



Unofficial translation of the

COUNTRY-BY-COUNTRY REPORTING REGULATION 2021/R-9

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COUNTRY-BY-COUNTRY REPORTING REGULATION

1. Introduction and citation

- (a) This Regulation is made pursuant to the authority granted to the Board of the Maldives Inland Revenue Authority by Section 31-1 of the Tax Administration Act (Law Number 3/2010).
- (b) This Regulation shall be cited as the “Country-by-Country Reporting Regulation”.

2. Objective

The objective of this Regulation is to set forth the rules governing the submission of Country-by-Country Report (CbCR), to MIRA by multinational enterprises resident in the Maldives, that includes information of the business operations and management of the group to which the enterprise belongs.

3. Definitions

For purposes of this Regulation the following terms have the following meanings:

- (a) The term “Group” means a collection of enterprises related through ownership or control such that it is either required to prepare Consolidated Financial Statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange.
- (b) The term “MNE Group” means any Group that;
 - (1) includes 2 (two) or more enterprises the tax residence of which is in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction; and
 - (2) is not an Excluded MNE Group specified in subsection (c) of this Section.
- (c) The term “Excluded MNE Group” means, with respect to any Fiscal Year of the Group, a Group having total consolidated group revenue of less than EUR 750,000,000 (Seven Hundred and Fifty Million Euros) during the Fiscal Year immediately preceding the Reporting Fiscal Year as reflected in its Consolidated Financial Statements for such preceding Fiscal Year.

- (d) The term “Constituent Entity” means;
- (1) any separate business unit of an MNE Group that is included in the Consolidated Financial Statements of the MNE Group for financial reporting purposes, or would be so included if equity interests in such business unit of an MNE Group were traded on a public securities exchange;
 - (2) any such business unit that is excluded from the MNE Group’s Consolidated Financial Statements solely on size or materiality grounds; and
 - (3) any permanent establishment of any separate business unit of the MNE Group included in subsection (d)(1) or subsection (d)(2) above provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting, or internal management control purposes.
- (e) The term “Reporting Entity” means the Constituent Entity that is required to file a Country-by-Country Report conforming to the requirements in Section 6 of this Regulation in its jurisdiction of tax residence on behalf of the MNE Group. The Reporting Entity may be the Ultimate Parent Entity, the Surrogate Parent Entity, or any entity described in Section 4(b) of this Regulation.
- (f) The term “Ultimate Parent Entity” means a Constituent Entity of an MNE Group that meets the following criteria:
- (1) it owns directly or indirectly a sufficient interest in one or more other Constituent Entities of such MNE Group such that it is required to prepare Consolidated Financial Statements under accounting principles generally applied in its jurisdiction of tax residence, or would be so required if its equity interests were traded on a public securities exchange in its jurisdiction of tax residence; and
 - (2) there is no other Constituent Entity of such MNE Group that owns directly or indirectly an interest described in subsection f(1) in the first mentioned Constituent Entity.
- (g) The term “Surrogate Parent Entity” means one Constituent Entity of the MNE Group that has been appointed by such MNE Group, as a sole substitute for the Ultimate Parent Entity, to file the Country-by-Country Report in that Constituent Entity’s jurisdiction of tax residence, on behalf of such MNE Group, when one or more of the conditions set out in Section 4(b)(2) of this Regulation applies.
- (h) The term “Fiscal Year” means an annual accounting period with respect to which the Ultimate Parent Entity of the MNE Group prepares its financial statements.

- (i) The term “Reporting Fiscal Year” means that Fiscal Year the financial and operational results of which are reflected in the Country-by-Country Report specified in Section 6 of this Regulation.
- (j) The term “Qualifying Competent Authority Agreement” means an agreement;
 - (1) that is between authorized representatives of those jurisdictions that are parties to an International Agreement; and
 - (2) that requires the automatic exchange of Country-by-Country Reports between the party jurisdictions.
- (k) The term “International Agreement” shall mean the “Multilateral Convention for Mutual Administrative Assistance in Tax Matters”, any bilateral or multilateral tax convention/agreement, or any Tax Information Exchange Agreement to which the Maldives is a party, and that by its terms provides legal authority for the exchange of tax information between jurisdictions, including automatic exchange of such information.
- (l) The term “Consolidated Financial Statements” means the financial statements of an MNE Group in which the assets, liabilities, income, expenses and cash flows of the Ultimate Parent Entity and the Constituent Entities are presented as those of a single economic entity.
- (m) The term “Systemic Failure” with respect to a jurisdiction means that a jurisdiction has a Qualifying Competent Authority Agreement in effect with the Maldives, but has suspended automatic exchange (for reasons other than those that are in accordance with the terms of that Agreement) or otherwise persistently failed to automatically provide to the Maldives, Country-by-Country Reports in its possession of MNE Groups that have Constituent Entities in Maldives.
- (n) The term “Country-by-Country Report” refers to the Country-by-Country Report specified in Section 31-1(a) of the Tax Administration Act (Law Number 3/2010).

