EU public country-by-country reporting

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In December 2021, the EU Public Country-by-Country Reporting (CbCR) Directive entered into force. This Directive requires multinationals to publicly disclose information regarding their profit allocation, paid taxes and specific indicators of economic activities per country. The Directive is a significant step towards multinationals' tax information becoming available for public scrutiny. What are the new requirements and how will they impact multinational companies?

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Figure 1 EU Public CbCR – key facts

Companies in scope

- EU-based (headquartered) multinationals with total consolidated revenue exceeding EUR 750M for the last two financial years.
- Non-EU-based multinationals with total consolidated revenue exceeding EUR 750M for the last two financial years, controlling an EU medium-sized or large subsidiary or qualifying branch.
- Financial institutions which fall within the scope of Public CbCR are exempted from reporting (as they are already required to publish CbCR under Directive 2013/36/EU).

Items to report
Name of the ultimate parent or the standalone company, the financial year concerned, and the currency used
Nature of the activities
Number of employees
Total net turnover made
Profit made before tax
Income tax due in the country by reason of the profits made in the current year in that country
Income tax actually paid during that year
Accumulated earnings

Timeline

- **21 December 2021** CbCR Directive in force
- **22 June 2023** Deadline to treanspose Directive to local legislation
- **June 2024** Commencement of regime (for FY2025 starting on or after June 2024)
- **June-December 2026** First reporting deadline for FY2025

Reporting format

The report should be made accessible on the public registry of the relevant Member State and on the company website free of charge for a minimum of five consecutive years.

There is the option for Member States to exempt companies from publishing on their websites if access to the report in the public registry is free of charge to any third party located in the EU.

Summary
In December 2021 a new EU Directive entered into force, requiring multinationals to publicly disclose corporate income tax information. With more tax and financial data becoming publicly available, companies should act proactively and analyse this data upfront. This will allow creating a narrative around the numbers and compel a story that is beneficial for the company. One of the best ways to do this is to use technology tools which enable companies to analyse big amounts of data and present them in the form of interactive dashboards.

Differences between EU Public CbCR and OECD CbCR

In 2013, the OECD and G20 countries developed a 15-point Action Plan to address Base Erosion and Profit Shifting ("BEPS"). One of these actions was related to transfer pricing documentation and was presented in October 2015 ("Action 13: 2015 Final Report - Transfer Pricing Documentation and Country-by-Country Reporting (OECD CBCR)"). OECD CbCR (implemented in 2017) provides tax authorities with a high-level view of the global operations of multinational enterprises as well as their key financials. These financials may be used by tax authorities for a transfer pricing risk assessment. EU Public CbCR now adds another angle to the reporting by making such data public and thus available to a wider audience.

EU Public CbCR has a more limited scope compared to the already existing OECD CbCR, however. In particular, the information needs to be disclosed only for EU Member States and jurisdictions listed in Annex I and Annex II of the Council's conclusions on the EU list of non-cooperative jurisdictions (the so-called EU blacklist and grey list). For all other jurisdictions, it is sufficient for aggregated data to be disclosed.

In addition, EU Public CbCR does not require companies to disclose unrelated and related party revenue separately but only the total turnover. It also does not require disclosure of stated capital and tangible assets.

In addition, unlike for the OECD CbCR, Member States may allow for one or more specific items of information to be omitted when the disclosure thereof would be seriously prejudicial to the commercial position of the group. Any information omitted shall be made public in a later report within no more than five years from the date of its original omission. It should be noted that information concerning tax jurisdictions listed in the EU list of non-cooperative jurisdictions may never be omitted.

