OECD BEPS Action Plan

Moving from talk to action in the Asia Pacific region

October 2017

KPMG International

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Introduction

A whirlwind of international tax change continued to sweep the globe in the past year, and for tax executives in the Asia Pacific region, there is no end in sight. From broader requirements for tax transparency through more stringent transfer pricing policies to greater scrutiny of business substance, every country and every multinational company is feeling the impact.

With the release of all final recommendations on base erosion and profit shifting (BEPS) and their endorsement by the G20 and European Union (EU) in 2015, the Organisation for Economic Cooperation and Development (OECD) delivered a groundbreaking starting point for truly global tax coordination.

Since then, the OECD has put in place mechanisms to monitor the implementation of the BEPS minimum standards and has engaged in extensive follow-up work flowing from the 2015 deliverables.

Currently, the European Union (EU) appears to be taking the lead with its efforts to harmonize EU BEPS implementation, with significant impact on Asia Pacific headquartered companies with European operations. Australia, China and India made major contributions to the final content of the BEPS recommendations, and they are at the forefront of BEPS implementation. Many other Asia Pacific countries are influencing — and being influenced by — the profound international taxation changes that are underway.

This report is the fourth in our series of updates on how actions on BEPS policy are progressing in the Asia Pacific region. In these pages, international tax leaders from KPMG's member firms in the region offer insights on:

— the impact of the BEPS debate on tax policy in the Asia Pacific and selected countries in the region

— recent and pending changes to tax codes ahead of or in step with the OECD recommendations

— the changing attitudes of tax authorities as international tax reforms take hold

— how international companies are reacting to and managing these reforms.

Our findings are set out in the following pages, starting with an overview of BEPS-related trends across the region, followed by an in-depth look at how events are unfolding in selected Asia Pacific countries. We conclude with strategic advice that tax directors of all international companies should consider now to guard against adverse change and thrive in Asia Pacific's new tax reality.

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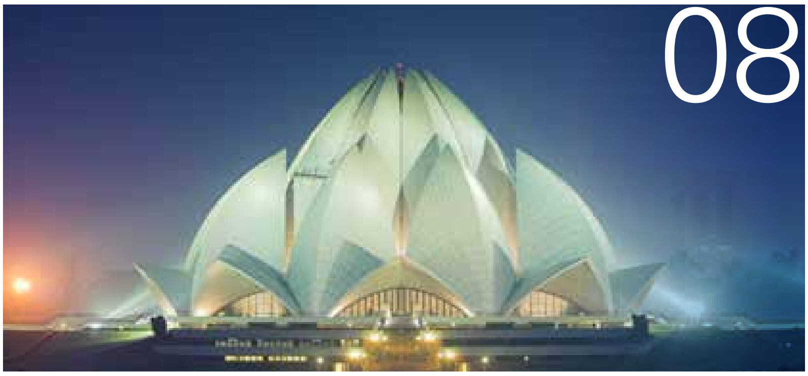

OECD BEPS Action Plan:

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The OECD Action Plan on BEPS, introduced in 2013, set 15 specific action points to ensure international tax rules are fit for an increasingly globalized, digitized business world. The action points also aim to prevent international companies from paying little or no tax. After 2 years of outstanding effort, on 5 October 2015, the OECD published guidance on domestic legislative and administrative changes to address all 15 of the Plan's action points and gained the G20's approval on 16 November 2015.

Most OECD and G20 countries have been engaged in the OECD's work, and many other countries in the Asia Pacific region and worldwide are either fully engaged or watching developments closely. Each government will have to determine how the guidance affects its existing rules, and then undertake the lengthy process of proposing, debating and enacting domestic tax changes. In some countries, years may pass before reforms become law.

The OECD's goal is to achieve consensus on a coordinated implementation of uniform international taxation principles for the modern age. While European and North American countries have been particularly vocal, a number of Asia Pacific countries came to the fore and exerted significant influence on the BEPS proposals.

China has taken a particularly active and constructive role in the various working group meetings that considered the Action Plan items, and hosted the G20 and the Forum on Tax Administration (FTA) meetings in 2016 which set about implementing the BEPS deliverables.

In addition to China, many more Asia Pacific countries have decided to join the OECD Inclusive Framework in order to support a swift, coordinated implementation of the BEPS package. Moreover, 12 Asia Pacific countries to date have joined the OECD Multilateral Instrument to implement the BEPS recommendations on tax treaties.

Next steps?

Even though the OECD is aiming for a coordinated implementation, different countries are proceeding at somewhat different paces in implementing the BEPS proposals. Businesses have raised concerns over the uncertainty and complexity that is bound to result from staggered implementation of new rules among different countries.

The OECD is currently in the process of peer reviews to monitor the implementation of the minimum standards agreed under BEPS. Going forward, the OECD will continue to develop guidance for implementing the BEPS changes in 2017 and 2018.

Which countries are on board?

In their engagement with the OECD BEPS Action Plan, countries in the Asia Pacific region fall on a spectrum that runs from 100 percent participation and commitment to non-engagement. At one extreme, the OECD members in the region are highly engaged and likely to adopt the full slate of BEPS proposals in accordance with the OECD guidelines. Australia has perhaps been most involved to date, given its role as president of the G20 during 2014 and its desire to see

No engagement on BEPS	OECD Inclusive Framework member		OECD Multilateral Instrument member	
Brunei	Australia	Malaysia	Australia	New Zealand
Cambodia	China	Mauritius	China	Pakistan
Laos	Hong Kong	New Zealand	Fiji	
Myanmar	India	Pakistan	Hong Kong	
	Indonesia	Papua New Guinea	India	
	Japan	Singapore	Indonesia	
	Kazakhstan	Sri Lanka	Japan	
	Korea	Thailand	Korea	
	Macau	Vietnam	Mauritius	

Source: KPMG International, 2017.

real progress on BEPS during its tenure. With a Japanese Ministry of Finance official formerly serving as chair of the OECD Committee on Fiscal Affairs, Japan has been highly invested in the Action Plan's successful outcome.

Many other Asia Pacific countries have recently joined the OECD initiatives to coordinate implementation through the Inclusive Framework and the Multilateral Instrument.

More tax complexity ahead

Just as domestic rules will be enacted at different paces in different places, it's also becoming apparent that the interpretation and implementation of the OECD recommendations will vary considerably. While many Asia Pacific countries have committed to follow the OECD's recommendations in principle, unilateral action taken to date suggests that, on implementation, individual countries will tailor the proposals to suit their own purposes. For example:

— In the area of transfer pricing, China, India and other Asian countries have publically stated their support for the BEPS transfer pricing outputs. However, their tax administrations have also noted a need to 'localize' the BEPS guidance to suit domestic circumstances. This allows domestic country attributes, such as specific market characteristics and intangible assets, to continue to be accounted for in determining value creation when allocating profits to the local country.

— Certain Asia Pacific countries (e.g. India, China) have led the way with anti-avoidance rules. While such rules were outside the original BEPS program's scope, they are taking center stage in the BEPS follow-up work for developing countries (e.g. indirect offshore disposal rules). In these fields, some countries in the Asia Pacific region lead the world in terms of practical experience.

Globally, these departures from the letter of the OECD recommendations are expected to multiply. For example, in September 2017, the European Commission presented its plan for taxing the digital economy (Action 1), which may not be aligned with the OECD recommendations. Moreover, the EU has implemented many other rules to address tax avoidance, increase transparency and improve EU coordination, and many of these rules go further than some OECD BEPS recommendations. Meanwhile, the US seems hesitant to embrace the OECD's recommendations due to concerns that the tax practices of US-based multinational companies are being unfairly targeted. The US is also occupied with its own corporate tax reform.

So even though the OECD Action Plan sought to instill more uniformity and certainty in the international tax system, it appears increasingly likely that implementation will be staggered and fragmented among regions and individual countries.

Developed and developing countries

The G20-OECD BEPS Action Plan builds on existing accepted international tax concepts of residence, source income taxing rights and the arm's length principle for transfer pricing. Alternative models, such as unitary or destination-based taxation, were not contemplated as part of the reform efforts. The exact balance to be achieved in working international tax concepts into international tax rules has always been a matter for debate, and commentators have noted some differences of position that may exist between developed and developing countries.

Many OECD members are traditional capital exporters or have broad balance in their inbound and outbound capital flows, whereas many developing countries are traditionally net capital importers. Developing Asia Pacific countries that have little in the way of outbound investment and significant inbound investment (e.g. Vietnam, the Philippines) may favor certain rule changes that expand source taxing rights. By contrast, traditional capital exporting countries (e.g. Japan, Korea) may not desire over-expansive revised source tax thresholds (e.g. permanent establishment) and retain an interest in residence-based taxation, which allows them to tax a bigger share of repatriated profits earned offshore.

In setting transfer prices, China and India reject wholesale adoption of income allocations purely based on the pre-BEPS OECD-style notions of functions, risk and value (e.g., based on the legal ownership of intellectual property holdings, product design and brand building). Rather, these countries seek augmentation of these rules to allow differentiated allocation of income based on additional value drivers. These include mid-value chain manufacturing activities conducted in their jurisdictions and marketing activities that seek to tap the huge potential of their domestic consumer bases.

As a result, these countries have sought clarifications of transfer pricing rules through BEPS that adjust the historic paradigm. The BEPS project's ongoing success will require accounting for these different voices to avoid perceptions that the proposals tilt too far toward the benefit of developed, capital-exporting countries.

The ASEAN factor

In addition to BEPS, the Asia Pacific region's international tax landscape is being transformed by the Association of Southeast Asian Nations' (ASEAN) creation of the ASEAN Economic Community (AEC) in 2015. The AEC promotes the free flow of goods, services, skilled workers and capital among ASEAN's 10 member countries: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam. These reforms hold the potential to dramatically accelerate the region's economic growth.

As with the G20-OECD BEPS Action Plan, the ASEAN countries have had significant hurdles to overcome in a short timeframe. New laws to harmonize customs rules need to be adopted, for example, and there is no road map in place for harmonizing value-added taxes.

Further, since there are no plans to harmonize domestic corporate income tax systems, concerns over double taxation and tax competition are rising. Although corporate tax rates are going down and incentives are being broadened, significant variations in tax rates still exist. For example, the Philippines' 30 percent rate is almost double Singapore's 17 percent rate, which is much more favorable to foreign direct investment.

The AEC Blueprint 2025 states, "Tax cooperation serves as one of the key elements to support regional competitiveness in ASEAN by addressing the issue of fiscal barriers." In this sense, tax cooperation includes a network of bilateral tax treaties and improved exchange of information in accordance with international standards. An intriguing element added to the 2025 Blueprint is a commitment to "discuss measures to address the issue of base erosion and profit shifting to ensure fiscal health".

By including this statement in the AEC Blueprint 2025, the ASEAN tax administrations are opening a door to future discussions about the potentially detrimental effects of tax competition within the region.

