

**CENTRE FOR TAX POLICY AND ADMINISTRATION  
COMMITTEE ON FISCAL AFFAIRS**

**Cancels & replaces the same document of 26 October 2020**

**Guidance on the application of the confidentiality provisions of the Convention  
and Article 26 to taxpayers and to reflective non-taxpayer specific information**

This note is being submitted as 'Unclassified' following its APPROVAL and DECLASSIFICATION by CFA Delegates on 16 November 2020 under the written procedure.

Grace Perez-Navarro ([Grace.PEREZ-NAVARRO@oecd.org](mailto:Grace.PEREZ-NAVARRO@oecd.org))  
Achim Pross ([Achim.PROSS@oecd.org](mailto:Achim.PROSS@oecd.org))

**JT03471061**

## SUMMARY

Confidentiality is one of the key pillars for ensuring a functioning global network for the exchange of information in tax matters, as reflected in the international legal instruments that govern exchanges.

Both in the context of the Peer Reviews of the Global Forum, as well as in the framework of the of Country-by-Country Reporting, the question has arisen, whether, and if so to what extent, the taxpayer with respect to which information is being exchanged can have access to such information under the confidentiality provisions of the Convention on Mutual Administrative Assistance in Tax Matters (the “Convention”) and Article 26 of the OECD Model Tax Convention. In particular, delegates have requested that guidance be provided with respect to the access of Taxpayers to correspondence exchanged between Competent Authorities, as well as to Country-by-Country Reports.

In addition, some members have asked for guidance as to whether statistical and/or aggregated data on the information that was received by a Competent Authority may be disclosed, such as to other jurisdictions, peer review teams or the public. This question is of particular importance in the framework of the various peer review processes (EOIR, AEOI, CbC, MAP, etc.) where such information is being collected.

The guidance set out in this note was developed and approved by WP10 in response to the above requests for clarification. The guidance concludes that: 1) the confidentiality provisions do not prevent a Taxpayer getting access to information exchanged, to the extent the information has a bearing on the outcome of a tax matter concerning the Taxpayer; and 2) statistical and/or aggregated data on the information that was received by a Competent Authority may be disclosed to third parties if: i) the information does not, directly or indirectly, reveal the identity of one or more taxpayers; and ii) the sending and receiving jurisdictions have consulted with each other and it is concluded that the disclosure and use of such information would not impair tax administration in either jurisdiction.

## ACTION REQUIRED

This note is submitted to CFA Delegates for APPROVAL and DECLASSIFICATION under the written procedure. In case of approval and declassification, the guidance will be made available to the full membership of the Global Forum, so that it may be relied upon in the context of exchange of information between tax authorities. Furthermore, the Co-Chairs of WP1 and the Chair of WP10 agreed that, when WP1 will proceed to an update to the Commentaries to the OECD Model Tax Convention on Income and on Capital at a future point in time, it will consider incorporating the guidance into the Commentaries.

Please send any comments on this note to the CFA Secretariat ([cfa@oecd.org](mailto:cfa@oecd.org)) by 16 November 2020. If no comments are received by this date, this note will be considered approved and shared with the Global Forum membership.

## Guidance on the application of the confidentiality provisions of the Convention and Article 26 to taxpayers and to reflective non-taxpayer specific information

### Introduction

1. Confidentiality is one of the key pillars for ensuring a functioning global network for the exchange of information in tax matters. For that reason, both the multilateral Convention on Mutual Administrative Assistance in Tax Matters (the “Convention”), as well as Article 26 of the OECD Model Tax Convention (“Article 26”), and the related Commentaries,<sup>1</sup> stipulate the principle that information that is exchanged under international tax instruments and that falls within the scope of the confidentiality provisions may only be disclosed to persons that are explicitly allowed to have access to the information under the relevant treaty (bilateral treaty or the Convention) and the receiving jurisdiction may only disclose such information in accordance with its domestic laws. The provisions also specify how exchanged information may be used by the receiving jurisdiction.

