



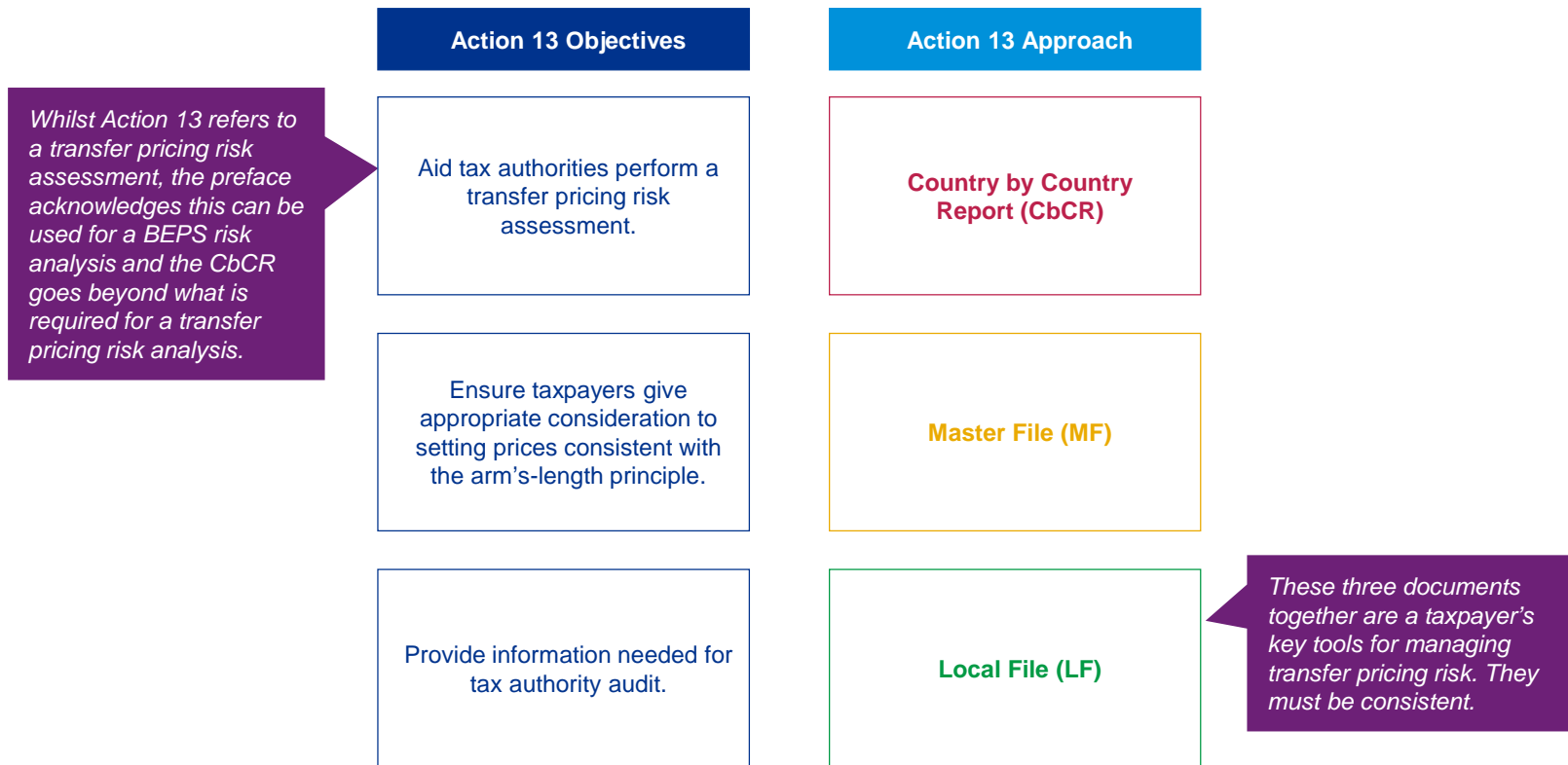
New TP documentation requirements

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Stockholm, November 9, 2016

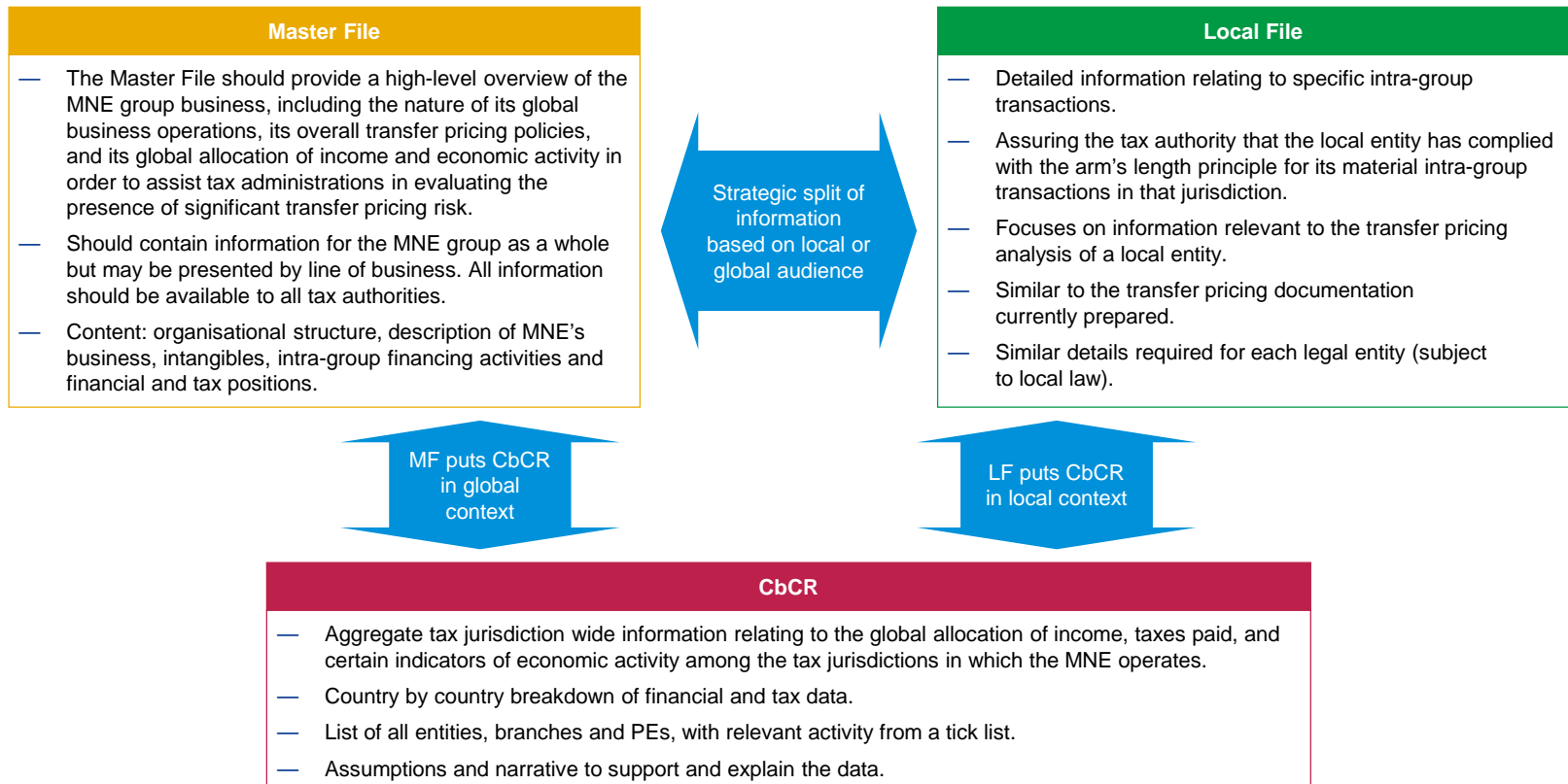
Action 13: Objectives and approach

On 5 October 2015, the OECD released final guidance on Transfer Pricing Documentation and Country-by-Country Reporting. The OECD has developed a three-tiered approach to enable tax authorities to have sufficient information to risk assess.



Interaction between the three elements

There is now a three tiered approach to transfer pricing documentation. The documentation is a tool taxpayers can use to manage tax and transfer pricing risk.



CbCR Requirements

While the primary purpose of the CbCR is to provide information to a tax authority to enable it to undertake a transfer pricing risk assessment, it is acknowledged that the data will be used to assess wider BEPS related risks.

Tax Jurisdiction	Unrelated Party Revenue	Related Party Revenue	Total Revenue	Profit (loss) before income tax	Income tax paid (on a cash basis)	Income tax accrued – current year	Stated Capital	Accumulated Earnings	Number of employees	Tangible Assets other than Cash and Cash Equivalents
Country A	x	x	x	x	x	x	x	x	x	x
Country B	x	x	x	x	x	x	x	x	x	x
Not resident in any tax jurisdiction	x	x	x	x	x	x	x	x	x	x

Table 1 – data or information?

Aggregation vs consolidation of accounts

Consider technology as enabler, not as the solution.

When and what to disclose in table 3?

Tax Jurisdiction	Constituent entities resident in the tax jurisdiction	Tax jurisdiction of organisation or incorporation if different from tax jurisdiction of residence	Activities												
			Research and development	Holding or Managing intellectual property	Purchasing or procurement	Manufacturing or production	Sales, marketing or distribution	Admin, management or support services	Provision of services to unrelated parties	Internal group finance	Regulated financial services	Insurance	Holding shares or other equity instruments	Dormant	Other
Country A	Entity A	Country B		✓											
	Entity B				✓	✓			✓						✓
Country B	Entity C		✓								✓				
	PE 1						✓								

Master file requirements

The objective of the Master File is to explain an MNE's transfer pricing policies in the context of its global economic, legal, financial and tax profile.