Emboldened tax authorities

Within Asia Pacific governments and societies at large, the debate over tax transparency and tax morality has not reached anywhere near the degree of emotional intensity that it has in western countries. Even still, with most tax authorities under pressure to raise revenue, it appears the global debate is giving them license to take a harder line in their tax collection and enforcement techniques. For example:

— For the past few years, India and China have scrutinized international tax structures that have been perceived to shift profits overseas. High-profile Indian cases, such as *Vodafone* and *Shell India*, and notable Chinese cases on treaty abuse and indirect transfer enforcement have set the tone.

— In Vietnam, a global soft drink company faced a widespread boycott after a tax official commented that the company paid no tax in the country.

— Thailand, Indonesia and Malaysia, among others, have boosted their international tax audit resources, resulting in more detailed audits and more assessments.

Further, it appears that some Asia Pacific countries, like China and India, may be relying on the OECD's project to vindicate their introduction of strict unilateral tax measures, such as anti-treaty shopping rules, which they were inclined to pursue in any event. The global BEPS debate is providing support for these tax policies, along with new tax principles and tools to implement them.

Raising the bar for international tax policy

While the ideal of a coordinated, consistent and fair international tax system appears to remain out of reach, the OECD's work to date has spurred some important progress:

— **Advanced understanding of tax:** The OECD's working groups have generated an enormous amount of well-considered, in-depth research and analysis on international tax principles, a technically excellent body of work that will influence international tax policy decisions for many years to come.

— **Fewer loopholes:** The OECD's work has led policy makers to close some of the more egregious tax loopholes that have allowed some international companies to escape tax inappropriately.

— **Bringing emerging markets to the table:** Developing countries outside the OECD and G20 have been brought into the debate. While they may not share the same views, countries like Indonesia, the Philippines and Thailand have learned a great deal about the impact of international tax principles on their own tax revenues and tax competitiveness. They are upgrading their tax rules and administrative resources accordingly. The success of the OECD Inclusive Framework should strengthen this trend.

— **Engaging business:** Over the past 3 years, the attitude of many international businesses toward the debate has moved from disinterest to keen engagement. Internally, company directors and management are taking more interest in their tax affairs, the implications of their tax strategies, and their tax governance. Externally, companies' participation in the OECD debates will help ensure the OECD's recommendations are developed with an eye to practical business concerns.

In short, the OECD's project has raised the bar for international tax policy across the globe. While the work may fall short of delivering an ideal tax world, it will still us bring many steps closer, especially where tax fairness and transparency are concerned.

The road ahead

As you will see in the individual country discussions that follow, even though the OECD BEPS Action Plan seeks to instill more uniformity and certainty in the international tax system, there is a high risk of that its implementation will be inconsistent among regions and individual countries. Coupled with a lack of effective dispute resolution, international companies in the Asia Pacific region could experience more uncertainty and tax controversy in the coming years than ever before.

Tax health check: Top five items for review

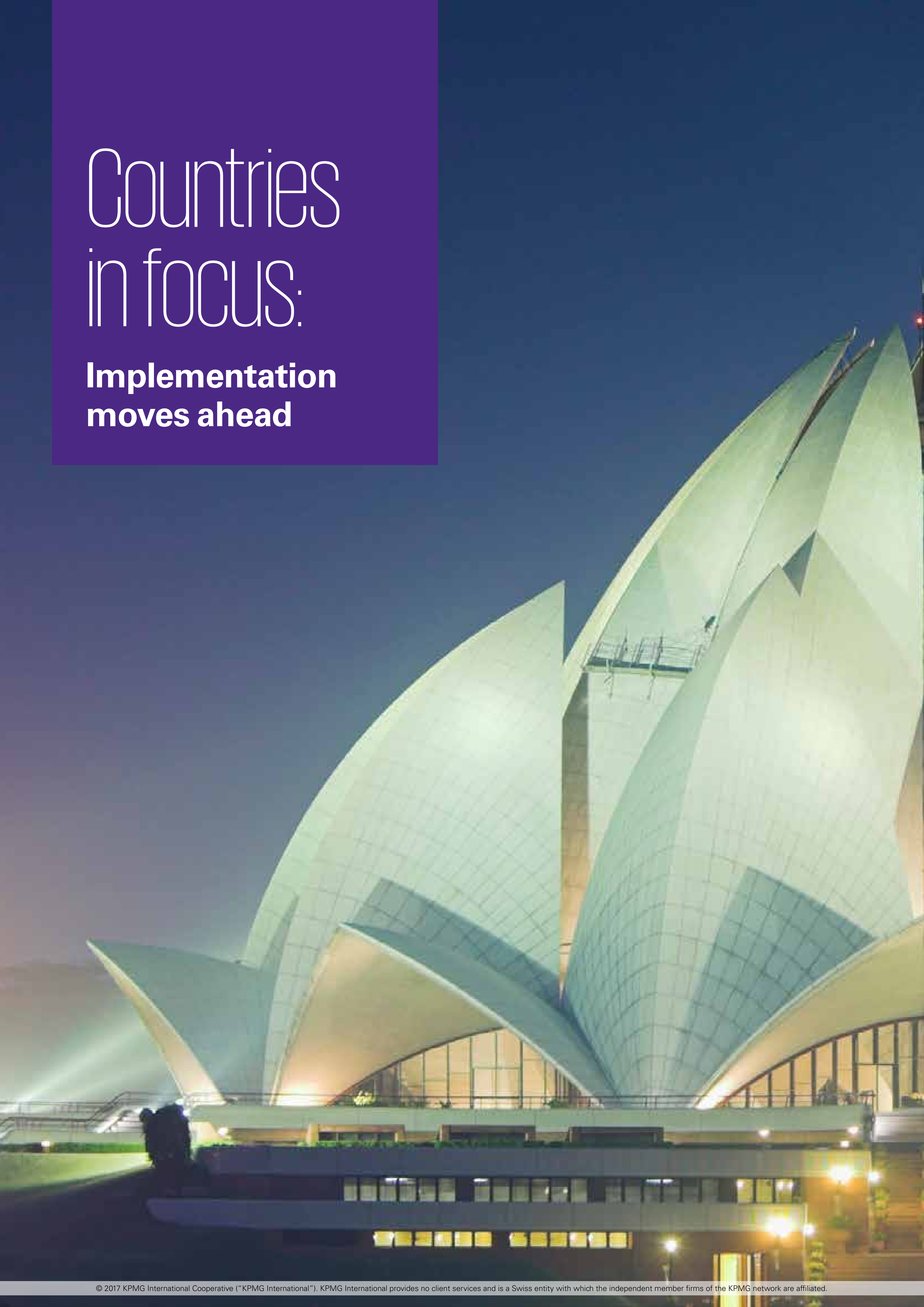
What can tax directors in the Asia Pacific region do to prepare for the coming wave of change? At the end of this report, you'll find general advice that all companies should think about, no matter where they operate. In examining their existing tax arrangements, companies in the region should give high priority to five specific areas:

1. Consider existing **investment holding structures** and ensure there is sufficient **business substance** in offshore business structures, especially those involving low- or no-tax jurisdictions.
2. Review the extent and nature of your **business presence in foreign jurisdictions** in light of potential changes to existing permanent establishment concepts.
3. Develop a central approach to **transfer pricing**, and prepare processes and tools to enable **country-by-country (CbyC) tax reporting**. Examine the details that new transfer pricing documentation requirements may reveal about existing tax planning arrangements, and consider whether additional supporting documentation, improved management protocols, or structural changes are needed to control tax risks.
4. Consider threats to existing **hybrid entities and structures,** and investigate potential alternatives.
5. Prepare your **strategy for communicating your tax position** to your various stakeholders, and decide what to communicate, to whom, where and when.

Above all, given the prospect of staggered and fragmented implementation of the OECD's guidance, companies should closely **monitor developments** and their **potential impact** on their tax processes and planning arrangements.

Countries in focus:

Implementation moves ahead



Australia

At the political and social levels, the debate about tax transparency and ensuring global companies pay their fair share has resonated more in Australia than in most other Asia Pacific countries. Since the 2008 financial crisis, the Australian government has struggled with a string of budgetary deficits and a shrinking tax base, causing questions over the lack of Australian tax paid by some large foreign-controlled companies.

For many years, Australia has also been at the forefront of the global trend toward a risk-based approach to tax audits based on the strength of a company's tax governance, risk management and controls. As a result, Australian companies tend to have greater board-level engagement in tax matters and have become relatively conservative in their approach to tax planning.

Despite Australia's commitment to driving the OECD BEPS Action Plan forward, aspects of the plan could be detrimental to Australian businesses. For example, proposals that address hybrid mismatches could dramatically increase the cost of capital for Australian subsidiaries with foreign parents, especially in light of Australia's tight thin capitalization rules. Further, given the high level of Australian business activity in China, for example, a move toward attributing profits based on an expanded definition of permanent establishment could cause more onerous tax payment and filing obligations.

Nevertheless, the Australian government has already announced or enacted laws to target the following items of the OECD BEPS Action Plan:

— **Digital economy:** The law imposing GST on imported digital products and services by non-residents to Australian customers has been enacted. It applies to taxable supplies attributed to tax periods starting on or after 1 July 2017 (Action 1).

— **Thin capitalization:** The Australian government has announced that for income years beginning on or after 1 July 2014, the thin capitalization safe harbor gearing limits will be reduced from a 75 percent gearing ratio to a 60 percent gearing ratio (Action 4).

— **Transfer pricing:** Australia recently changed its transfer pricing rules to move away from an arm's length price model to a whole economic analysis model (embracing an arm's length profit allocation), consistent with OECD standards. While this change preceded the release of the OECD BEPS Action Plan, it is consistent with the Australian government's increased focus on tax transparency and the use of OECD standards in Australian tax law (Actions 8–10). In addition, the Australian government has enacted laws implementing CbyC reporting into Australia's domestic income tax law for income years starting on or after 1 January 2016 (Action 13), requiring companies to outline their international related-party revenues, profits and taxes paid. Australia will exchange and receive these CbyC reports with participating countries. The first exchanges are expected to occur by 30 June 2018. To further enhance risk assessment processes, CbyC reporting also requires the Australian members of these large international companies to lodge a master file and local file. The master file discloses information about their global value chain. The local file provides detailed information about their international related-party transactions.

Australia's transfer pricing legislation was amended on 4 April 2017 to refer to the OECD's updated transfer pricing guidance. The updated guidance, effective from 1 July 2016, includes recent changes resulting from the OECD BEPS Action Plan recommendations to better align taxation with value creation. The new guidance clarifies that substance rather than contractual form is important. This will make it harder for multinationals to separate the country where the economic activity occurs from the country where they pay tax on the profits generated by that activity.