2. Both in the context of the Peer Reviews of the standard of Transparency and Exchange of Information on Request (“EOIR”), being conducted by the Global Forum, as well as in the framework of the implementation of the automatic exchange of Country-by-Country Reports under BEPS Action 13 (CbCR), the question has arisen, whether, and if so to what extent, the taxpayer with respect to which information is being exchanged (i.e. the taxpayer subject to the enquiry that gives rise to the EOI request, hereafter the “Taxpayer”) is authorised to have access to such information under the confidentiality provisions of the Convention and Article 26. In particular, delegates have requested that guidance be provided with respect to the access of Taxpayers to the request and response letters exchanged between Competent Authorities, as well as the full content of the exchanged Country-by-Country Report.

3. In addition, members have asked for guidance as to whether non-taxpayer specific information, including statistical data, about or generated on the basis of the information that was received by a Competent Authority through the exchange of information (hereafter referred to as “reflective non-taxpayer specific information”) may be disclosed to third parties, such as other government agencies within the same jurisdiction, other jurisdictions or the public. This question is of particular importance in the framework of the various peer review processes (Standard for Automatic Exchange of Financial Account Information in Tax Matters, CbCR, minimum standard under BEPS Action 14 (“MAP”), EOIR and exchange of information on rulings under BEPS Action 5 etc.), where information on the exchange relationships is collected from peers as part of the review process to ensure the standards are operating effectively, as well as in the context of statistical information that tax authorities may need to provide to legislative institutions, and more broadly in the context of the public reporting on the benefits and successes of the exchange of information policies and implementation.

4. The analysis in relation to these issues is relevant for all information exchanges. Therefore, this note will first outline the principles contained in the Convention and

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<sup>1</sup> The Model TIEA and the related Commentaries contain substantially equal wording in this respect.

Article 26, as well as the related Commentaries, with respect to the scope of the confidentiality provisions governing the exchange of information, including their application to disclosure of exchanged information to Taxpayers. In a second part, the note will address the question whether, and if so to what extent, reflective non-taxpayer specific information can be shared with third parties.

5. For the avoidance of doubt, this note only addresses the scope of the confidentiality provisions under international exchange instruments (i.e. what is permitted under the Convention or bilateral treaties containing the Article 26 standard). It does not, therefore, analyse or address the scope and application of domestic access restrictions that may exist in the jurisdiction that is sending information or that has received information under an international exchange instrument, nor does it address the scope and application of Taxpayer rights in these jurisdictions. Equally, the note is not intended to comprehensively clarify the scope of information subject to the confidentiality provisions of the Convention and Article 26.

## Part 1 – The application of the confidentiality provisions with regard to Taxpayers

### *The legal principles*

6. Both paragraphs 1 and 2 of Article 22 of the Convention and paragraph 2 of Article 26 stipulate the scope of the confidentiality provisions that govern the exchange of information in tax matters.

7. Article 22 of the Convention and Article 26 equally lay down the guiding principle that information that has been received by a jurisdiction and that is subject to the confidentiality provisions of the international legal instrument shall only be disclosed to certain persons or authorities:

#### ***Article 22 of the Convention – Secrecy***

*1. Any information obtained by a Party under this Convention shall be treated as secret and protected in the same manner as **information obtained under the domestic law of that Party**<sup>2</sup> and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards which may be specified by the supplying Party as required under its domestic law.*

*2. Such information shall in any case be disclosed only to persons or authorities (including courts and administrative or supervisory bodies) **concerned with the assessment, collection or recovery of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, taxes of that Party or the oversight of the above***<sup>3</sup>. *Only the persons or authorities mentioned above may use the information and then only for such purposes. They may, notwithstanding the provisions of paragraph 1, disclose it in public court proceedings or in judicial decisions relating to such taxes.*

#### ***Article 26 – Exchange of Information***

<sup>2</sup> Emphasis added.

<sup>3</sup> Emphasis added.

*2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be **disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes [...]***<sup>4</sup>.