The Master File should include a high level overview of the MNE, covering the following topics:

- A description of the business
- Intangibles
- Intra-group financial activity
- Financial and tax positions

Find the right balance; what should be included, what should be left out?

How to explain a complex business

Local file requirements

The content of the Local File helps to demonstrate that the taxpayer has complied with the arm's length principle in its material intra-group transactions.

For each jurisdiction, the Local File should contain:

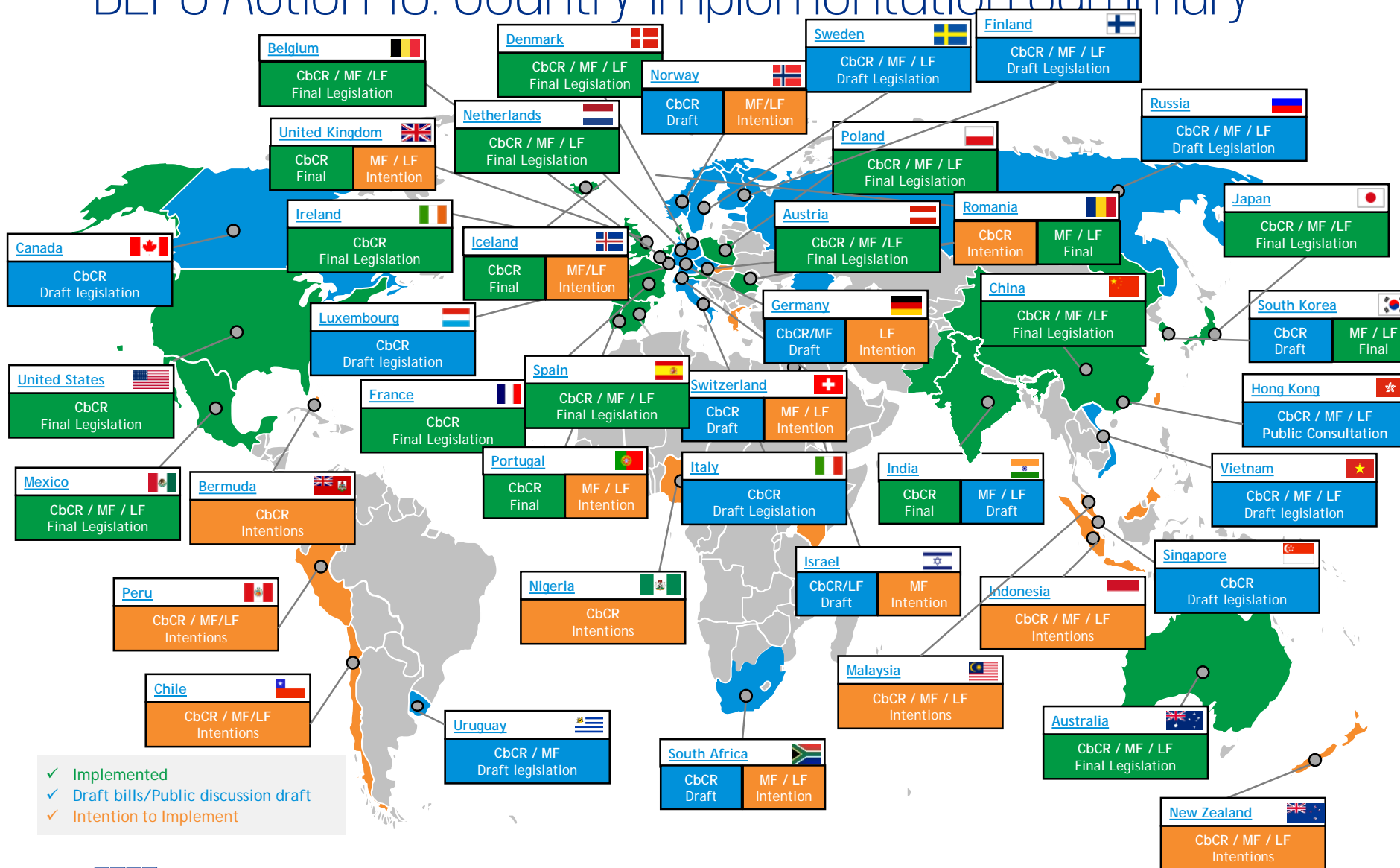
- A description of the management structure, business strategy, business restructurings, key competitors;
- Detailed information for each material category of controlled transactions; and
- Financial information for local entities, including local financial accounts and reconciliation between information used for transfer pricing, financial statements and financial data for comparables.