- **Documentation and transparency:** The former Australian government introduced rules that would require the Commissioner of Taxation to publish details of accounting profit, taxable income and tax payable for large corporate entities (those with annual revenue of greater than 100 million Australian dollars (AUD)). The Australian Taxation Office (ATO) is now undertaking a process to exchange rulings, which commenced on 1 April 2016 for future rulings and 31 December 2016 for past rulings. Rulings exchanged provide intelligence that is vital to understanding the global operations of multinationals. The new process improves transparency through the spontaneous exchange of rulings between participating countries. Rulings covering certain topics are subject to exchange when they apply to a specific taxpayer, who is entitled to rely on it. These rulings include:
  - private binding rulings
  - Advance Pricing Arrangements (APA)
  - settlement deeds (for future years)
  - rulings on international arrangements.
- **Disclosure of aggressive tax planning**: The Australian government is consulting on mandatory disclosure rules for taxpayers and tax advisers of aggressive tax arrangements (Action 12).

In addition, the BEPS project realized a major milestone this year with the signing of the Multilateral Instrument. Australia, along with 66 other countries, signed the MLI, which intends to provide a simplified way to implement the BEPS program that does not involve laborious negotiation of each treaty (Action 15). Australia has concluded bilateral treaties with BEPS-related clauses for countries that fall outside the MLI, for example, the new tax treaty between Australia and Germany that entered into force late last year.

Australia has unilaterally enacted a multinational anti-avoidance law and a diverted profits tax. Other measures have involved a voluntary tax transparency code, new requirements to lodge general purpose financial reports and a significant increase in penalties for large companies.

- **Multinational anti-avoidance law (MAAL):** The MAAL extends Australia's general anti-avoidance rules and is intended to counter the erosion of Australia's tax base by multinational enterprises with AUD1 billion or more of global annual income. In essence, the MAAL is a diverted profits tax aimed at preventing foreign entities from reducing their Australian tax liabilities by avoiding the attribution of profits to a permanent establishment in Australia. The law applies to certain benefits derived on or after 1 January 2016. The ATO reports as of June 2017, some of the largest e-commerce companies have changed their business models as a result of the MAAL. This has led to approximately AUD6.5 billion in sales being booked in Australia that were previously booked offshore.
- **Diverted profits tax (DPT):** The DPT in Australia, also applying to multinationals with AUD1 billion or more global annual income, ensures the tax paid by multinationals properly reflects the economic substance of their activities in Australia. The DPT aims to prevent the diversion of profits offshore through contrived arrangements. Applying to income years starting on or after 1 July 2017, the DPT will impose a 40 percent penalty rate of tax to be paid upfront. The DPT applies where one of the principal purposes of the scheme is to obtain an Australian tax benefit or both an Australian and foreign tax benefit. It complements Australia's general anti-avoidance rules.
- **General-purpose financial statements:** For each income year starting on or after 1 July 2016, multinational enterprises with AUD1 billion or more of global annual income with an Australian presence must provide a general-purpose financial statement to the Commissioner of Taxation, unless it has already been provided to Australia Securities and Investment Commission. The requirement aims to enhance the transparency of the multinational's Australian tax affairs.
- **Increased penalties for large companies:** Administrative penalties for statements and for failures to lodge on time increased as of 1 July 2017 for multinational enterprises with AUD1 billion or more of global annual income. This means multinationals could incur fines of up to AUD525,000 for late lodgment of tax returns.

Where to from here?

Australia has enacted a high number of measures in the past 2 years in the context of BEPS to improve tax transparency in Australia for multinational businesses. We expect the release of new measures to slow in this area as most of the work seems to be largely complete. Despite earlier observations of Australia's zeal in getting ahead of the game in adopting BEPS proposals, these measures are here to stay and businesses need to review their new compliance obligations in Australia to avoid incurring increased penalties for non-compliance.

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China

China has been a strong proponent of BEPS implementation, driving forward the BEPS rollout by, among other things, hosting meetings of the G20 and the Forum on Tax Administration in 2016. China has updated its transfer pricing rules and documentation in line with the BEPS deliverables and used the Multilateral Instrument to update its tax treaties. Later in 2017 and in 2018, China is set to issue a series of new regulations, with major effects for multinational companies.

China's President Xi Jinping set the pace for China's BEPS implementation efforts when, addressing the 2014 G20 Leaders' Summit, he pledged China's support for global cooperation on tax reform. Since then, the Chinese State Administration of Taxation (SAT) has assertively pushed forward on BEPS transfer pricing and treaty updates. These regulatory changes are augmented by stricter enforcement actions taken by the Chinese tax administration in recent years against perceived aggressive tax planning and closer scrutiny of cross-border related-party royalty and service payments.

Comparatively, some of the BEPS deliverables have less resonance for China due to its regulatory framework, which has limited the incidence of BEPS in some cases. For example, capital controls and foreign exchange controls curtail the use of hybrid instruments and debt planning. In other areas, China has been at the forefront in adopting anti-base erosion initiatives beyond the initial BEPS program, for example, on offshore indirect disposal rules. These rules are now central to the OECD BEPS follow-up work for developing countries.

Looking ahead, China's extensive involvement in global tax thought leadership and policymaking is set to grow in coming years. China is a member of the Steering Group for the BEPS Inclusive Framework, has announced the establishment of an international tax policy research center for international tax policy design and research, and is investing substantial resources in providing tax technical assistance to developing economies, particularly countries covered by China's Belt and Road economic strategy.

Integrating BEPS actions in China's tax law and practice

Several key BEPS-relevant tax regulation announcements and enforcement developments are detailed below, followed by a fuller consideration of the upcoming revised Chinese transfer pricing guidance.

— **Treaty abuse:** China signed the Multilateral Instrument under Action 15 on 7 June 2017. Updates to 46 of China's 106 tax treaties and arrangements will likely take effect in 2019 and 2020. As China named a total of 101 treaties as covered agreements, more of them will be automatically updated as more China treaty partners sign the instrument. Forty-five treaties will be updated for the principal purpose test. Accordingly, the SAT is developing revised guidance on China's treaty abuse rules for release later in 2017 or early in 2018. This guidance, together with further clarifications on treaty relief administration, are highly anticipated by the business community. Accessing treaty relief has been challenging due to several anti-abuse treaty provisions (i.e. beneficial ownership test, domestic GAAR, limitation on benefits (LOB) rules and 'main purpose' rules in some treaties) and local variations in interpretation and administration.

— **Permanent establishment:** Chinese scrutiny and enforcement of permanent establishments have been steadily ramping up with measures such as information pooling and exchange between local tax authorities across China, which are intended to facilitate better tracking and targeting of enforcement cases. While China chose to not make the BEPS permanent establishment updates through the Multilateral Instrument, new SAT guidance on permanent establishment recognition and profit attribution, expected by early 2018, will further drive permanent establishment enforcement efforts.

- **Other actions:** The SAT has signaled its intent to roll out, later in 2017 or in early 2018, anti-hybrid mismatch rules (Action 2) and controlled foreign company (CFC) rules (Action 3). The SAT continues to examine new taxation approaches to digital economy businesses (Action 1). Also on the SAT's international tax agenda are plans to clarify rules on foreign tax credits, introduce anti-avoidance rules for individual income tax, and finalize preparations for the automatic exchange of information by China with many countries worldwide, from 2018, under the Common Reporting Standard.

Transfer pricing and creation of value

The SAT Announcement on Special Tax Investigations, Adjustments and Mutual Agreement Procedures ('Announcement 6'), issued on 28 March 2017, leverages the BEPS transfer pricing work (Actions 8–10, 13) to support China's existing approach to transfer pricing. Indeed, the SAT's efforts were influential in having China's transfer pricing concepts referred to and integrated in the updated OECD transfer pricing guidelines.

In particular, the Chinese tax authorities use the concepts of location-specific advantages and the contributions of Chinese entities to group intangibles as a basis to argue for allocating more profits to Chinese group entities. Such advantages include cost savings, which are considered to arise from low-cost China production, and market premium, which is considered to arise to foreign businesses selling to China's burgeoning consumer classes at potentially higher prices than they could charge elsewhere.

Announcement 6 leverages the enhanced BEPS transfer pricing guidance on 'local market advantages' (an equivalent OECD concept) to formalize the concept of location-specific advantages in Chinese guidance. In practice, however, the Chinese tax authorities could push this concept further than the OECD intended by calling for transfer pricing comparability adjustments or the use of profit split methods.

Announcement 6 also leverages the BEPS framework on the development, enhancement, maintenance, protection and exploitation of intangibles for compensating group members for contributions to intangible asset value creation. China has adapted the BEPS intangibles framework to its own circumstances, adding (local) promotion. China emphasizes the contribution of manufacturers and marketers to the enhancement of intangible asset value and downplays the importance of high-level strategic planning and control of intangible asset development. Further, the new BEP transfer pricing guidance on risk and 'delineation of the transaction' was only integrated into Announcement 6 to a limited extent.

Announcement 6 could thus lead China and other countries to arrive at different conclusions about the relative contributions of international group members to intangibles value creation, leading to different profit attributions and potential double taxation. China's position on intangible assets broadens the circumstances in which China may push for transfer pricing comparability adjustments and profit splits and seek to deny deductions for outbound payments for licensed intellectual property.

Announcement 6 takes a strict stance on the deductibility of outbound related-party royalty and service payments, with royalty deductions particularly under pressure where such payments are made to deemed 'low-substance entities'. The harsh enforcement trend that has emerged in this area since 2014 continues.

Transfer pricing documentation was radically overhauled under SAT Announcement 42, issued in July 2016, which replicates the BEPS Action 13 local file, master file and CbyC documentation and reporting structure.

In light of the above, international companies are reevaluating the sustainability of their traditional Chinese transfer pricing positions. This is particularly urgent for companies with operations that have been rewarded on a limited-risk, cost-plus basis but that could arguably earn a higher return based on the concepts of location-specific advantages and China intangibles contributions (e.g. research and development (R&D) facilities, marketing and distribution functions). Extensive functional and value chain analyses, together with detailed review of the quality of transfer pricing documentation, are vital steps for preemptively managing tax risk going forward.

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Hong Kong

The Hong Kong government has committed to implementing the four BEPS minimum standards — namely, countering harmful tax practices (Action 5), preventing treaty abuse (Action 6), imposing CbyC reporting requirements (Action 13) and improving cross-border dispute resolution mechanisms (Action 14). Given favorable fiscal conditions and Hong Kong's longstanding, simple and low-rate tax system, Hong Kong is being relatively prudent about its BEPS implementation while ensuring it complies with the OECD's and EU's expectations.