8. As the definition in both provisions set out above is generic in nature, further guidance is required as to the circle of persons and authorities that are allowed to gain access to exchanged information. The below excerpts from the Commentaries on Article 22 of the Convention and Article 26 provide further clarity, including with respect to the role of the Taxpayer.

***Commentary to Article 22 of the Convention***

***Paragraph 2***

*218. As the information obtained may be disclosed to persons and authorities mentioned in paragraph 2, **this information may also be communicated to taxpayers or their representatives.** As far as recovery is concerned, information may be disclosed to any other person from whom the tax is to be recovered, but only insofar as is necessary for the purposes of recovery. **The confidentiality rules of Article 22 apply to all types of information received under the Convention, including both information provided in a request and information transmitted in response to a request. The maintenance of secrecy in the receiving State is a matter of domestic laws.***

***Commentary to Article 26***

***Paragraph 2***

*11. Reciprocal assistance between tax administrations is feasible only if each administration is assured that the other administration will treat with proper confidence the information which it will receive in the course of their co-operation. **The confidentiality rules of paragraph 2 apply to all types of information received under paragraph 1, including both information provided in a request and information transmitted in response to a request. Hence, the confidentiality rules cover, for instance, competent authority letters, including the letter requesting information. At the same time, it is understood that the requested State can disclose the minimum information contained in a competent authority letter (but not the letter itself) necessary for the requested State to be able to obtain or provide the requested information to the requesting State, without frustrating the efforts of the requesting State. If, however, court proceedings or the like under the domestic laws of the requested State necessitate the disclosure of the competent authority letter itself, the competent authority of the requested State may disclose such a letter unless the requesting State otherwise specifies. The maintenance of secrecy in the receiving Contracting State is a matter of domestic laws. [...]***

*12. Subject to paragraphs 12.3 and 12.4, the information obtained **may be disclosed only to persons and authorities involved in the assessment or collection of, the enforcement***

<sup>4</sup> Emphasis added.

*or prosecution in respect of, the determination of appeals in relation to the taxes with respect to which information may be exchanged according to the first sentence of paragraph 1, or the oversight of the above. This means that the information may also be communicated to the taxpayer, his proxy or to the witnesses.<sup>5</sup> This also means that information can be disclosed to governmental or judicial authorities charged with deciding whether such information should be released to the taxpayer, his proxy or to the witnesses.*

### *The extent to which the Taxpayer is a person concerned*

9. Paragraph 12 of the Commentary to Article 26 and paragraph 218 of the Commentary to Article 22 of the Convention clarify that, for purposes of interpreting the scope of the confidentiality provisions of both legal instruments, a Taxpayer can be considered a person “concerned with the assessment, collection or recovery of, the enforcement or prosecution respect of, or the determination of appeals in relation to, taxes” in relation to the information received by a jurisdiction from an exchange partner. However, this does not mean that a Taxpayer can *per se* be considered a “person concerned” with respect to all the information exchanged with respect to that Taxpayer.

10. In this respect, it is helpful to note that Paragraph 12 of the Commentary to Article 26 equates taxpayers with the taxpayer’s proxy and with witnesses and treats them all as “persons concerned”. At the same time, Paragraph 11 of the Commentary to Article 26 states that only the minimum information in the competent authority letter (but not the letter itself) necessary for the requested State to be able to obtain the requested information may be disclosed to an information holder. As there is no readily apparent basis to distinguish a witness and an information holder (in fact, a witness is a type of information holder), the principles of paragraphs 11 and 12, require taxpayer, taxpayer’s proxy and witness to be interpreted together in a coherent manner. This can be achieved through acknowledging that the Taxpayer can be a “person concerned” under Article 22 of the Convention and Article 26, but that there are limits to the extent to which this is the case.

