayer may also submit the documentation to the tax authority also in foreign languages. The tax authority may request a translation of the documents into Estonian.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Relatively active. Transfer pricing is in the focus of tax inspections of tax authority.

### What are the current transfer pricing audit areas in your jurisdiction?

The latest focus has been on management and consultation service transactions concluded between related parties.

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# **Finland**

## **Does your country have local transfer pricing laws?**

Yes.

## **Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?**

Yes, transfer pricing rules in Finland are consistent with the OECD Guidelines.

## **Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?**

Yes.

## **What is the effective date of your transfer pricing regulations?**

The effective date of Finland's transfer pricing regulations is 1 January 2007.

## **Is the preparation of transfer pricing documentation mandatory?**

Yes, smaller companies under ECC directive are relieved from obligation.

## **What transfer pricing methodologies are acceptable?**

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## **Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?**

Both global and regional comparable companies are accepted by the tax authority.

## **When should transfer pricing documentation be prepared?**

Annually, no later than six months after end of financial year or within 60 days upon tax authority request.

## **What are the penalties for not complying with your local transfer pricing rules?**

Tax increases per non compliance of documentation irrespectively if the actual prices are arms length or not.

## **Are there transfer pricing related disclosures in the tax return?**

Yes, a special form needs to be filled including transactions that fall under documentation rules.



## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	1 January 2018
Are the Master File and Local File lodged with the local tax authority?	✓

### What transfer pricing developments have occurred in the past 12 months?

Transfer pricing documentation requirement aligned with BEPS action 13 (VCA, DEMPE and financial IG agreements). Recent case law on IG financing and the determination for the arm's length interest rate.

### What transfer pricing developments are expected over the next three years?

Discussions on CCTB and CCCTB are expected.

### Are there exemptions to transfer pricing rules in your country?

Yes, smaller companies are excluded and transactions below 500keur annual threshold are eligible for less comprehensive documentation.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

The Finnish tax authority has an active role in enforcing the rules.

### What are the current transfer pricing audit areas in your jurisdiction?

No particular areas for audit.

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# France

## Does your country have local transfer pricing laws?

Yes, there are three levels of transfer pricing legal requirements:

- 1 Annual and simplified transfer pricing filing (art. 223 quinquies B, French General Tax Code)
- 2 Complete transfer pricing documentation (art. L 13 AA, French Tax Procedure Code): OECD (act. 13 as from FY 2018, and UE format compliant).
- 3 CbCR (art. 223 quinquies C of FGTC): OECD compliant. Besides, the transfer pricing documentation could be requested in case of a tax audit based on art. L 13 B of the FTPC (assumption of transfer of benefits abroad).

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes, transfer pricing rules in France are consistent with the OECD Guidelines.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

French law aligns with OECD regulations. For instance, BEPS action 13 introduced a transfer pricing documentation format completed with VCA and DEMPE analysis. Provision of the French Tax Procedure Code has been amended in order to comply with this new guideline. French legislation also introduces some specific requirement such as the annual filing, consisting in a simplified declaration of the IG transactions by nature and amount, for companies meeting a 50 M€ turnover or total assets criterion.

## What is the effective date of your transfer pricing regulations?

The effective date of France's transfer pricing regulations is 1 January 2010.

## Is the preparation of transfer pricing documentation mandatory?

Yes, the complete transfer pricing documentation (OECD and UE format) is mandatory for companies meeting the following criteria:

- turnover or total assets €400 million
- owned directly or indirectly by a company achieving a turnover or total assets €400 million
- owning subs. directly or indirectly achieving the above mentioned Financial criteria.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Both global and regional comparable companies are accepted by the tax authority.

## When should transfer pricing documentation be prepared?

If a company is in the scope of the complete transfer pricing documentation requirement, the documentation should be prepared on an annual basis (contemporaneous) and be available, on request, at the beginning of the tax audit. In the opposite, a 30 day delay is offered to the tax payer to provide the documentation.

## What are the penalties for not complying with your local transfer pricing rules?

The penalties include a minimum fine of €10,000 per audited year, based on the reassessments or on the IG transactions at stake.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	1 January 2018
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	€100,000

### What transfer pricing developments have occurred in the past 12 months?

France has seen fine tuning of local transfer pricing rules.

### What transfer pricing developments are expected over the next three years?

Changes in interest deduction limitations are expected.

### Are there transfer pricing related disclosures in the tax return?

Yes, a 2065 form (CIT declaration) provides a section dedicated to the CbCR requirement.

Question 1: are you in the scope of the CbCR requirement?

Question 2: if yes, are you the filing entity.

Question 3: if not, which are the filing entity (name and address).

### Are there exemptions to transfer pricing rules in your country?

There are no exemptions to the country's local transfer pricing rules.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes, the French Tax Administration is allowed to request the transfer pricing documentation to be written in French.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

The French Tax Administration organised specific 'brigades' or teams many years ago to audit big multinational entities (with a turnover of €250 million). The French Tax Administration also relies on a specific team of transfer pricing and valuation consultants. The French Tax Administration is strongly aware of transfer pricing rules and very often audits companies of every size.

### What are the current transfer pricing audit areas in your jurisdiction?

Any sectors. However there is a strong interest on e-business in the broad sense and any permanent establishment/support sales activity.

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### Does your country have local transfer pricing laws?

Yes. The local transfer pricing laws are contained in Paragraph three of the General Tax Code, with further details contained in the Profit Allocation Ordinance. General transfer pricing rules covering areas such as the arm's length principle, transfer pricing methods and transfer of functions are contained in Paragraph one of the Foreign Tax Act, the Administrative Guidelines and the Transfer of Functions Ordinance. Country-by-Country Reporting rules are contained in Paragraph 138a of the General Tax Code.

### Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

### Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

The OECD Guidelines are not legally binding in Germany and are subordinate to German law, but are nonetheless in practice often referred to by tax authorities and practitioners.

### Is the preparation of transfer pricing documentation mandatory?

Yes. Transfer pricing documentation rules apply the year after cross-border intercompany goods transactions exceed €6 million for the year or other cross-border intercompany transactions exceed €600,000 for the year. The documentation rules no longer apply the year after neither threshold is exceeded.

### What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

### Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Global or regional comparable companies are accepted. However, the best practice is generally to use European comparables.

### When should transfer pricing documentation be prepared?

Documentation of extraordinary business transactions (eg restructurings) should be prepared within six months of the end of the financial year in which the transaction takes place and be submitted within 30 days of a request in a tax audit. Other transfer pricing documentation should be submitted within 60 days of a request in a tax audit, but has no preparation deadline.

### What are the penalties for not complying with your local transfer pricing rules?

Failure to timely submit documentation results in a fine of €100 per day beyond the date due, up to a maximum of €1 million.

### Are there transfer pricing related disclosures in the tax return?

Yes. Contracts with shareholders and related parties should be included in the corporate income tax return. However, there are no consequences of not adhering to this.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	Same as current penalties for not preparing documentation

### What transfer pricing developments have occurred in the past 12 months?

Implementation of CbCR and Master File/Local File concept and rules regarding their content; increase in the documentation thresholds; new rules on the allocation of profits for permanent establishment; new rules on limiting the deduction of royalty expenses to related parties exploiting harmful IP tax regimes.

### What transfer pricing developments are expected over the next three years?

There are no expected developments.

### Are there exemptions to transfer pricing rules in your country?

Yes. Transfer pricing documentation rules apply the year after cross-border intercompany goods transactions exceed €6 million for the year or other cross-border intercompany transactions exceed €600,000 for the year. The documentation rules no longer apply the year after neither threshold is exceeded.

Even where the documentation rules do not apply, the taxpayer should be able to demonstrate in an audit that an earnest attempt to apply arm's length pricing was made.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes. Official rules state that documentation must be submitted in German. However, it is possible to request to submit the documentation in a different language. It is common to submit documentation in English and then determine with the tax auditor which sections need to be translated into German.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Very active. The tax authorities have specific transfer pricing specialists that are brought into audits.

### What are the current transfer pricing audit areas in your jurisdiction?

Loss-making subsidiaries, management fees, licences, permanent establishments.

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### Does your country have local transfer pricing laws?

Yes. Pursuant to Article 21 of the Law 4174/2013, legal entities operating in Greece are required to prepare a Transfer Pricing Documentation File for their transactions with Greek and foreign-related entities. According to Article 2 of the Income Tax Code (Law 4172/2013) connected party is defined as every party, directly or indirectly participating in the administration, the control or the capital of another entity, to be related or connected to it.

Specifically, the following entities are considered as connected:

- 1 any person holding directly or indirectly shares or portions of participation in the company's share capital of at least thirty three per cent (33%), based on the value, number, rights of participation to the profits, or voting rights of these shares
- 2 two or more persons, in cases that an entity holds directly or indirectly shares or portions of participation in the company's share capital of at least thirty three per cent (33%), on the value, number, rights of participation to the profits, or voting rights of these shares
- 3 any person who has direct or indirect significant administrative dependence or control on another person, or where one entity exercises or is able to exercise dominant influence on another entity or in every case where both entities are dependent or controlled, directly or indirectly, under the above meaning, by a third party.

The Transfer Pricing File is consisted by the following Files:

- a The 'Master Documentation File'
- b The 'Greek Documentation File'
- c Country-by-Country Report.

The Transfer Pricing File is drawn up until the end of the fourth month from the end of each financial period. It is accompanied by a Brief Information Table, which is electronically submitted to the General Secretary of Informatics Systems of the Ministry of Finance within the aforementioned deadline.

The Master File as well as the Greek Documentation File must be re-examined and updated so as to be used in the next tax year. In case that the taxpayer provides proof that its operational circumstances remained unchanged, the comparison data deriving from the databases may be utilised for three fiscal years, provided that the financial data is updated every fiscal year, in order to prove compliance with the arm's length principle.

Finally, as of 1 January 2014, the possibility of submission of a request for pre-approval of the intra-group transfer pricing methodology (Advance Pricing Arrangement) is granted to the connected persons.

### Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes. The Greek legislation is applied and interpreted in line with the OECD Guidelines and the tax authorities have to take into consideration the Guidelines when ruling on transfer pricing issues.

### Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes, this is included in the income law.

### What is the effective date of your transfer pricing regulations?

1 January 2008.

### Is the preparation of transfer pricing documentation mandatory?

Yes, the Transfer Pricing Documentation File should be prepared every fiscal year.

### What transfer pricing methodologies are acceptable?

According to the Income Tax Code all the transfer pricing methods of the OECD are acceptable, but the legal entities have to justify the application of the transaction method instead of the traditional methods.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

The implementation of the CbCr.

### What transfer pricing developments are expected over the next three years?

No expected developments at this time.

### Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Comparables from the same country and from other jurisdictions may be used, since there is no specific restrictions (European countries). But there is a restriction regarding the version of the database used for the preparation of the benchmarking study, ie the liable entity should use the version that is available two months before the closing of the audited fiscal year and any other version available up to the submission of the income tax return.

### When should transfer pricing documentation be prepared?

The transfer pricing documentation file should be prepared every fiscal year within the time period for submission of the income tax return. Also, within the same period, the legal entities should submit, electronically, a TP Summary Table to the Ministry of Finance, that provides information about the intercompany transactions (nature and amounts), the functions undertaken and risks assumed, as well as, the applied transfer pricing methods.

### What are the penalties for not complying with your local transfer pricing rules?

#### Late filing of the TP Summary Table

€500 - €2,000 (1/1000 on the value of the intercompany transactions).

#### Late filing of a modified TP Summary Table

€500 - €2,000 (1/1000 on the value of the intercompany transactions).

Penalty applies only to the extent that the amounts are amended and such amendments exceed the amount of €200,000.

#### No filing of the TP Summary Table

€2,500 - €10,000 (1/1000 on the value of the intercompany transactions).

#### Filing of inaccurate TP Summary Table

€500 - €2,000 (1/1000 on the value of the amounts to which the inaccuracy relates).

If the inaccuracy of the amounts does not exceed 10% of the value of the total transactions subject to documentation, no penalty applies.

#### Late or no filing the transfer pricing file to the tax authorities

In the case of failure to provide the transfer pricing file to the tax authorities within 30 days from the official request, a penalty of €5,000 applies, which is increased to €10,000 if it is provided after 60 days, and to €20,000 if it is provided after 90 days or if it is not provided at all.

**Are there transfer pricing related disclosures in the tax return?**

No.

**Are there exemptions to transfer pricing rules in your country?**

Transactions that do not exceed the amount of €100,000 annually and in total are exempted from the documentation requirement when the gross revenues do not exceed the amount of €5,000,000 per financial year. In case that the gross revenues of the liable party exceed the amount of €5,000,000 per financial year, the threshold increases to €200,000.

**Does transfer pricing documentation need to be prepared in a language other than English?**

The transfer pricing file may be written in an internationally accepted language, preferably English, but upon the request of the tax authorities, a translation into Greek should be available.

**How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?**

The tax authority has set up a specific taskforce (KEMEP – Center for the Audit of Large Companies) to enforce the rules.

**What are the current transfer pricing audit areas in your jurisdiction?**

There are no specific areas.

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### Does your country have local transfer pricing laws?

Yes. Companies with a minimum turnover of GNF175 billion are required to prepare transfer pricing documentation.

In addition, thin-capitalised companies are required to include in the taxable income the part exceeding:

- the amount of interest received from related entities, and
- 25% of taxable income plus the amount of interest paid to related entities.

A company is considered to be thin-capitalised when the total amount of remittances received from one related entity exceeds 1.5 times the total equity valued at the year end.

### Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

### Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. As part of the transfer pricing regulations.

### What is the effective date of your transfer pricing regulations?

1 January 2014.

### Is the preparation of transfer pricing documentation mandatory?

Yes. Mandatory for companies with turnover of GNF175 billion or more.

### What transfer pricing methodologies are acceptable?

The local guidelines do not specify the acceptable transfer pricing methodologies. However, in practice, the comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split are acceptable.

### Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Only local comparable companies will be accepted.

### When should transfer pricing documentation be prepared?

When the turnover exceeds GNF175 billion.

### What are the penalties for not complying with your local transfer pricing rules?

The portion of the expense exceeding the arm's length price is not deductible.

### Are there transfer pricing related disclosures in the tax return?

No.

## Summary of Country-by-Country Reporting (CbCR) status

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Has CbCR legislation been implemented?	X
Are CbC Report requirements consistent with BEPS Action 13?	N/A
Are the Master File requirements consistent with BEPS Action 13?	N/A
Are the Local File requirements consistent with BEPS Action 13?	N/A
Revenue threshold for CbCR to apply	N/A
Signatory of the OECD Multilateral Competent Authority Agreement	X
Filing due date	N/A
Are the Master File and Local File lodged with the local tax authority?	N/A
Maximum penalties for non-compliance	N/A

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### Are there exemptions to transfer pricing rules in your country?

No.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes. The transfer pricing documentation needs to be prepared in French.

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# Hungary

## Does your country have local transfer pricing laws?

Yes. In accordance with Section 18, paragraph 5 of the Act LXXXI of 1996 on Corporate Income Tax Law (CIT) business associations, groupings, European public limited-liability companies, European cooperative societies, cooperative societies and nonresident entrepreneurs that are not considered small enterprises (with the exception of public-benefit nonprofit business associations, and the taxpayers in which the State has majority control – whether directly or indirectly) shall fix, effective as of the last day of the tax year, the arm's length price and the formula (including the data and the type of events on which the formula is based) they use for determining.

The Decree 32/2017 (X. 18.) of the Ministry of National Economy (Decree) provides for the methods of transfer pricing documentation and formal requirements associated with the determination of arm's length price.

The Decree came into force on 17 November 2017.

The new regulation eliminates the former single documentation form, instead of that, it is mandatory to make a transfer pricing report every tax year, including a Master File and a Local File suggested by the OECD Guidelines. The deadline for preparing the reports is still the date of corporate tax return, but if the taxpayer has prepared the Local File till the deadline, the term for the preparation of the Master File may be prolonged up to the deadline for documenting the parent company but no later than 12 months after the last day of the financial year.

In the future new content elements have to be built into the documentation in order to provide more comprehensive view of the companies for the Tax Authority. For example the Master File should contain the factors influencing the business profits, the turnover data realised in the supply chain of the products exceeding 5% of the group's total turnover, the contribution of the individual actors (intra-group members) to the value creation shall be presented, and information shall be provided also about the important business restructurings, the group's intangible assets, about the intra-group financial activities, the group's financial and taxation position, the organizational chart of the management of the taxpayer, the taxpayer's strategy, the list of key competitors, etc.

There is also a significant change in the comparative analysis as the law clearly states regarding the search for comparable data, that in the future, it will be mandatory to conduct and execute the search in a way that it could be reproduced. It legitimizes the verification practice that the data base filtering shall be repeated at least in every three years, but in the interim years it is sufficient to update only the financial data of the enterprises considered to be comparable.

A documentation with simplified data content applicable for low added value intra-group services could be prepared by taxpayers in the future only in the case, if exclusively such types of services would be carried out with its associated enterprises in the tax year. The arm's length price range for such types of transactions would be reduced from the current range of 3-10% to 3-7%.

The Decree currently in force replaced Decree 22/2009 (X. 16.) which, in the aim of determining the arm's length price, was to establish the structure and content of transfer pricing documentation containing the data necessary to calculate the arm's length price.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	Yes, as of 2017
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	A default penalty up to HUF 8 million in connection with Master and Local Files and HUF 20 million for Country-by-Country Reporting.

### What transfer pricing developments have occurred in the past 12 months?

CbCR and new legislation about the transfer pricing requirements.

### What transfer pricing developments are expected over the next three years?

Further amendments of CIT in line with BEPS obligations.

Within the meaning of Section 1, paragraph 1 of the Decree, the taxpayer is obliged to prepare transfer pricing documentation for its contract, or agreement in force and concluded with its affiliated party provided that any performance is accounted for on the basis thereof in the subject tax year.

Within the meaning of Section 1, paragraph 2 of the Decree, the taxpayer is exempted from the obligation of preparing a transfer pricing documentation, among others, for:

- its contract concluded with a private individual not in the role of an individual entrepreneur
- a controlled transaction in respect of which the arm's length price was declared in a decree by the state tax authority, beginning from the tax year when the taxpayers' request was submitted until the last day of the tax year when the validity of the decree expires, on the condition that the facts set out in the decree are still in existence during this period
- in the event that the cost of services/goods is 'recharged' to affiliate(s) in full amount (without applying any markup) if this counter value was developed under independent market conditions (in case of allocation of costs among several affiliates, the relevant allocation keys have to be supported)

- transactions not exceeding the limit of HUF 50 million at arm's length price (exclusive of VAT) within the given tax year, on condition that the limit should be applied on an aggregate basis to all transactions which can be grouped together for transfer pricing purposes in accordance with the rules of this Decree, but irrespective of the fact of effectively grouping these transactions
- any sort of exchange-based transactions, defined accordingly under the regulations of the Act on Capital Markets, or for the use of fixed statutory price or any other price specified and fixed by law
- free cash transfers between associated companies.

In accordance with the requirements of the Decree, the Hungarian taxpayer shall prepare the Local File documentation for each and every transaction concluded with its affiliated parties.

If consolidated Local File is prepared (covering similar or strongly related transactions), reasons for consolidation have to be provided. The Country-by-Country Reporting as the third pillar of the transfer pricing obligation has been introduced in 2017 by Act XXXVII of 2013 on Certain Regulations on International Administrative Cooperation in the Field of Taxes and Other Charges.

### Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes. No other guidelines are used than the OECD Guidelines.

### Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes, see above.

**What is the effective date of your transfer pricing regulations?**

1 January 2005.

**Is the preparation of transfer pricing documentation mandatory?**

Yes the preparation of transfer pricing documentation is mandatory for all transactions above HUF 50 million.

**What transfer pricing methodologies are acceptable?**

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

**Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?**

Local or regional comparable companies are preferred. Global comparable companies are rarely accepted.

**When should transfer pricing documentation be prepared?**

Within five months after year-end.

**What are the penalties for not complying with your local transfer pricing rules?**

From HUF 2 million up to HUF 8 million per contract and HUF 20 million for not fulfilling Country-by-Country Reporting requirements.

**Are there transfer pricing related disclosures in the tax return?**

Yes, only if there are corrections.

**Are there exemptions to transfer pricing rules in your country?**

Yes, see above.

**Does transfer pricing documentation need to be prepared in a language other than English?**

No. English is accepted, but a translation might be requested.

**How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?**

Active, with a specific taskforce to enforce these rules.

**What are the current transfer pricing audit areas in your jurisdiction?**

For medium and large taxpayers the risk of an audit with a transfer pricing focus can be characterised as high. Taxpayers are reviewed every two to three years. The tax authority focus on loss-making taxpayers and the enforcement of the interquartile range, especially at limited risk entities.

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### Does your country have local transfer pricing laws?