Implications for multinationals – case study

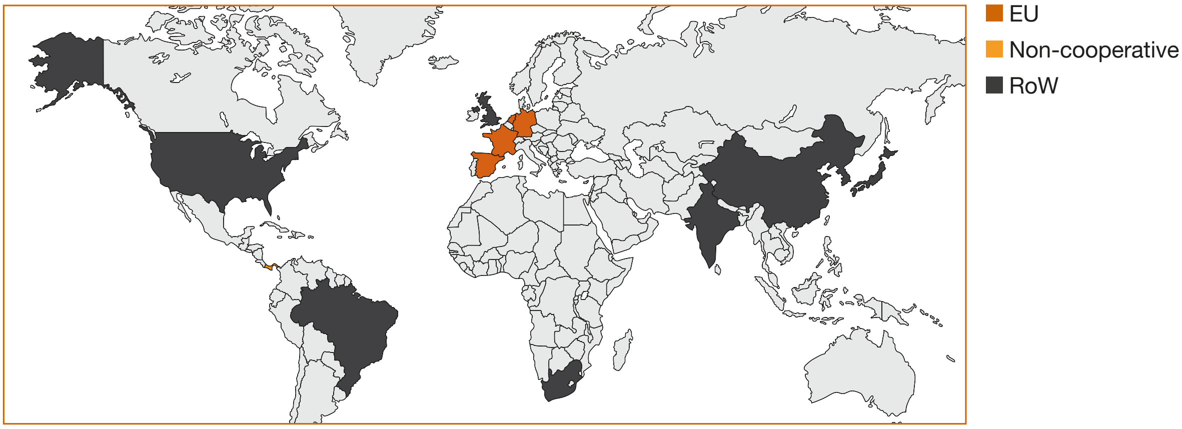
The data that are included in the EU public CbCR report (or OECD CbCR report) are open to various interpretations. It is therefore essential that companies analyse these and other data sources upfront from multiple perspectives to gain an understanding of the story they actually tell, and most importantly, whether this story matches the transfer pricing policies as presented in the transfer pricing documentation. This allows the company to anticipate any critical questions by external stakeholders (e.g. tax authorities, NGOs or journalists) or consider any necessary changes to transfer pricing policies.

To illustrate the above, a business case of a fictitious multinational that manufactures e-bikes is analysed in the following section. The analysis was performed with the PwC CbCR analyzer tool that focuses on tax risk indicators such as substance levels and profit ratios. In this example, the e-bike manufacturer operates a principal model in Europe. The manufacturer is headquartered in the Netherlands (being the principal), has a contract manufacturing location in Poland and sales companies in various countries (limited risk distributors). In addition, it uses a shared service centre in Bulgaria which provides auxiliary services to the group.

Figure 2 Differences between EU public CbCR and OECD CbCR

Public EU Public CbCR	• Multinational enterprises (EU parented or with EU subsidiaries or branches) with consolidated turnover of EUR 750 million or more • Mandatory reporting • Publicly available report
Non-public OECD BEPS 13 CbCR	• Multinational enterprises with consolidated turnover of EUR 750 million or more • Mandatory reporting • Report available to tax authorities only (unless voluntarily made public by multinational enterprise itself

Figure 3 Countries in which the company is active

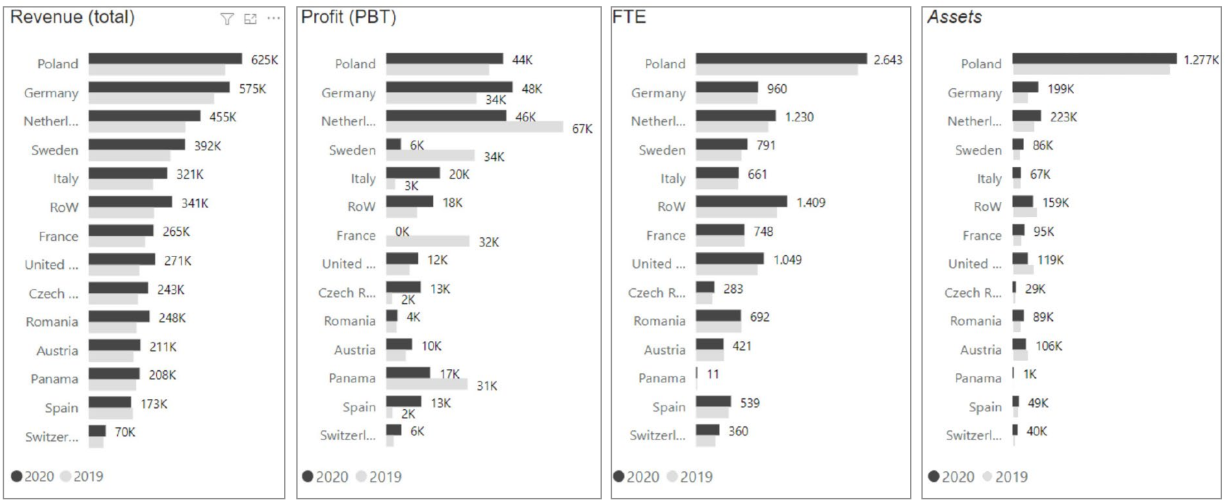


There are multiple risk indicators that could be analysed based on the EU CbCR report, one of the major ones being the ratio between substance (derived from the total revenue or number of employees) on the one hand and profits on the other hand. Figure 4 shows these figures as presented in the EU CbCR report. An obvious case of substance (dis)alignment could be easily detected when a significant profit is reported in a country where the company has no or relatively very few employees. Figure 4 also shows the company's assets. Contrary to OECD CbCR, this is not mandatory under EU CbCR. However, if the company chooses to voluntarily disclose the assets, they too will be an important indicator of economic activity.