11. In addition to the above, it is also helpful to recall that Article 22 of the Convention, as well as Article 26, limit the use of the information for tax-related purposes, in addition to restricting the circle of persons and authorities to whom exchanged information may be disclosed. However, as a legal and practical matter, the Taxpayer, by virtue of not being a party to the Convention or to the relevant double tax treaty, is not limited by this use restriction and is therefore free to disclose exchanged information to any person for any purpose (subject to any limitations imposed under domestic law). In the same spirit, the use provisions of Article 22 of the Convention and Article 26 do not restrict the Taxpayer in onward disclosing the exchanged information, even if that information consists of competent authority communications.

12. It follows from the above that a Taxpayer cannot *per se* be considered a “person concerned” with respect to all the information exchanged with respect to that Taxpayer, but that the Taxpayer can only be considered a “person concerned” to the extent that the information has a bearing on the outcome of a tax matter concerning the Taxpayer.

13. This will need to be interpreted by the Competent Authority of the receiving jurisdiction in light of the information received and on a case-by-case basis.

14. As such, the Taxpayer is generally not a “person concerned” with respect to all the information, including competent authority correspondence exchanged in connection with

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<sup>5</sup> Emphasis added throughout the box.

the Taxpayer's case, unless the information has a bearing on the outcome of the tax matter concerning the Taxpayer. In practice, therefore, only the information, including information in the correspondence, relating to the substance of the tax matter could be disclosed, unless procedural aspects of or reflected in the information have a bearing on the outcome of the tax matter concerning the Taxpayer.

15. Similarly, in instances where an exchange of information contains details with respect to multiple Taxpayers, a Taxpayer is only a "person concerned" to the extent that the information relates to that Taxpayer. The information in relation to other Taxpayers should therefore not be disclosed to that Taxpayer, unless such information also has a bearing on the outcome of the tax matter concerning that Taxpayer.

### *Examples of the extent to which a Taxpayer is a person concerned*

16. In light of the legal analysis set out above, this section contains practical examples with respect to the access of a Taxpayer to exchanged information:

- Access to a received response letter: The disclosure of the response letter and the related correspondence between Competent Authorities should only be made to the extent the disclosure is permissible under the domestic laws of the receiving jurisdiction and to the extent its content has a bearing on the outcome of a tax matter concerning the Taxpayer. In this case, the Taxpayer is the person subject to compliance action with respect to a tax matter in the jurisdiction that received the response letter and related information through exchange of information.
- Access to a received Country-by-Country Report: In this situation, the Taxpayer would be the Constituent Entity of the MNE Group resident in the jurisdiction that received the Country-by-Country Report through the exchange of information. As paragraph 2 of Section 5 of the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports ("CbC MCAA") stipulates that no assessment of taxes with respect to a Constituent Entity can be based on a Country-by-Country Report received through the exchange of information under the Convention or Article 26, a Country-by-Country Report cannot, by itself, have a bearing on the outcome of a tax matter concerning the Taxpayer. As such, a Taxpayer is generally not allowed access to an exchanged Country-by-Country Report. However, the information contained in the MNE Group's Country-by-Country Report may be used for high-level transfer pricing risk assessment and the assessment of other BEPS-related risks. Where the potential tax risks raised in this initial assessment concern the Constituent Entity, the tax authority in the jurisdiction of the Constituent Entity may make further enquiries with the Constituent Entity in order to establish whether a material risk does effectively exist and, if so, what further compliance actions are required. As part of such enquiry, the information in the Country-by-Country Report pertaining exclusively to the Constituent Entity may be used and disclosed to the extent necessary to obtain information in connection with such enquiry. Information in the Country-by-Country Report may not be disclosed to the Constituent Entity for other purposes.

## Part 2 – The application of the confidentiality provisions to reflective non-taxpayer specific information

17. In addition to the applicability of the confidentiality provisions to disclosures to taxpayers, delegates have also raised the question of the possibility, under the confidentiality provisions of the international legal instruments, to disclose reflective non-taxpayer specific information, including statistical data, to third parties, including other jurisdictions, international organisations, or the public at large.

18. For the purposes of this section, the term “statistical data” is intended to cover aggregated or cumulative information (such as total tax collected), averaged information (such as the median tax collected for a particular period), and numeric activities of the tax administration (such as the number of audits conducted), as well as statistical reports and compilations.