Yes. With law no. 142/2013, entering into force effective 1 January 2014, three new articles were added to Iceland's Income Tax Act no. 90/2003, namely paragraphs 3-5 of Article 57, granting the Icelandic tax authorities the right to evaluate and adjust pricing and terms in transactions between related entities and with permanent establishments, if the pricing and terms are not in accordance with the arm's length principles as laid down in the OECD Guidelines.

According to paragraph 4 of Article 57, entities are considered related if:

- 1 they are a part of a consolidation according to article 2 of law nr. 3/2006 of Annual accounts, or are under direct or indirect majority ownership or managerial control of two or more entities within a consolidation, or
- 2 majority ownership of one entity over another is in place, aggregate both directly and indirectly, or
- 3 the entities are directly or indirectly under majority ownership or managerial control of individuals whom are family related, eg through marriage or confirmed association, siblings and related by direct descent. The same applies to individuals connected through financial ties due to mutual business and investments.

Furthermore, according to paragraph 5 of Article 57, if the turnover of an entity in one fiscal year or total assets in the beginning or end of the fiscal year are over 1 billion ISK, the entity has an obligation to document transactions with related entities from the next fiscal year.

The Ministry for Finance and Economic Affairs recently issued regulation no. 1180/2014 on documentation and transfer pricing in transactions between related entities. The regulation entails further requirements as to the subject matter of documentation as well on compilation and submission of documentation at the request of the Icelandic tax authorities.

With law no. 33/2015, entering into force 26 June 2015, three changes were made to the aforementioned articles of the Income Tax Act. First, to exclude individuals connected through financial ties due to mutual business and investments. Second, controlled transactions between two related domestic entities were excluded from the documentation obligation. Third, direct references to the OECD Guidelines were deleted but they will still serve as a basis for the application of paragraphs 3-5 of Article 57.

### Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

### Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

The OECD Guidelines are generally accepted by tax authorities as the basis for complying with the arm's length standard.

The reference to the OECD Guidelines in the text of article 57(3), which deals with transfer pricing adjustments, has been removed. In a report attached to the bill of law, it is stated that this amendment does not involve any material changes. The OECD Guidelines will therefore continue to be an important source when applying transfer pricing rules in Iceland.

### What is the effective date of your transfer pricing regulations?

1 January 2014.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	100 billion
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	X

### What transfer pricing developments have occurred in the past 12 months?

On 24 March 2017, Iceland's Ministry of Finance and Economic Affairs published an amendment of regulation no. 11/2016 on the filing of CbC reports. The amendment includes the following two modifications: The CbC report must now be filed with the Directorate of Internal Revenue before the end of each calendar year or by the end of financial year. Previously, the requirement was no later than 12 months after the close of the group's financial year. The CbC report shall now include information on the aggregated turnover for entities within each country, profit and loss before tax, income tax accrued in the financial year, income tax paid, registered capital and retained earnings. In the previous regulation this information was requested for each entity instead of collectively for each country. These amendments are in line with the Organisation for Economic Co-operation and Development (OECD) approach set forth in the OECD Base Erosion and Profit Shifting Action 13 recommendation on CbC reporting. The amendment comes into effect immediately.

### What transfer pricing developments are expected over the next three years?

No changes are foreseen.

### Is the preparation of transfer pricing documentation mandatory?

Yes. On 23 December 2014, the Icelandic Ministry of Finance issued the final regulation on transfer pricing (no. 1180/2014), which entered into force on 1 January 2015. The regulation pertains to the pricing of intercompany transactions and guidelines for the preparation of written documentation.

According to the regulations, transfer pricing documentation requirements include:

- description of the group
- history of the group
- primary business activities of the group and the business activities of each company within the group
- description of the industry and the markets the group operates in
- group legal structure including the legal form and tax residence of each entity within the group
- description of any restructurings
- operational structure
- description of the Icelandic company
- description of the market the company operates in, including the competitive parameters
- annual reports for the three most recent years for the affiliated entities within the group with which the Icelandic entities have intercompany transactions or corresponding information
- description of losses where appropriate
- description of the nature and extent of the intercompany transactions
- description of the type of transaction and the volumes involved
- a functional and risk analysis
- contractual terms, ie, all intercompany agreements must be included with the documentation
- economic conditions
- business strategies
- reasons for any changes in prices between years
- description of the value chain
- description of intangible assets including information on ownership, the use of the asset, the development of the asset and the maintenance of the asset
- comparability analysis for each intercompany transaction, including:
  - information about the transfer pricing policy and method applied, and how the transfer pricing principles are implemented in practice (eg whether year-end adjustments are made)
  - analysis of how the transfer prices satisfy the arm's length principle.

### What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

### Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Based on the limited practice in Iceland, it is not clear whether and to what extent the Directorate of Internal Revenue will accept foreign comparables. However, it can be assumed that foreign comparables will be accepted if the economic conditions of the comparables are substantially the same as those of the taxpayer. Icelandic or Nordic comparables will most likely be preferred.

### When should transfer pricing documentation be prepared?

Transfer pricing documentation must be prepared for each fiscal year, if an entity is above the documentation obligation threshold, by the filing date of the annual income tax return.

Documentation must be submitted to the tax authorities within 45 days after a request is put forth by the Directorate of Internal Revenue. Documentation may not be requested before the deadline to submit tax returns has expired.

### What are the penalties for not complying with your local transfer pricing rules?

If a tax return is considered faulty, or specific items are wrongfully declared, the Directorate of Internal Revenue may add a 25% charge to the estimated or wrongly declared tax bases.

### Are there transfer pricing related disclosures in the tax return?

Yes. Upon submission of tax returns, all entities subject to documentation requirements that have conducted transactions with related entities must submit to the Directorate of Internal Revenue information on related entities they have entered into transactions with, the nature of the relationship between entities, the type and amount of transactions, and confirmation that the documentation requirements have been fulfilled. The form of the submission has not yet been determined by the Director of Internal Revenue.

### Are there exemptions to transfer pricing rules in your country?

Yes. Entities that exceed the required size limits (turnover or total assets exceeding ISK1 billion) do not have to document local controlled transactions. This includes all transactions between related parties when all parties are resident in Iceland for tax purposes. Before the amendment, such entities had to document all controlled transactions, but currently only cross-border transactions fall under the scope of transfer pricing documentation.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

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### Does your country have local transfer pricing laws?

Yes. The Indian transfer pricing regulations laid down section 92A to 92F of the Income Tax Act, 1961 and rules 10A to 10 TG of the Income Tax Rules, 1962.

### Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

No. India is not completely aligned to OECD Guidelines, though some of the OECD Action Plans are adopted by India such as Action 13 (Country-by-Country Reporting) through section 286 of the Act, Action 4 (Limiting base erosion through interest deduction and other financial deduction) through section 94B of the Income tax Act, 1961, Action 10 (Low value adding services) through CBDT Notification No 46 of 2017 dated 7 June 2017.

### Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

No.

### What is the effective date of your transfer pricing regulations?

1 April 2002.

### Is the preparation of transfer pricing documentation mandatory?

Yes. Every person who has entered into an international transaction during the financial year is required to maintain transfer pricing documentation in consonance with the requirement laid down in rule 10D(1) of the Income Tax Rules, 1962 on or before the due date of filing the income tax return. Further as per Rule 10D(2), there is an exemption for maintaining transfer pricing documentation if the value of international transaction does not exceed INR ten million.

### What transfer pricing methodologies are acceptable?

The Indian transfer pricing regulations has prescribed the following method for determination of arm's length price:

- comparable uncontrolled price
- cost plus method
- resale price method
- transactional net margin method
- profit Split Method
- other method.

### Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Only local comparable companies will be accepted.

### When should transfer pricing documentation be prepared?

The transfer pricing study has to be prepared on a contemporaneous basis and it should be available on or before the due date of filing the income tax return which is November 30 of each year. The transfer pricing documentation is required to be prepared/updated yearly.

### What are the penalties for not complying with your local transfer pricing rules?

The Income Tax Act, 1961 laid down penalties for not complying with transfer pricing rules which are as follows:

- Section 271BA –Penalty for non-furnishing of Accountant report (Form 3CEB) before due date of filing return – INR 1,00,000
- Section 271G – Non furnishing of transfer pricing documentation – 2% of the value of international transactions
- Section 271 AA – Non-maintenance of transfer pricing documentation – 2% of the value of international transactions
- Section 271(1)(c) – Penalty for concealment or furnishing of inaccurate particulars of income – 100% to 300% of the tax liability
- failure to furnish CbC report by the due date – INR 5,000 per day
- inaccurate information filed under the CbC report – INR 500,000
- failure to furnish information and documentation under the 3 tier structure – INR 500,000.

### Are there transfer pricing related disclosures in the tax return?

The date of online filing of Form 3CEB is required to be disclosed in the income tax return.

### Are there exemptions to transfer pricing rules in your country?

Yes. Every person having international transaction with a value less than INR ten million is not required to maintain transfer pricing documentation.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million (Rs. 5395 crore)
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	Seven months after year end
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

#### Country-by-Country Reporting:

The Indian transfer pricing legislation has introduced Country-by-Country Reporting in consonance with OECD BEPS Action 13. As per the relevant section for FY 2016-17, the ultimate holding company of every group having consolidated group turnover of more than €750 million in preceding financial year is required to prepare a. Country-by-Country Report; b. Master File; and c. Local File on or before the due date of filing of return.

#### Secondary adjustment:

Where the adjustment on account of 1. suo-moto adjustments in assessee's returned income 2. Accepted adjustment made by the Assessing Officer 3. Adjustment determined by Advance Pricing Agreement entered 4. Adjustment made as defined Safe Harbour Rules in Section 92CB 5. Adjustment as a result of resolution of Mutual Agreement Procedure, taxpayer is required to pass an entry in its account books and that of its AE and bring the proceeds back to India. If this is not done than an interest is charged in the hands of the tax payer.

#### Revised Safe Harbour Rules:

Revised rules shall apply from assessment year 2017-18; however, a taxpayer may opt to be covered under the existing rules for AY 2017-18. The exercise period of the safe harbour is for three years. Receipt of low value intra-group services have been covered in the notification.

#### Thin capitalisation:

Threshold for deduction of Interest expense from AE: The Indian transfer regulation has introduced a interest expenses cap to 30% of earnings before interest, taxes, depreciation and amortisation (EBITDA) in a year, where payment is made to Associated Enterprises (AE/s).

#### The Central Board of Direct Taxes (CBDT):

The CBDT has notified use of multiple year data for comparability analysis and range concept (35th to 65th percentile) for determination of Arm's length price.

### What transfer pricing developments are expected over the next three years?

- 1 Profit Split Method: There will be strict guideline and clarification on usage of profit split method in India. It is expected that India will move from a jurisdiction with cost plus entities to profit split method in line with BEPS Action 10.
- 2 A more focus will be given to DEMPE functions will undertaking the FAR analysis and accordingly characterisation on entities will be done in line with Action 8.
- 3 More clarity on distinguishing the entity as contract R&D service provider or Entrepreneur R&D.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

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# Indonesia

## Does your country have local transfer pricing laws?

Yes. The local transfer pricing laws are covered under PMK-213/PMK.03/2016.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. In Indonesia the transfer pricing rules follows the BEPS actions 13. So the company that have related party transactions should prepare and submit Master File, Local File, and CbCR if meet such criteria.

## What is the effective date of your transfer pricing regulations?

30 December 2016.

## Is the preparation of transfer pricing documentation mandatory?

Under PMK-213, Indonesian taxpayers are required to prepare a Master File and a Local File where the taxpayer meets any of the following criteria:

- 1 the taxpayer has gross revenues in the prior fiscal year of more than Rp 50 billion
- 2 the taxpayer conducted related party transactions in the prior fiscal year with a value of:
  - more than Rp 20 billion of tangible goods transactions
  - more than Rp 5 billion for each service, interest payment, utilisation of intangible properties or other affiliated transactions
  - conducts transactions with related parties that are located in countries with income tax rates lower than the Indonesian corporate income tax rate of 25%.

A CbC Report is required to be prepared and filed in Indonesia by:

- 1 an Indonesian taxpayer who is classified as the parent entity of a business group who has consolidated gross revenues for that particular fiscal year of at least Rp 11 trillion million
- 2 an Indonesian taxpayer whose parent entity is a foreign taxpayer and domiciled in a country that:
  - does not require the parent entity to submit a CbC Report
  - does not have an exchange of information agreement for taxation purposes with Indonesian Government
  - has an agreement with Indonesian Government on the exchange of information for taxation purposes, however, the CbC Report information could not be obtained by the Indonesian Government from that country.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Both global and regional comparable companies will be accepted. For the external comparable companies, generally the bureau van dijk database such as Orbis and Oriana and used. Similarly, the Indonesian tax office is using the Orbis database for searching the comparable companies.

## When should transfer pricing documentation be prepared?

In respect of the CbCR, the file must be available and must be submitted 16 months after the end of December 31 2016, and 12 months after the end of the following years.

## What are the penalties for not complying with your local transfer pricing rules?

The penalty is not regulated yet. If a company does not submit the Local File when requested by the tax auditor, the tax auditor will make corrections for the related party transactions.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	IDR 11 trillion
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	Local File and Master File: four months after the end of the fiscal year.
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	Not regulated yet

### Are there transfer pricing related disclosures in the tax return?

Yes. The taxpayer is required to fill the special attachment form to disclose all of the related party transactions including the amount, the method used for analysis, and the relationship of the related party. Moreover, the company should fill the summary of Master File and Local File form to disclose the availability of data and when the Master File and Local File are available.

### Are there exemptions to transfer pricing rules in your country?

No.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes. The transfer pricing documentation should be prepared in Bahasa Indonesia.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

The tax auditor is actively performing transfer pricing audit to the taxpayers who have entered into related party transactions. During the submission of the Corporate Income Tax Return (CITR) to the office, the taxpayers have to attach an additional form with the CITR. The additional form is a proof that the taxpayers have prepared the Local File and the Master File. The CITR would not be considered as complete without the form.

In addition, the CITR must be also completed by the Receipt. The Receipt would be received by the taxpayers if they have already submitted the CbCR to the tax office, or the Notification letter in case their parent entities have prepared the CbCR. The CITR would not be considered as complete without the receipt.

### What are the current transfer pricing audit areas in your jurisdiction?

No specific areas. The tax auditor may perform transfer pricing audit to the taxpayers regardless the industry where they operate in.

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# Ireland

## Does your country have local transfer pricing laws?

Yes per Part 35A of the Taxes Consolidation Act 1997 introduced in 2010.

The transfer pricing regulations apply to accounting periods of companies beginning on or after 1 January 2011. Only arrangements entered into on, or after 1 July 2010 are affected. Contracts or arrangements in place before that time are not affected.

There are exemptions from these rules for small and medium entities (SME) where a company has fewer than 250 employees and either turnover of less than €50 million or assets of less than €43 million on a group basis. Additionally, non-trading transactions are outside the scope of the law.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. The Irish rules were originally aligned to the OECD Guidelines effective as of July 2010.

The rules are periodically realigned to subsequent updates to the OECD Guidelines.

As of August 2017, the Irish rules have not yet been realigned to the latest OECD BEPS updates to the guidelines. The BEPS transfer pricing guidelines are expected to be written into Irish legislation in the next Finance Act.

## What is the effective date of your transfer pricing regulations?

1 January 2011.

## Is the preparation of transfer pricing documentation mandatory?

In line with the OECD Guidelines, companies are expected to prepare transfer pricing documentation contemporaneously with the implementation of the associated transaction.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split and the best method approach is recommended.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Given the small size of the Irish market, it is unreasonable to expect there to be local comparables available, and therefore global or regional comparables are acceptable in most cases. The Irish tax authorities have raised no objection to this approach.

## When should transfer pricing documentation be prepared?

The legislation obliges a person/company involved in a transaction, which is within the scope of the transfer pricing legislation, to have records/documentation available that may reasonably be required for the purposes of determining whether the income of that person/company has been computed at arm's length. Accordingly, documentation should be prepared on a contemporaneous basis with entering the transaction or agreement.

## What are the penalties for not complying with your local transfer pricing rules?

Part 35A of the Irish tax legislation does not provide for specific penalties in transfer pricing and double taxation cases. In the absence of specific penalties, the Irish tax authorities have indicated that the general corporate tax penalty provisions apply.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

Introduction of formal advance pricing agreement arrangements by Irish tax authorities.

### What transfer pricing developments are expected over the next three years?

It is expected that the latest OECD transfer pricing guidelines will be legislated for in Finance Act 2017 which will be published in Autumn 2017. This will formally bring Ireland's transfer pricing rules in line with the OECD BEPS transfer pricing guide.

### Are there transfer pricing related disclosures in the tax return?

No.

### Are there exemptions to transfer pricing rules in your country?

The law provides for an exemption from applying the transfer pricing rules where a company is a SME. A SME is a company with fewer than 250 employees; and either a turnover of €50 million or less, or a balance sheet total of €43 million or less, on a group basis. The balance sheet total means total gross assets before liabilities.

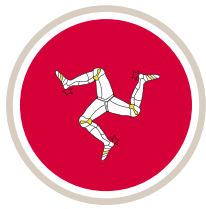
Non-trading companies and non-trading transactions carried out in trading companies are also outside the scope of transfer pricing regulations.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

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# Isle of Man

## Does your country have local transfer pricing laws?

Yes. Transfer pricing laws in the Isle of Man are rather basic as the general rate of tax is 0%. However, the general principle is that a deduction for interest and costs between connected parties is allowed provided it can be demonstrated that the expenditure is at arm's length.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

No, the OECD Guidelines are not legislated as part of the transfer pricing regulations.

## Is the preparation of transfer pricing documentation mandatory?

No.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Both global or regional comparable companies are accepted.

## When should transfer pricing documentation be prepared?

Comment or note should be maintained on an ongoing basis, but there is no formal automatic disclosure required to the authorities. It is not part of the compliance process.

## What are the penalties for not complying with your local transfer pricing rules?

If claims are not arm's length, general interest and penalties would apply based on a number of factors such as the size of the error and the cooperation given to the authorities.

## What transfer pricing developments have occurred in the past 12 months?

None.

## What transfer pricing developments are expected over the next three years?

None to our knowledge.

## Are there transfer pricing related disclosures in the tax return?

No.

## Are there exemptions to transfer pricing rules in your country?

No.

## Does transfer pricing documentation need to be prepared in a language other than English?

No.

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### Does your country have local transfer pricing laws?

Yes. The local transfer pricing laws are as follows:

- 1 Article 110, paragraph 7 of Presidential Decree no. 917 of 1986 (Italian Tax Code) requiring the application of the arm's length principle for cross-border intercompany transactions
- 2 Implementation Decree of the Italian Revenue Agency dated 29 September 2010 containing the requirements for the transfer pricing local documentation
- 3 Article 1, paragraph 6 of Legislative Decree No. 471 of 1997 providing the application of the 'penalty protection regime' in case of preparation of the 'proper' transfer pricing local documentation according to the Implementation Decree under point no. 2
- 4 Ministerial Decree of 23 February 2017 (Country-by-Country requirements)
- 5 Article 31 of Presidential Decree no. 600 of 1973 (Advanced Price Agreements)
- 6 Article 31 of Presidential Decree no. 600 of 1973 (Unilateral domestic procedure to remove double taxation).

### Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes. The Italian transfer pricing regulation is aligned with the OECD Guidelines.

### Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

The Italian Revenue Agency, as well as the Italian Legislator, confirmed that the OECD Guidelines represent the 'best practice' for transfer pricing. It is worth noting that paragraph 7 of article 110 of the Italian Tax Code has been recently amended, providing a direct reference to the 'arm's length principle'.

The OECD Guidelines are the main reference in administrative practice. In fact, Implementation Decree of the Italian Revenue Agency dated 29 September 2010 and Circular Letter no. 58 of 2010 are fully in line with OECD Guidelines. However, Circular Letter no. 32 of 1980 (based on the OECD Guidelines dated 1979) is still in force and it is not fully in line with the 2010 OECD Guidelines and the recent 2017 Guidelines (in particular with reference to intra-group service transactions).

### What is the effective date of your transfer pricing regulations?

1 January 1981.

### Is the preparation of transfer pricing documentation mandatory?

In Italy the preparation of transfer pricing documentation is not mandatory. However, it is necessary for the application of the penalty protection regime.

### What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split. In line with the OECD provisions, tax payer is allowed to use a different methodology should the latter demonstrate that no one of the OECD methods was appropriate to the facts and circumstances of the case.

### Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

In principle it is recognised that the choice between local and broader sets of comparables depends on the comparability of economic circumstances, including characteristics of the relevant market for the transaction under analysis. In the practice, we observe the local benchmark is preferred in an audit and a litigation context.

### When should transfer pricing documentation be prepared?

Transfer pricing documentation should be prepared annually. In case of preparation, tax payer shall notify in the relative tax return the possession of the transfer pricing documentation in order to obtain the penalty protection regime.

### What are the penalties for not complying with your local transfer pricing rules?

Penalties range from 90% to 180% of the higher tax assessed if the documentation does not exist or the Tax Authority does not recognise it as 'the proper documentation' according to the Italian regulation.



## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	Ranging from 90% to 180% of the higher tax assessed

### What transfer pricing developments have occurred in the past 12 months?

Introduction of CbC reporting requirements and direct reference to the 'arm's length principle' of the Italian TP regulation (paragraph 7, article 110 of the Italian Tax Code).

### What transfer pricing developments are expected over the next three years?

Currently we do not expect significant changes, unless OECD releases new recommendations. Please consider that the Ministry of Economics has recently activated a public consultation on the draft of the future domestic transfer pricing guidelines. These latter should be in line with OECD Guidelines.

### Are there transfer pricing related disclosures in the tax return?

Yes. The taxpayer is required to notify the tax authority the possession of transfer pricing documentation in the annual tax return. In addition, please consider that tax payer is required to indicate the total amount of cross-border intercompany costs and revenues occurred in the relative year.

### Are there exemptions to transfer pricing rules in your country?

No.

### Does transfer pricing documentation need to be prepared in a language other than English?

The Local File has to be prepared in Italian. The Master File can be prepared either in Italian or in English language.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

The Italian jurisdiction is reactive in implementing transfer pricing regulations in compliance with OECD principles.

### What are the current transfer pricing audit areas in your jurisdiction?

Tax Authorities are very aggressive in transfer pricing matter: all the areas are audited, without a specific focus.

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### Does your country have local transfer pricing laws?

Yes. The Income Act was amended by No 30 of 2015. Section 17 of the Income Tax Act was repealed and replaced with sections 17A, 17B and the Eighth Schedule.

### Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

### Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

No, the OECD Guidelines are not legislated as part of the transfer pricing regulations.

### What is the effective date of your transfer pricing regulations?

2 January 2015.

### Is the preparation of transfer pricing documentation mandatory?

Only large taxpayers whose gross annual revenue equals or exceeds Ja\$500,000,000.00 are required to maintain transfer pricing documentation.

### What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

### When should transfer pricing documentation be prepared?

At the time of the transaction.

### What are the penalties for not complying with your local transfer pricing rules?

The taxpayer may be liable to a fine not exceeding two million Jamaican Dollars and in the event there is a default on payment, imprisonment for a term not exceeding twelve months.

### What transfer pricing developments have occurred in the past 12 months?

The mandatory filing of the Schedule 8 for large taxpayers.

### What transfer pricing developments are expected over the next three years?

The examination of the documentation as required by the Tax Authorities.

### Are there transfer pricing related disclosures in the tax return?

Yes. A new schedule (Schedule 8) must be prepared and submitted with the Income Tax Return.

### Are there exemptions to transfer pricing rules in your country?

Yes. Currently only large taxpayers (over Ja\$500,000,000) are expected to provide documentation.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

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# Japan

## Does your country have local transfer pricing laws?

Yes. The local transfer pricing laws are contained in Article 66-4 (6) of the Special Taxation Measures Law and Article 22-10 of STML enforcement regulation.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. The law and regulations follow the OECD Guidelines. However, the OECD Guidelines are not part of the local transfer pricing regulations themselves.

## Is the preparation of transfer pricing documentation mandatory?

Yes. Corporate taxpayers who have transactions with foreign related persons are required to prepare and maintain transfer pricing document and submit it when requested by the tax authorities.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

The tax authorities prefer local comparable. Where local comparables are not available, regional or global comparables may be accepted.

## When should transfer pricing documentation be prepared?

Where the total amount of transactions with a foreign related person is ¥5 billion or more, or the amount of intangible property transactions is ¥300 million, transfer pricing documentation must be prepared on a contemporaneous basis with the corporate income tax return.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	¥100 billion
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	¥300,000

### What transfer pricing developments are expected over the next three years?

Commensurate with income rule for intangible.

### Are there transfer pricing related disclosures in the tax return?

Yes. Taxpayers are required to complete Schedule 17-4 where they have transactions with foreign related persons. Taxpayers are required to disclose summarised financial information of the foreign related persons, TPM utilised are stated, and this needs to be attached to the corporation income tax return.

### Are there exemptions to transfer pricing rules in your country?

Yes. In the cases listed below, corporations are exempted from the duty of preparing contemporaneous transfer pricing documentation for their controlled transactions with foreign-related parties during the relevant business year:

- 1 if the amount of transactions (total of receipts and payments) with the foreign-related party during the previous business year (the current business year if this is the first year of the company's operations) was less than ¥5 billion.
- 2 if the amount of transactions of intangibles (total of receipts and payments) with/the foreign-related party during the previous business year (the current business year if this is the first year of the company's operations) was less than ¥300 million.

### Does transfer pricing documentation need to be prepared in a language other than English?

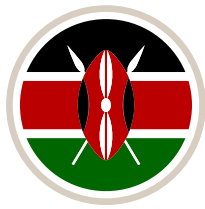
Yes. Japanese but English document is practically acceptable.

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# Kenya

## Does your country have local transfer pricing laws?

Yes. The local transfer pricing law is contained in Income Tax Act (Transfer Pricing) Rules 2006.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. The transfer pricing rules mirror the principles contained in the OECD Guidelines.

## What is the effective date of your transfer pricing regulations?

1 July 2006.

## Is the preparation of transfer pricing documentation mandatory?

Yes. Anyone with cross border related party transactions must have a policy in place regardless of the quantum of the transactions or revenue thresholds.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

The Commissioner may also prescribe other methods if it is deemed the above methods cannot be used to determine the arm's length price.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Comparable information from a commercial database that is publicly available is generally acceptable. However, economic environmental conditions of the selected companies should be similar to that of the tested party.

## What transfer pricing developments have occurred in the past 12 months?

Need to document TP rules for in country transactions with entities with preferential tax rates or tax breaks.

## What transfer pricing developments are expected over the next three years?

Implementation of BEPS Action plans including CbCR.

## When should transfer pricing documentation be prepared?

As soon as one starts transacting cross border with related parties.

## What are the penalties for not complying with your local transfer pricing rules?

US\$1,000 or 10% of the amount of tax to which the transaction is related to, whichever is greater.

## Are there transfer pricing related disclosures in the tax return?

Yes. Taxpayers are required to disclose dealings with non-resident related parties and the countries where they are resident.

## Are there exemptions to transfer pricing rules in your country?

No.

## Does transfer pricing documentation need to be prepared in a language other than English?

No.

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### Does your country have local transfer pricing laws?

Yes. The transfer pricing laws are contained in the Adjustment of International Taxes Act and the Enforcement Decree of the Adjustment of International Taxes Act.

### Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

### Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

The Korean tax authorities follows the OECD Guidelines as administrative practice.

### What is the effective date of your transfer pricing regulations?

6 December 1995.

### Is the preparation of transfer pricing documentation mandatory?

Yes. Article 11 (Obligation to Submit Data on International Transactions)/A taxpayer that conducts international transactions with a foreign related party shall submit a statement of international transactions in the form prescribed by Ordinance of the Ministry of Strategy and Finance to the head of the tax office having jurisdiction over the place of tax payment by the deadline for filing a tax return.

### What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

### Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Only local comparable companies will be acceptable.

### When should transfer pricing documentation be prepared?

By the deadline for filing the tax return.

### What are the penalties for not complying with your local transfer pricing rules?

Article 12 (Sanctions against Non-Compliance with Obligation to Submit Data)/(1) Any of the following persons who fails to submit data by the deadline without good cause prescribed by Presidential Decree or submits false data shall be subject to an administrative fine not exceeding 100 million won.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	KRW 1 trillion
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	3 months after year end
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	KRW 30million to 70million

### What transfer pricing developments have occurred in the past 12 months?

None.

### What transfer pricing developments are expected over the next three years?

We expect that we will provide services relating CBC reporting by international companies in our jurisdiction.

### Are there exemptions to transfer pricing rules in your country?

Yes. If the volume of international transaction is less than the criteria detailed in the transfer pricing legislation then the transaction may be exempt from reporting.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes. It should be prepared in Korean.

### Are there transfer pricing related disclosures in the tax return?

Yes. A taxpayer that conducts international transactions with a foreign related party shall submit a statement of international transactions in the form prescribed by Ordinance of the Ministry of Strategy and Finance to the head of the tax office having jurisdiction over the place of tax payment by the deadline for filing the tax return

Provided that the taxpayer whose transaction volume with a foreign related party and turnover meets the criteria prescribed by Presidential Decree, the taxpayer shall additionally submit a consolidated business report, individual business report, and report by country prescribed by Presidential Decree in relation to its business activities and details of the transactions within 12 months from the last day of the month during which the business year provided in Article 6 of the Corporate Tax Act ends.

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### Does your country have local transfer pricing laws?

The transfer pricing in Kosovo is regulated by the Law no. 05/L-029 on Corporate Income Taxes (Official Gazette of Republic of Kosovo no. 24, date 18 August, 2015) and pursuant to article 27 of the aforementioned Law, the Minister of Finance have issued the Administrative Instruction Mf-no.02/ 2017 on Transfer Pricing, dated 20 July, 2017, effective as of 27 July, 2017.

### Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

The Administrative Instruction is based on the OECD guidelines in the area of price transfer and any other guideline that may be issued in the future, as long as it is not regulated by local legislation.

### Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes.

### What is the effective date of your transfer pricing regulations?

27 July 2017

### Is the preparation of transfer pricing documentation mandatory?

Yes. Taxpayer involved in the controlled transactions, including loan surpluses, which in the reporting period in total exceed three hundred thousand euro (€300,000), complete and submit to TAK the form for notifying annual controlled transactions. In determining the total transactions, income and expenses cannot be counter weighted.

Annual notice is submitted with the annual statement and annual financial statements, in physical or electronic form, as determined by TAK.

Deadline for submission of application form for notice of annual controlled transaction is the date set for the submission of the annual declaration form and payment of corporate income tax. i.e. 15 March in the year for the previous fiscal year.

Taxpayer involved in the controlled transactions is required to prepare and submit sufficient information and analysis to verify that the terms of its controlled transactions are in line with the open market value.

The taxpayer has the initial burden of proof to prove that his terms of controlled transactions are in line with market principles. Burden will be considered completed when the taxpayer has prepared transfer pricing documentation in line with the Administrative Instruction.

Transfer pricing documentation must be made available to TAK upon request, within thirty (30) days from the request.

### What transfer pricing methodologies are acceptable?

The following traditional transaction methods are used when determining the transfer pricing:

- 1 comparable uncontrolled price method
- 2 resale price method
- 3 cost plus method.

The taxpayer may in certain circumstances apply traditional profit methods as follows:

- 1 transactional net margin method
- 2 profit split method.

### Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Comparable uncontrolled transactions could be domestic and foreign transactions.

Domestic comparable uncontrolled transactions are transactions where one party of the controlled transaction is also a party to the comparable uncontrolled transaction.

Foreign comparable uncontrolled transactions are transactions where none of the parties to the controlled transaction is a party in the comparable uncontrolled transaction.



### **What transfer pricing developments have occurred in the past 12 months?**

On July 27, 2017 has entered into force the Administrative Instruction MoF no. no.02/ 2017 on Transfer Pricing, pursuant to the provisions of Law no. 05/L-029 on Corporate Income Taxes (Official Gazette of Republic of Kosovo no. 24, date 18 August, 2015) according to article 27 of the mentioned Law.

### **What transfer pricing developments are expected over the next three years?**

Having in mind that the transfer pricing regulation is new in Kosovo, it is understandable that in the following period there will be development in the area of transfer pricing especially in the part of the awareness of the tax payers on the existence of the transfer pricing regulation and their obligations arising from it and as well setting up a task force on the government side, that will enforce this regulation.

In the absence of domestic comparable uncontrolled transactions, TAK recognizes the use of foreign comparable uncontrolled transactions provided that the influence of geographical differences is analyzed and other factors over financial indicator being examined, according to the appropriate transfer pricing method and, where appropriate, adjustment comparability action is carried out.

In the absence of foreign comparable uncontrolled transactions belonging to the same fiscal year as the controlled transactions, available at the time of preparing the transfer pricing documentation the taxpayer may rely on information related to the foreign comparable uncontrolled transactions, from the latest period for which this information is available, provided that the comparability standard is met.

### **When should transfer pricing documentation be prepared?**

Taxpayer involved in the controlled transactions is required to prepare and submit sufficient information and analysis to verify that the terms of its controlled transactions are in line with the open market value.

The taxpayer has the initial burden of proof to prove that his terms of controlled transactions are in line with market principles. Burden will be considered completed when the taxpayer has prepared transfer pricing documentation in line with the Administrative Instruction.

### **What are the penalties for not complying with your local transfer pricing rules?**

If the taxpayer fails to present the documentation, will be subject to fine, amounting from one hundred twenty five (125) Euros, up to thousand five hundred (2,500) Euros).

### **Are there transfer pricing related disclosures in the tax return?**

There are no separate transfer pricing related disclosures in the tax return.

### **Are there exemptions to transfer pricing rules in your country?**

Taxpayers with controlled transactions under the amount of three hundred thousand (300,000) euro are considered to meet the requirements for transfer pricing documentation, even if in the case of using foreign comparable transactions. Series of foreign comparable uncontrolled transactions are updated only once every three reporting periods, provided that there were no material changes in the controlled transactions, comparable uncontrolled transactions or relevant foreign economic circumstances.

### **Does transfer pricing documentation need to be prepared in a language other than English?**

In Kosovo English, Albanian and Serbian are official languages, so the transfer pricing documentation may be prepared in any of these three languages.

### **How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?**

Taking into consideration that the transfer pricing legislation is recently enforce in Kosovo, the tax authority are already active in supplying transfer pricing brochures to the taxpayer, hosting lecture presented by specific taskforce to enforce these rules.

### **What are the current transfer pricing audit areas in your jurisdiction?**

The taxpayers starting from 2018 shall be obliged upon request to deliver to TAK the transfer pricing documentation as of and for the year ended 31 December 2017 and accordingly 2018 will be the first year that is expected TAK to perform an audit on the transfer pricing areas and the outcome is yet to be seen. In the previous period no conducted tax audits on transfer pricing matter.

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# Latvia

## Does your country have local transfer pricing laws?

Yes. The local transfer pricing laws are contained in the Taxes and Duties Act, articles 15.2, 16.1 (from 1 January 2013), Taxes and Duties Act 23.2, Income Tax Act, article 12, Cabinet of Ministers Regulations No. 556, articles 83.-94 and Cabinet of Ministers Regulations No. 981.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. Article 93 of the Regulations of the Cabinet of Ministers No.556 states that in order to determine the most appropriate transfer pricing method, the OECD Guidelines might be employed.

The transfer pricing documentation requirements are basically borrowed from the EU Transfer Pricing Documentation Code of/Conduct (2006/C 176/01), which briefly describes the information which needs to be disclosed in the documentation. It can therefore be concluded that the Latvian transfer pricing regulations follow the approach outlined in the OECD regulations.

## What is the effective date of your transfer pricing regulations?

1 January 2013.

## Is the preparation of transfer pricing documentation mandatory?

Yes. As of 1 January 2013, mandatory transfer pricing documentation requirements apply to Latvian corporate taxpayers, both residents and permanent establishments, whose annual turnover exceeds €1.43 million, and whose related-party transactions value exceeds €14,300.

Before 1 January 2013, Latvia had local transfer pricing rules, but there was no formal requirement to prepare transfer pricing documentation.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

In practice, the State Revenue Service primarily compares local enterprises in order to assess the arm's length nature of the related party dealings. However, if it is impossible to ascertain any comparable enterprises at the local market, foreign comparables will be used.

## When should transfer pricing documentation be prepared?

The transfer pricing documentation requirements are in force effective 1 January 2013. There is no deadline set for preparation of the documentation. According to section 15.2 of the Taxes and Duties Act, the taxpayer has to provide full transfer pricing documentation within 30 days after requested by the State Revenue Service.

## What are the penalties for not complying with your local transfer pricing rules?

Currently, there are no sanctions planned for having no or insufficient documentation. Penalties apply not specifically for non-compliance with documentation requirements, but for an intentional act to manipulate transfer prices.

## Are there transfer pricing related disclosures in the tax return?

Yes. Cabinet of Ministers Regulation No 981, article 4.19.-4.21, obligates taxpayers to disclose related-party transactions in the corporate income tax return. Specifically, taxpayers are obligated to disclose information on the related party, the type of transaction, the amount and the transfer pricing method applied.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	N/A
Are the Local File requirements consistent with BEPS Action 13?	N/A
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	Not yet defined

### What transfer pricing developments have occurred in the past 12 months?

The Cabinet of Ministers has issued regulations No. 397 'Regulations on the Report of the Group of Multinational Enterprises for Each Country'. These regulations introduce requirements from the EU Council Directive 2016/881 amending Directive 2011/16/EU regarding compulsory automatic exchange of information in the field of taxation and the automatic exchange of information with the reports of the Group of multinational companies.

### What transfer pricing developments are expected over the next three years?

New changes are expected in regard to transfer pricing documentation requirements. Latvia has already introduced the Country-by-Country Reporting regulations with the first reporting year being 2016. It is also planned (but not yet adopted by the Parliament) to introduce the Master and Local File requirements with respect to the transfer pricing documentation as of 2019.

### Are there exemptions to transfer pricing rules in your country?

Yes. Small and medium-sized enterprises are not required to prepare full transfer pricing documentation if their turnover does not amount to €1.43 million or more and related party transactions do not exceed €14,300. However, such enterprises are still required to prove that their related-party transactions are at arm's length (section 12 of the Income Tax Act).

In practice, the tax authorities expect that the taxpayers are able to present the functional analysis of the related party transaction under review, the choice of the transfer pricing method and its application.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes. Generally, documentation has to be prepared in Latvian. However, submission of the documentation in English might not be treated as a failure, but the State Revenue Service is entitled to request for the documentation to be translated.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Recently it has become more active and a local tax authority has setup a task force.

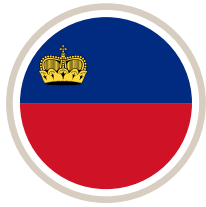
### What are the current transfer pricing audit areas in your jurisdiction?

All taxpayers are exposed to a comparably risk that transfer pricing will be reviewed as a part of an audit conducted by local tax authorities.

In addition, there is a risk for all companies that if transfer pricing is reviewed as a part of the audit, the transfer pricing methodology will be challenged.

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# Liechtenstein

## Does your country have local transfer pricing laws?

Yes. Art. 49 of the Liechtenstein tax law states that transactions between related parties must be performed in accordance with the arm's length principle.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

No. The rules are based on a domestic ordinance.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

The OECD Guidelines are used by the tax authority as a reference for administrative practice purposes.

## What is the effective date of your transfer pricing regulations?

1 January 2011.

## Is the preparation of transfer pricing documentation mandatory?

Yes. Businesses with a consolidated revenue of CHF 900 million have to prepare a documentation with the OECD Master File and Local File approach. Businesses with a revenue of CHF 51.8m, 250 FTE's and a balance sheet total of CHF 25.9 million have to prepare a simplified local documentation.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

The tax authority has not yet established whether regional or global comparable companies will be accepted.

## When should transfer pricing documentation be prepared?

Upon request of the tax authorities within 60 days.

## What are the penalties for not complying with your local transfer pricing rules?

There are no specific penalties for transfer pricing documentation late filings. The ordinary penalty for delayed filings is a fine of up to CHF 1,000 in the first round. Repeated delays will be fined up to CHF 10,000 and ultimately with an ex officio taxation at the discretion of the tax authorities.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	CHF 900,000,000
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	Details pending

### What transfer pricing developments have occurred in the past 12 months?

BEPS/spontaneous exchange of information.

### What transfer pricing developments are expected over the next three years?

Ordinance on transfer pricing documentation in 2017.

### Are there transfer pricing related disclosures in the tax return?

Yes. Taxpayers are currently required to make disclosures on dealings covering related party interest.

### Are there exemptions to transfer pricing rules in your country?

Yes. There are safe harbour interest rates covering intercompany debt funding transactions.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

The Liechtenstein tax authority is very active in enforcing transfer pricing rules. There is no specific task force.

### What are the current transfer pricing audit areas in your jurisdiction?

Intercompany services and interest rates on related party financing.

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# Lithuania

## Does your country have local transfer pricing laws?

Yes, Article 40 (2) of the law on corporate income tax. Article 15 (2) of the law on personal income tax. Order of the minister of finance No 1K-123 as of 9 April 2004 on transfer pricing evaluation and documentation rules.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes, transfer pricing rules are consistent with the OECD guidelines as much as they do not contradict the above legal acts.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes, the arm's length principle and transfer pricing documentation requirements are established in the Article 40 (2) of the law on corporate income tax, as well as in the Article 15 (2) of the law on personal income tax, and in the order of the finance minister of the Republic of Lithuania No 1K-123 of 9 April 2004. In general, Lithuania follows OECD Guidelines.