In the case of this fictitious company, it would make sense for the employees' location to be mainly reported in the Netherlands, Poland and the rest spread across Europe, whereas tangible assets would be reported in the same locations with a bigger part pertaining to the manufacturing location (i.e. Poland).

Based on the data represented in figure 4, the distribution of the profits vs. location of employees and assets seems to match the transfer pricing model. However, it's easy to spot the outlier: Panama has a small number of FTEs and has insignificant tangible assets, implying that there is no significant substance in this location. Please note that Panama should be included in the EU CbCR report, as it is included in the EU list of non-cooperative jurisdictions.

Figuur 4 Distribution of profits, location of employees and assets



This becomes even more visible when ratios are presented, as shown in figure 5. From this figure it is clear that Panama reports a significantly high profit in relation to FTEs compared to other group entities. This outlier will definitely attract the attention of various stakeholders including tax authorities.

Another relevant analysis could be to compare the transfer pricing policy applied (and documented) with the profits being stated in the CbCR. When a certain country is presented as a limited risk distributor or a low-value adding service provider, it is relatively easy to check whether the proportion of profits and revenues aligns with the fixed remuneration prescribed by the group transfer pricing policy.

Figure 6 shows the profit margins that can be calculated based on the EU CbCR report (in this example for 2 years). In this case, European countries (for example, Germany, Sweden, France and Italy) are limited risk distributors, but their margins are quite different from year to year. This could trigger the discussion whether the limited functional profile claimed by those entities is aligned with the economic circumstances and whether the transfer pricing model is indeed correctly implemented.

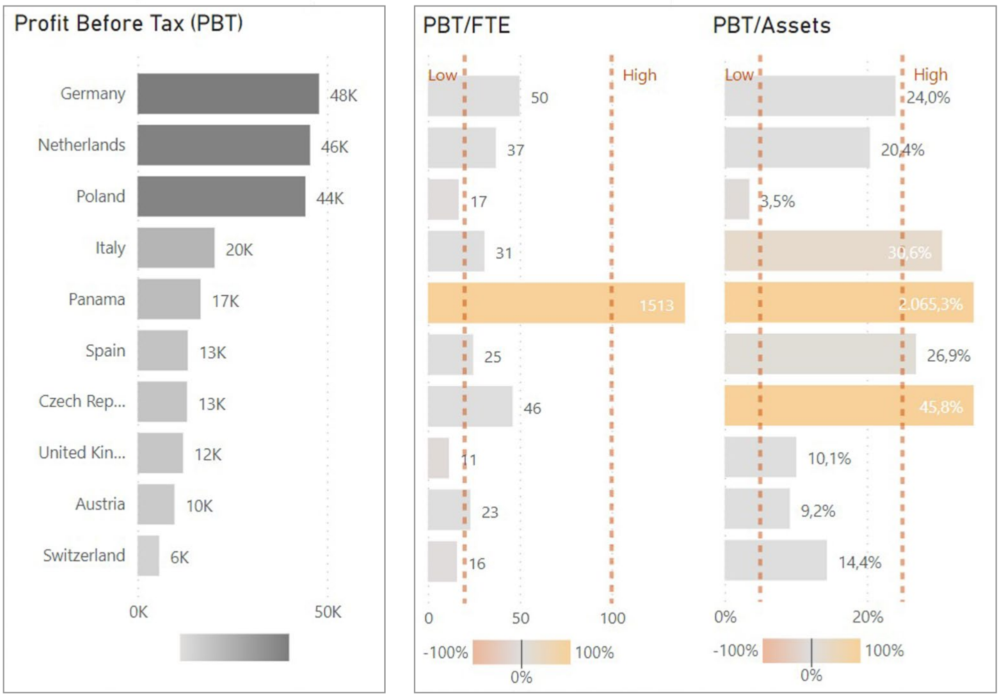
Both examples show that it is essential that companies sufficiently analyse the data to be reported in advance so as to recognise the outliers and sufficiently narrate and explain such outliers before they trigger any unwanted attention.