Public consultation

The Hong Kong government launched a public consultation on 26 October 2016, which included the following proposals:

— codifying transfer pricing rules in Hong Kong's tax legislation based on the arm's length standard and applying to cross-border and domestic transactions

— mandating transfer pricing documentation prepared based on the three-tier reporting approach (i.e., CbyC, master file and local file reporting)

— exchanging CbyC reports with countries with which Hong Kong has concluded a tax treaty or tax information exchange agreement and entering competent authority agreements providing for such exchanges

— legislating the existing APA regime

— introducing legislation to formalize the adoption of mutual agreement procedures (MAP) and mandatory arbitration to resolve treaty disputes

— providing for spontaneous exchange with Hong Kong's tax treaty and tax information exchange agreement partners of past and future rulings relating to preferential regimes, transfer pricing (including APAs), downward adjustments of taxable profits, permanent establishment status, related-party conduits and other rulings that might give rise to BEPS concerns

— enhancing Hong Kong's tax credit system by extending the time period for claiming credits to 6 years (from 2 years) after the end of the relevant tax year and by requiring taxpayers to take all reasonable steps to minimize taxes payable overseas.

Another consultation proposal would amend Hong Kong's tax treaties through the OECD-coordinated Multilateral Instrument to prevent the use of tax treaties to avoid tax, and to enhance dispute resolution between treaty partners. To counter treaty abuse, Hong Kong proposes to adopt the principal purpose test in its treaties (but not a limitation on benefits rule).

On 7 June 2017, China signed the Multilateral Instrument, which was extended to cover Hong Kong. It is expected the enacting legislation will be introduced in the Legislative Council in mid-2018.

Government's response to consultations

In July 2017, the Hong Kong government issued a consultation report summarizing feedback received during the public consultation exercise. The key outcome was overwhelming support from respondents for codifying transfer pricing rules into the law. Following the consultation, the government relaxed some of its initial provisions (e.g. exemption thresholds for transfer pricing documentation) but maintained its stance on other issues (e.g. domestic transactions are still being targeted).

The government will introduce a bill to enact these measures in the Legislative Council by the end of 2017. The bill will refer to the OECD's transfer pricing guidelines and clarify which version of these guidelines should be followed, after which the Inland Revenue Department will issue a Departmental Interpretation and Practice Note (DIPN) to facilitate the understanding of the 'fundamental transfer pricing rule'. This rule essentially empowers the Inland Revenue Department to adjust the profits or losses of an enterprise that engages in non-arm's length dealings with associated enterprises.

Implementation issues related to parent surrogate filing will be addressed in an upcoming DIPN. This measure requires Hong Kong to sign the multilateral competent authority agreement as a prerequisite. It has recently been agreed in principle that China will extend this agreement to Hong Kong, and a bill to enable this extension is expected to be introduced by the end of 2017.

Harmful tax practices

The Forum on Harmful Tax Practices has been reviewing Hong Kong's tax system for potentially harmful preferential regimes. In response to this work, Hong Kong amended its recently enacted aircraft leasing tax concession regime as it progressed through the legislative process. Several existing regimes are expected to be identified for change due to their 'ring-fencing' features, including the corporate treasury center, offshore reinsurance and captive insurance regimes.

Other actions

In response to BEPS, the Hong Kong tax authorities have tightened requirements for issuing tax residency certificates to support claims for treaty benefits in treaty partner jurisdictions. Offshore profits claims are also under heightened scrutiny, especially where double non-taxation of income is involved.

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India

India has been one of the pioneers and major contributors to the OECD BEPS initiative. India has been actively pursuing the BEPS agenda and introduced some proposals to adopt the OECD's recommendations. One significant change is the incorporation of master file and CbyC reporting in the Indian transfer pricing regulations.

Master file and country-by-country reporting

One of the major recommendations adopted by India under the BEPS Action Plan is the introduction of master file and CbyC reporting in the Indian transfer pricing regulations, with effect from the fiscal year beginning 1 April 2016, in line with BEPS Action 13.

The master file and CbyC reporting requirements predominantly enforce the principles of BEPS Actions 8 to 10 and Action 13 on transfer pricing. The risks in, and value drivers of, business operations and their related rewards are closely associated with strategic functions or 'substance'. Thus, they cannot be disassociated from each other merely through formal intercompany agreements between associated enterprises.

To ensure these principles are followed, Chapter V of the OECD transfer pricing guidelines was rewritten under the BEPS project to provide for more robust documentation and disclosure mechanisms. The goal is to provide tax administrators worldwide with the data they need to monitor whether risks, rewards and value align with substance and selectively identify cases for transfer pricing audits based on risk assessment.

Action 13 provided for three tiers of transfer pricing documentation, namely, master file, local file and CbyC reports. Most countries with transfer pricing regulations, including India, already require 'local file'-type documentation from local entities on their transactions with foreign related parties. The master file and CbyC reporting requirements are new.

The master file is expected to provide an overview of a multinational group's global business model, specifically covering:

- its organizational structure
- a description of the various businesses
- intangibles used in the businesses
- intercompany financial transactions
- financial and tax positions.

The guidelines ask taxpayers to use prudent judgment in determining the level of detail for master file information, keeping in mind the objective of providing tax administrators with a high-level overview of the multinational company group's global operations and policies.

CbyC reporting requires data about the functions performed, assets owned, personnel employed, revenue generated, profits earned, taxes paid, capital structure, retained earnings and other information about each entity of the multinational group located in different countries. Thus, CbyC reporting is the platform for verifying the blueprint provided in the master file. For tax administrators, CbyC reports would highlight any possible mismatch between the level of profits or revenues residing in, or intangibles owned by, a group entity, along with the functions carried out by, or capital contributed to, that entity.

The revised OECD transfer pricing guidelines recommend submission of the master file by each entity of the multinational company group to the tax administrator of the respective country, at the time of audit, in addition to the local transfer pricing documentation. The CbyC report would be prepared by the group's ultimate parent company and filed with the tax administrator of its country, who would in turn share the report with the tax administrators of other countries in which the group has subsidiaries or permanent establishments.

The OECD transfer pricing guidelines do not mandate which entity of the multinational company group should prepare the master file. However, since CbyC reporting is the obligation of the ultimate parent of the multinational group, the parent should also prepare the master file. For efficiency, the same entity is best suited to prepare the two complementary documents. Further, only the ultimate parent would have a comprehensive view of all various business lines within the group.

BEPS Action13 requires CbyC reports from multinational groups with consolidated annual turnover of EUR750 million or more, which the Indian government intends to follow. BEPS Action 13 does not set a threshold for master file reporting, and the Indian Revenue Board has yet not prescribed one. If no threshold is prescribed, small taxpayers may be saddled with an unneeded compliance burden.

In line with BEPS Action 13, Finance Act 2016 has incorporated provisions in the Indian tax regulations that require every Indian entity that is a subsidiary or permanent establishment of a foreign parented or headquartered multinational company group to disclose the name and country of residence of its ultimate parent entity to the Indian tax authorities. The Indian authorities would then obtain the group's CbyC report from the tax authorities of the parent's country of residence under a mutual exchange of information arrangement.

Under the Indian regulations, the CbyC report must be filed within 8 months following the last day of the relevant fiscal year. The first fiscal year covered is from 1 April 2016 to 31 March 2017, so the first CbyC reports are due on 30 November 2017.

Managing the impact of broadened transfer pricing disclosures

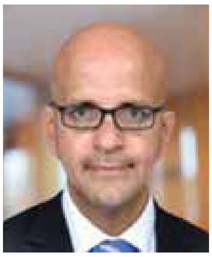
As these requirements took effect as of 1 April 2016, Indian parents of multinational groups should carry out clinical analyses of their businesses at the earliest opportunity. These reviews should aim to identify any exposures due to mismatches between risks, rewards and functions, and any needed corrective measures across their supply chains.

Beyond the compliance challenges, Indian multinational companies should view the new disclosure requirements as a chance to revisit their supply chain models and identify opportunities to create value through efficiencies and synergies. Further, the in-depth analyses of the organizational and operational structures required by master file and CbyC reporting could also help Indian multinational companies to identify and mitigate any possible exposures for their foreign subsidiary companies under the new regulations on the place of effective management.

Multilateral Instrument

India signed the Multilateral Instrument on 7 June 2017 and submitted its provisional list of countries with which it has entered tax treaties.

Among the key provisions, India, along with all the other countries, chose to adopt the principal purpose test. India also adopted the simplified limitation on benefits test under Action 6. India opted out of mandatory binding arbitration, which is one of the minimum standards. India adopted few of the other recommendations and made certain reservations from the instrument's provisions regarding, among others, capital gains from alienation of shares or interests of entities deriving their value principally from immovable property, dividend transfer transactions, artificial avoidance of permanent establishment status through commissionaire arrangements and similar strategies, and MAPs.



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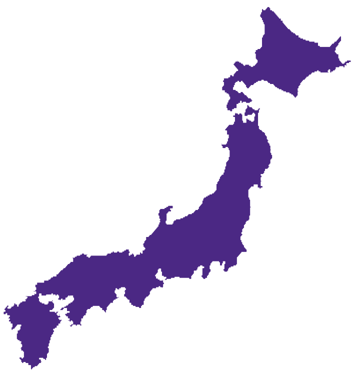

Japan is highly engaged in the OECD's BEPS consultations due to its G20 and the OECD memberships. Tsugumasa Asakawa, the former Director General of the International Bureau of Japan's Ministry of Finance (MOF) for Policy Planning and Co-ordination, is a former chair of the OECD's Committee on Fiscal Affairs. The minister not only led the discussion of international tax matters at the OECD level but also actively worked with other MOF officials to garner support for the BEPS initiative domestically.

Japan currently has tax rules in place that specifically address three OECD BEPS Action Plan items:

- **Limitation of deductibility:** Under Japan's 2012 tax reform, an earnings-stripping regime was introduced to prevent companies from taking excessive interest deduction. The regime limits the deductibility of interest, royalty, lease and other payments where the interest payments to foreign related parties are excessive in comparison with the company's income (Action 4).
- **Anti-treaty shopping:** Under its tax treaty policy, Japan generally seeks to include limitation on benefits clauses and principal purpose tests in tax treaties when they amend or enter new tax treaties.
- **Digital economy taxation**: In November 2013, the MOF submitted the report Consumption Tax Treatment of Cross-Border Supplies of Services and Intangibles to the International Taxation Discussion Group of the government's Tax Commission. The report discusses how cross-border supplies of services and intangibles should be treated for consumption tax purposes to ensure both tax neutrality and the taxing rights of Japan. The consumption tax for cross-border digital services was implemented as of 1 October 2015. The tax treatment of other cross-border services than digital services is still under discussion (Action 1).

Other anti-avoidance rules

Japanese tax law includes a general anti-avoidance rule for closely held companies that allows the Japanese tax authorities to deny a transaction that, in their view, improperly decreases the company's tax burden due to improper or unique terms and conditions. Specific anti-avoidance provisions are in place for all companies related to corporate reorganization transactions and transactions. These rules give Japanese tax authorities similar powers as the general anti-avoidance provisions.