## What is the effective date of your transfer pricing regulations?

4 September 2004.

## Is the preparation of transfer pricing documentation mandatory?

Yes, taxpayers are obliged to prepare transfer pricing documentation if they are Lithuanian entities and permanent establishments of foreign entities acting in Lithuania with a turnover of €2.9 million in a taxable year previous to when the transaction was actually carried out; or financial companies and credit institutions; or insurance companies.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Both global and regional comparable companies are accepted by the tax authority.

## When should transfer pricing documentation be prepared?

Currently there are no specific requirements or schedules for the preparation of transfer pricing documentation. Taxpayers must submit transfer pricing documentation within 30 days of the corresponding request from the tax authorities.

## What are the penalties for not complying with your local transfer pricing rules?

Managing persons, responsible for compliance with the transfer pricing rules, can be penalised €1,400 – €5,800.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	X <sup>1</sup>
Are the Local File requirements consistent with BEPS Action 13?	X <sup>2</sup>
Revenue threshold for CbCR to apply	€750million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	1 January 2018
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	€5,800

### What transfer pricing developments have occurred in the past 12 months?

Revised transfer pricing rules are being considered. As of the beginning of 2018, changes are planned in regards to setting a deadline (15th of the sixth month following the end of the financial year) in preparing transfer pricing documentation for each year, establishing DEMPE practice in evaluation of intangibles, the separation for preparing 'master' and 'local transfer pricing files, setting specific mandatory documentation thresholds for intra-group transactions (€30,000 and €90,000).

### What transfer pricing developments are expected over the next three years?

A completed revised version of the rules approved by order of the finance minister of the Republic of Lithuania No 1K-123 of 9th April 2004.

### Are there transfer pricing related disclosures in the tax return?

Yes, Lithuanian corporate income taxpayers are required to specify annually in their annual tax returns (form FR0528 / transactions with related parties) whether they have been involved in related party transactions and disclose revenue and expenses of such transactions.

### Are there exemptions to transfer pricing rules in your country?

There are no exemptions to the county's local transfer pricing rules.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes, general practice is to prepare transfer pricing documentation in Lithuanian although exceptions are possible.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Relatively low activity, rules are enforced by specific specialists.

### What are the current transfer pricing audit areas in your jurisdiction?

Attention to renting and loan transactions as well as hidden dividends.

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<sup>1</sup> Not regulated as of 5 March 2018 - only draft transfer pricing rules are published, with no legal force. Final transfer pricing rules are expected in 2nd quarter of 2018.

<sup>2</sup> See Note 1.



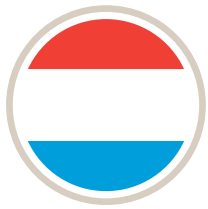
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# Luxembourg

## Does your country have local transfer pricing laws?

Yes. The arm's length principle is enshrined in the domestic tax law. Additionally, specific guidance (in the form of an administrative circular) has been issued for tax treatment of companies engaged in intra-group financing transactions.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. As an OECD member country, Luxembourg generally adheres to the OECD Guidelines in the application of Article 9(1) of the OECD Model Tax Convention 2010. Accordingly, transfer prices determined in accordance with the OECD Guidelines should be acceptable by the Luxembourg tax authorities.

## Is the preparation of transfer pricing documentation mandatory?

No.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

The acceptance of comparables is best assessed on a case-by-case basis, keeping in mind the industry of the taxpayer and the geographical location of the tested party and/or other group entities.

## When should transfer pricing documentation be prepared?

Luxembourg, as yet, does not have any specific requirements for maintaining or submitting transfer pricing documentation, deadlines for filing or penalties for the same. While, in general, taxpayers are under a duty to co-operate with the Luxembourg tax authorities, to evidence facts and provide information with respect to statements made in the tax returns, the burden to prove that the intercompany transactions do not adhere to arm's length principle is generally on the tax authorities.

A Luxembourg company's transfer prices are generally reviewed by the tax authorities as part of the tax assessment procedure and can also be reviewed during the course of a tax audit. Additionally, where a request for a Advance Pricing Agreement (APA) is filed, the transfer pricing of transactions between related enterprises will be verified before the Luxembourg tax authorities decide on the case.

## What are the penalties for not complying with your local transfer pricing rules?

Luxembourg, as yet, does not have any specific guidance on penalties.



## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

On 27 December 2016, the Luxembourg tax authorities issued a new Circular providing guidance for the fiscal treatment of intra-group financial transactions. The Circular – effective as from 1 January 2017 – closely follows the application of the arm’s-length principle of the OECD Guidelines. All existing transfer pricing rulings (unilateral APA) are no longer valid as from that date. The new Circular, which no longer includes the rule to determine the equity at risk (ie 1% or €2m), stipulates the importance of adequate substance and functional analysis, covering the functions, assets, and risks of the transacting parties and their commercial relationship to determine the appropriate equity level.

### What transfer pricing developments are expected over the next three years?

Increasing substance requirements.

### Are there transfer pricing related disclosures in the tax return?

Yes.

### Are there exemptions to transfer pricing rules in your country?

No.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

### What are the current transfer pricing audit areas in your jurisdiction?

Primary focus remains on Luxembourg companies engaged in intra-group financing activities.

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# Macedonia

## Does your country have local transfer pricing laws?

According to Macedonian legislation, there is no separate Transfer Pricing Law. Transfer Pricing rules are regulated within the local Corporate Income Tax Law, which stipulate that revenues and/or expenses incurred on transactions between related parties are recognised for tax purposes at market prices, ie the 'arm's length' principle.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Generally, the transfer pricing rules follow the OECD Guidelines however the local regulations provided in the Corporate Income Tax Law are mostly followed.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Should be amended as follows: The OECD Guidelines are not part of the transfer pricing regulation however they are followed as administrative practice, besides the local regulations stipulated in the Corporate Income Tax Law.

## What is the effective date of your transfer pricing regulations?

25 July 2014.

## Is the preparation of transfer pricing documentation mandatory?

Preparation of transfer pricing documentation is still not mandatory in Macedonia, however upon request of the tax authorities, taxpayers are obliged to present sufficient information and analysis on the conditions under which transfer prices are set.

## What transfer pricing methodologies are acceptable?

The following traditional transaction methods are used when determining the transfer pricing:

- 1 comparable uncontrolled price method
- 2 resale price method
- 3 cost plus method.

The taxpayer may in certain circumstances apply traditional profit methods as follows:

- 1 transactional net margin method
- 2 profit split method.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Comparable uncontrolled transactions could be domestic and foreign transactions.

Domestic comparable uncontrolled transactions are transactions where one party of the controlled transaction is also a party to the comparable uncontrolled transaction.

Foreign comparable uncontrolled transactions are transactions where none of the parties to the controlled transaction is a party in the comparable uncontrolled transaction.

In the absence of domestic comparable uncontrolled transactions, the use of foreign comparable uncontrolled transactions is recognized, provided that the influence of geographical differences is analyzed and other factors over financial indicator being examined, according to the appropriate transfer pricing method and, where appropriate, adjustment comparability action is carried out.

In the absence of foreign comparable uncontrolled transactions belonging to the same fiscal year as the controlled transactions, available at the time of preparing the transfer pricing documentation the taxpayer may rely on information related to the foreign comparable uncontrolled transactions, from the latest period for which this information is available, provided that the comparability standard is met.

### What transfer pricing developments have occurred in the past 12 months?

There were no developments in the past 12 months.

### What transfer pricing developments are expected over the next three years?

OECD Rules adoption and adjustment of the local legislation to OECD rules.

### When should transfer pricing documentation be prepared?

Upon request of the tax authorities, taxpayers are obliged to present sufficient information and analysis on the conditions under which transfer prices were set. However, there are no further requirements regarding the content or type of documentation which should be provided.

The Macedonian tax legislation does not have explicit transfer pricing documentation provisions.

### What are the penalties for not complying with your local transfer pricing rules?

Although there are no specific transfer pricing penalties in the Corporate Income Tax Law published in Official Gazette of RM no. 112/2014, and 190/2016, still any transfer pricing adjustments made by the tax authorities leading to recognition of understated revenues might lead to application of some general tax penalties. A financial penalty equivalent to ten times that understated CIT liability and a penalty interest of 0.03%, for each day of delay of tax payment, could be imposed in such cases.

### Are there transfer pricing related disclosures in the tax return?

There is a separate line in the annual tax return that refers to differences between transfer and market prices achieved among related parties.

### Are there exemptions to transfer pricing rules in your country?

There are no exemption to transfer pricing rules.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes. The Transfer Pricing documentation upon request by the tax authorities should be prepared in Macedonian language and if already prepared in English should be translated in Macedonian language by an authorised court translator.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

There is no specific task force for enforcing the rules on transfer pricing, however in the course of regular tax audits, the tax authority pays attention to enforcing these rules by the tax payers.

### What are the current transfer pricing audit areas in your jurisdiction?

There are no specific transfer pricing audit areas covered by the tax authorities, however in the course of conducting regular audit on profit tax and value added tax the tax authority may request documents that prove that the transfer pricing requirements pursuant to the limited legislation have been met, especially in the part of creation of the prices of services provided among related parties and interest rate in loan agreements.

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# Malaysia

## Does your country have local transfer pricing laws?

Yes. The local transfer pricing laws are contained in Section 140A of the Malaysia Income Tax Act 1967 and Malaysia Transfer Pricing Rules 2012.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

The Malaysia Transfer Pricing Guidelines 2012 are mainly adopted from the OECD Guidelines but not completely.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

No. The OECD Guidelines are followed as administrative practice.

## What is the effective date of your transfer pricing regulations?

1 January 2009.

## Is the preparation of transfer pricing documentation mandatory?

Yes. Taxpayers who have transacted with its related parties are required to have transfer pricing documentation prepared.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split. Malaysia gives priority to the traditional methodologies and then the transactional methodologies.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Only local comparable companies will be accepted. However, global and regional comparables may be accepted on case by case basis.

## When should transfer pricing documentation be prepared?

On contemporaneous basis, ie before or when implementing the related party transactions.

## What are the penalties for not complying with your local transfer pricing rules?

Penalty of up to 45% of the adjusted tax amount.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	Yes but not completely
Are the Local File requirements consistent with BEPS Action 13?	Yes but not completely
Revenue threshold for CbCR to apply	MYR 3 billion
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	Yes, upon 30 days of request
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

Transfer Pricing Audits are getting more aggressive.

### What transfer pricing developments are expected over the next three years?

No developments are expected at this time.

### Are there transfer pricing related disclosures in the tax return?

Yes. Taxpayers are required to disclose the amount and type of related party transactions in the tax return and disclose whether transfer pricing documentation has been prepared.

### Are there exemptions to transfer pricing rules in your country?

No.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Aggressive, there have been many transfer pricing audits in the past 12 months.

### What are the current transfer pricing audit areas in your jurisdiction?

Key audit areas are sales and purchases transactions with overseas entities. Factors that trigger a transfer pricing audit maybe significant overseas transactions, consecutive losses for many years and fluctuated profit margins.

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# Mauritius

## Does your country have local transfer pricing laws?

No.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

No. The OECD Guidelines are followed as administrative practice.

## What is the effective date of your transfer pricing regulations?

1 July 2018.

## Is the preparation of transfer pricing documentation mandatory?

No.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Only local comparable companies will be accepted.

## When should transfer pricing documentation be prepared?

There are no formal transfer pricing rules or legislation in Mauritius which contains guidance on when transfer pricing documentation should be prepared.

## What are the penalties for not complying with your local transfer pricing rules?

There will be a fine not exceeding MUR 5,000 and to imprisonment for a term not exceeding six months.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	Expected for financial years beginning on or after 1 July 2018
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	6 months after year end
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	MUR 5,000

### What transfer pricing developments have occurred in the past 12 months?

Mauritius has signed the Country-by-Country Multilateral Competent Authority Agreement on 26th January 2017 regarding Action 13 of the BEPS Action Plan.

### What transfer pricing developments are expected over the next three years?

The CbC reporting will be implemented for fiscal years starting from 1st July 2018 and will apply to MNEs with an annual consolidated group revenue equal to or exceeding €750 million.

### Are there transfer pricing related disclosures in the tax return?

No.

### Are there exemptions to transfer pricing rules in your country?

Yes.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

The tax authority has a specific task force to enforce in local rules.

### What are the current transfer pricing audit areas in your jurisdiction?

No specific areas.

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# Mexico

## Does your country have local transfer pricing laws?

Yes. The transfer pricing legislation is contained in the Income Tax Law (Ley del Impuesto Sobre la Renta), specifically in articles 76, 179 and 180.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. The last paragraph of article 179 refers to that the OECD Guidelines shall apply for purposes of interpreting the local transfer pricing legislation.

## What is the effective date of your transfer pricing regulations?

1 December 2017.

## Is the preparation of transfer pricing documentation mandatory?

It is mandatory for all taxpayers to prepare transfer pricing documentation where its business income exceeded \$13,000,000 Mexican pesos in the preceding year, as well as taxpayers who derived income which exceeded \$3,000,000 Mexican pesos from the provision of professional services in the preceding year.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

It is common to find comparable companies from any country due to the fact that in Mexico there are not many companies which publish financial information.

## When should transfer pricing documentation be prepared?

Transfer pricing documentation should generally be prepared by 31 March of the following year, except for taxpayers submitting DISIF or Dictamen Fiscal, since for these taxpayers the date when transfer pricing documentation must be prepared is 30 June or 31 July, respectively.

## What are the penalties for not complying with your local transfer pricing rules?

The deductibility of the expenses could be challenged, in addition to the ones caused by not presenting in a timely manner.



## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	MXN 12 billion
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	MXN 2 million

### What transfer pricing developments have occurred in the past 12 months?

The inclusion of the Master File, Local File and Country-by-Country Report.

### What transfer pricing developments are expected over the next three years?

Implementation of BEPS actions.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes, in Spanish.

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### Are there transfer pricing related disclosures in the tax return?

Yes. There are certain transfer pricing related appendices that must be filed with the tax return.

### Are there exemptions to transfer pricing rules in your country?

Taxpayers are not required to prepare transfer pricing documentation where its business income did not exceed \$13,000,000 Mexican pesos in the preceding year, as well as taxpayers whose income derived from the provision of professional services in the preceding year did not exceed \$3,000,000 Mexican pesos.



# Mozambique

## Does your country have local transfer pricing laws?

Yes, Transactions should be at arm length. If the tax authority discover that transactions are not at arm length, they might ask the Company to readjust their profit.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

No. In Mozambique no guidelines are used, prices are just compared with other similar products.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

No.

## What is the effective date of your transfer pricing regulations?

The effective date of Mozambique's transfer pricing regulations is 1 January 2016.

## Is the preparation of transfer pricing documentation mandatory?

No.

## What transfer pricing methodologies are acceptable?

In Mozambique, the resale price method is used.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Only local comparable companies will be accepted.

## When should transfer pricing documentation be prepared?

Not applicable in Mozambique.

## What are the penalties for not complying with your local transfer pricing rules?

Not applicable in Mozambique.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	X
Are CbC Report requirements consistent with BEPS Action 13?	X
Are the Master File requirements consistent with BEPS Action 13?	N/A
Are the Local File requirements consistent with BEPS Action 13?	N/A
Revenue threshold for CbCR to apply	N/A
Signatory of the OECD Multilateral Competent Authority Agreement	X
Filing due date	N/A
Are the Master File and Local File lodged with the local tax authority?	N/A
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

None.

### What transfer pricing developments are expected over the next three years?

No anticipated developments are expected.

### Are there transfer pricing related disclosures in the tax return?

No.

### Are there exemptions to transfer pricing rules in your country?

There are no exemptions.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Not active.

### What are the current transfer pricing audit areas in your jurisdiction?

None.

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# Netherlands

## Does your country have local transfer pricing laws?

Yes. The local transfer pricing laws are contained in the following:

- article 8b (arms length principle) and art. 29b-29h (MF/LF/CbCR)
- decree IFZ2013-184M with additional guidance for Transfer Pricing
- decree on financial service companies, June 26, 2014, DGB 2014/310
- Q&A Decree in relation to financial service companies.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. By decree the Dutch Tax Authorities (DTA) have indicated that the OECD Guidelines are followed.

## What is the effective date of your transfer pricing regulations?

1 January 2001.

## Is the preparation of transfer pricing documentation mandatory?

Yes. According to Article 8(b) of the Dutch Corporate Income Tax Act (CITA), 1969, Dutch taxpayers are obliged to prepare documentation that describes how the transfer prices have been established and this must be included in the accounting records. Furthermore, the documentation needs to include sufficient information that would enable the tax authority to evaluate the arm's length nature of the transfer prices applied between associated enterprises.

If the Dutch tax resident companies are part of a multinational group with a consolidated group turnover of €50 million or more, they are obliged to have a Master File and Local File in their administration when filing the tax return for the relevant financial year.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Pan-European comparables are preferred by the DTA, with a strong preference for companies that do not form part of a group or have subsidiaries.

## When should transfer pricing documentation be prepared?

Local File and Master File must be part of the entity's administration when filing the corporate income tax return for the relevant fiscal year.

## What are the penalties for not complying with your local transfer pricing rules?

The lack of transfer pricing documentation in the Netherlands will shift the burden of proof regarding the arm's length nature of the transfer price used to the taxpayer. This implies that the DTA can determine the at arm's length price for your transactions instead.

Furthermore, intentional non compliance with the Master File and Local File requirements can attract a penalty of up to €20,500 or imprisonment of up to four years. In addition, the taxpayer can be fined an administrative penalty with a maximum of €8,200. Intentional non-compliance with the CbC and notification requirements can attract a penalty up to €20,500. As of 5 June 2017 this penalty can be up to a maximum of €820,000.

Furthermore, intentional non-compliance can have the consequence of imprisonment of up to four years.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	€20,500

### What transfer pricing developments have occurred in the past 12 months?

The penalty for not filing the CbCR notification has risen to €820,000.

### What transfer pricing developments are expected over the next three years?

More transparency, automatic exchange of information and higher compliance burden for taxpayers.

### Are there transfer pricing related disclosures in the tax return?

No.

### Are there exemptions to transfer pricing rules in your country?

No.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Within the DTA a centralised Transfer Pricing Coordination Group (TPCG) operates with representatives all over the main inspectorates, the APA team and the Ministry of Finance. All transfer pricing policies, decrees, examinations, audits, disputes and court procedures are coordinated by this group. Tax inspectors are obliged to contact the TPCG in case of transfer pricing issues, disputes and settlements. The main purpose of the TPCG is to ensure that inspectors act in accordance with the TPCG policies and advice.

### What are the current transfer pricing audit areas in your jurisdiction?

The DTA has a strong focus on intangible transactions and centralised IP companies, as well as business reorganisations, centralised purchasing companies/procurement companies, management fees and the allocation thereof, captive insurance companies and loss-making companies performing only routine functions. The DTA pays specific attention to the economic rationale underlying the intercompany transactions and whether the legal assumption of risk is in line with the performed control functions. During the course of FY 2018, the DTA will issue a new transfer pricing decree, which will most likely address the outcomes of the BEPS project.

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# New Zealand

## Does your country have local transfer pricing laws?

Yes. The local transfer pricing laws have been part of the domestic legislation since 1996.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

The broad principles contained in the OECD Guidelines have either been embedded in the domestic transfer pricing legislation or embodied in administrative practice.

## What is the effective date of your transfer pricing regulations?

1 April 1996.

## Is the preparation of transfer pricing documentation mandatory?

No.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

The tax authority has a preference for local comparable companies. However, given there is limited public information available, regional comparable companies are acceptable.

## When should transfer pricing documentation be prepared?

Preferably contemporaneously but its not mandated. However, if contemporaneous documentation has not been prepared and there is a transfer pricing adjustment, gross carelessness penalties will be applied.

## What are the penalties for not complying with your local transfer pricing rules?

Behaviour penalties (ranging from 20 to 100% penalty on the tax shortfall), plus interest. In addition, late payment penalties can also apply.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	Gross careless penalty 40% for any tax shortfall where appropriate documentation not held

### What transfer pricing developments have occurred in the past 12 months?

Proposed legislation on permanent establishments, move to economic substance, burden of proof changes, time bar increase to seven years.

### What transfer pricing developments are expected over the next three years?

Update of guidelines following law changes, increased audit activity.

### Are there transfer pricing related disclosures in the tax return?

Yes. Taxpayers are required to acknowledge whether they have related party cross border transactions or not.

### Are there exemptions to transfer pricing rules in your country?

Yes. Where there is no depletion of the New Zealand tax base.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

The Inland Revenue has increased audit activity in this area, with a focus on particular industries and transactions. There is no special taskforce as such, rather a national transfer pricing team that supports the wider audit teams.

### What are the current transfer pricing audit areas in your jurisdiction?

The Inland Revenue publish annually their areas of focus. Currently they have strong audit activity in the Information Technology sector, and have a particular focus across all industries of management fees, royalties, related party debt greater than \$10 million.

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**Does your country have local transfer pricing laws?**

No.

**Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?**

Yes.

**Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?**

Yes. The following is included in the tax legislation: 'Where there is a partnership of interests between enterprises domiciled in Norway and abroad and their commercial or financial relations are subject to arm's length terms laid down in tax treaties between the respective states, in the determination of capital or income..., takes into account guidelines for internal pricing for multinational enterprises and tax authorities approved by the OECD'.

**What is the effective date of your transfer pricing regulations?**

There are no transfer pricing laws in Norway.

**Is the preparation of transfer pricing documentation mandatory?**

Yes.

**What transfer pricing methodologies are acceptable?**

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

**Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?**

Local, regional and global comparable companies are accepted.

**When should transfer pricing documentation be prepared?**

Transfer pricing documentation should be prepared within 45 days upon request from the tax authorities.

**What are the penalties for not complying with your local transfer pricing rules?**

The tax authority may determine the taxpayer's income at their discretion and penalty tax of up to 60% may apply.



## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	N/A
Are the Local File requirements consistent with BEPS Action 13?	N/A
Revenue threshold for CbCR to apply	NOK 6.5 billion
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	TBC

### Are there transfer pricing related disclosures in the tax return?

No.

### Are there exemptions to transfer pricing rules in your country?

Yes.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

N/A

### What are the current transfer pricing audit areas in your jurisdiction?

N/A

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**Does your country have local transfer pricing laws?**

No.

**Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?**

Yes.

**Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?**

Yes, the OECD Guidelines have been followed as an administrative practice.

**What is the effective date of your transfer pricing regulations?**

There is no effective date for the transfer pricing regulations.

**Is the preparation of transfer pricing documentation mandatory?**

No.

**What transfer pricing methodologies are acceptable?**

All transactions are required to be priced on an arm's length basis and taxpayers are required to demonstrate this based on dealings with third parties.

**Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?**

Local, regional and global comparable companies are accepted.

**When should transfer pricing documentation be prepared?**

Transfer pricing documentation should be prepared at the inception of the dealings between the related parties.

**What are the penalties for not complying with your local transfer pricing rules?**

The Ministry of Finance will make an assessment if the transactions have not been conducted on an arm's length basis.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	X
Are CbC Report requirements consistent with BEPS Action 13?	X
Are the Master File requirements consistent with BEPS Action 13?	N/A
Are the Local File requirements consistent with BEPS Action 13?	N/A
Revenue threshold for CbCR to apply	N/A
Signatory of the OECD Multilateral Competent Authority Agreement	X
Filing due date	N/A
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

None.

### What transfer pricing developments are expected over the next three years?

At present there is VAT implementation within the next two years. There has been no discussion about introducing Transfer Pricing presently.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

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### Are there transfer pricing related disclosures in the tax return?

No.

### Are there exemptions to transfer pricing rules in your country?

No.



**Does your country have local transfer pricing laws?**

Yes. The local transfer pricing laws are contained in article 762-A to 762-L.

**Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?**

Yes.

**Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?**

The local fiscal law has not legislated the OECD Guidelines but they are followed for administrative purposes.

**What is the effective date of your transfer pricing regulations?**

30 June 2010.

**Is the preparation of transfer pricing documentation mandatory?**

It is mandatory to file the transfer pricing report (form.930). However, the preparation of a transfer pricing study is only mandatory when requested by the tax authorities.

**What transfer pricing methodologies are acceptable?**

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

**Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?**

For transfer pricing analysis, the best practice is generally the use of global or regional comparable. This is due to Panama not having a public database which contains comparable information for local companies. The only exception is when a benchmarking analysis is being conducted for financial transactions.

**When should transfer pricing documentation be prepared?**

Until six months after the end of the fiscal period.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	X
Are CbC Report requirements consistent with BEPS Action 13?	X
Are the Master File requirements consistent with BEPS Action 13?	N/A
Are the Local File requirements consistent with BEPS Action 13?	N/A
Revenue threshold for CbCR to apply	N/A
Signatory of the OECD Multilateral Competent Authority Agreement	X
Filing due date	N/A
Are the Master File and Local File lodged with the local tax authority?	N/A
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

There have not been any transfer pricing developments in Panama in the past 12 months. However a transfer pricing review is being carried out by the authorities at present.

### Are there transfer pricing related disclosures in the tax return?

Yes.

### Are there exemptions to transfer pricing rules in your country?

Yes, when the transaction does not affect the income tax position of the taxpayer.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

For further information on transfer pricing in Panama please contact:

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# Peru

## Does your country have local transfer pricing laws?

Yes. Article 32-A of the Peruvian Income Tax Law introduced transfer pricing rules about transactions between related parties (domestic and international) as well transactions with tax havens. These rules are applicable for transactions involving all kind of goods and services.

Legislative Decree N° 1312 has also been introduced to amend the Peruvian transfer pricing reporting requirements by implementing the changes proposed by the OECD under the BEPS Action 13 final report. This Legislative Decree provides that the comparable uncontrolled price method is the most appropriate transfer pricing method for commodity transactions between associated enterprises using a quoted price as a reference to determine the arm's length price.

In addition, general transfer pricing guidelines have been introduced for intra-group services and, in particular, for services that qualify as 'low value-adding intra-group services'. The Tax Regulation is not yet published.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. Subsection h) of Article 32-A of the Peruvian Tax Income Law establishes the OECD Guidelines as a source of interpreting the local pricing regulations. This is because the Guidelines do not oppose the provisions approved by the Peruvian Tax Income Law.

## What is the effective date of your transfer pricing regulations?

1 January 2017.

## Is the preparation of transfer pricing documentation mandatory?

Yes. In accordance with the Legislative Decree N° 1311, section 27 of article 177 and item 27 of section 5 of Tables of Infringement and Penalties I, II and III of the Peruvian Tax Code, it is a requirement for taxpayers to present or submit documentation or information relating to the Local File, Master File and Country-by-Country Report.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

Other methods may also be applied to determine the market value when due to the nature and characteristics of the activities and transactions, it is not appropriate to apply any of the five methods previously established in the Peruvian Tax Income Law.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

The Tax Administration (SUNAT) accepts global and regional comparable companies. Article 32-A of the Peruvian Income Tax Law mentions that if there is no comparable local benchmarking information available, taxpayers can use the information of foreign companies, and must make the necessary adjustments to reflect the differences in the markets.

## When should transfer pricing documentation be prepared?

There is currently limited guidance on when transfer pricing documentation should be prepared. However, the forthcoming Tax Regulation will define additional information about this point.

### What transfer pricing developments have occurred in the past 12 months?

The implementation of the OECD propositions under the Base Erosion Profit Shifting (BEPS) Action 13 final report.

### What transfer pricing developments are expected over the next three years?

A correct implementation of the Master File and CxC Report.

### What are the penalties for not complying with your local transfer pricing rules?

In Peru, transfer pricing penalties are expressed in tax units (UIT) which for fiscal year 2017 were equal to PEN 4,050, amounting to approx. US\$1,245. Taxpayers that fail to comply with the obligation to file the formal requirement (Local File, Master File and Country-by-Country Reporting) according to the dates established by the tax authorities, will be subject to a fine of 0.6% of the net income reported in the previous fiscal year subject to revision. The penalty cannot be less than 10% of a tax unit nor more than 25 tax units. A 100% penalty reduction applies if the taxpayer files any of the formal requirements after the due date, but before it is detected and required to its fulfillment by the tax authorities.

### Are there transfer pricing related disclosures in the tax return?

Yes. Taxpayers are required to disclose transfer pricing adjustments in their tax return.

### Are there exemptions to transfer pricing rules in your country?

Yes, the following exemptions may apply:

- taxpayers are exempt from filing the Informative Return Local File when their revenues are lower than 2,300 tax units (approximately PEN 9,315,000 (US\$2,863,500))
- taxpayers are exempt from filing the Informative Return Master File when their revenues are lower than 20,000 tax units (approximately PEN 81,000,000 (US\$24,900,000)).

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes. Taxpayers are required to prepare the documentation in Spanish.

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# Philippines

## Does your country have local transfer pricing laws?

Yes. The basic law is contained in Section 50 of the Tax Code as implemented by the Revenue Regulations No. 2-2013.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. Sec. 2 of the Regulations specifically mentions that the law is largely based on the methodologies contained in the OECD Guidelines. Procedures for the MAP and discussions on the arm's length principle also make reference to the OECD Guidelines. An endnote also refers to the OECD Guidelines for further guidance and examples.

## What is the effective date of your transfer pricing regulations?

9 February 2013.

## Is the preparation of transfer pricing documentation mandatory?

No.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

Use of other methods or approaches are also allowed in exceptional cases when there are no comparables or sufficient data to apply the above methodologies.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

There are no provisions in the regulations specifying preference for either local or global comparable companies. In practice, comparable companies are initially sought locally. Usually, regional or global comparable companies are used only in the absence or insufficiency of local comparables.

## When should transfer pricing documentation be prepared?

The regulations provide that the documentation should be contemporaneous.

## What are the penalties for not complying with your local transfer pricing rules?

The regulations refer to the general penalties. For failure to submit information returns and other documents, there is a minimal penalty of US\$20. The tax law also imposes interest of 20% per year and a 25% surcharge on deficiency taxes. The Tax Bureau has not issued clarifications on how these will be applied.



## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	X
Are CbC Report requirements consistent with BEPS Action 13?	N/A
Are the Master File requirements consistent with BEPS Action 13?	N/A
Are the Local File requirements consistent with BEPS Action 13?	N/A
Revenue threshold for CbCR to apply	N/A
Signatory of the OECD Multilateral Competent Authority Agreement	X
Filing due date	N/A
Are the Master File and Local File lodged with the local tax authority?	N/A
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

None. Although the Tax Bureau has included transfer pricing in its 2016-2020 strategic plan (establishment of the approach, identification of required skills and expertise, reporting requirements and organisational arrangements).

### What transfer pricing developments are expected over the next three years?

The Bureau has exposed a draft APA regulation which they expect to issue. They said they will also issue clarifications and rules to implement the transfer pricing guidelines.

### Are there transfer pricing related disclosures in the tax return?

There are no transfer pricing related disclosures in the tax return. However, there are required disclosures in the Financial Statements which are submitted together with the annual income tax return covering related party transactions (amounts in the current year, balances in prior years, the related party and brief description of the transaction).

### Are there exemptions to transfer pricing rules in your country?

No.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

The Tax Bureau has included transfer pricing in its 2016-2020 strategic plan, including establishment of the approach, identification of required skills and expertise, reporting requirements and organisational arrangements.

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# Poland

## Does your country have local transfer pricing laws?

Yes. The Polish transfer pricing regulations are based on the guidelines and requirements contained in the OECD BEPS Action 13 report. According to the local regulation, Polish entities are obliged to prepare a three-step transfer pricing study including:

- Local File
- benchmarking study, and
- Master File.

The obligations regarding preparing transfer pricing documentation refer to taxpayers which have transactions with local related parties as well as those that have cross-border intercompany transactions.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. The Polish transfer pricing regulations are consistent with the OECD BEPS Action 13 report.

## What is the effective date of your transfer pricing regulations?

1 January 2017.

## Is the preparation of transfer pricing documentation mandatory?

Yes. According to the local transfer pricing regulations, Polish taxpayers are liable for preparing transfer pricing documentation if the value of their related party transactions exceeds a specific threshold. The thresholds are dependent on the revenue or costs gained/incurred by taxpayers in the fiscal years preceeding the year for which the obligation is determined and the thresholds are stipulated individually for each taxpayer.

Transfer pricing study prepared by Polish entities consists of the following elements:

- Local File (refers to taxpayers with turnover or costs which exceed the threshold of €2 million)
- benchmarking study (refers to taxpayers with turnover or costs which exceed the threshold of €10 million)
- Master File (refers to taxpayers with turnover or costs which exceed the threshold of €20 million).

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

According to the local transfer pricing regulations, benchmarking studies shall be based on local comparable companies. Benchmarking studies based on global or regional comparable companies are only accepted if data concerning local comparable companies is not available.

## When should transfer pricing documentation be prepared?

According to the transfer pricing regulations introduced in Poland on 1 January 2017, taxpayers are obliged to prepare transfer pricing documentation prior to submitting tax returns to the tax office.

## What are the penalties for not complying with your local transfer pricing rules?

When a taxpayer does not prepare transfer pricing documentation and the terms of the transactions are not consistent with the arm's length principle, the tax authorities may apply the penalty tax rate of 50% (the standard tax rate is 19%). Additionally there are some penalties for the members of management boards and individuals responsible for financial affairs in the company.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	Not strictly specified

### What transfer pricing developments have occurred in the past 12 months?

Tax authorities have continued their policy aimed at enforcing transfer pricing rules.

### What transfer pricing developments are expected over the next three years?

Polish tax authorities are going to introduce new transfer pricing regulations limiting the value of costs related to intangible assets and services which may be recognised as tax deductible costs.

### Are there transfer pricing related disclosures in the tax return?

Yes. Polish taxpayers are required to attach to the tax return the statement regarding intercompany transactions including information regarding the types and values of those transactions.

### Are there exemptions to transfer pricing rules in your country?

Yes. Exemptions are available to members of tax capital groups and some entities supplying agricultural products. According to the local transfer pricing rules, exempt taxpayers are not obliged to prepare transfer pricing studies, nor do they need to demonstrate their dealings are consistent with arm's length conditions.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes. The transfer pricing documentation needs to be prepared in Polish.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Audits in the area of transfer pricing are mainly combined with the CIT audits. Transfer pricing is currently the main area of interest for local tax authorities which are implementing numerous initiatives aimed to raise the efficiency of audits. The main actions taken last time by Polish tax authorities consisted of setting up competence centres responsible for reviewing transfer pricing studies of audited taxpayers, acquiring the access to advanced databases and employing experienced transfer pricing experts.

### What are the current transfer pricing audit areas in your jurisdiction?

Current transfer pricing audits in Poland are focused mainly on entities operating within multinational groups of entities, where intangibles assets and services are present.

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#### **Does your country have local transfer pricing laws?**

Yes. The local transfer pricing laws are contained in CIT Law, article 63 and a specific decree (Portaria 1446-C/2001).

#### **Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?**

Yes.

#### **Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?**

No.

#### **What is the effective date of your transfer pricing regulations?**

1 January 1998.

#### **Is the preparation of transfer pricing documentation mandatory?**

Yes. It is mandatory for taxpayers to prepare transfer pricing documentation if their turnover exceeds €3 million.

#### **What transfer pricing methodologies are acceptable?**

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

#### **Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?**

Local, regional and global comparable companies are accepted.

#### **When should transfer pricing documentation be prepared?**

Transfer pricing documentation should be prepared by 15 July of the following year.

#### **What are the penalties for not complying with your local transfer pricing rules?**

A fine ranging from €1,000 to €10,000 may be applied if a taxpayer does not maintain the required transfer pricing documentation.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	X
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	€1,000

### What transfer pricing developments have occurred in the past 12 months?

CbCR and BEPS.

### What transfer pricing developments are expected over the next three years?

Developments as a result of BEPS implementation.

### Are there transfer pricing related disclosures in the tax return?

It is compulsory to disclose in the annual tax return information on the taxpayer's transfer pricing operations and the methods applied to price its related party dealings.

### Are there exemptions to transfer pricing rules in your country?

Yes.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Quite active and there is a specific taskforce for transfer pricing.

### What are the current transfer pricing audit areas in your jurisdiction?

Compliance issues are the main focus.

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# Romania

## Does your country have local transfer pricing laws?

Yes. The Romanian transfer pricing legislative framework includes the following:

- Law 227/2015 regarding the Fiscal Code as well as the Application Norms (Government Decision 1/2016)
- Law 207/2015 regarding the Fiscal Procedure Code
- NAFA President Order 442/2016 on the documentation thresholds, deadlines for the preparation and the content of the transfer pricing file, the rules for examination, as well as the procedure for adjusting and estimating the transfer prices to be used by the tax authorities, and
- NAFA President Order 3735/2015 approving the procedure for the issuance and modification of advance pricing agreements, as well as the content of the application for the issuance or modification of the advance pricing agreement.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. Although Romania is not a member of the OECD, the Romanian Fiscal Code and the related Norms provide that, in the application of transfer pricing rules, the Romanian tax authorities will also consider the OECD Guidelines. In addition, the legislation also refers to the EU Code of Conduct on transfer pricing documentation.

## What is the effective date of your transfer pricing regulations?

1 January 2016.

## Is the preparation of transfer pricing documentation mandatory?

Yes. Large taxpayers that perform transactions with related parties with a total annual value, computed by summation of the value of the transactions performed with all related parties, excluding VAT, higher or equal to any of the thresholds set out below, have the obligation to prepare the transfer pricing file on an annual basis.

The thresholds for the aforementioned taxpayers, by type of transactions, are as follows:

- €200,000, in the case of interest received/paid for financial services
- €250,000, in the case of transactions representing services rendered/received, and
- €350,000, in the case of transactions representing purchase/sale of tangible or intangible goods.

Large taxpayers that do not fulfill the criteria set out above, as well as small and medium-sized taxpayers, which perform transactions with related parties with a total annual value, computed by summation of the value of the transactions performed with all related parties, excluding VAT, higher or equal to any of the thresholds set out below, have the obligation to prepare and present the transfer pricing file only upon request of the tax authorities during a tax inspection.

The thresholds for the aforementioned taxpayers, by type of transaction, are as follows:

- €50,000, in the case of interest received/paid for financial services
- €50,000, in the case of transactions representing services rendered/received, and
- €100,000, in the case of transactions representing purchase/sale of tangible or intangible goods.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin, profit split and any other method recognised by the OECD.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	No (automatic exchange of information only with the EU member states, based on the EU Directive 2016/881/EU)
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	Only Local File must be submitted upon the written formal request of the tax authorities, during a tax audit
Maximum penalties for non-compliance	RON 14,000

### What transfer pricing developments have occurred in the past 12 months?

Romania has implemented the EU Directive 016/881/EU regarding the automatic exchange of information for tax purposes in relation to the Country-by-Country Reporting. The Romanian subsidiary members of an MNE Group subject to CbC reporting must notify the Romanian tax authorities on the identity and the tax residence country of the ultimate parent or of the surrogate parent in charge with CbC report filing.

### What transfer pricing developments are expected over the next three years?

The business and tax advisory environment is requesting the following changes to be included in the transfer pricing legislation, with the aim of reducing the transfer pricing disputes and avoid double taxation:

- increase of the deadline for the preparation of the mandatory annual transfer pricing file to 180 days from the end of the year concerned
- regulation of the roll-back advance pricing agreement
- issuance of the norms for the mutual agreement procedure
- publication of guidance on transfer pricing rules on the official website of the Romanian tax authorities.

### Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

The Order 442/2016 requires the comparability analysis to start with local comparable companies. If not enough comparable companies are identified, the search could be extended to European, pan European and worldwide companies.

In practice, in order for an European/pan-European search to be accepted, the Romanian tax authorities want to see in the transfer pricing files the print screen of the searches in the databases, showing a limited number of results for searches conducted only on Romanian companies.

### When should transfer pricing documentation be prepared?

The deadline for large taxpayers for preparing the transfer pricing file is the legal deadline established for submitting the annual corporate income tax returns. The deadline for presenting the transfer pricing file upon the request of the tax authorities is of maximum 10 calendar days from the date of the request, but not earlier than 10 days from the expiry of the deadline established for its preparation.

For other taxpayers, the deadline for the presentation of the transfer pricing file upon the request of the tax authorities may span between 30 and 60 calendar days, with the possibility of a single extension, with a period of maximum 30 calendar days.

### **What are the penalties for not complying with your local transfer pricing rules?**

The fine for failing to prepare the transfer pricing file in the time required by the tax authorities ranges between RON 12,000 (about €2,600) and RON 14,000 (about €3,100 EUR) for big size and medium size taxpayers. The fine for small taxpayers or individuals is between RON 2,000 (about €450) and RON 3,500 (about €750).

In addition, not preparing the transfer pricing file or providing an incomplete file triggers the estimation of the transfer prices performed by the Romanian tax authorities. The estimation of the transfer prices is made by using the median value of the comparability range, as built by the tax authorities.

### **Are there transfer pricing related disclosures in the tax return?**

No.

### **Are there exemptions to transfer pricing rules in your country?**

No.

### **Does transfer pricing documentation need to be prepared in a language other than English?**

Yes. Transfer pricing documentation must be prepared in Romanian language.

### **How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?**

The number of transfer pricing audits and the transfer pricing adjustments made in Romania after the publication of Order 442/2016 increased significantly.

The transfer pricing audits are performed by the same tax auditors that perform the regular tax audits. TP specialists located in the regional or central tax authority's divisions have access to databases and may provide technical advice to the tax auditors.

### **What are the current transfer pricing audit areas in your jurisdiction?**

The transfer pricing audits are conducted via a risk analysis performed by the Romanian tax authorities. Companies with recurrent losses are a focus of their transfer pricing scrutiny.