19. This section addresses the question as to the circumstances under which reflective non-taxpayer specific information can be shared with third parties (including other jurisdictions and the public), by virtue of the confidentiality provisions of Article 22 of the Convention and Article 26. This section therefore is not intended to address the application of the confidentiality provisions to non-reflective non-taxpayer specific information that is exchanged under the Convention or a bilateral treaty.

### *What represents information received*

20. Prior to assessing the conditions under which reflective non-taxpayer specific information can be shared with third parties, it may be helpful to ascertain the scope of application of the confidentiality provisions of the Convention and Article 26 in light of what constitutes “information received” under the relevant instrument.

21. As a general principle, the confidentiality provisions of the Convention and Article 26 cover not only information in the immediate format in which it is received, but also (processed) information that reflects such information. As such, notes, summaries, and memoranda incorporating exchanged information and outbound transmissions that reflect exchanged information, such as responses to information received, are themselves subject to the confidentiality provisions of the Convention and Article 26.

22. This reflection principle means in practice that the confidentiality provisions of Article 26 not only cover the information received in its initial form, but also extend to documents and any other information that reflects the exchanged information.

23. Taking into account that statistical and qualitative information that had its source in an exchange can also be considered itself information received under the international legal instrument, and therefore covered by the confidentiality provisions of the Convention and Article 26, the question under what circumstances can this information be disclosed and to whom arises.

24. In light of the absence of any explicit rules in the Convention and Article 26 on the application of the confidentiality provisions to reflective non-taxpayer specific information and in line with the principles of treaty interpretation<sup>6</sup>, it is helpful to consider in this respect both: a) the object and purpose of the confidentiality provisions within the exchange of information framework governed by the Convention and Article 26, and b) the practice of

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<sup>6</sup> As set out in Article 31 of the Vienna Convention on the Law of Treaties.

the Parties to the Convention and/or treaty partners in the application of the Convention or Article 26.

### ***Purpose of the confidentiality provisions***

25. Paragraph 216 of Commentary to Article 22 of the Convention stresses that “[r]espect for the confidentiality of information is a corollary of the powers of tax authorities and is necessary to protect the legitimate interests of taxpayers”.

26. Similarly, the Commentary to Article 26 acknowledges that the confidentiality provisions primarily serve the goal of protecting the legitimate rights and interests of taxpayers, while adding in paragraph 5.4 that the confidentiality provisions are “*not limited to taxpayer-specific information. The competent authorities may also exchange other sensitive information related to tax administration and compliance improvement, for example risk analysis techniques or tax avoidance or evasion schemes*”.

27. As such, the confidentiality provisions in relation to the exchange of information in tax matters pursuant to the Convention and Article 26 serve two main purposes:

- Protecting the legitimate rights and interests of the concerned taxpayers, in particular relating to privacy; and
- Ensuring that tax administrations can carry out their work effectively, both domestically and internationally.

28. Under the first principle, the confidentiality provisions serve the protection of the legitimate rights and interests of taxpayers, in particular in relation to privacy. This objective can be achieved, provided that any information released does not allow the indirect or direct identification of one or more taxpayers. There would accordingly not be a breach of confidentiality with respect to a particular taxpayer, if the information is aggregated and anonymised in a manner that prevents it from being able to be used to identify, either directly or indirectly, that particular taxpayer. This principle is reflected in domestic law provisions in a large number of jurisdictions, which permit the sharing of reflective non-taxpayer specific information with third parties, including the public.

29. In addition to protecting the legitimate rights and interests of taxpayers, the confidentiality provisions of the Convention also have the objective of ensuring that tax administrations can effectively conduct their work, both domestically and internationally, including through treaty-based exchanges. Indeed, this would be considerably endangered if an exchange partner would unilaterally reveal parts of the other tax administration’s compliance strategy, or correspondence between the two exchange partners, solely on the basis that such information did not relate or is not relatable to a particular taxpayer.