Rising interest in tax planning techniques

For international Japanese-headquartered companies, the BEPS debate and BEPS-related actions by emerging countries are spurring an unexpected attitudinal change. Historically, Japanese companies have not undertaken tax planning. Rather, they have viewed their tax contributions as a source of pride. A shift is occurring as Japanese companies contend with several factors:

- Despite recent corporate income tax rate reductions, Japan's current rate of 30.86 percent (as of 31 March 2017) is relatively high.
- As Japan's economy has begun to improve, taxable profits of Japanese companies are rising, creating more incentive to take steps to reduce the effective tax rate.
- Despite their historical lack of tax planning, Japanese companies are finding longstanding international tax structures under increasing threat of double taxation from aggressive tax audit practices and BEPS-related measures of countries such as India and China.

As beleaguered Japanese companies perceive their share of tax as increasing, many of them are showing more interest in ways to minimize their tax burden on a global basis.

Resisting different notions on allocation of profit

The stance of emerging economies toward allocations of profit is also driving many of Japan's positions as the OECD BEPS Action Plan proceeds. For example, as emerging economies have increasingly sought to allocate profit for treaty purposes based on beneficial ownership (e.g., looking through holding companies in low-tax jurisdictions), Japan has become increasingly interested in preserving allocations based on legal ownership.

Similarly, it is in the interest of Japanese companies to maintain transfer pricing principles that, for example, attribute value creation to intangible asset holdings developed and held by the parent company rather than value drivers in emerging economies, such as low-cost labor pools, extensive manufacturing operations and large consumer markets.

Japanese companies also have concerns that emerging countries will use data from detailed CbyC tax reporting to further challenge the profit allocations among international groups.

However, even as Japan advocates for international tax principles best suited to global companies based in the country, Japan is expected to fully embrace the OECD BEPS Action Plan's final outcomes.

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Korea

On 7 June 2017, Korea was among the 68 signatories at the OECD-hosted signing ceremony in Paris for the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting. The Multilateral Instrument aims to streamline the implementation of BEPS Action Plan and update international tax treaties.

On signing the instrument, Korea elected to apply required minimum standards (i.e. under Articles 6, 7, 16 and 17), such as prevention of treaty abuse and improvement of dispute resolution mechanisms. Korea plans to progressively extend the applications as needed. Highlights of the minimum standards adopted by Korea under the Multilateral Instrument are as follows.

— **New preamble to treaties (Article 6):** The instrument provides new preamble text, including a statement that the instrument's intention is to eliminate double taxation without creating opportunities in tax treaties for non-taxation or reduced taxation through tax evasion or avoidance.

— **Denial of treaty benefits in inappropriate circumstances (Article 7):** Korea opted to apply the principal purpose test to deny treaty benefits where obtaining a treaty benefit was one of the principal purposes of the arrangement.

Enhanced reporting of transfer prices

As of 2016, Korea introduced a new transfer pricing documentation requirement that reflects the relevant BEPS Actions. Korea suggested its reasons for adopting the new transfer pricing documentation rule are:

— to strengthen the management of international companies' transfer prices

— to ensure Korean companies timely respond to foreign fiscal authorities' enhanced reporting requirements by pioneering the introduction of full transfer pricing documentation.

As of 1 January 2016, taxpayers having annual sales revenue of 100 billion Korean won (KRW) or more and intercompany transactions of KRW50 billion or more are required to submit an integrated entity report ('master file') and an individual entity report ('local file') within 12 months from the end of the fiscal year.

Korea implemented CbyC reporting rules on 20 December 2016, requiring international companies and associated entities to submit CbyC reports for fiscal years starting on or after 1 January 2016. The report is due at the same time as the master and local files when one of the following thresholds is met:

— a taxpayer who is a domestic ultimate parent company of the group with consolidated net sales revenue in the preceding tax year exceeding KRW1 trillion

— a taxpayer whose ultimate foreign parent company with consolidated net sales revenue in the preceding tax year exceeding EUR750 million, where the foreign ultimate parent company is not required to submit a CbyC report by the jurisdiction in which it resides.

If the taxpayer's ultimate foreign parent is required to submit a CbyC report in its own jurisdiction, the threshold amount is equivalent to that specified under the law of such jurisdiction. As Korea is a signatory to the Multilateral Competent Authority Agreement, a taxpayer may be exempted from filing a CbyC report by submitting prior notification to the tax authorities within 6 months from the end of the fiscal year.

Korea has already introduced legislation on several OECD BEPS Action Plan items. Two instances include:

— **CFC rules on passive income:** To curb perceived tax avoidance through foreign retention, Korea is extending application of its CFC rules to passive income as of 1 January 2015. Obligations to submit information on CFCs have been strengthened, and a harsh new penalty of up to KRW100 million (about 92,000 US dollars (USD)) of additional tax may be levied for not complying with these rules (Action 3).

— **Exchange of information:** Korea has strengthened its intergovernmental exchange of information to prevent BEPS by entering into agreements with more governments, including an agreement with the US under the Foreign Account Tax Compliance Act, which took effect

in July 2014. Korea's exchange of information rules apply not only to non-resident and foreign entities but also to Korean residents and domestic companies. Financial institutions that fail to submit information as required face a new penalty of up to KRW30 million (about USD27,000).

BEPS Action Plan and Korea's 2017 Tax Reform

In its tax reform bill on 2 August 2017, the Korean government included the following BEPS Action Plan measures:

— **Neutralizing the effects of hybrids mismatch arrangements (Action 2):** For payments arising from hybrid instruments that are deductible as expenses but not taxable as revenue, deductions would be disallowed unless the payments are taxed as a taxable income of the recipient in the counterparty jurisdiction within 1 year. If the revision is approved, the rule would take effect on 1 January 2018.

— **Limiting base erosion involving interest deductions and other financial payments (Action 4):** Deductions of interest payments between entities in international groups (except for companies in the banking and insurance sectors) would be limited to 30 percent of the entity's earnings before interest, taxes, depreciation and amortization (EBITDA). If the revision is approved, the rule would take effect on 1 January 2019.

Other anti-avoidance measures

Korean tax law contains a substance-over-form rule that allows the tax authority to re-characterize a related-party transaction based on its substance where the tax burden of a company has been unjustly reduced. Thin capitalization and transfer pricing rules are also in place.

In addition, Korea's tax authorities have increased the frequency and level of scrutiny of international tax audits, sharpening their focus on outbound investments, transfer pricing and foreign tax credit abuses in the past few years.

Carrot and stick approach

The Korean government formed a task force consisting of National Tax Service officers and tax professionals to plan for the effective implementation of the OECD BEPS proposals. The Korean government also set up a BEPS response center to help Korean companies respond to BEPS developments.

In terms of preparing contemporaneous transfer pricing documentation, Korea's existing penalty protection clause remains in effect where the local entity may still benefit from penalty protection and mitigates tax risks by preparing transfer pricing documentation by the tax return filing deadline (3 months after the fiscal year end). Taxpayers that meet the local file threshold and have submitted their local file to the tax authorities by the filing deadline (12 months after the fiscal year-end) may benefit from the same penalty protection.

At the same time, the Korean tax authorities are working to raise awareness of the BEPS-based transfer pricing regulations among Korean companies and global companies doing business in Korea. Penalties for non-compliance with the new regulations do not appear harsh, but non-compliance could trigger a transfer pricing tax audit. If an audit results in a transfer pricing adjustment, significant tax consequences would arise — a penalty of 10 percent of underpaid taxes for underreporting taxable income and a penalty of 10.95 percent for underpaying taxes. Further, if a transfer pricing adjustment is returned, the tax authorities may make a secondary adjustment by deeming the unreturned income as dividends.

Taxpayers can appeal transfer pricing adjustments through the domestic appeal process and MAPs under an applicable tax treaty. However, it can take at least 3 to 5 years to reach the conclusion through these routes, which can create substantially costs for taxpayers.

Sang Bum Oh
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KPMG in Korea

Singapore

Singapore has a strong track record of setting competitive tax and other policies that promote investment in selected areas of the economy. Singapore is part of the inclusive framework for implementing measures against BEPs and signed the Multilateral Instrument on 7 June 2017. Singapore's government is also committed to implementing legislative measures to reflect international efforts to align economic substance with returns.

On signing the Multilateral Instrument, Singapore chose 68 of its 82 tax treaties as potential covered tax agreements. Forty-seven of the 68 treaties chosen by Singapore were mutually selected by other countries.

Singapore has adopted the following minimum standards under the Multilateral Instrument:

— **The BEPS minimum standard for preventing treaty abuse:** This standard includes a statement of intent that a tax treaty's purpose is to eliminate double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance, together with the adoption of a general anti-abuse rule, commonly known as the principal purpose test.

— **The BEPS minimum standard for enhancing dispute resolution:** When a Singapore resident taxpayer encounters taxation that is not in accordance with the intended application of a tax treaty's provisions, the taxpayer can seek assistance from the Inland Revenue Authority of Singapore (IRAS) to contact the treaty partner to resolve the dispute.

— **Providing more certainty and timeliness to taxpayers for cross-border disputes:** Singapore opted to include the mandatory binding arbitration provisions in its tax treaties. These provisions give taxpayers certainty that treaty-related disputes will be resolved within a specified timeframe.

Singapore also signed an intergovernmental agreement with the United States in late 2014 on information exchange regarding the US Foreign Accounts Tax Compliance Act (FATCA). FATCA regulations and filing requirements have since been rolled out, with effect from 2016.

Outside of the OECD BEPS process and as part of Singapore's efforts to encourage sound transfer pricing practices, IRAS released new transfer pricing guidelines on January 2017. In accordance with BEPS Actions 8–10, the guidelines emphasize the taxation of profits where the real economic activities generating the profits are performed and where value is created.

The Singapore government also introduced legislation requiring more stringent transfer pricing documentation in line with OECD approaches. For example, Singapore has formally legislated the existing requirement for taxpayers to maintain contemporaneous and adequate transfer pricing documentation.

As of FY2017, Singapore has legislated CbyC reporting requirements for Singapore multinational groups. On 21 June 2017, the Ministry of Finance announced that Singapore would sign the Multilateral Competent Authority Agreement for the exchange of CbyC reports. This agreement sets the multilateral framework for bilateral cooperation on automatic exchange of information. Singapore will enter bilateral agreements for the automatic exchange of information with the other signatories of the multilateral agreement.

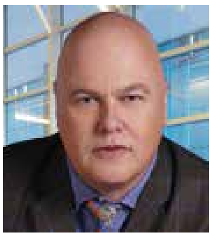
Focus on business substance

Singapore has an interest in being perceived internationally as a tax-friendly jurisdiction — but not as a tax haven. Thus, Singapore's tax incentives and treaty benefits are generally only available to commercial arrangements with sufficient business substance. As part of Budget 2017, the Singapore government introduced a new IP regime, the IP Development Incentive, which incorporates the BEPS-compliant modified nexus approach. The regime took effect on 1 July 2017.