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# **Russia**

## **Does your country have local transfer pricing laws?**

Yes, based on the Tax Code of the Russian Federation. Chapter V.1.

‘Related parties and international groups of companies. General provisions on prices and taxation. Tax control in connection with performance of transactions between related parties. Pricing agreement. Documentation for international groups of companies’.

The Chapter is approved by Federal law no. 227-FZ 07/18/2011.

## **Do your country’s transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?**

Priority is given to local legislation. OECD Guidelines were taken into account when drafting local legislation.

## **Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?**

No.

## **What is the effective date of your transfer pricing regulations?**

1 January 2012.

## **Is the preparation of transfer pricing documentation mandatory?**

No.

## **What transfer pricing methodologies are acceptable?**

Acceptable transfer pricing methods include: comparable uncontrolled price (CUP), cost plus, resale price, transactional net margin method, profit split method, a combinations of methods and valuation methods in difficult cases.

## **Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?**

The companies whose markets and activities are comparable to the tested party markets and activities should be analyzed in order to determine the arm’s length profit margin range.

## **When should transfer pricing documentation be prepared?**

Taxpayers must report to the tax authorities on the controlled transactions no later than 20 May of the calendar year following the year when the specific controlled transaction took place.

TP documentation shall be provided to the tax authorities within 30 days from the date of the request issued by tax authorities but not earlier than 1 June of the following year.

## **What are the penalties for not complying with your local transfer pricing rules?**

Starting from 2017, a 40% penalty will be imposed in cases of a transfer pricing adjustment. Submission of TP documentation protects a taxpayer from penalties even if an adjustment is made.

For a late payment, interest on the amount of the assessment is approximately 10% per annum.

Penalties are also imposed for failure to disclose controlled transactions. The amount is RUB 5000 (approximately US\$80) for every transaction unreported in the Notification.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	
Are the Master File requirements consistent with BEPS Action 13?	Priority is given to local legislation. BEPS Action 13 was taken into account when drafting local legislation
Are the Local File requirements consistent with BEPS Action 13?	
Revenue threshold for CbCR to apply	RUB 50 billion/approx. USD 900 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after reporting period
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	Sanctions do not apply for FY 2017-2019. Later – from 50,000 to 350,000 RUB

### What transfer pricing developments have occurred in the past 12 months?

- 1 Notifications of participation in an international group of companies.
- 2 Country information on the international group of companies:
  - Global documentation (similar to Master File)
  - National documentation (similar to Local File)
  - Country-by-Country Report (CbCR)

### Are there transfer pricing related disclosures in the tax return?

Yes. Notification on controlled transactions – Declaration that contains a very wide range of information on controlled transactions has to be submitted to the tax authorities not later than 20 May annually.

Also transfer pricing adjustments (if any) are reflected in the main tax return not later than 28 March annually.

### Are there exemptions to transfer pricing rules in your country?

The transactions to which the state regulation of prices/profits is applied are exempt from control.

### Advance pricing agreement (APA)

- Cross-border transactions with the amount less than the threshold (RUB 60 million (approximately US\$1 million) per calendar year).
- Domestic transactions with the amount less than the threshold (RUB 1 billion (approximately US\$18 million) per calendar year).
- Domestic transactions between parties of a tax consolidation agreement, and in some other cases.

### Does transfer pricing documentation need to be prepared in a language other than English?

TP documentation has to be filed to the Russian tax authorities in Russian.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Year-to-year local regulatory documents and laws are being improved and the number of control measures is increasing at a rapid pace. The Department of Transfer Pricing was established as part of the Federal Tax Service.

### What are the current transfer pricing audit areas in your jurisdiction?

Most cross-border transactions with commodities, financial transactions and transactions with intangible assets.

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# Serbia

## Does your country have local transfer pricing laws?

Yes. The following are the main characteristics of the Serbian transfer pricing rules:

- rules on transfer pricing have been present in Serbia since 2001, and in July 2013, the Serbian Ministry of Finance issued specific regulations on the application of the transfer pricing rules
- the tax authority in the Republic of Serbia is the Tax Administration of Serbia
- an entity is deemed a related party if it has the possibility of control or considerable influence on the business decisions made (at least 25 percent of the shares in the capital, direct or indirect ownership). Members of the immediate family are considered related parties. In addition, any company which is a resident of a jurisdiction with a preferential tax system is deemed to be a related party (51 tax jurisdictions prescribed by the Ministry of Finance)
- a taxpayer is obliged to prepare and submit documentation presenting related party transactions at both transfer and arm's length prices along with their annual tax return
- Serbian transfer pricing rules do not contain any specific provisions in relation to business restructurings
- transfer pricing study might be prepared by the taxpayer
- APAs are not available to taxpayers.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Serbia is not an OECD member, however the transfer pricing rules follow the OECD Guidelines (except for interest rates on loans granted to or from shareholders or related parties).

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. Regulations on the application of the transfer pricing rules were published by the Ministry of Finance in 2013.

The transfer pricing rules in Serbia are regulated by:

- CIT Law, articles 59, 60, 61, 61a and 62
- Rulebook on Transfer Prices and Methods Applied for Determining Prices in Related Party Transactions in Accordance with the Arm's Length Principle (Rulebook)
- Rulebook on arm's length interest rates (Interest Rates Rulebook, providing a simplified option for assessing intercompany loans).

The Rulebook aligns the Serbian rules with the OECD Guidelines.

## What is the effective date of your transfer pricing regulations?

20 July 2013.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	X
Are CbC Report requirements consistent with BEPS Action 13?	N/A
Are the Master File requirements consistent with BEPS Action 13?	X
Are the Local File requirements consistent with BEPS Action 13?	X
Revenue threshold for CbCR to apply	N/A
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	180 days from the observed period end
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	€16,500

### What transfer pricing developments have occurred in the past 12 months?

The transfer pricing rules have not changed since 2013.

### What transfer pricing developments are expected over the next three years?

Serbia is expecting developments regarding BEPS.

### Is the preparation of transfer pricing documentation mandatory?

Yes. A taxpayer that carries out transactions with its related parties (foreign and Serbian) is obligated to prepare and submit transfer pricing documentation along with their annual tax return.

Preparing the transfer pricing report is mandatory for all kinds of transactions with related parties. In addition, the Serbian Rulebook defines a materiality threshold (one-off transactions amounting up to RSD 8 million (€70,000 approximately), or transactions with one related party amounting up to RSD 8 million).

For the eligible transactions, a short version of the transfer pricing report (simplified) may be submitted. Financial transactions (loans) are excluded from the simplified documentation option.

The transfer pricing documentation prepared is required to contain the following:

- analysis of the group and the taxpayer
- industry analysis
- functional analysis
- selection of transfer pricing method
- conclusions reached
- appendices
- short form report should including the following information:
  - a description of the transaction
  - transaction value, and
  - associated enterprise (related party) involved in transaction.

### What transfer pricing methodologies are acceptable?

Serbia applies the best method approach for conducting transfer pricing analysis. Combinations of the several methods can be implemented. Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin, profit split and any other method that complies with the arm's length principle.

Interest rates can also be assessed using an interest rate prescribed as arm's length by the Ministry of Finance.

### Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

The benchmarking analysis must start by identifying local comparable companies, and if there are not enough local comparable companies, global or regional comparable companies will be accepted.

### When should transfer pricing documentation be prepared?

The deadline for submitting documentation is 180 days from the observed period end, and an additional period of 90 days can be granted on request. The documentation is submitted along with the annual tax return (for most companies the deadline is 29-30 June).

### What are the penalties for not complying with your local transfer pricing rules?

For non-disclosure of transfer pricing transactions as well as documentation, penalties may range from RSD 100,000 up to RSD 2,000,000 (€800 to €16,500). Additional penalties of up to 25 percent of the understated tax liabilities may be applied.

### **Are there transfer pricing related disclosures in the tax return?**

Yes. Serbian taxpayers need to disclose their related party transactions (revenues and costs) in section 5 of the annual tax return. In the same section of the tax return, the taxpayers need to disclose amounts that fall under materiality threshold.

In section 6 of the annual tax return, the total amount of transactions (revenues and costs) from the financial transactions (loans) needs to be disclosed.

In section 7, taxpayers are required to disclose the amount of the tax base adjustment relating to transfer pricing, if any.

### **Are there exemptions to transfer pricing rules in your country?**

Yes. The Serbian Rulebook defines a materiality threshold (one-off transactions amounting up to RSD 8 million (€70,000 approximately), or transactions with one related party amounting up to RSD 8 million). For those transactions, a short version of the transfer pricing report (simplified) may be submitted. Financial transactions (loans) are excluded from the simplified documentation option.

### **Does transfer pricing documentation need to be prepared in a language other than English?**

Yes. The documentation has to be prepared in Serbian language.

### **How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?**

Transfer pricing is reviewed within the scope of tax audits which are not conducted on a regular basis. Tax audits are usually conducted once in a period of three to five years (covering all tax questions; VAT audits might be more frequent).

The general statute of limitation for transfer pricing (and other taxes) is set at five years in Serbia (from from the day when the period of limitation commenced).

Serbian tax administration has no dedicated transfer pricing task force at the moment. The lack of transfer pricing practice for tax auditors is evident, and sophisticated techniques usually are not used during tax audits.

### **What are the current transfer pricing audit areas in your jurisdiction?**

There is no specific area of focus for tax administration. During tax audits authorities are challenging the methods, comparables, etc.

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# Singapore

## Does your country have local transfer pricing laws?

Yes. The Income Tax Act (ITA) was updated in 2017 and the main transfer pricing laws are contained in Sections 34D, 34E and 34F of the ITA. Section 34D empowers the Inland Revenue Authority of Singapore (IRAS) to make transfer pricing adjustments in cases where a Singapore taxpayer's transfer pricing practices are not consistent with the arm's-length principle. Section 34E describes the applicable surcharge on transfer pricing adjustments that will be effective from year of assessment (YA) 2019 (ie financial year 2018). Singapore brought in contemporaneous rules, effective from YA2016 via Guidelines. Section 34F of the ITA now contains contemporaneous transfer pricing documentation legislation that will be effective YA2019.

Singapore issued the first edition of Transfer Pricing Guidelines (Singapore Transfer Pricing Guidelines) in 2006. The Singapore Transfer Pricing Guidelines were subsequently updated in 2015, 2016 and 2017. The latest edition was published in 2018.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Singapore's transfer pricing rules are aligned with the international transfer pricing standards set out in the OECD Guidelines for multinational enterprises and tax administrations.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

The Singapore Transfer Pricing Guidelines state that the IRAS generally takes guidance from the OECD Guidelines.

## What is the effective date of your transfer pricing regulations?

The arm's length principle is enacted in section 34D of the ITA. Section 34E and 34F on transfer pricing surcharge and transfer pricing documentation will be effective YA2019. Meanwhile, Singapore follows the aforementioned Guidelines.

## Is the preparation of transfer pricing documentation mandatory?

Based on the Singapore Transfer Pricing Guidelines, preparation of contemporaneous transfer pricing documentation has been mandatory since YA2016 unless the taxpayers meet the conditions for exemption. More detailed rules on contemporaneous transfer pricing documentations were also included in the ITA in 2017 and these rules will be effective YA2019.

## What transfer pricing methodologies are acceptable?

IRAS does not have a specific preference for any one method outlined in the OECD Guidelines. The method that produces the most reliable results, taking into account the quality of available data and the degree of accuracy of adjustments, should be selected.

## Does your revenue authority accept global or regional comparable companies, or are only local comparable companies accepted?

In general, the IRAS's preference is that local comparable companies are selected if they can be identified. However, the IRAS may accept non-Singaporean based comparable companies where the taxpayer can demonstrate that they have searched for, but could not identify, sufficient Singaporean-based comparable companies.

## When should transfer pricing documentation be prepared?

Transfer pricing documentation needs to be contemporaneous with the entity's financial year. However, in practice, IRAS accepts that documentation is contemporaneous if it is prepared on or before the filing of the annual income tax return.

## What are the penalties for not complying with your local transfer pricing rules?

Failure to prepare the required transfer pricing documentation without reasonable excuse constitutes an offence and the penalty can be up to S\$1,000<sup>1</sup>. In addition, effective YA2019, where the IRAS makes a transfer pricing adjustment, a surcharge of 5% will be applied to the adjusted amount.

<sup>1</sup> Penalties for not preparing contemporaneous transfer pricing documentation will increase to S\$10,000 effective YA2019.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓ <sup>2</sup>
Are the Local File requirements consistent with BEPS Action 13?	✓ <sup>3</sup>
Revenue threshold for CbCR to apply	S\$1,125 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	S\$1,000 <sup>4</sup>

### What transfer pricing developments have occurred in the past 12 months?

The Income Tax (Amendment) Bill 2017 (the Bill) was passed in Parliament in October 2017.

The Bill introduces some changes to Singapore's transfer pricing rules. The key changes are as follows:

- preparation of contemporaneous TPD from YA 2019 (when a certain threshold is met)
- increase in penalty for not preparing contemporaneous transfer pricing documentation to S\$ 10,000
- a 5% surcharge on the amount of transfer pricing adjustments.

### What transfer pricing developments are expected over the next three years?

The IRAS has introduced a number of changes in its transfer pricing landscape over the past few years, including introduction of contemporaneous transfer pricing documentation, RPT reporting requirement, increasing the penalty for transfer pricing non-compliance, etc.

These changes reflect the IRAS's focus on targeting tax avoidance measures entered into by MNEs. However, we also expect Singapore's government will continue to maintain its reputation as a business-friendly country. As such, while we expect there will be greater number of companies being selected for review by the IRAS over the next three years, we also expect an increase in the number of mutual agreement procedures and advance pricing agreements being resolved in a timely manner.

### Are there transfer pricing related disclosures in the tax return?

Effective YA2018 (ie financial year 2017), taxpayers must report certain details of related party transactions (RPT) if the value of RPT in the audited accounts for the financial year exceeds \$15,000,000. The Form for Reporting Related Party Transactions should be submitted together with the submission of Form C.

### Are there exemptions to transfer pricing rules in your country?

There is no exemption to transfer pricing rules in Singapore and the arm's length principle should be adopted in all related party transactions. However, taxpayers can be exempted from preparing transfer pricing documentations if they meet certain conditions.

### Does transfer pricing documentation need to be prepared in a language other than English?

Singaporean transfer pricing documentation should be prepared in English. The IRAS may request a translation of any transfer pricing documentation not written in English.

<sup>2</sup> To meet Singapore's contemporaneous documentation requirements, taxpayers should prepare a transfer pricing documentation at Group level and at Entity level which are very similar to the Master File and Local File requirements.

<sup>3</sup> See Note 2.

<sup>4</sup> Penalties for not preparing contemporaneous transfer pricing documentation will increase to S\$10,000 effective YA2019.

**How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?**

The IRAS is increasing its focus on transfer pricing. In our experience there has been an increase in transfer pricing queries on both domestic and cross border related party transactions.

**What are the current transfer pricing audit areas in your jurisdiction?**

The main focus areas of the IRAS include:

- transactions with cross-border related parties that are of a high value relative to the taxpayer's other transactions
- transactions with related parties subject to a more favourable tax treatment
- recurring losses or large swings in operating results, which may be unusual given the functions and assets of the taxpayer and the risks it assumed
- operating results that are not in line with businesses in comparable circumstances
- transactions involving R&D or marketing activities, which could lead to development or enhancement of intangibles
- use of intellectual property, proprietary knowledge or other intangibles in the business
- indications (such as through engagement with tax authorities, a country's audit focus, etc.) that the transactions are likely to be subject to transfer pricing audit by tax authorities.

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# Slovakia

## Does your country have local transfer pricing laws?

Yes. The local transfer pricing laws are contained in the Income tax act No. 595/2003 Coll as later amended and in the Guideline of the Ministry of Finance of the Slovak Republic No MF/014283/2016-724.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

The OECD Guidelines are followed as administrative practice.

## What is the effective date of your transfer pricing regulations?

1 January 2009 for transfer pricing documentation.

## Is the preparation of transfer pricing documentation mandatory?

Yes.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin, profit split and any other method that complies with the arm's length principle.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Local, regional and global comparable companies are accepted.

## When should transfer pricing documentation be prepared?

The transfer pricing documentation for a specific tax period can be requested by the tax authorities only after the corporate income tax return has been filed for the relevant taxation period. The transfer pricing documentation should be submitted to the tax authorities within 15 days following their request.

## What are the penalties for not complying with your local transfer pricing rules?

Penalties of up to €3,000 may be applied in the case that the taxpayers do not have transfer pricing documentation prepared. This penalty may be imposed repeatedly until the transfer pricing documentation is submitted to the tax authorities. In cases where the prices are not arm's length, the tax authority may assess the additional tax payable and a penalty of 10% per annum may be applied based on the additional assessed amount for each tax year.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	X
Are the Local File requirements consistent with BEPS Action 13?	X
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	€3,000 (subsidiary)/€10,000 (parent company) repeatedly

### What transfer pricing developments have occurred in the past 12 months?

CbC reporting implementation.

### What transfer pricing developments are expected over the next three years?

More focus on TP tax audits.

### Are there transfer pricing related disclosures in the tax return?

Yes. Taxpayers are required to include an overview of the amount of related party transactions in the corporate income tax return.

### Are there exemptions to transfer pricing rules in your country?

No.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes. The transfer pricing documentation should be prepared in Slovak language but the English language should be accepted also.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Our tax authorities focus on transfer pricing and a special task force has been created.

### What are the current transfer pricing audit areas in your jurisdiction?

The transfer pricing audit which began in 2017 can review tax return filed for taxation period 2006. We see in practice that the tax authorities are reviewing tax periods from 2012 onwards.

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# South Africa

## Does your country have local transfer pricing laws?

Yes, South Africa has both retention and submission requirements.

### Retention requirement

Transfer Pricing in South Africa is regulated by section 31 of the South African Income Tax Act, 58 of 1962 (the Act), with supporting guidance provided by Practice Note 7 (PN7), the Addendum to PN7 and the OECD Guidelines.

The rules require those subject to tax in South Africa to follow arm's-length principles in their dealings with inter alia connected persons who are not tax residents of South Africa.

Section 31, read in conjunction with PN7, aims to counter tax losses brought about by non-arm's length pricing. This is achieved by requiring a taxpayer to ensure that the consideration paid or received in terms of a transaction between connected parties occurs at arm's length. The rules do not apply to transactions between third parties, as one of the criteria is that the parties must be legally connected in terms of section 1 of the Act.

The current legislation permits The South African Revenue Service (SARS) to adjust the terms and conditions of an intercompany transaction where SARS is of the view these terms and conditions are not in accordance with the arm's length principle. SARS is permitted to review the overall transaction, operation, scheme, arrangement, agreement or understanding of which the transaction forms part. It's the taxpayer's obligation to prove that the transactions with connected parties take place at arm's length.

Therefore, the legislation effectively allows for the re-characterisation of transactions as described in the OECD Guidelines. Additionally, a domestic transaction which forms part of an overall arrangement with a cross border nexus may also be caught by the provisions. This highlights the importance of undertaking a detailed transfer pricing study that includes a robust functional analysis.

PN7 advises taxpayers to:

- establish economic justification before a transaction is entered into, which requires the South African resident connected to the transaction to establish whether a service has been rendered as envisaged in Chapter VII of the OECD Guidelines

- establish and consistently follow a systematic process for setting arm's length transfer prices
- justify the choice of the methodology used to determine the arm's length price
- be satisfied that the actual consideration is arm's length
- retain contemporaneous documentation to support the above matters and the assessment of market conditions at the time when the pricing was made.

Although PN7 is merely a guideline and does not form part of the law as such, it is nevertheless the starting point for a taxpayer in formulating its transfer pricing policies as far as it concerns its cross-border transactions with connected parties.

SARS published specific regulations for Country-by-Country Reporting in line with the OECD/G20 BEPS Project on transfer pricing documentation and Country-by-Country Reporting, Action Point 13.

The consolidated group revenue threshold for Country-by-Country Reporting in South Africa is R10 billion. Therefore, any South African multinational company that forms part of a group which meets the revenue threshold will either have to file a Country-by-Country Report or notify SARS 12 months after the last day of the reporting fiscal year of the entity filing the Country-by-Country Report within the group.

Currently no case law exists in South Africa surrounding transfer pricing, so guidance must be sought from international sources.

### Submission requirement

The South African transfer pricing submission requirements for a Master File and Local File have been finalised and the effective date is for financial years starting on or after 1 October 2016. The Master File and South African Local File will have to be submitted to SARS 12 months after financial year end, meaning the first reports (files) are due to be submitted by 30 September 2018. The overall threshold for the submission of a Master File and Local File is R100 million. It's important to keep in mind that the R100 million is the gross amount of all cross border related party inbound and outbound transactions added together and includes capital loan balances.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	R10 billion
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	A fixed penalty of R16,000 as per the table in section 211 of the Tax Admin Act No. 28 of 2011. There are specific understatement and compliance penalties which can be up to 200% of the primary adjustment. Secondary adjustments may also be applied.