Develop a risk based approach

Think of transfer pricing documentation as a process

Note: (a) We interpret this to include a broad-based analysis considering the five factors of comparability.

BEPS Action 13: Country implementation summary



Implementation of BEPS Action 13 in Sweden

- The Swedish government submitted a council on legislation in October 2016.
- CbCR must be filed by December 31, 2017, but relate to FY2016.
- Notification requirement applies for Swedish group companies. Need to notify STA:
 - if it is the ultimate parent entity or the surrogate parent entity; or
 - The identity and tax residence of the reporting entity
- The new documentation requirements for Master file and Local file would apply for the fiscal years beginning on or after April 1, 2017
- Exemption from documentation requirements: Groups with less than 250 employees, and either having revenues not exceeding SEK 450 million or total assets of not more than SEK 400 million (during the preceding fiscal year).

	CbCR – effective date of implementation	MF/LF – effective date of implementation	MCAA signatory	Comments
Sweden	✓ January 1, 2016	✓ April 1, 2017	✓	<ul style="list-style-type: none"> ▪ Draft Regulation/Legislation based on the OECD Action 13. ▪ CbCR Notification requirement before end of fiscal year (First year: April, 2017 for FY2016)
✓ Implemented ✓ Draft bills/Public discussion draft				✓ Intention to implement ✗ No announcements made to date / not required
				MF - Master file LF - Local file CbCR - Country-by-country reporting

Key country implementation

Country	CbCR – effective date of implementation	MF/LF – effective date of implementation	MCAA signatory	Comments
Brazil	✗	✗	✓	<ul style="list-style-type: none"> Brazil has not yet enacted legislation related to BEPS Action 13 CbyC reporting Brazilian based multinationals are already required to report the profits before tax and the taxes paid of its foreign direct and indirect subsidiaries. Such requirements are not as broad as the ones provided under Action 13.
China	✓ January 1, 2016	✓ January 1, 2016	✓	<ul style="list-style-type: none"> Final Regulation/Legislation implemented based on the OECD Action 13. The Chinese Local File rules include elements in addition to what the BEPS Local File requires No notification requirement
Denmark	✓ January 1, 2017 (For DK HQ: Jan 1, 2016)	✓ January 1, 2017	✓	<ul style="list-style-type: none"> Final Regulation/Legislation based on the OECD Action 13. CbCR Notification requirement to local tax authority before the end of 2016.
Finland	✓ January 1, 2016	✓ January 1, 2017	✓	<ul style="list-style-type: none"> Draft Regulation/Legislation based on the OECD Action 13 CbCR Notification requirement to local tax authority before the end of 2016. Further guidance expected.

✓ Implemented

✓ Intention to implement

MF – Master file

✓ Draft bills/Public discussion draft

✗ No announcements made to date /
not required

LF – Local file

CbCR – Country-by-country reporting

Key country implementation

Country	CbCR – effective date of implementation	MF/LF – effective date of implementation	MCAA signatory	Comments
Germany	✓ January 1, 2016	✓ January 1, 2017	✓	<ul style="list-style-type: none"> Draft Regulation/Legislation based on the OECD Action 13. The Local file rules require supplemental information to Action 13. CbCR Notification requirement in tax return for FY2016 in tax return
Hong Kong	✓ January 1, 2018	✓	✗	<ul style="list-style-type: none"> Anticipate adoption based on the OECD Action 13. Comprehensive Double Taxation Agreements (“CDTAs”) or Tax Information Exchange Agreements (“TIEAs”) as the basis for conducting automatic exchange of CbC reports, otherwise secondary filing.
Norway	✓ January 1, 2016	✓	✓	<ul style="list-style-type: none"> CbCR: Draft Regulation/Legislation based on the OECD Action 13. MF/LF: Anticipated adoption based on the OECD Action 13. CbCR Notification requirement in tax return for FY2016 in tax return
United States	✓ July 1, 2016	✗	✗	<ul style="list-style-type: none"> Final CbCR legislation implemented based on the OECD Action 13. CbCR regulations only imposed on multinationals headquartered in the U.S. Hence, no CbCR notification requirement for Swedish headquartered MNEs. The IRS has not ruled out the OECD’s Master File and Local File approach to transfer pricing documentation.
<div> <div>✓ Implemented</div> <div>✓ Intention to implement</div> <div>✓ Draft bills/Public discussion draft</div> <div>✗ No announcements made to date / not required</div> </div>				MF – Master file LF – Local file CbCR – Country-by-country reporting

Five key take aways

Give an appropriate consideration to setting prices

1

Interaction between the three elements

2

Local documentation requirements

3

Beware of local CbCR notification requirements

4

Beware of CbCR secondary filing requirements

5



Thank you!



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