

Peer Review of BEPS 4 minimum standards: from compliance to learning and contextualization

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Topics

**Peer review BEPS
and OECD**

Examples

**Learning and
contextualization**



1. Peer Review BEPS Minimum Standards

- 124 of 193 countries/jurisdictions (November 2018).
- In principle, 4 minimum standards soft law thus no legally binding (except if in MLI). However, there is an expectation that they will be implemented by the countries.
- Main objectives: Peer review: Monitoring process
 - Compliance: Timely and accurate implementation
 - Ensure a level playing field
- Other objectives
 - To review their own tax systems
 - To identify and remove elements raising BEPS risks

1. Peer Review OECD

- Started almost 50 years ago
- OECD tool for co-operation and change
 - To compare experiences and examines best practices
 - Examples: Economic policy, environment, corruption
- Functions of the peer review
 - Policy dialogue, transparency, capacity building and compliance

To be effective: common understanding, adequate level of commitment, mutual trust and credibility

2. Peer Review BEPS Examples

•Action 5

- EOI rulings: Peer review: Some input (1-10). If no input, review by OECD Secretariat.

2016: 44 countries: Assessment by the OECD + peer questionnaire

2017: 92 countries (no yet available- 13 Dec)

2. Peer Review BEPS Examples

•Action 5

- Harmful tax regimes: Peer review by forum Harmful Tax Practices and its delegates (mandate) November 2018 report. Regimes self-identified or by a peer jurisdiction.

*This progress report serves to demonstrate to the public the **swift progress** being made, to affirm the actions of Inclusive Framework members that have made **significant commitments** to change their tax rules, and to **maintain the momentum** that led to the creation of the Inclusive Framework.*

2. Peer Review BEPS Examples

• Action 6

- Terms of reference. Peer review started in 2018.

Report not yet available.

• Action 13

- Terms of reference.
- Started in May 2018. Phase 1 Review domestic legal framework.
95 jurisdictions
 - Some not reviewed: Botswana opted out (no MNE headquarters),
Others no yet reviewed: natural disasters (Turk and Caicos Island), or
capacity constrains.
- Phase 2 Monitoring changes. To be completed 2019.

2. Peer Review BEPS Examples

- **Action 14**

- 4 Batches of review (2017-2018), 1 expected in 2019. Some peer reviews deferred until 2020
- Stage 1 recommendations and Stage 2 monitoring
- Input from countries for the stage 1 peer reviews
- Includes also taxpayer input (e.g. Israel)

3. Peer Review: Recommendations

- Are all minimum standards needed (e.g. Botswana Action 13)?
- Terms of reference consider mismatch between the standard setters, the differences among countries, and the needs of developing countries
- To seek input from developing countries
- Not only compliance but learning and contextualization
 - ❑ To provide insight on the countries' problems
 - ❑ Exchange best practices between countries
 - ❑ Peer review to actively ask input from stakeholders (not only governments, but also taxpayer, business associations, tax advisors). Empirical research is needed.

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