### What transfer pricing developments have occurred in the past 12 months?

South African regulations for Country-by-Country Reporting (CbCr) were gazetted on 23 December 2016. MNE Group companies are now obliged to report certain information in line with the BEPS project which is directed by the OECD.

Additionally, during October 2017 the South African transfer pricing submission requirements for a Master File and Local File were finalised.

### What transfer pricing developments are expected over the next three years?

Subsequent to the finalisation of the CbCr and Master File and Local File submission requirements, it is expected that further BEPS action points will be introduced.

### Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

There are some reservations, specifically in regards to the authorised OECD approach and the determination of a beneficial cost base for low value adding services. But generally South Africa follows the OECD Guidelines.

### Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

### Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

The OECD Guidelines are referenced in local South African legislation and are followed unless in contradiction to local law generally.

### What is the effective date of your transfer pricing regulations?

Transfer pricing regulations have been in force since 1995.

The effective date for the retention and submission requirements (as discussed above) is for financial years commencing on or after 1 October 2016.

### Is the preparation of transfer pricing documentation mandatory?

As discussed above, South Africa has both retention and submission requirements.

#### Retention requirement

On 28 October 2016, SARS published a public notice (Final Notice) that introduced compulsory transfer pricing record keeping requirements. In terms of the Final Notice, a taxpayer must keep records where the taxpayer has entered into a potentially affected transaction (as defined in 31 of the Act) and the aggregate of the taxpayer's potentially affected transactions for the year of assessment, without offsetting any potentially affected transactions against one another, exceeds or is reasonably expected to exceed R100 million. Taxpayers meeting this requirement are referred to as Affected Persons.

#### Submission requirements

South Africa taxpayers must submit Master File and Local Files as part of their tax return to SARS. The specific content required in the Master File and Local File is as stipulated in the updated OECD Guidelines of 2017.

### What transfer pricing methodologies are acceptable?

As per OECD Guidelines. Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

### **Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?**

Local, regional and global comparable companies are accepted, although SARS has indicated a preference for local comparables. In the absence of such comparables SARS will accept the most closely comparable companies in various jurisdictions. Our internal preference to attain such comparability is to utilise a country risk profile approach.

### **When should transfer pricing documentation be prepared?**

Transfer pricing documentation should be prepared based on the lodging of the tax return or within 12 months of a taxpayer's financial year end, whichever is earlier. Transfer pricing documentation includes a Master File, Local File and 'retention' file which is generally the Local File with a number of additional annexures.

### **What are the penalties for not complying with your local transfer pricing rules?**

There are specific understatement and compliance penalties which can be up to 200% of the primary adjustment. Secondary adjustments may also be applied.

### **Are there transfer pricing related disclosures in the tax return?**

Yes. South Africa has various transfer pricing related disclosures in the tax return including revenue and expenditure amounts which must be listed per country. There are seven specific transfer pricing questions in the tax return and taxpayers must also disclose specific thin capitalisation gearing ratios.

Finally, qualifying taxpayers must attach their Master File and Local File to their tax returns. Not attaching the documents will result in non compliance and potentially additional interest and penalties. SARS has also indicated that non compliance by a company may result in the director's personal tax return submissions being non compliant.

### **Are there exemptions to transfer pricing rules in your country?**

Yes. Exemptions are available for headquarter companies as well as outbound intangible property and financial assistance transactions subject to certain criteria being met.

### **Does transfer pricing documentation need to be prepared in a language other than English?**

No.

### **How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?**

Transfer Pricing is one of the South African government's highest priorities. During the last few budget speeches transfer pricing is highlighted as an additional source of revenue for the fiscus. SARS has a transfer pricing risk identification team which will analyse available information, including tax return disclosures and where risks are identified SARS has a specialised audit transfer pricing team to audit transfer pricing cases. SARS is also currently recruiting and training heavily to increase its capability and capacity.

### **What are the current transfer pricing audit areas in your jurisdiction?**

As there have been no publicly finalised court cases in South Africa in relation to transfer pricing the areas of focus are unknown. This being said, SARS is following other African jurisdictions in it's heightened audit activity.

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# Spain

## Does your country have local transfer pricing laws?

Yes. The transfer pricing rules are contained in the CIT Tax Law 27/2014 and the regulations are contained in the CIT Regulations at the Royal Decree 634/2015.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. The OECD Guidelines are referred to in the local tax law but have not been implemented or extensively described in the CIT law or CIT regulations.

## What is the effective date of your transfer pricing regulations?

15 July 2015.

## Is the preparation of transfer pricing documentation mandatory?

Yes. Spain follows the OECD CbC reporting guidance including:

- 1 Master File
- 2 Local File
- 3 CBC report
- 4 CBC communications and other tax forms related to TP = annual 232 reporting, etc.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin, profit split. Other methods are also accepted after 2015 tax reform.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Local, regional and global comparable companies are accepted. Amadeus is the most accepted database, however, other databases are also accepted.

## When should transfer pricing documentation be prepared?

Transfer pricing documentation is required to be prepared by the day after the last day of the income tax return filing.

## What are the penalties for not complying with your local transfer pricing rules?

A complex penalty system applies which may be applied for lack of documentation or if the transfer pricing policy does not reflect arm's length conditions and the Spanish Revenue authority carries out an adjustment to the income tax return. Secondary adjustments may also be made by the Spanish Revenue authority.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	Not defined by the law so reference to General Tax Act and among them, tax returns non-compliance fines application.

### What transfer pricing developments have occurred in the past 12 months?

In addition to the implementation of CbC reporting, the tax authorities have introduced a specific tax form for reporting annual related party transactions.

### What transfer pricing developments are expected over the next three years?

Further implementation of BEPS action plans are expected.

### Are there transfer pricing related disclosures in the tax return?

Yes. There is a specific tax form to report the intercompany transactions carried out with related parties; entities located in tax havens and related to Patent-Box.

### Are there exemptions to transfer pricing rules in your country?

Yes. There are several scenarios where groups are not required to prepare documentation.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes. The transfer pricing 'documentation needs to be prepared in the Spanish language. However sometimes documentation may be accepted in English.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Spanish Revenue is very active and aggressive in tax audits. TP is a priority in revenue actions and there are specific teams within the Spanish Revenue focused on international tax and TP.

### What are the current transfer pricing audit areas in your jurisdiction?

Authorities are challenging the methods and range.

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# Sweden

## Does your country have local transfer pricing laws?

Yes. The arm's length principle is contained in the local tax law. The guidance for the preparation of transfer pricing documentation is contained in the local tax/administrative law.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. The arm's length principle is interpreted according to the OECD Guidelines. The local documentation regulations are based on chapter 5 of the OECD Guidelines.

## What is the effective date of your transfer pricing regulations?

1 January 2007.

## Is the preparation of transfer pricing documentation mandatory?

Yes. It is mandatory to prepare transfer pricing documentation provided the taxpayer has passed certain thresholds.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin, profit split. Other methods may be applied if they are considered more appropriate.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Local, regional and global comparable companies are accepted.

## When should transfer pricing documentation be prepared?

Annual transfer pricing documentation should preferably be prepared prior to submitting the income tax return. Transfer pricing documentation will be required when requested by the STA.

## What are the penalties for not complying with your local transfer pricing rules?

No specific penalties are applied, however the rules of injunction are applicable. Accordingly, a company or representative can be fined for not complying when asked by the STA.



## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	7 billion SEK
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after end of FY
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	No maximum

### What transfer pricing developments have occurred in the past 12 months?

Updated documentation rules.

### What transfer pricing developments are expected over the next three years?

IP transfers.

### Are there transfer pricing related disclosures in the tax return?

No.

### Are there exemptions to transfer pricing rules in your country?

Yes, small companies are exempt.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Active with a transfer pricing taskforce in place.

### What are the current transfer pricing audit areas in your jurisdiction?

IP transfers, loss-making low risk activities and profits in line with value.

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# Switzerland

## Does your country have local transfer pricing laws?

Switzerland has no formal transfer pricing legislation, although all related party transactions with Swiss entities must be carried out on arm's length terms (Art. 58 Para. 1 lit. b lemma 5 of the Swiss corporate income tax act).

Based on the circular letter number 4 dated 19 March 2004, the Swiss tax authorities emphasise that the OECD Guidelines are to be followed by multinational companies.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

No. In general, Switzerland follows the OECD Guidelines, except for interest rates on loans granted to or from shareholders or related parties.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

No. The OECD Guidelines are not referred to in the Swiss tax laws, but the OECD Guidelines are embedded in the Swiss tax and transfer pricing practice.

## What is the effective date of your transfer pricing regulations?

There are no formal Swiss TP rules, but Switzerland mainly adheres to OECD rules.

## Is the preparation of transfer pricing documentation mandatory?

There is no formal Swiss transfer pricing documentation requirement.

However, a Swiss taxpayer has to prove its tax-deductible expenses whereas the Swiss tax authority has to prove adjustments increasing the taxable profit. If a taxpayer fails to prepare supporting documents, the burden of proof shifts to the taxpayer.

If transfer prices are challenged by the Swiss tax authorities (eg tax audit), the taxpayer must provide supporting documents and information demonstrating sound economic and commercial reasons of related party transactions, and thus, the arm's length nature of transfer prices applied.

## What transfer pricing methodologies are acceptable?

All transfer pricing methodologies are accepted as per the OECD Transfer Pricing Guidelines.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Local, regional and global comparable companies are accepted.

## When should transfer pricing documentation be prepared?

If transfer prices are challenged by the Swiss tax authorities (eg tax audit), the taxpayer must provide supporting documents and information demonstrating sound economic and commercial reasons for related party transactions, and thus, that the arm's length nature of transfer prices applied.

Thus, it is strongly recommended to Swiss taxpayers to prepare and maintain an OECD compliant transfer pricing documentation defending all income and expenses from related party transactions well before this is requested by the Swiss tax authorities.

## What are the penalties for not complying with your local transfer pricing rules?

There are no formal transfer pricing penalties, but general tax penalty rules apply. Transfer pricing adjustments may give rise to potential instances of the Swiss authorities withholding tax as well as Value Added Tax (VAT) consequences.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	No. These files must be provided to the Swiss tax authorities upon request only (ie tax assessment or a tax audit).
Maximum penalties for non-compliance	CHF 250,000

### What transfer pricing developments have occurred in the past 12 months?

An implementation bill for CbCR has been developed by the Swiss parliament.

### What transfer pricing developments are expected over the next three years?

Frequent exchange of information between foreign tax authorities and an increase in frequency of mutual agreement procedures is expected.

### Are there transfer pricing related disclosures in the tax return?

Yes. Taxpayers are required to make disclosures on their intra-group interest expense and income transactions.

### Are there exemptions to transfer pricing rules in your country?

No. There are no thresholds or exemptions to the application of the transfer pricing rules.

### Does transfer pricing documentation need to be prepared in a language other than English?

No. The transfer pricing documentation can be filed in English, German, French or Italian.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

The Swiss tax authorities are actively challenging transfer prices applied. There is no specific transfer pricing taskforce within the Swiss tax authorities, however, the Swiss tax authorities are trained in transfer pricing.

There is a transfer pricing taskforce/team within the SIF. The SIF represents Switzerland's interests in financial, monetary and tax matters not only vis-à-vis partner countries but also in the competent international bodies (ie leverage of transfer pricing knowledge with the Swiss tax authorities). It is committed to good framework conditions to ensure that Switzerland can have a secure, competitive and globally recognised financial centre and business location. The State Secretariat is also responsible for implementing the financial market policy of the Federal Council.

### What are the current transfer pricing audit areas in your jurisdiction?

Transfer prices are reviewed as part of regular tax audits. They mainly focus on low-risk/low-profit companies of all industries as well as on structures involving offshore tax jurisdictions. Moreover, intellectual property transactions, intercompany financing as well as business restructurings are being challenged.

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#### **Does your country have local transfer pricing laws?**

Yes. The local transfer pricing laws are contained in the Transfer Pricing Audit Regulation.

#### **Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?**

Yes.

#### **Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?**

No.

#### **What is the effective date of your transfer pricing regulations?**

1 January 2005.

#### **Is the preparation of transfer pricing documentation mandatory?**

Yes. It is mandatory for taxpayers to prepare transfer pricing documentation where their combined business and non-business revenue exceed TWD 30 million for the filing year.

#### **What transfer pricing methodologies are acceptable?**

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

#### **Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?**

Local, regional and global comparable companies are accepted.

#### **When should transfer pricing documentation be prepared?**

Transfer pricing documentation should be prepared before the filing of the annual corporate income tax return.

#### **What are the penalties for not complying with your local transfer pricing rules?**

The tax office can adjust the taxpayer's net taxable income to a deemed profit margin. In addition, penalties of up to 100% of the tax evaded may apply.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	N/A
Signatory of the OECD Multilateral Competent Authority Agreement	X
Filing due date	12 months after end of fiscal year
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	Deemed profit margin plus 100% of tax evaded

### What transfer pricing developments have occurred in the past 12 months?

We plan to introduce cBc reporting from 2018.

### What transfer pricing developments are expected over the next three years?

CbC reporting and Master File.

### Are there transfer pricing related disclosures in the tax return?

Yes.

### Are there exemptions to transfer pricing rules in your country?

Yes. Taxpayers are exempt from the local transfer pricing rules where their combined business revenue and non-business revenue is less than TWD 30 million for the filing year.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes. It needs to be prepared in Chinese.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Very active.

### What are the current transfer pricing audit areas in your jurisdiction?

It covers all different types of related parties transactions.

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# Thailand

## Does your country have local transfer pricing laws?

The new transfer pricing rules are in their final stage of review. However, Thailand has existing transfer pricing provisions under the Revenue Code. In addition, the local transfer pricing Guidelines have been in use since they were issued in 2002.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

The OECD Guidelines are followed as administrative practice.

## What is the effective date of your transfer pricing regulations?

The mandatory transfer pricing documentation is expected to take effect on or after 1 January 2018.

## Is the preparation of transfer pricing documentation mandatory?

Yes. Under the draft legislation, the transfer pricing documentation is required to be filed together with the annual tax return, otherwise a penalty of Baht 200,000 is imposable.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Only local comparable companies will be accepted. The tax authorities do not accept regional or global comparable companies.

## When should transfer pricing documentation be prepared?

Under the draft legislation, contemporaneous transfer pricing documentation has to be prepared and filed together with the annual tax return.

In comparison, under the current guidelines, documentation is prepared and should be made available when requested by the Tax Office.

## What are the penalties for not complying with your local transfer pricing rules?

Under the draft legislation, a penalty of Baht 200,000 will apply for non-compliance. In addition, if any adjustments are made, the standard penalty provision applies.

In comparison, under the existing guidelines, where no transfer pricing documentation is prepared, the onus of proof lies with the taxpayer to disprove any transfer pricing adjustments proposed by the tax assessment officer. Where an adjustment is issued, the regular tax penalty regime applies.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	X <sup>1</sup>
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	Consistent with the €750 million threshold
Signatory of the OECD Multilateral Competent Authority Agreement	X
Filing due date	N/A
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

Thailand has signed up for Global Forum on Transparency and Exchange of Information, as well as the Inclusive Framework (IF) on BEPS. It has been reviewed under Action 5 (harmful tax practices), and although no harmful tax practices were noted, amendments on certain business activities that are entitled to tax incentives are ongoing.

### Are there transfer pricing related disclosures in the tax return?

Yes. Under the current annual tax return form, there are questions relating to transfer pricing that have to be answered and certified by the director. The draft regulation states that relevant taxpayers will be required to submit a report outlining the nature of the relationship and the amount of the related party transactions together with the annual tax return. The transfer pricing documentation must be submitted within 60 days, or the extended period of 120 days upon the receipt of notification from tax authority.

### Are there exemptions to transfer pricing rules in your country?

Yes. Companies with revenue from business operations of 30 million Baht or less are exempt from the mandatory transfer pricing documentation. Further threshold on the amount of the related party transaction may be provided by the Thai Revenue Department.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes. The official language in Thailand is Thai. Government filings are in Thai language.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Even without the TP rules, Thailand is active in assessing taxpayers on TP matters. The TP team is sitting in the LTO.

### What are the current transfer pricing audit areas in your jurisdiction?

Current audit areas are on management services, cost allocation and royalties. Companies dealing with related parties and reporting losses are also being audited.

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<sup>1</sup> Not yet, this is in the process of finalisation.

<sup>3</sup> See Note 2.

<sup>4</sup> Penalties for not preparing contemporaneous transfer pricing documentation will increase to S\$10,000 effective YA2019.



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### **Does your country have local transfer pricing laws?**

Yes. Specific transfer pricing rules have been in place in Turkey since 1 January 2007 under Article 13 of the Corporate Income Tax Law (the CITL) No. 5520 with the title 'Disguised Profit Distribution through Transfer Pricing'.

The regulations under Article 13 follow the arm's-length principle, established by the OECD Guidelines, and are applicable to all financial, economic and commercial transactions, and employment relations between related parties. Details on the application of Article 13 are provided in a communiqué regarding disguised profit distribution through transfer pricing.

### **Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?**

Yes, the OECD Guidelines and the Turkish Tax Regulations are intertwined.

### **Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?**

Yes.

### **What is the effective date of your transfer pricing regulations?**

1 January 2007.

### **Is the preparation of transfer pricing documentation mandatory?**

Transfer pricing documentation should be prepared by the taxpayer and presented to the Tax Office upon request.

Corporate taxpayers which are registered with the large taxpayer's tax office are obliged to prepare a documentation with respect to both domestic and foreign party transactions.

Corporate taxpayers that are registered with other tax offices only are obliged to prepare an annual report with respect to their foreign related party transactions.

### **What transfer pricing methodologies are acceptable?**

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin, profit split and any other method which the taxpayer can apply to demonstrate the dealings are consistent with the arm's length principle.

### **Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?**

Local and regional comparable companies are preferred. However, global benchmarking studies may be accepted although the Tax Office is not obligated to use such benchmarking studies. The Tax Office may conduct its own study and thus reach its own arm's length range of results.

### **When should transfer pricing documentation be prepared?**

Transfer pricing documentation should be prepared after the filling of the Corporate Income Tax Return. The deadline for this is generally 25 April of each year.

### **What are the penalties for not complying with your local transfer pricing rules?**

Penalties are subject to the volume of tax evasion which is determined by the tax inspector.



## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓ <sup>1</sup>
Are CbC Report requirements consistent with BEPS Action 13?	✓ <sup>2</sup>
Are the Master File requirements consistent with BEPS Action 13?	✓ <sup>3</sup>
Are the Local File requirements consistent with BEPS Action 13?	✓ <sup>4</sup>
Revenue threshold for CbCR to apply	TRY 2.37billion
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	✓ <sup>5</sup>
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

CbC reporting Tax Legislation is about to be implemented.

### What transfer pricing developments are expected over the next three years?

CbC reporting will be implemented.

### Are there transfer pricing related disclosures in the tax return?

Yes. Taxpayers must disclose details of their intercompany transactions as well as the methodologies applied to support the arm's length nature of the related party dealings.

### Are there exemptions to transfer pricing rules in your country?

No.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes. The transfer pricing documentation must be prepared in Turkish.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Very active. The tax office has a designated transfer pricing investigation team.

### What are the current transfer pricing audit areas in your jurisdiction?

No specific areas.

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<sup>1</sup> A general comminiqué is not yet enacted.

<sup>2</sup> See Note 1.

<sup>3</sup> See Note 1.

<sup>4</sup> See Note 1.

<sup>5</sup> See Note 1.



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# Uganda

## Does your country have local transfer pricing laws?

Yes. The local transfer pricing laws are contained in the Income Tax Transfer Pricing Regulations 2011.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

The OECD Guidelines are followed as administrative practice through the Income Tax Transfer Pricing Regulations 2011.

## What is the effective date of your transfer pricing regulations?

1 July 2011.

## Is the preparation of transfer pricing documentation mandatory?

Yes. The preparation of transfer pricing documentation is mandatory for all taxpayers that have cross border related party transactions. Taxpayers also need to prepare transfer pricing documentation where their local transactions exceed the threshold of UGX500,000,000 (approximately US\$138,000).

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin, profit split and any other method which the taxpayer can apply to demonstrate the dealings are consistent with the arm's length principle.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Local comparable companies are preferred. However, due to the lack of financial data for local comparable companies, regional and global comparable companies may also be accepted.

## When should transfer pricing documentation be prepared?

All transfer pricing documentation should be in place by the time the company files its final income tax returns for the relevant financial year.

## What are the penalties for not complying with your local transfer pricing rules?

The Tax Procedures Code (Section 49A) stipulates that failure to provide transfer pricing documentation on request will result in a penalty not exceeding UGX50,000,000 (approximately US\$13,800).

