

EU continues making multinational group operations more transparent 2/29/22



Senior Manager, Transfer Pricing, PwC
Latvia
Andis Vitols



Senior Manager, Transfer Pricing, PwC
Latvia
Zane Smutova

On 1 December 2021 the European Parliament published the approved directive on the preparation of a public country-by-country report ("PCbCR¹ Directive"). It states that any multinational group with consolidated revenue exceeding EUR 750 million for each of the last two financial years has to publish certain information (including revenue, headcount, and taxes paid) on their operations in each EU member state and certain third countries. This information has to be posted on the group's website by December 2026 relating to subjects governed by the Directive if the financial year ends on 31 December 2025.

The scope of the directive

Multinational groups (regardless of whether their headquarters is within or outside the EU) and certain enterprises operating in the EU with a total consolidated revenue of more than EUR 750 million for the last two financial years will have to prepare and publish a country-by-country report ("Report") on their operations in each member state and certain third countries. If the parent company of the multinational group is incorporated outside the EU, the reporting obligation will arise if an EU subsidiary is "medium" or "large" as defined by Accounting Directive 2013/34/EU. This means that the multinational group will have to file a public Report if it has an EU subsidiary that meets at least two of these three criteria:

1. The balance sheet total exceeds EUR 4 million
2. The net turnover exceeds EUR 8 million
3. The average headcount during the financial year exceeds 50

If the EU subsidiary does not have all the information required for publication under the PCbCR Directive, it has to request the information from its parent company or publish a notice that the parent has not provided the required information.

Information to be publicly disclosed in the Report

The PCbCR Directive aims to improve corporate transparency across the EU and allow the large companies and their tax position to be monitored more closely. If the reporting obligation arises, the company's Report has to disclose the information set out below:

- A brief description of the business
- The number of full-time workers
- Pre-tax profit or loss
- The amount of corporate tax accumulated during the financial year
- The amount of corporate tax paid
- Accumulated profit

The Report will have to be prepared for each member state separately and for each third country that has been on the EU black or grey list for two years in a row.² For all other countries the Report only has to include an aggregate.

The PCbCR Directive contains a safeguard under which certain information may be temporarily withheld from the Report if disclosing it is likely to do serious damage to the company's commercial position. However, such information has to be disclosed within the next five years and the reasons for non-disclosure have to be stated.

It is important to note that a certified auditor will have to approve the Report and state whether the company has met all the requirements for preparing the Report and whether it has been published in line with the PCbCR Directive.

Publication and availability of the Report

The Report will have to be publicly available on the group's website at least five years in a row. Companies may also publish the Report on a public trade register, but in that case the company's website will have to refer to the particular register where the Report is published. There has to be free access to any such public register.

Next steps

Once the PCbCR Directive comes into force, the member states are to pass it into their national law on or before 22 June 2023. The reporting requirements will apply to all financial years beginning on 22 June 2024 or later.

The Report has to be published within 12 months after the balance-sheet date of the financial year. Groups whose financial year ends, for instance, on 31 December 2025 have to publish the Report on or before 31 December 2026.

¹ Public Country-by-Country Reporting <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021L2101&from=EN>

² <https://www.consilium.europa.eu/en/policies/eu-list-of-non-cooperative-jurisdictions/>