Beyond the tax return

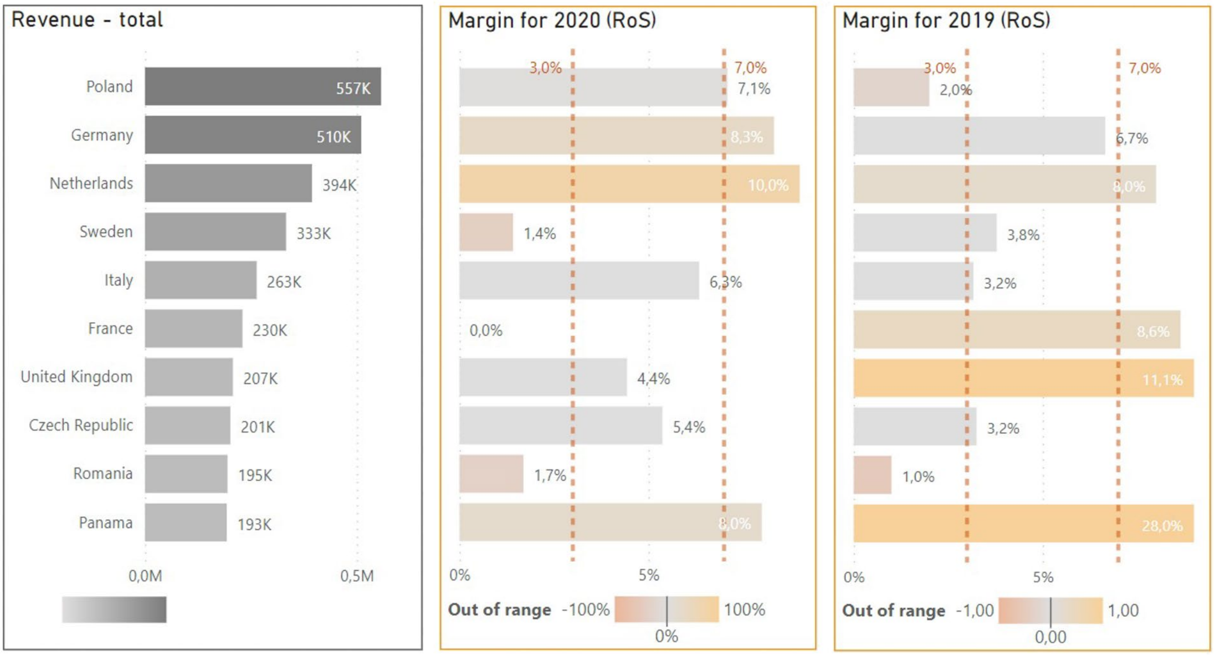
For most multinationals, the data environment becomes even more complex as it grows beyond the mandatory tax reporting, both in the public and non-public domains. Propelled by the debate on tax and the influence on sustainability, organisations are also voluntarily reporting on their tax affairs (e.g. the publication of the tax strategy or OECD CbCR).

As such, it is crucial nowadays to cross-check the CbCR data not only with tax and financial statements but also with ESG (environmental, social and governance) statements. For example, if the company is claiming that it does not operate in tax havens, it should also make sure that CbCR does not show any substance present in these locations (such as Panama in the example above). After all, more and more attention is being paid to the complete picture that is painted by both the mandatory tax data to be reported and all the other available reports.

Figuur 5 Profit per employee and profit to assets ratio



Figuur 6 Return on sales



Conclusion

Regardless of the type of CbCR reporting a company files (whether it is EU CbCR or OECD CbCR, whether it is publicly available or not), it is valuable to analyse the data thoroughly before publication. This will allow the company to spot outliers and proactively tackle possible related questions. Data coupled with a clear and compelling story towards various stakeholders, including tax authorities and the general public, will help the company to manage its tax and reputation risks effectively.

One of the most effective ways to analyse quantitative data is to use software tools that can calculate and visualise various relevant financial indicators in the form of an interactive dashboard. This will equip the company with a high-level picture as well as allow them to drill down into specific regions or into the specific ratios.