

## OECD releases schedule of Action 14 peer reviews

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### Executive summary

On 31 October 2016, the Organisation for Economic Co-operation and Development (OECD) published the Base Erosion and Profit Shifting (BEPS) Action 14 assessment schedule of peer reviews (the Schedule). The Schedule covers Stage 1 of the peer review process and catalogues the assessed jurisdictions into eight batches for review. The first batch is scheduled to be launched in December 2016 and comprises the review of Belgium, Canada, Netherlands, Switzerland, the United Kingdom and the United States. The assessment reports of the first batch would be published in the second half of 2017. The OECD also opened the possibility for business representatives to provide input into the peer review process through the completion of a questionnaire. Input is requested before 28 November.

### Detailed discussion

On 20 October 2016, the OECD released a compilation of documents that form the basis for the review process of Action 14. This compilation contains four documents, namely: (i) the Terms of Reference; (ii) the Assessment Methodology; (iii) the Mutual Agreement Procedure (MAP) Statistics Reporting Framework; and (iv) the Guidance on Specific Information and Documentation Required to be Submitted with a Request for MAP Assistance. For a detailed

discussion on the content of the peer review documents, see EY Global Tax Alert, *OECD releases BEPS Action 14 on More Effective Dispute Resolution Mechanisms, Peer Review*, dated 31 October 2016.

The Assessment Methodology explains that all current 86 BEPS members have committed to comply with the BEPS minimum standards, including those contained in the final report on Action 14. Moreover, to assist BEPS members in improving the effectiveness of their MAP regime, every member's compliance with the minimum standard will be reviewed by members of the Forum on Tax Administration MAP Forum (FTA MAP Forum),<sup>1</sup> in accordance with an assessment schedule.

The review will be undertaken through a two-stage approach. During Stage 1 of the review, the legal framework for MAP and the application of this framework in practice will be assessed. Conversely, during Stage 2, the review will focus on the measures taken by a jurisdiction to address any shortcomings identified in its Stage 1 of the peer review. Furthermore, during Stage 1, the peers will obtain input on an assessed jurisdiction from three sources: from the assessed jurisdiction, from the assessed jurisdiction's peers and from taxpayers. This input will be collected through a set of questionnaires that will be made available to each of the said sources.

In light of the above, on 31 October, the OECD released the [schedule](#) for Stage 1 of the peer review and a questionnaire for taxpayers. The schedule catalogues the assessed jurisdictions into eight batches for review. As noted above, the first batch is scheduled to be launched in December 2016 and comprises the review of Belgium, Canada, Netherlands, Switzerland, the United Kingdom and the United States. From the first batch onwards, every four months the review of a new batch will be launched, i.e., the second batch of reviews will be launched in April 2017, the third batch in August 2017, the fourth batch in December 2017, and so on.

## Taxpayer Questionnaire

The OECD released the questionnaire for taxpayers along with the schedule. The questionnaire is divided into three areas:

- i) Access to MAP
- ii) Clarity and availability of MAP guidance
- iii) Implementation of MAP agreements

Interested parties should submit their responses in English or French to the OECD Secretariat no later than 28 November 2016.

Once the peers have gathered input from an assessed jurisdiction, the individual report of the assessed jurisdiction will be prepared and will identify and describe any shortcomings that exist in relation to the implementation of each of the elements of the minimum standard and will provide recommendations as to how these shortcomings might be addressed.

## Implications

The fact that tax authorities will be subject to review by their peers should be seen by multinational enterprises (MNEs) as a positive direction to ensure access to an effective MAP process. Moreover, the fact that the OECD will take taxpayers' experiences and comments into consideration when conducting the peer review will provide tax authorities with a better understanding of how the MAP process is viewed by taxpayers, the consumers of the MAP. This can be a key factor in assisting tax authorities in improving the MAP process. As a consequence, MNEs may consider engaging in the peer review process, in particular by submitting answers to the questionnaire.

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## Endnote

1. As of 1 November 2016, the FTA MAP Forum has the following 46 members: Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, Colombia, Costa Rica, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Malaysia, Mexico, Netherlands, New Zealand, Norway, People's Republic of China, Poland, Portugal, the Russian Federation, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States.

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EYG no. 03630-161Gbl

1508-1600216 NY  
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