The IRAS endorses the arm's length principle, which is incorporated in the Singapore Income Tax Act. Under this provision, where the pricing of related-party transactions is not at arm's length and results in a reduced profit for the Singapore taxpayer, the Comptroller of Income Tax may adjust and tax that profit. In addition to the arm's length principle, Singapore has general anti-avoidance provisions in its tax legislation.

On 19 June 2017, Singapore's Ministry of Finance released the draft Income Tax (Amendment) Bill 2017, which provides for the re-characterization of related-party transactions if it is found that arm's-length parties would not have entered similar arrangements. The draft bill proposes that any amount of income that is increased under the transfer pricing rules would be deemed remitted to Singapore, causing foreign-source income to be taxed in Singapore where it was not previously deemed remitted for transfer pricing purposes.

In summary, as the OECD BEPS Action Plan proceeds, Singapore is actively cooperating with the OECD, carefully monitoring the international developments and weighing their implications to determine whether legislative changes should be implemented.



Simon Clark
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Head of BEPS Initiatives for Singapore
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Managing the impact

With the public debate on tax and morality at an all-time high, changes to international tax planning are inevitable. Greater scrutiny by tax authorities of international transactions is already a part of those changes. Many structures will no longer be permissible. Transparency is also a major theme for both taxpayers and collectors, and companies are expected to be subject to more and stricter requirements to disclose where they have paid tax and how much they have paid.

Most companies will have to re-examine their tax strategies, tax policies and structures. Communication will be more important than ever, as will the management of tax risk.

— **Assess the impacts:** Companies should review their existing tax transactions and structures immediately to identify potential weaknesses according to the implementation of the OECD BEPS recommendations in Asia Pacific, Europe and the Americas, and take steps to make improvements. The following areas will need close scrutiny: intra-group transactions; use of low-tax jurisdictions; use of hybrid mismatches; intra-group financing and licensing; movement of functions, assets and personnel within the group; development of supporting legal, tax and transfer pricing documentation; and preparation of internal controls and working guidelines to mitigate tax risks.

  With adequate preparation, multinational corporations will be able to adapt to the new tax landscape created by BEPS without suffering unwarranted disruptions in business operations or incurring excessive tax costs during the transition.

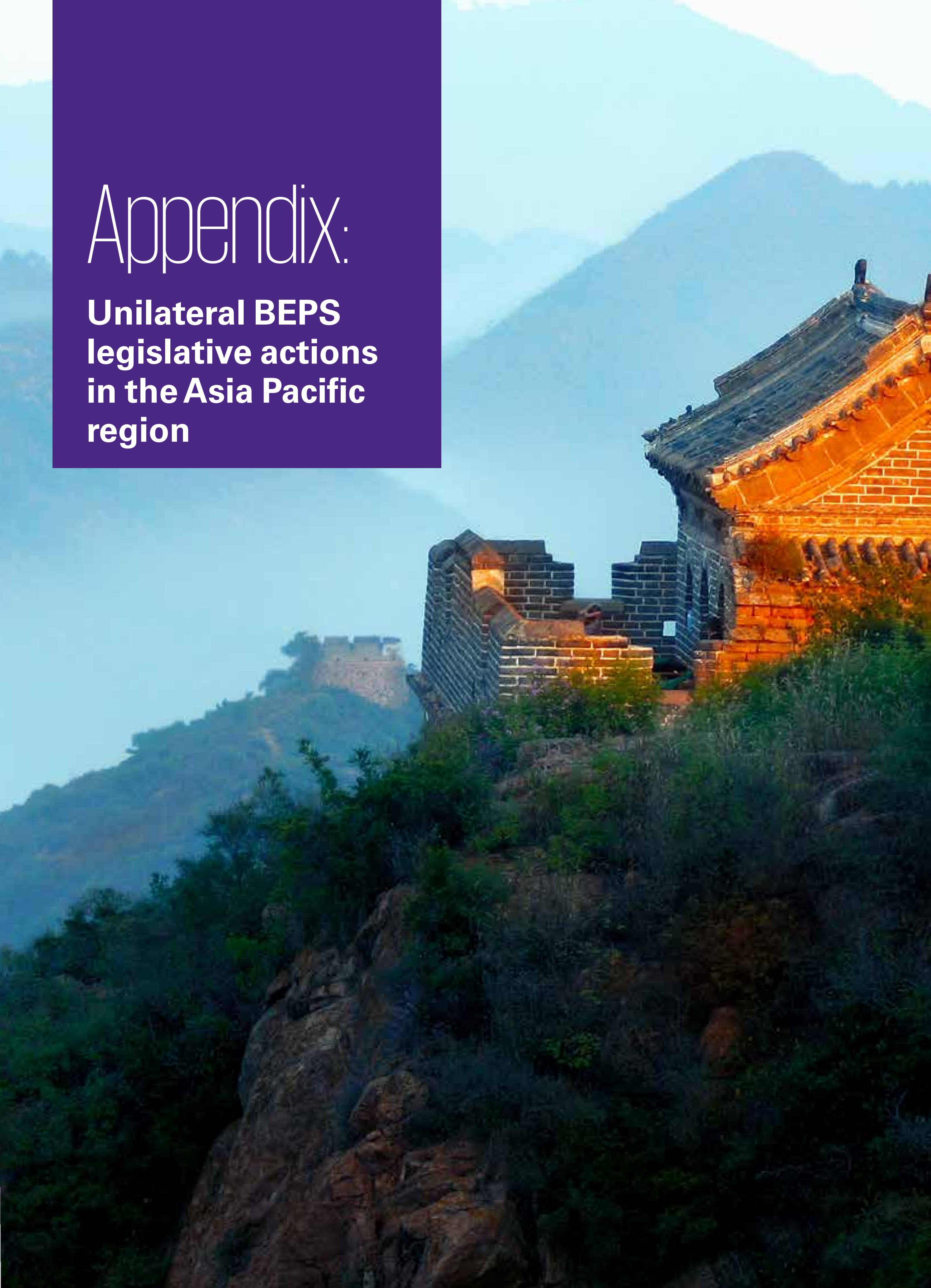
— **Stay informed:** Companies should inform themselves about the practices and rules not only of local tax authorities but also of those in other countries. Since many countries in the Asia Pacific region have joined the OECD BEPS Inclusive Framework project, many tax changes are expected in the next few years. Moreover, especially in Europe, the BEPS implementation agenda has overtaken the work of OECD and is going into uncharted territory with potentially wide-ranging tax consequences for European operations of Asia Pacific headquartered companies.

— **Prepare for questions:** As auditors grow stricter, companies can expect to be asked about business and tax activity at any time. It will be important to ensure that board members, C-suite executives and the core tax team are aware of potential questions and challenges from any number of stakeholders — not only regulators and tax administrations but also investors, media and the general public.

— **Think about reputational risk:** Recent history provides ample warning that companies should ensure their tax decisions take into account potential reputational risks, not simply whether the organization has complied with the tax laws in various jurisdictions.

— **Develop and maintain sound relationships with tax authorities:** Many companies have benefited from open and respectful relationships with local tax authorities in every jurisdiction where business activities are being performed. These relationships should be the norm for all companies and all the countries in which they claim business.

"Communication will be more important than ever, as will the management of tax risk."



Appendix:

Unilateral BEPS legislative actions in the Asia Pacific region

Since the OECD BEPS Action Plan final reports were published on 5 October 2015 and even before that date, many countries/jurisdictions have started changing their tax legislation or administration in response. Below we summarize such actions taken so far by Asia Pacific jurisdictions regarding the Action Plan's 15 points.

Action 1	**Address tax challenges of the digital economy**
Australia	The law imposing GST on imported digital products and services by non-residents to Australian customers has been enacted. It applies to taxable supplies attributed to tax periods starting on or after 1 July 2017.
India	Union Budget 2016–17 introduced an 'equalization levy' at the rate of 6 percent on cross-border payments for online advertisement services, where the non-resident service provider has no permanent establishment in India. The levy applies from 1 June 2016 and aligns with BEPS Action 1, dealing with taxation challenges for digital economy. Such income is undoubtedly 'business income' for the non-resident company, which, in the absence of a permanent establishment, cannot be taxed in the host jurisdiction (in this case, India). Currently, no mechanism is available for claiming tax credit for any equalization levy paid in India.
Indonesia	Indonesia is working on a tax regulation regarding e-commerce activities (not specifically BEPS related). Details are not known yet.
Japan	Consumption tax for cross-border digital services introduced from October 2015.
New Zealand	Remote services supplied by non-residents within the scope of goods and services tax from 1 October 2016. For other digital economy measures, see other actions.
Taiwan	As of 1 May 2017, foreign suppliers selling e-commerce services to Taiwanese individual purchasers must register for VAT and pay 5 percent VAT directly or indirectly through a tax-filing agent.
Thailand	Public consultation on draft e-commerce tax regulations in July 2017.
Vietnam	Vietnam's government has put priority on studying the OECD' BEPS Actions 1 on the digital economy with the intention of developing rules to deal with income derived from Vietnam by digital companies. The government aims to ensure all e-commerce businesses, including those with business-to-consumer and consumer-to-customer transactions, are obliged to declare and pay tax on their income arising from Vietnam. The government aims to require foreign digital companies to register, declare and pay tax in Vietnam. Vietnam is also reinforcing its foreign contractor tax, clarifying declaration and payment obligations for commission income of foreign digital companies conducting online room booking services in Vietnam.

Action 2	**Neutralize effects of hybrid mismatch arrangements**
Australia	The Australian government has received the Board of Tax's final report on hybrid mismatch arrangements and announced a measure in the 2016–17 Budget that forms the government's response to the report. As part of this measure, the government asked the Board to undertake further work on how best to implement these rules in relation to regulatory capital.

China	The SAT has informally indicated that it will introduce anti-hybrid mismatch rules in 2017 or early 2018.
Japan	Foreign dividend exemption rule amended to comply with Action 2 as part of the 2015 tax reform.
Korea	Anti-hybrid laws are included in the 2017 Korea tax reform.
New Zealand	Comprehensive anti-hybrid measures to implement Action 2 are proposed. Consultation on legislation is currently in progress. An amending bill is expected in December 2017, with effect for income years starting on or after 1 July 2018.
Taiwan	The OECD recommendations are being implemented in certain new treaties and considered in new treaty negotiations.

