

CBCR consultation  
Financial Services Group  
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HM Treasury  
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Email: [CBCRconsultation@hmtreasury.gsi.gov.uk](mailto:CBCRconsultation@hmtreasury.gsi.gov.uk)

Dear Sir or Madam

**Transparency and Trust discussion paper**

I attach responses to the matters on which you sought opinion in the above paper.

Tax Research LLP is an independent think tank / research organisation directed by Richard Murphy FCA. The work of Tax Research LLP is largely funded by the Joseph Rowntree Charitable Trust, the trade union movement and TUC and by specific research grants.

Richard Murphy has advised many organisations campaigning for tax justice and transparency including Global Witness, Christian Aid, Action Aid, Oxfam, the Tax Justice Network and the TUC.

Richard Murphy is widely credited with having created the country-by-country reporting concept.

The responses provided may be published by you and are not considered confidential.

Yours faithfully

Richard Murphy  
Director

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## Answers to the questions in the published consultation document

**Question 1: Do respondents believe that it would be proportionate to apply the CBCR rules to all institutions captured by CRD4? If not, please describe what specific difficulties arise for particular categories of firms, and what approach you believe would be more proportionate whilst complying with Article 89.**

It is appropriate to apply CBCR to all CRD4 institutions, without exception.

The risks that CBCR disclosure seeks to address are systemic. It would be wholly inappropriate and completely illogical in that case for part of the system to be exempted from disclosure.

**Question 2: Do respondents agree that the CBCR requirement should apply equally to UK subsidiaries and to UK branches of institutions which are established in third countries?**

Yes. Both create the same type of systemic risk and both should therefore be covered by the requirement to disclose as a result.

**Question 3: Which approach to consolidation (prudential or IFRS accounting) do respondents believe is more appropriate?**

An IFRS accounting approach, or UK GAAP approach in the case that this is used by the reporting institution, is appropriate.

The information to be supplied by CBCR must be contextually relevant.

The context in which that risk has to be assessed, given the limited proposed CBCR information disclosure, is the IFRS or UK GAAP financial statements of the institution. As such no other basis for consolidation makes sense since a prudential basis of disclosure would provide information without contextual setting and be virtually meaningless as a result.

**Question 4: Do respondents believe the above approach for reflecting consolidation adjustments is satisfactory? If not, please describe an approach that you believe would be more suitable.**

The locally reported accounts of most institutions to be covered by CBCR disclosure will not directly reconcile with the data disclosed for the same local based institution in the consolidated accounts of the parent entity. This is primarily because:

- a. The consolidated result will eliminate all intra-group trading but the locally reported institution will reflect such trading in its results;
- b. The local institution may report under a different GAAP to IFRS;
- c. The consolidated financial statements may recognise profits and losses not included in the accounts of any of the underlying entities within the group, these transactions appearing only in the consolidation itself.

CBCR has always recognised these facts and requires disclosure of the necessary adjustments, in detail, to ensure that the local activity of an entity can be reconciled with its global reporting. What

is vital to ensure that the disclosure is meaningful on a country-by-country basis is that the adjustments are reported by jurisdiction and by type of consolidation adjustment e.g. as categorised above. Anything less would render the disclosure meaningless. The whole point of CBCR is, after all, to report local activity. If that is not given priority in the disclosure with the reasons for adjustment to the consolidated result being disclosed this would not constitute CBCR. It would merely be a footnote to global reporting and that is not what was intended.

**Question 5: Do respondents agree that the appropriate definition of the term “establishment” in this context should be both subsidiary and branch?**

Branches are not legally established but are commonplace in the financial services sector. They must also be disclosed. At present the existence of a permanent establishment for taxation purposes might be used as a proxy measure for the existence of a branch.

**Question 6: Do respondents think there should be a standard template for disclosures?**

A template may be too rigid for use but an equivalent of an accounting standard for disclosure requirements would seem to be necessary to ensure significant consistency in approach is adopted.

**Question 7: Do respondents agree with the above approach? If not, please describe an approach that you believe would be more suitable.**

We believe that this data should be seen to be integral to the reporting entities financial statements. However, if pressure on space suggested that the disclosure would impose a burden if printed then to publish a note in the financial statements giving a web address at which all the audited data could be found would be an adequate alternative. CBCR should not be a burden on the environment.

**Question 8: Can respondents identify any serious impediments to institutions reporting the relevant information by July 2014?**

No.

**Question 9: Do these auditing requirements pose any difficulties?**

The proposed level of materiality to be used is wholly inappropriate. CBCR is about country level reporting. What is material in this context is the omission of data relating to a country whether or not the data in question is material to the financial statements of the entity as a whole, or not. Accordingly materiality must be assessed at the local level, and separately for each jurisdiction for which disclosure is required. Nothing else will ensure that appropriate country level reporting is made and that is the goal of this exercise.

**Question 10: Do respondents agree with the above definition of turnover?**

Yes.

**Question 11: Do respondents agree to limit the scope of “tax on profit and loss” to corporation tax payments?**

We agree that the disclosure required with regard to “tax on profit and loss” relates to corporation tax and equivalent charges.

**Question 12: Do respondents agree that disclosures should be reported on a cash-paid basis?**

We can find no logic in the proposal that corporation taxes should be disclosed on a payment basis because as existing taxation notes to the accounts of entities reporting IFRS show, the focus for such disclosure is split into three parts. The first is current taxation due as disclosed in the income statement. The second is movements in the deferred tax provision as again disclosed in the income statement. The third element is tax paid as disclosed in the cash flow statement.

Since tax paid on a cash basis is not disclosed in the profit and loss account the disclosure requirement that "tax on profit or loss" be published cannot possibly relate to a cash paid basis.

What the consultation document reveals is that the three elements of disclosure included for tax in existing financial statements are all useful. What CBCR should disclose is all three above noted elements to the declaration and settlement of the entity's corporation tax (or equivalent) liabilities on a CBC basis, without exception, and we believe that this is what Article 89(1) requires.

**Question 13: Do respondents agree that using the existing method for corporation tax attribution ensures minimal additional compliance burdens with respect to disclosure by UK branches of third country institutions?**

Yes.

**Question 14: Do respondents agree with the above definition of public subsidies?**

Public subsidies should include the financial benefit of all guarantees and other support a financial institution receives as well as the value of direct subsidies paid. For example, the value of the subsidy the bank might enjoy as a result of additional business arising from the Help to Buy mortgage scheme should be disclosed.

**Question 15: Can respondents outline how the new reporting requirements will differ from what they are currently required to report and what, if any, additional information is required.**

Not applicable.