30. In the context of the exchange of tax information, this second principle therefore obliges jurisdictions to carry out their co-operation in a trustful manner, on the basis of a mutual understanding as to whether a disclosure of particular reflective non-taxpayer specific information in respect of an identifiable jurisdiction does or does not impair the effective tax administration in one or both concerned jurisdictions. In that light, the confidentiality provisions of the Convention and Article 26 would allow a disclosure to third parties, including, the public, if the jurisdictions have consulted and concluded that disclosure and use of reflective non-taxpayer specific information would not impair tax administration. It is understood that there is a written record of this consultation and its outcome.

### ***Practice of the exchange partners***

31. In determining whether the Convention or Article 26 permit the disclosure of a particular reflective non-taxpayer specific information set to third parties, regard should further be given to the practice of the exchange partners in sharing reflective non-taxpayer specific information.

32. Indeed, in accordance with Article 31(3)(b) of the Vienna Convention on the Law of Treaties, “any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation” should be taken into account in interpreting a treaty.

33. Over the past years, jurisdictions have regularly reported reflective non-taxpayer specific information on the impact, yield and quality of exchange of information in tax matters to third parties.

34. In particular in the context of the Global Forum’s work and the peer review processes in the context of the BEPS Project, jurisdictions have provided a variety of information, including in relation to the number of exchanges and the types of cases, the quality and timeliness of the information, as well as on bilateral issues encountered with respect to exchanges. Annex 1 to this note contains an overview of a range of instances where jurisdictions agreed to collect and share qualitative and quantitative data for peer review purposes.

35. This long-standing practice to share reflective non-taxpayer specific information about or generated on the basis of the exchange of information could be considered a subsequent practice in the application of Article 26 and Article 22 of the Convention which reflects an agreement of the exchange partners on the interpretation of the confidentiality provisions, as foreseen in Article 31(3)(b) of the Vienna Convention on the Law of Treaties.

36. As a result, the practice, both in terms of substance and the methods used to establish and reflect the agreement, should also be taken into account when determining the material limits of the applicability of Article 26 and the Convention to reflective non-taxpayer specific information.

### ***Conclusion***

37. Based on the above, the confidentiality provisions of the Convention and Article 26 apply to reflective non-taxpayer specific information. However, such reflective non-taxpayer specific information may be disclosed to third parties if the information does not, directly or indirectly, reveal the identity of one or more taxpayers and the jurisdictions have consulted with each other and it is concluded that the disclosure and use of such information would not impair tax administration in either the sending or the receiving jurisdiction. It is understood that there is a written record of this consultation and its outcome. In the multilateral context, consistent with established practice, this consultation and conclusion (and the written record of such consultation and conclusion) can also be achieved, where the disclosure and use are foreseen in a multilateral process, such as a peer review methodology.

## Annex 1 – Overview of instances where information on the exchanges is requested from the receiving jurisdiction in the framework of peer reviews

*Note that for each of the examples set out below there are generally pre-agreed conditions and restrictions in relation to the use and disclosure of the information provided agreed in the context of the particular process concerned (e.g. the methodology governing the particular review process).*

### Examples from the EOIR peer review (peer input) questionnaire

Question 3d. Were you generally satisfied with the replies sent to your requests? If you were not satisfied please describe the particular circumstances and the reasons you felt the response was not adequate.

Question 12a. Please indicate the number of EOI requests for other type of information sent to the Assessed Jurisdiction over the peer review period for which you never received the requested information or received only partial information.

Question 13a. To the extent this information is available, for each of the 12 month-period under the peer review period please indicate the approximate percentage with which Assessed Jurisdiction has provided the information requested

Question 16a. To the extent available, please indicate the number of EOI requests received from the Assessed Jurisdiction, if any, during the peer review period.

Question 16b. To the extent this information is available, please indicate whether the received EOI requests generally met the foreseeable standard, including whether the EOI request was (i) complete, (ii) supported by the appropriate elements to ensure an effective response, and (iii) effectively communicated (for example sent by the correct competent authority).