Action 3	**Strengthen controlled foreign company rules**
China	The SAT has informally indicated that it will introduce revised CFC rules in 2017 or early 2018.
India	India has no CFC rules. However, the concept of 'passive income' for determining place of effective management has been introduced for the purposes of tax residency of foreign companies in India, with effect for 2016–17 and later financial years.
Indonesia	Indonesia has had CFC rules in place since 2008. In July 2017, Indonesia strengthened the rules and extended them to indirectly held CFCs.
Japan	The CFC rules were revised in the 2017 tax reform to conform with the fundamental concept of Action 3.
Korea	Introduced CFC rules on passive income.
Taiwan	Taiwan has passed local regulations that strengthen its CFC and place of effective management rules. When these rules will take effect is not yet known.

Action 4	**Limit base erosion via interest deductions and other financial payments**
Australia	The Australian thin capitalization thresholds were tightened from a 75 percent gearing ratio to a 60 percent gearing ratio for income years beginning on or after 1 July 2014.
India	Union Budget 2017–18 introduced limitations on interest deduction that are applicable to borrowing Indian companies and permanent establishments of foreign companies. The interest deduction for these entities is limited to 30 percent of the EBITDA or interest paid or payable to associated enterprises, whichever is less.
Indonesia	In 2015, Indonesia introduced debt-to-equity rules, which took effect as of 1 January 2016.
Japan	Introduction of an earnings-stripping regime to prevent companies from taking excess interest deduction in 2012. This change is not directly linked to BEPS. However, an amendment directly linked to BEPS is being considered for the mid to long term.

Korea	Korea's 2017 tax reform proposed to limit the deduction of interest payments between entities in multinational groups by 30 percent of EBITA.
Malaysia	Introduction of thin capitalization rules as of 1 January 2018.
New Zealand	Interest withholding tax rules broadened as of 1 April 2017 (i.e. to apply withholding tax in more circumstances and to payments meeting a wider definition of 'interest'). The government is consulting on proposals to implement a 'restricted transfer pricing method' for related-party debt and changes to thin capitalization rules (notably, to reduce assets by non-debt liabilities including deferred tax). Tax treaties may limit the effect of the related-party debt proposal. An amending bill is expected in December 2017, with effect for income years starting on or after 1 July 2018.
Taiwan	Taiwan has had thin capitalization rules in place since 2011.
Vietnam	Introduction of thin capitalization rules under consideration.

Action 5	**Counter harmful tax practices more effectively, taking into account transparency and substance**
Australia	The ATO is exchanging rulings and consulting on implementing mandatory disclosure rules for taxpayers and tax advisers.
Hong Kong	Introduced measures to enact a Corporate Treasury Center regime; Action 5 specifically referenced during the legislative process.
India	Union Budget 2016–17 introduced a patent box regime, offering a 10 percent tax rate for royalties earned from licensing patents developed and registered in India.
Korea	A substance-over-form rule allows the tax authority to re-characterize a related-party transaction based on its substance where the tax burden of a company has been unjustly reduced.
New Zealand	Automatic exchange of (financial account) information rules took effect as of 1 July 2017. The first reports to Inland Revenue are due on 30 June 2018, with exchanges to other revenue authorities starting in September 2018.
Singapore	Singapore joined the inclusive framework for implementing measures against BEPs proposed by the OECD and endorsed by the G20 in February 2016. As with many other jurisdictions, Singapore uses tax incentives to promote investment in certain areas of the economy. Incentive recipients would have to anchor substantive operations in Singapore and contribute meaningfully to the growth of the overall economy. On 12 January 2017, the IRAS released the fourth edition of the Singapore transfer pricing guidelines. Under Action 5, compulsory information exchange between tax administrations is made evident in the 2017 Singapore transfer pricing guidelines with specific reference to information exchange involving unilateral APAs. In Budget 2017, the government introduced a new IP regime to encourage the use of IP arising from taxpayer's R&D activities. The IP Development Incentive incorporates the BEPS-compliant modified nexus approach. The regime took effect on 1 July 2017 and is administered by the Singapore Economic Development Board.
Taiwan	Taiwan's Ministry of Finance plans to conduct a feasibility and efficiency study to evaluate tax benefits against the potential loss of tax revenue. The Ministry of Finance has committed to participate in Action 5, which is one of mandatory standards for participating in the OECD BEPS project.
Vietnam	Vietnam committed to implementing the minimum standards, including those of Action 5, on 21 June 2017.

Action 6	Prevent treaty abuse
Australia	BEPS treaty anti-abuse rules are included in the new Australia-Germany treaty (signed in November 2015 and in force from December 2016).
China	With the signing of the Multilateral Instrument, China is set to update 45 tax treaties for the principal purpose test, and more China treaties will be updated as more China treaty partners sign the instruments. The treaty updates are expected to take effect in 2019 and 2020. The SAT has informally indicated that it will introduce revised treaty anti-abuse guidance in 2017 or early 2018.
Hong Kong	A proposal would amend Hong Kong's tax treaties through the Multilateral Instrument. Hong Kong proposes to adopt the principal purpose test in its treaties (but not a limitation on benefits rule). On 7 June 2017, China signed the Multilateral Instrument, and it was extended to cover Hong Kong. Enacting legislation is expected to be introduced in mid-2018.
India	Introduced or expanded the principal purpose test and/or the limitation on benefits rule in recent tax treaties.
Indonesia	In June 2017, Indonesia amended the rules that determine whether non-residents can make use of Indonesian tax treaties. In a new form that must be completed by non-resident taxpayers and stamped by the foreign tax authorities, a principal purpose test is introduced in addition to various substance and beneficial ownership tests.
Japan	Some tax treaties include limitation on benefits clauses and a principal purpose test.
Korea	On signing the Multilateral Instrument, Korea adopted the new preamble, including BEPS treaty anti-abuse rule, and opted to adopt the principal purpose test to deny treaty benefits where one of the principal purposes of an arrangement is tax evasion.
Mongolia	Cancellation of certain treaties due to taxable income leakage on income sourced from Mongolia.
New Zealand	New Zealand has signed the Multilateral Instrument but not yet ratified it. It has generally accepted the instrument's principal purpose test. Amendments to existing treaties will depend on the positions of treaty partners and ratification of the instrument. Some existing treaties already have limitation on benefits rules. Such rules may be included in other treaties as a result of bilateral negotiation and agreement.
Singapore	Singapore does not condone treaty shopping, and many of its tax treaties contain anti-treaty shopping provisions to prevent abuse. Singapore is part of the multinational group that developed the Multilateral Instrument for incorporating BEPS measures into existing bilateral treaties to counter treaty abuse. Singapore signed the instrument on 7 June 2017, adopting (among others) the BEPS minimum standard for preventing treaty abuse. This standard consists of a statement of intent that a tax treaty's purposes is to eliminate double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance, and the adoption of a general anti-abuse rule, commonly known as the principal purpose test.
Taiwan	Taiwan has incorporated limitation on benefits clauses in some tax treaties and will consider the clause in current treaty negotiations.
Thailand	The Ministry of Finance has committed to participate in Action 6, which is one of the minimum standards for participating in the OECD BEPS project.
Vietnam	Vietnam committed to implementing the minimum standards, including those of Action 6, on 21 June 2017.

Action 7	**Prevent artificial avoidance of permanent establishment status**
Australia	Multinational anti-avoidance law (de facto diverted profits tax) legislated with effect for income years beginning on or after 1 January 2016. Applying to income years starting on or after 1 July 2017, there is also a new diverted profits tax that imposes a 40 percent penalty rate of tax to be paid upfront. The tax will apply where one of the principal purposes of the scheme is to obtain an Australian tax benefit or both an Australian and foreign tax benefit.
China	China chose not to make the BEPS permanent establishment updates to its tax treaties through the Multilateral Instrument. The SAT has informally indicated that it plans to issue revised permanent establishment recognition and profit attribution guidance in early 2018.
Indonesia	Indonesia signed the Multilateral Instrument and follows its various provisions regarding the artificial avoidance of permanent establishments.
Japan	The BEPS permanent establishment concepts are included in amendments to current treaties and in new treaties going forward.
New Zealand	New Zealand has signed the Multilateral Instrument but not yet ratified it. New Zealand generally accepted the instrument's broadened permanent establishment definition. However, treaty partners may not have accepted the same amendments. New Zealand has proposed a domestic permanent establishment avoidance rule that would operate for tax treaties that are not aligned with the instrument's permanent establishment definition where there is a tax avoidance purpose. New Zealand has also proposed a permanent establishment source rule and a broad definition of permanent establishment that would apply for residents of countries that do not have a tax treaty with New Zealand.
Taiwan	The OECD recommendations are under study and being considered in current treaty negotiations.
Vietnam	The domestic 'permanent establishment' definition is more aggressive than the OECD BEPS proposed policy.

Actions 8, 9 and 10	**Assure transfer pricing outcomes are in line with value creation** ***Action 8 — intangibles | Action 9 — risks and capital*** ***Action 10 — other high-risk transactions***
Australia	Multinational anti-avoidance law (de facto diverted profits tax) legislated with effect for income years beginning on or after 1 January 2016.
China	Much of the BEPS transfer pricing guidance (notably on intangibles) was substantially incorporated into Chinese transfer pricing guidance (with significant localization) through Announcement 6 issued in March 2017. China did not incorporate the BEPS transfer pricing recommendations on risk and 'delineation of the transaction'.
Hong Kong	A proposals would codify transfer pricing rules in Hong Kong's tax legislation based on the arm's length standard and applying to cross-border and domestic transactions.

India	The Indian revenue authority deviates from the OECD's position on location savings. India views such savings as an intangible that would result in extra profit and thus should be attributed on related-party transactions. When planning for the cross-charge for services that involve intangibles, international companies need to ensure that transfer pricing outcomes are in line with value creation. Recently, the concept of low-value intragroup services was introduced in India's revised safe harbor rules. Apart from a few deviations, these rules are largely in line with the OECD BEPS recommendations.
Indonesia	Indonesia follows the OECD transfer pricing guidelines in principle.
Malaysia	In mid-2017, new chapters were introduced in the local transfer pricing guidelines and selected chapters were updated. The updated guidelines essentially realign current transfer pricing standards with OECD's Actions 8–10.
Mongolia	Mongolia updated its transfer pricing regulation in December 2015 to better reflect OECD principles.
New Zealand	There has been no unilateral action to date but New Zealand is expected to adopt the OECD transfer pricing guidelines as amended and incorporate them into New Zealand's domestic transfer pricing legislation. New Zealand proposed a unilateral restricted transfer pricing method for related-party debt. Except in limited circumstances, the proposal would deem a credit rating of the New Zealand subsidiary at one credit notch below the parent's rating and ignore certain loan features that would allow a higher interest rate or support a lower credit rating unless there is third-party debt with the same terms and conditions.
Singapore	In early 2015, the IRAs of Singapore adopted many of the BEPS Action Plan items relating to transfer pricing.
Sri Lanka	Transfer pricing requirements under domestic law in force for FY2015–16 and later years. The government has not initiated a policy decision to implement the OECD BEPS Actions.
Singapore	On 12 January 2017, the IRAS released the fourth edition of the Singapore transfer pricing guidelines, which clarifies that profits should be taxed where the real economic activities generating the profits are performed and where value is created in accordance with BEPS Actions 8 to 10. In the application of the arm's length principle, the IRAS provided additional clarification on the risk element within the functional analysis. Entities also must have the ability to control risks and the financial capacity to assume them in order to be allocated greater returns. On 19 June 2017, Singapore's Ministry of Finance released the draft Income Tax (Amendment) Bill 2017 (Draft Bill), which details the proposed amendments to the Singapore Income Tax Act. The key transfer pricing-related amendments include: — re-characterization of related-party transactions if it is found that arm's-length parties would not have entered into similar arrangements, together with a proposal that any increased income amount be treated as accruing in, derived from or received in Singapore, such that foreign-source income may be taxed in Singapore where previously it was not deemed remitted for transfer pricing purposes — formal legislation requiring taxpayers to maintain contemporaneous and adequate transfer pricing documentation and a specific surcharge for non-compliance with the arm's-length principle to be applied on adjustments made by the IRAS, for 2019 and later assessment years. — lifting of the statutory time limit for the IRAS to make an additional assessment for MAP cases — clarification that any appeal on an assessment raised by the IRAS arising from transfer pricing must be supported by contemporaneous and adequate transfer pricing documentation.