4. Filing obligation of Country-by-Country Reports

- (a) Each Ultimate Parent Entity of an MNE Group that is resident for tax purposes in the Maldives shall file a Country-by-Country Report with MIRA conforming to the requirements of Section 6 of this Regulation with respect to its Reporting Fiscal Year on or before the date specified in Section 7 of this Regulation.
- (b) A Constituent Entity which is not the Ultimate Parent Entity of an MNE Group shall file a Country-by-Country Report with MIRA conforming to the requirements of Section 6 of this Regulation with respect to the Reporting Fiscal

Year of an MNE Group of which it is a Constituent Entity, on or before the date specified in Section 7 of this Regulation, if the following criteria are satisfied:

- (1) the entity is resident in the Maldives for tax purposes; and
 - (2) one of the following conditions applies:
 - (i) the Ultimate Parent Entity of the MNE Group is not obligated to file a Country-by-Country Report in its jurisdiction of tax residence; or,
 - (ii) the jurisdiction in which the Ultimate Parent Entity is resident for tax purposes has a current International Agreement to which the Maldives is a party but does not have a Qualifying Competent Authority Agreement in effect to which the Maldives is a party by the time specified in Section 7 of this Regulation for filing the Country-by-Country Report for the Reporting Fiscal Year; or,
 - (iii) there has been a Systemic Failure of the jurisdiction of tax residence of the Ultimate Parent Entity that has been notified by MIRA to the Constituent Entity resident for tax purposes in the Maldives.
- (c) Where there are more than one Constituent Entities of the same MNE Group that are resident for tax purposes in the Maldives and one or more of the conditions set out in subsection (b)(2) apply, the MNE Group may designate one of such Constituent Entities to file the Country-by-Country Report conforming to the requirements of Section 6 of this Regulation with MIRA with respect to any Reporting Fiscal Year on or before the date specified in Section 7 of this Regulation and to notify the MIRA that the filing is intended to satisfy the filing requirement of all the Constituent Entities of such MNE Group that are resident for tax purposes in the Maldives.
- (d) Notwithstanding subsection (b) and (c), when one or more of the conditions set out in subsection (b)(2) apply, an entity described in subsection (b) shall not be required to file a Country-by-Country Report with MIRA with respect to any Reporting Fiscal Year if the MNE Group of which it is a Constituent Entity has made available a Country-by-Country Report conforming to the requirements of Section 6 of this Regulation with respect to such Fiscal Year through a Surrogate Parent Entity that files that Country-by-Country Report with the tax authority of its jurisdiction of tax residence on or before the date specified in Section 7 of this Regulation and that satisfies the following conditions:
- (1) the jurisdiction of tax residence of the Surrogate Parent Entity requires filing of Country-by-Country Reports conforming to the requirements of Section 6 of this Regulation;
 - (2) the jurisdiction of tax residence of the Surrogate Parent Entity has a Qualifying Competent Authority Agreement in effect to which the

- Maldives is a party by the time specified in Section 7 of this Regulation for filing the Country-by-Country Report for the Reporting Fiscal Year;
- (3) the jurisdiction of tax residence of the Surrogate Parent Entity has not notified MIRA of a systemic failure;
 - (4) the jurisdiction of tax residence of the Surrogate Parent Entity has been notified in accordance with Section 5(a) of this Regulation by the Constituent Entity resident for tax purposes in its jurisdiction that it is the Surrogate Parent Entity; and
 - (5) a notification has been provided to MIRA in accordance with Section 5(b) of this Regulation.

5. Notification

- (a) Any Constituent Entity of an MNE Group that is resident for tax purposes in the Maldives shall notify MIRA whether it is the Ultimate Parent Entity or the Surrogate Parent Entity, no later than the last day of the Reporting Fiscal Year of such MNE Group.
- (b) Where a Constituent Entity of an MNE Group that is resident for tax purposes in the Maldives is not the Ultimate Parent Entity nor the Surrogate Parent Entity, it shall notify MIRA of the identity and tax residence of the Reporting Entity, no later than the last day of the Reporting Fiscal Year of such MNE Group.

6. Country-by-Country Report

- (a) For purposes of this Regulation, a Country-by-Country Report with respect to an MNE Group shall contain:
 - (1) Aggregate information relating to the amount of revenue, profit (loss) before income tax, income tax paid, income tax accrued, stated capital, accumulated earnings, number of employees, and tangible assets other than cash or cash equivalents with regard to each jurisdiction in which the MNE Group operates;
 - (2) An identification of each Constituent Entity of the MNE Group setting out the jurisdiction of tax residence of such Constituent Entity, and where different from such jurisdiction of tax residence, the jurisdiction under the laws of which such Constituent Entity is organized, and the nature of the main business activity or activities of such Constituent Entity.
- (b) The Country-by-Country Report shall be filed in a form identical to and applying the definitions and instructions contained in the standard template set out at Annex 3 of Chapter 5 of the OECD Transfer Pricing Guidelines for Multinational

Enterprises and Tax Administrations (as the same may be modified from time to time).

7. Deadline for filing

The Country-by-Country Report required by this Regulation shall be filed with MIRA no later than 12 months after the last day of the Reporting Fiscal Year of the MNE Group.

8. Use and confidentiality of Country-by-Country Report information

- (a) MIRA shall use the Country-by-Country Report for purposes of assessing high-level transfer pricing risks and other base erosion and profit shifting related risks in the Maldives, including assessing the risk of non-compliance by members of the MNE Group with applicable transfer pricing rules, and where appropriate for economic and statistical analysis.
- (b) Transfer pricing adjustments made by MIRA in relation to any taxpayer shall not be based on the Country-by-Country Report submitted under this Regulation.
- (c) MIRA shall preserve the confidentiality of the information contained in the Country-by-Country Report at least to the same extent that would apply if such information were provided to it under the provisions of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

9. Penalties for failure to file Country-by-Country Report

Penalties for not filing a Country-by-Country Report shall be determined under Section 65 of the Tax Administration Act (Law Number 3/2010).

10. Commencement of filing of Country-by-Country Report

The Country-by-Country Report required under this Regulation shall be filed for Reporting Fiscal Years commencing on or after 1 January 2021.

11. Commencement of the Regulation

This Regulation shall take effect from the date of its publication in the Government Gazette.