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	X
Are CbC Report requirements consistent with BEPS Action 13?	N/A
Are the Master File requirements consistent with BEPS Action 13?	N/A
Are the Local File requirements consistent with BEPS Action 13?	N/A
Revenue threshold for CbCR to apply	N/A
Signatory of the OECD Multilateral Competent Authority Agreement	X
Filing due date	N/A
Are the Master File and Local File lodged with the local tax authority?	N/A
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

The penalty for not submitting information on request was introduced in July 2017.

### What transfer pricing developments are expected over the next three years?

We expect a more vigilant and aggressive approach to be used by the Uganda Revenue Authority on implementation.

### Are there transfer pricing related disclosures in the tax return?

No.

### Are there exemptions to transfer pricing rules in your country?

No.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

Active.

### What are the current transfer pricing audit areas in your jurisdiction?

Intercompany loans, management fees/charges and similar services that impact the profit of the local entity.

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# United Kingdom

## Does your country have local transfer pricing laws?

The UK's current transfer pricing legislation is contained in Taxation (International and Other Provisions) Act 2010 ('TIOPA 2010') part 4, and is based on the arm's length principle as stated in Article 9 of the OECD Model Tax Convention on Income and Capital, which forms the basis of the OECD Guidelines. The rules are not heavily formulaic but instead are principles-based.

The rules apply to UK taxpayers, including UK branches of overseas companies.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes. The OECD Guidelines, updated in July 2017, are mentioned in UK legislation and must be used for interpretation of the arm's length principle.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

The Transfer Pricing regulations are based on the arm's length principle as stated in Article 9 of the OECD Model Tax Convention on Income and Capital, which forms the basis of the OECD Guidelines.

Besides UK tax legislation in TIOPA 2010, which in turn refers to the OECD Guidance, Her Majesty's Revenue and Customs (HMRC) has an International Manual providing guidance on its view of transfer pricing matters.

## What is the effective date of your transfer pricing regulations?

1 January 1915, and has been a self-assessment regime since 1998.

## Is the preparation of transfer pricing documentation mandatory?

It is not mandatory to file a report with HMRC but there is a self-assessment regime which requires the taxpayer to be able to demonstrate their transfer pricing is at arm's length. Therefore, in practice transfer pricing analysis and documentation is required.

## What transfer pricing methodologies are acceptable?

The most appropriate pricing method should be selected on a transaction by transaction basis, providing the most reliable measure of an arm's length result in each case. The current OECD methods of the comparable uncontrolled price, resale price, cost plus, transactional net margin, and profit split methods are accepted. Other methods can also be used if justifiable and appropriate.

There is no hierarchy as the UK legislation currently refers to the 2017 OECD Guidelines and BEPS Actions 8-10 2015 Final Reports published by the OECD on 5 October 2015.

In practice, however, a 'natural hierarchy' may be said to favour the comparable uncontrolled price or adjusted comparable uncontrolled price method.

Please note that any interpretation of transfer pricing legislation must be consistent with the OECD Guidelines, ie the Guidelines are more than 'soft law' in the UK.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Local comparable companies are preferred, whilst EMEA or global regional comparable companies can be accepted.

## When should transfer pricing documentation be prepared?

The UK accepts the OECD transfer pricing documentation model based on the Master File and Local File approach. This approach is considered best practice in the UK and is broadly similar to the recommendations outlined by the OECD as part of Action 13 of the BEPS project.

The UK has introduced CbCR regulations which are effective for fiscal years starting on or after 1 January 2016.

Currently for filing purposes, there are four types of documentation that should be kept:

- primary accounting records
- tax adjustment records
- record of transactions with associated businesses
- documentation to demonstrate an arm's length result.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	€750 million
Signatory of the OECD Multilateral Competent Authority Agreement	✓
Filing due date	12 months after year end
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	This is not applicable in the UK, however there are high penalties for getting transfer pricing wrong – and lack of documentation will be seen as evidence of ‘carelessness’.

The current documentation requirements are not prescriptive. HMRC’s view is that transfer pricing documentation should usually include a background to the company, a group structure, an outline of the key intercompany transactions under analysis, an analysis of the key functions, assets and risks of the company, an industry analysis and an economic analysis including supporting evidence such as comparables, if required.

Transfer pricing documentation must be preserved until the latest of six years from the end of the accounting period, the date on which any enquiry into the return is completed, or the date on which HMRC is no longer able to open an enquiry.

### What are the penalties for not complying with your local transfer pricing rules?

Penalties in relation to transfer pricing documentation relate directly to the general record-keeping requirements. Under these rules, two types of penalties may apply; penalty for failure to keep or produce documentation and a tax geared penalty for a careless or deliberate error. At the time of writing, the fixed penalty for failure to keep or produce documentation is £3,000.

The tax geared penalty is dependent on whether the inaccuracy is considered to be:

- careless (maximum penalty of 30% of potential lost revenue (PLR))
- deliberate but not concealed by the taxpayer (maximum penalty of 70% of PLR)
- deliberate and concealed by the taxpayer (maximum penalty of 100% of PLR).

Where a transfer pricing adjustment reduces a loss (or turns a loss into a profit), then the PLR will be calculated to include any tax due as a result of changing the original loss to the correct amount. If the loss has been used to reduce a liability (ie, by carry back or group relief), then the PLR will be based on this additional amount due.

Where there is a reduction in the amount of losses carried forward, a penalty of 10% of the reduction may be due, depending on the likelihood of utilisation of the losses.

A business may receive a mitigation of a penalty if it has made a reasonable attempt to demonstrate an arm’s length result but it was subsequently established that the appropriate arm’s length result was different from that reflected in its tax return.

For corporation tax purposes, it is necessary to keep primary accounting records and all supporting documents needed to deliver a correct and complete tax return.

The accounting records are created during the period in question. Tax adjustment records, records of intercompany transactions and documentation demonstrating an arm’s length result do not need to be prepared at the same time as the accounting records.

At the time of filing, the taxpayer need not have assembled its evidence to support that the transactions are at arm’s length, but it does need to have reached a conclusion and needs to have a basis of reaching that conclusion. If requested by HMRC, taxpayers usually have a maximum of 30 days to produce transfer pricing documentation. It is recommended that documentation should be updated every two to three years or upon change to the business structure or functional analysis.

An enquiry into a tax return by HMRC may be made up to 12 months from the due filing date of the tax return, unless the return is filed late in which case the enquiry can be made 12 months after the return is filed. In practice, this usually means two years from the end of the accounting reference date, and if no enquiry notice is issued then the tax return may be considered closed. Any adjustment and further assessment of profits subject to tax will usually be made on completion of the enquiry.

HMRC may in certain circumstances make an enquiry on a company which is not a self-assessment (a discovery assessment) under the following circumstances:

- if they discover that an amount which ought to have been assessed has not been assessed
- an assessment is or has become insufficient
- relief has been given which is or has become excessive.

From 1 April 2010, discovery assessments can be raised where the loss of tax is classified as follows:

- not due to careless or deliberate behaviour – up to 4 years
- careless behaviour of the taxpayer or its agent – up to 6 years
- deliberate behaviour of the taxpayer or its agent – up to 20 years
- non-compliance with CbCR and notification requirements can draw penalties ranging from £300 to £3,000. Daily penalties are additionally pursued if information is consistently not provided.

#### **Are there transfer pricing related disclosures in the tax return?**

The UK has a self-assessment regime, where the onus is on the taxpayer to ensure that transfer pricing regulations are adhered to. There is a 'tick box' on the tax return form for taxpayers to confirm their eligibility for the small and medium sized enterprise (SMEs) exemption from the transfer pricing rule, and a second 'tick box' for taxpayers to claim corresponding adjustments (for UK-UK transactions). HMRC requires taxpayers to make computational adjustments in cases where transactions, as recorded in the statutory accounts, are not on an arm's length basis and the taxpayer is potentially advantaged in respect of UK tax by the actual provision.

#### **Are there exemptions to transfer pricing rules in your country?**

There are exemptions from transfer pricing documentation rules for SMEs, dormant companies (which have been dormant since 31 March 2004 and continue to be), charities and life assurance companies. It should be noted that the SME exemption only applies if the transactions are between a UK taxpayer and a related party in a qualifying territory, which is broadly a territory which is not a tax haven.

The exemption criteria are based on EU recommendation 2003/361/EC as follows:

- small: less than 50 employees, and either turnover or gross assets not exceeding €10 million
- medium: less than 250 employees and either turnover not exceeding €50 million or gross assets of less than €43 million.

HMRC can direct that medium sized enterprises should apply transfer pricing rules, though this is uncommon in practice.

#### **What transfer pricing developments are expected over the next three years?**

HMRC has been a strong proponent of the BEPS process and is active in the OECD.

HMRC currently looks to pursue more frequent use of collaborative dispute resolution tools to resolve long-running and difficult transfer pricing inquiries as an alternative to litigation. Similarly, HMRC seeks greater involvement in joint audits with other tax authorities, fostering greater collaboration and cooperation. However it is not expected that this will become the 'norm'.

HMRC revised its MAP guidance and statement of practice on 20 February 2018, and prides itself on taking a practical approach. It is aware that there may be an increase in disputes as a result of other countries interpreting BEPS issues differently to the OECD line.

It may be expected that any planning for Brexit by groups might generate interest from HMRC and the possibility of exit charges and/or questions around intangible ownership and valuations. The final outcome of the Brexit negotiations and impact on industries such as financial services is still awaited.

We also expect additional guidance soon on the interaction of DPT and TP and confirmation that there will not be a double tax impact on profits.

In common with other countries, the UK is interested in the digital economy and whether and how to tax value generated by users. Consultations on the digital economy and potential expansion to withholding tax on royalties are in the pipeline. However the UK also supports multilateral actions under the OECD rather than many unilateral actions.

#### **Does transfer pricing documentation need to be prepared in a language other than English?**

No.

#### **How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?**

HMRC plays an active role in enforcing the transfer pricing rules and there is a specific team that focuses on transfer pricing, and also DPT. Penalties could be imposed by HMRC if a taxpayer causes a loss of UK tax through an inaccurate tax return caused by careless (or deliberate) conduct.

### What transfer pricing developments have occurred in the past 12 months?

A key recent development in the UK related to the OECD BEPS initiative is an anti-avoidance proposal for a new diverted profits tax (DPT). DPT is intended to counteract contrived arrangements used by MNEs that result in the erosion of the UK tax base. The tax is at a rate of 25% of diverted profits related to UK activity and legislation was introduced in the 2015 Finance Bill in April 2015. This rate is higher than the current UK corporate tax rate of 19%. The charge will arise if either of two circumstances apply:

- 1 The first rule is directed towards addressing arrangements which avoid a UK permanent establishment. The rule applies where it is 'reasonable to assume' that any of the activity of the avoided permanent establishment and/or the non-UK resident company is to ensure that the non-UK company is not carrying on a trade in the UK
- 2 The second rule focuses on certain arrangements which lack economic substance between a UK resident company and another person (within or outside the UK) which exploit tax differentials leading to an effective tax mismatch.

The DPT has been geared towards targeting large companies and there is an exemption which can apply to SMEs.

Since its introduction, HMRC has issued DPT charging notices to a small number of companies. Companies have 30 days to make representations against charging notices and tax demanded must be paid within 30 days. Consequently, the DPT has worked to encourage taxpayers to make appropriate transfer pricing adjustments.

APAs may be agreed on a unilateral, bilateral or multilateral basis. Bilateral and multilateral APAs will only be entered into with countries which the UK has a double taxation agreement in force with a mutual agreement procedure clause. APAs are entered into at the discretion of HMRC and it may decline a taxpayer an APA application. APAs usually address complex transfer pricing issues or those for which there is a serious doubt as to the manner by which the transfer pricing rules should be applied.

Where companies are debt funded, an Advance Thin Capitalisation Agreement (ATCA) can be used to agree an appropriate amount of intra-group debt. This will help determine

the amount of interest that will be treated as deductible. Further details on interest restrictions can be found below.

ATCAs are typically unilateral agreements.

The UK included legislation via Finance Act 2016 to bring BEPS Action 8-10 into the UK's transfer pricing legislation to keep the UK's rules in line with the updated OECD's Transfer Pricing Guidelines. This measure has effect for accounting periods beginning on or after 1 April 2016.

On BEPS Action 13, HM Treasury introduced regulations for accounting periods starting on or after 1 January 2016, under which UK parented MNEs with revenues above the sterling equivalent of €750 million in the previous period are required to submit a CbCR for the global group to HMRC within 12 months of the year end. For UK companies with a foreign parent in a country which does not introduce CbC reporting requirements, or does not have an effective exchange mechanism with the UK, the UK parent of the sub-group is required to request the information from the foreign parent. If the foreign parent provides the full information then the UK has to file a full CbCR. If they do not, they are required to notify HMRC that the information was requested and not received, and need to file a full CbCR for the UK sub-group unless certain exemptions apply.

The UK is one of the signatories to the Multilateral Competent Authority Agreement for the automatic exchange of CbC reports.

Additionally, an introduction of BEPS Action 4 to restrict interest deductibility in the UK has been brought in from 1 April 2017. The interest deductibility rules are based on either a fixed ratio rule (broadly, 30% of the aggregate tax-EBITDA or Adjusted net Group-interest expense for the period) or a group ratio rule (broadly, the lower of the Group ratio percentage of the aggregate tax-EBITDA or qualifying net group-interest expense for the period).

On 7 June 2017, the UK was one of the signatories of Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (Multilateral Instrument or MLI).

### What are the current transfer pricing audit areas in your jurisdiction?

The main transfer pricing audit areas include:

- losses
- tax planning structures involving low tax jurisdictions or tax havens
- high levels of debt funding
- business restructuring
- transactions in valuable or unique intangible assets.

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# United States

## Does your country have local transfer pricing laws?

Yes. The local transfer pricing laws are contained in the Internal Revenue Code (IRC) Section 482 which lays out the Transfer Pricing framework and this is further elaborated in Treasury Regulations Section 1.482. In addition, transfer pricing related adjustments and penalties are discussed in IRC Section 6662 and the regulations are promulgated thereunder.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

The U.S. does not follow the OECD Guidelines. However, the U.S. Regulations are considered to be consistent and harmonious with the OECD Guidelines.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

No.

## What is the effective date of your transfer pricing regulations?

16 December 2011.

## Is the preparation of transfer pricing documentation mandatory?

No.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin, profit split and any other method which the taxpayer can apply to demonstrate the dealings are consistent with the arm's length principle.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

In our experience, the Internal Revenue Service (IRS) generally prefers the best information available. Regional comparable companies are generally relied on when performing the comparable profits method/transactional net margin method analyses. However, if deemed appropriate in certain industries/organisations, the search parameters may be broadened to include a more comprehensive geographical universe, if that's deemed to increase the level of comparability in the analysis.

## When should transfer pricing documentation be prepared?

Transfer pricing documentation should be prepared/completed contemporaneously with the company's U.S. federal tax filings for taxpayers to receive penalty protection.

## What are the penalties for not complying with your local transfer pricing rules?

If there are adjustments, depending on how substantial they are, penalties of 20% to 40% can be imposed if contemporaneous transfer pricing documentation is not prepared.



## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	US\$ 850 million
Signatory of the OECD Multilateral Competent Authority Agreement	X
Filing due date	8.5 months after year end
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

Several major court rulings.

### What transfer pricing developments are expected over the next three years?

No expected developments at this time.

### Are there transfer pricing related disclosures in the tax return?

Yes, disclosures are required to be made in the tax return which primarily surrounds Cost Sharing Agreements.

### Are there exemptions to transfer pricing rules in your country?

No.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

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# Venezuela

## Does your country have local transfer pricing laws?

Yes. The transfer pricing rules are set forth in Venezuela's income tax law.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

Yes. The local laws have established that the OECD Guidelines may be used to complement the local transfer pricing rules.

## What is the effective date of your transfer pricing regulations?

1 January 2001.

## Is the preparation of transfer pricing documentation mandatory?

Yes. The local transfer pricing rules stipulate that taxpayers must document the process undertaken to determine the pricing of their intercompany dealings.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin and profit split.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

Local, regional and global comparable companies are accepted.

## When should transfer pricing documentation be prepared?

Transfer pricing documentation should be prepared annually.

## What are the penalties for not complying with your local transfer pricing rules?

Penalties of three thousand tax units may apply. The current value of a tax unit is Bs. 300.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	X
Are CbC Report requirements consistent with BEPS Action 13?	X
Are the Master File requirements consistent with BEPS Action 13?	X
Are the Local File requirements consistent with BEPS Action 13?	X
Revenue threshold for CbCR to apply	N/A
Signatory of the OECD Multilateral Competent Authority Agreement	X
Filing due date	N/A
Are the Master File and Local File lodged with the local tax authority?	X
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

The standards have been maintained since 2001.

### What transfer pricing developments are expected over the next three years?

No expectations.

### Are there transfer pricing related disclosures in the tax return?

If there is a difference between the transfer price and the arm's length price, it should be considered in the income of the relevant fiscal year.

### Are there exemptions to transfer pricing rules in your country?

No.

### Does transfer pricing documentation need to be prepared in a language other than English?

Yes. The transfer pricing documentation needs to be prepared in Spanish.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

The tax authority has a specific task force to enforce local rules.

### What are the current transfer pricing audit areas in your jurisdiction?

Audits apply to the whole industry.

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# Zimbabwe

## Does your country have local transfer pricing laws?

Yes. Transfer pricing in Zimbabwe is regulated by section 98 of the Zimbabwean Income Tax Act (the Act), with supporting guidance provided by the 35th Schedule to the Act, the OECD Guidelines, the UN Manual and the UN Practical Manual.

The rules require those subject to tax in Zimbabwe to follow arm's length principles in their dealings with inter alia associated persons, whether residents of Zimbabwe or not.

With effect from 1 January 2016, the Act was amended by the substitution of the section 98B and the insertion of Schedule 35.

## Do your country's transfer pricing rules follow the OECD Guidelines? If your rules are not completely aligned to the OECD Guidelines, what other guidelines are used?

Yes, OECD Guidelines are followed.

## Has your country legislated the OECD Guidelines as part of the transfer pricing regulations or are the OECD Guidelines followed as administrative practice?

No.

## What is the effective date of your transfer pricing regulations?

1 January 2016.

## Is the preparation of transfer pricing documentation mandatory?

Yes. Every company that has intercompany transactions (domestic or cross border) is required to have a transfer pricing policy document in line with the OECD Guidelines and the UN manuals on transfer pricing.

## What transfer pricing methodologies are acceptable?

Acceptable transfer pricing methods include comparable uncontrolled price, resale price, cost plus, transactional net margin, profit split and any other method which the taxpayer can apply to demonstrate the dealings are consistent with the arm's length principle.

## Does your tax authority accept global or regional comparable companies, or are only local comparable companies accepted?

The transfer pricing legislation is relatively new and the best practice for establishing comparable companies has not yet been established. However, based on the legislation, the onus of proof lies with the taxpayer to prove to the Commissioner the arm's length of their transactions by applying the legislated transfer pricing methods.

## When should transfer pricing documentation be prepared?

In practice, companies are expected to have prepared transfer pricing documentation by December of each fiscal year although no guidelines have been released by the authorities.

## What are the penalties for not complying with your local transfer pricing rules?

No specific penalties have been legislated for failure to comply with the local transfer pricing laws. However, in practice, the penalty is generally 100% for any adjustments made by the Commissioner.

## Summary of Country-by-Country Reporting (CbCR) status

Has CbCR legislation been implemented?	✓
Are CbC Report requirements consistent with BEPS Action 13?	✓
Are the Master File requirements consistent with BEPS Action 13?	✓
Are the Local File requirements consistent with BEPS Action 13?	✓
Revenue threshold for CbCR to apply	N/A
Signatory of the OECD Multilateral Competent Authority Agreement	X
Filing due date	Four months after year end
Are the Master File and Local File lodged with the local tax authority?	✓
Maximum penalties for non-compliance	N/A

### What transfer pricing developments have occurred in the past 12 months?

None after the legislation in 2016.

### What transfer pricing developments are expected over the next three years?

Documentation guidelines as it is not clear at the moment what the authorities expect. Taxpayers are relying on OECD and UN guidelines.

### Are there transfer pricing related disclosures in the tax return?

Yes. There is one question in the tax return which requires taxpayers to confirm whether they have transacted with a foreigner or not. It is expected that there will be greater disclosure requirements in the future due to the new transfer pricing legislation.

### Are there exemptions to transfer pricing rules in your country?

No.

### Does transfer pricing documentation need to be prepared in a language other than English?

No.

### How active is your local jurisdiction in enforcing the transfer pricing rules? Has the tax authority set up a specific taskforce to enforce these rules?

The authorities have been going through training and the division responsible for handling audit and investigations of MNE and large clients has been tasked to handle TP. Therefore, audits have already begun for MNE and large corporates based on the new legislation.

### What are the current transfer pricing audit areas in your jurisdiction?

Cross border transaction and domestic intercompany transactions in the form of shared services, sale of goods and provision of services, financial guarantee and loans and shareholder transactions.

For further information on transfer pricing in Zimbabwe please contact:

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