Taiwan	Taiwan's Ministry of Finance has studied relevant BEPS recommendations and is incorporating them in its domestic transfer pricing regulations. In practice, Taiwan's tax authority has been taking a growing interest in the importance of the substance, reasonableness of the function, risk and profit allocations, necessity and valuation regarding the controlled transactions involving intangibles.
Thailand	The Thai Revenue Department issued draft transfer pricing regulations for public consultation in July 2017.
Vietnam	The transfer pricing regulations are being considered to assure transfer pricing outcomes are in line with value creation under BEPS Actions 8, 9 and 10.

Action 11	Establish methodologies to collect and analyze data on BEPS and the actions to address it
Australia	Passed laws to improve the transparency of the Australian corporate tax system that require the ATO to publish tax-related information of large corporate taxpayers, with effect from the 2013–2014 income year. Information disclosed includes name and Australian business number of the entity; total income and taxable income for the income year; and income tax payable for the income year after applying available tax offsets..

Action 12	Require taxpayers to disclose their aggressive tax planning arrangements
Japan	The Japanese government is considering establishing disclosure requirements in the mid to long term.

Action 13	Re-examine transfer pricing documentation
Australia	Legislation has been passed to implement CbyC reporting under Australian domestic law, for income years beginning on or after 1 January 2016.
China	China adopted CbyC reporting and other BEPS transfer pricing documentation upgrades through Announcement 42 of July 2016.
Hong Kong	A proposal would mandate transfer pricing documentation prepared based on the three-tier reporting approach (i.e., CbyC, master file and local file reporting).
India	The Finance Act 2016 introduced regulations for master file and CbyC reporting with effect from the financial year starting 1 April 2016 and ending on 31 March 2017 (i.e. for FY2016–17). The monetary threshold for CbyC reporting has not been prescribed, but it is likely to be retained at consolidated annual turnover of the Indian rupee equivalent of EUR750 million. The threshold for master file reporting has not been specified to date. The Indian Revenue Board is expected to release detailed rules that will likely align with Action 13.

Indonesia	Local file, master file and CbyC reporting were implemented for FY2016. Local and master files must be prepared together with the 2016 tax return (i.e. both documents must be available within 4 months after the financial year-end), and the CbyC report must be submitted 12 months after the end of FY2016.
Japan	Introduced new transfer pricing documentation rules as part of the tax reform in 2016.
Korea	Implemented master file, local file, and CbyC reporting starting from 2017 for the fiscal year-end 2016. In addition to it, a CbyC report notification form needs to be submitted to the tax authorities within 6 months from the end of the fiscal year.
Malaysia	CbyC reporting rules have been implemented for the financial year 2017 (to be submitted not later than 12 months after the close of financial year 2017). Malaysian-parented multinational corporations with consolidated group revenue of 3 billion Malaysian Ringgit (MYR) and above for the financial year are required to submit the CbyC report. In mid-2017, updates were introduced in the local transfer pricing guidelines to align closely with OECD's Action 13 on master file preparation and submission requirements. The master file's consolidated revenue threshold is consistent with that of the CbyC report and is required to be submitted 30 days at the request of the local tax authority. The local transfer pricing rules, which provide the force of law, are anticipated to be formally updated soon.
Mongolia	All taxpayers in Mongolia are required to disclose related-party information and transaction details starting from the second quarter corporate income tax return submission of financial year 2017.
New Zealand	New Zealand is reviewing its transfer pricing rules and proposes to align them with OECD guidelines and approaches. Currently, there are no proposals to legislate documentation requirements, but such proposals may be considered necessary as review of the rules progresses.
Singapore	On 12 January 2017, the IRAS released revised transfer pricing guidelines. The guidelines did not change existing requirements for taxpayers to complete contemporaneous documentation the taxpayer's filing due date and be ready to provide such documentation within 30 days of a request from IRAS. The Singapore transfer pricing documentation requirements are largely aligned with the OECD approach under Action 13. For example, the IRAS subscribes to the principle that profits should be taxed where real economic activities generating the profits are performed and where value is created. Contents of transfer pricing documentation have been expanded to include, where applicable, disclosure on the group's existing APAs and tax rulings, as well as the filing of a CbyC report. Singapore has legislated CbyC for Singapore multinational groups as of 1 January 2017. CbyC reports are required where: — the group's ultimate parent entity is in Singapore — consolidated group revenue in the preceding financial year is at least 1.125 billion Singapore dollars (SGD; roughly equivalent to the OECD's EUR750 million threshold); and — the group has subsidiaries or operations in at least one foreign jurisdiction. On 21 June 2017, Ministry of Finance announced that Singapore will sign the Multilateral Competent Authority Agreement for the exchange of CbyC reports. This agreement will provide the multilateral framework for bilateral cooperation on automatic exchange of information. Singapore will enter bilateral automatic information exchange agreements with the other signatories of the agreement.
Taiwan	Under draft amendments to its domestic transfer pricing regulations, Taiwan has adopted the three-tiered documentation in line with BEPS Action 13. The amendments would have effect for fiscal years on or after 1 January 2017.

Thailand	Thai Revenue Department issued the public consultation of draft transfer pricing regulations in early July 2017. Transfer pricing documentation requirement will be included in the upcoming transfer pricing laws. A master file requirement is under consideration.
Vietnam	Vietnam committed to implementing the minimum standards, including those of Action 13, on 21 June 2017. Vietnam intends to reexamine its transfer pricing documentation, including master file and CbyC reporting.

Action 14	**Make dispute resolution mechanisms more effective**
Hong Kong	Legislation introduced to formalize the adoption of MAPs and mandatory arbitration to resolve treaty disputes.
Indonesia	Indonesia intends to meet the minimum standard.
Japan	The concept of BEPS is being considered in the negotiation of amendments to current treaties and new treaties going forward.
New Zealand	New Zealand has signed the Multilateral Instrument. Note that New Zealand was prepared to commit to the MAP.
Singapore	The IRAS has been active in engaging foreign tax authorities to resolve cross-border tax disputes via the MAP provided in its tax treaties. On 12 January 2017, the IRAS released revised Singapore transfer pricing guidelines. Under Action 14, the IRAS provided additional guidance on the APA roll-back period, its commitment to conclude MAP applications within a 24-month time frame, and its position in cases where taxpayers choose to resolve matters through alternative dispute resolution mechanisms in MAP and APA proceedings. Singapore signed the Multilateral Instrument on 7 June 2017, adopting (among others): — the BEPS minimum standard for enhancing dispute resolution under which a Singapore resident taxpayer who encounters taxation that is not in accordance with the intended application of the tax treaty's provisions can seek assistance from IRAS to contact the treaty partner to resolve the dispute — the mandatory binding arbitration provisions to be included in its tax treaties in order to provide certainty to taxpayers that treaty-related disputes will be resolved within a specified timeframe. Singapore's draft Income Tax (Amendment) Bill 2017, released on 19 June 2017, introduces transfer pricing-related amendments, including the elimination of the statutory time limit for IRAS to make an additional assessment for MAP cases.
Taiwan	Taiwan's Ministry of Finance is drafting guidance for the MAP that both tax authorities and taxpayers can follow to make the process more effective.
Thailand	The Ministry of Finance has committed to participate in Action 14, which is one of the minimum standards for participating in the OECD BEPS project.
Vietnam	Vietnam committed to implementing the minimum standards, including those of Action 14, on 21 June 2017.

Action 15 Develop a Multilateral Instrument

Australia	Australia signed the MLI on 7 June 2017.
China	China listed 102 tax treaties as covered tax agreements on signing the Multilateral Instrument, initially resulting in 46 matched tax treaties. As more China treaty partners sign the instrument, the number of matches and updates will rise. China opted for the principal purpose test, dual residence tiebreaker update and minor updates to its MAP. China did not opt for the permanent establishment and hybrid updates or the arbitration rule.
Hong Kong	On 7 June 2017, China signed the Multilateral Instrument, and it was extended to cover Hong Kong. Enacting legislation is expected to be introduced in the Legislative Council in mid-2018.
India	India signed the Multilateral Instrument and has committed to certain BEPS measures that would be addressed through the instrument.
Indonesia	Indonesia signed the Multilateral Instrument on 7 June 2017.
Japan	Japan signed the multilateral instrument on June 2017.
Korea	Korea signed the Multilateral Instrument on 7 June 2017.
New Zealand	New Zealand signed the Multilateral Instrument and broadly accepted that amendments would be made in line with the options that New Zealand has chosen in the instrument's articles. There are few practical limitations to the instrument's possible amendments to tax treaties. Limitations would only arise where treaty partners have agreed to a lesser approach than full implementation of the Multilateral Instrument.
Singapore	On 7 June 2017, Singapore signed the Multilateral Instrument and chose 68 of its 82 tax treaties as covered tax agreements. Forty-seven of the 68 treaties were mutually selected by Singapore's treaty partners.
Taiwan	Taiwan's Ministry of Finance is currently studying the BEPS recommendations under Action 15.

Source: KPMG International, 2017.

Note: Please note that this publication highlights the most significant BEPS-related developments in countries in the region. Legislation relating to BEPS is continually evolving, however, and we anticipate other countries in the region to begin implementing various aspects of BEPS. Please visit kpmg.com/beps often for more information and the latest on BEPS developments from around the world.

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Designed by Evalueserve.

Publication name: OECD Action Plan: Moving from talk to action in the Asia Pacific region — 2017

Publication number: 134746-G

Publication date: October 2017