### Examples from the EOIR peer review process (assessed jurisdiction perspective)

#### *Practical aspects: EOI requests received*

To the extent this information is available, please provide the following information:

number of EOI requests received during the peer review period on:

- ownership information:
- Accounting information:
- Banking information:
- Other type of information:

*To the extent possible, please provide this information in respect of each of the following category: companies, bearer shares, partnerships, trusts, foundations and other relevant entity.*

The total number of EOI requests received during the peer review period:

***Practical aspects: Most significant EOIR Partners***

Please identify the jurisdictions (up to 5) with which you have had the most significant EOIR relationships over the past three years. Please describe the reasons why these are considered the most significant.

Response:

***Practical aspects: EOIR Statistical data***

a) Please complete the following table in respect of requests for information related to income taxes received during the period under review. (ToR C.5.1)

**Table 16**

	[Year x]		[Year x+1]		[Year x+2]		Total	
	num.	%	num.	%	num.	%	Num.	%
Total number of requests received								
Full response: ≤90 days								
≤180 days (cumulative)								
≤1 year (cumulative)								
>1 year								
Status update provided within 90 days (for responses sent after 90 days) *								
Declined for valid reasons								
Failure to obtain and provide information requested								
Requests withdrawn by the requesting jurisdiction								
Requests still pending at date of review								

\* Figures on status updates should be provided to the extent available and with specific reference to those requests that are responded to in more than 90 days.

b) Do requests that are not fulfilled within 90 days typically relate to a particular type of information (e.g. bank information, identity information regarding trusts) or require particular types of investigative measures?

Response:

***Practical aspects: EOI Indicators on EOI requests***

Please complete the below table which provides for the total number of requests sent by your jurisdiction during the peer review period. To the extent this information is available, please indicate the number of requests sent that were subject to request(s) for clarification received from requested jurisdictions during the peer review period by completing the below table:

Table 17

	Year [x]	Year [x +1]	Year [x+2]
Total number of requests sent			
Total number of requests for clarifications received			
Total of acknowledgement of receipt for clarification sent			

## Examples from the CbC reporting peer review questionnaire

### Part II

Question 4. In general, were all CbC reports that you expected to receive in fact received?

Question 5. In general, were the CbC reports received complete and consistent with the template in Annex III to the Transfer Pricing Guidelines Chapter V Transfer Pricing Documentation – Country-by-Country Report? If not, please describe and indicate whether you advised [subject jurisdiction] of any problems and whether you were satisfied with their response.

Question 6. In general, was the information received on time? If not, please describe.

## Examples from the BEPS Action 5 exchange on tax rulings peer input questionnaire

Question 1. In general, was the information complete and in the correct format (Annex C of the 2015 Action 5 Report or the OECD XML Schema)?

Question 2. In general, was the information on past rulings received by [31 December 2017]?

Question 3. In general, was the information on future rulings received in a timely manner? If not, please explain your response.

Question 4. If you initiated any follow up requests for a copy of the tax ruling in connection with the transparency framework, were these answered in a timely and complete manner? If not, please explain your response.

Annual reporting on the number of exchanges and the jurisdictions exchanged with for the following ruling categories:

- Ruling related to a preferential regime
- Cross-border unilateral advance pricing agreements (APAs) and any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the application of transfer pricing principles
- Cross-border rulings providing for a unilateral downward adjustment to the taxpayer's taxable profits that is not directly reflected in the taxpayer's financial / commercial accounts
- Permanent establishment rulings
- Related party conduit rulings

- De minimis rule
- IP regimes: total exchanges on taxpayers benefitting from the third category of IP assets, new entrants benefitting from grandfathered IP regimes; and taxpayers making use of the option to treat the nexus ratio as a rebuttable presumption
- Total number of rulings

### Examples from the MAP peer review

Number of MAP cases per jurisdiction, their status of progress and the solution found for the resolution of the case

Average time to resolve MAP cases per jurisdiction