

Global Forum: real change towards international tax cooperation

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Monica Bhatia writes about how the Global Forum aids international cooperation in tax matters, which has become a high priority on governments' agenda

In times of growing economic uncertainty, international cooperation in tax matters has become a high priority on governments' agenda. The liberalization of financial markets has brought with it a significant increase in the flows of cross border capital and cooperation amongst tax administrations in sharing taxpayer information is key to ensuring effective ongoing tax law enforcement. With 109 members, the Global Forum on Transparency and Exchange of Information for Tax Purposes is the largest tax body in the world, mandated to ensure that all jurisdictions adhere to the same high standard of international cooperation in exchanging tax information.

The G20 has long been a strong proponent of the Global Forum's work and in 2009, in the wake of the global financial crisis, the G20 leaders called on the Global Forum to help secure the integrity of the financial system through the uniform implementation of high standards of transparency. In response to this mandate, the international standard on transparency and exchange of information was agreed by the Global Forum. This is set down in its Terms of Reference, which forms the basis of the in-depth peer reviews which it is charged with carrying out on all of its members and other jurisdictions that have been identified as being of interest to its work.

The Global Forum, which was fundamentally restructured at its meeting in Mexico in September 2009 to create an inclusive, truly global organisation where all of its members participate on an equal footing, is a diverse and balanced group with its membership comprising small jurisdictions, developing countries, major financial centres, the OECD economies and all G20 countries working together and sharing the same objectives. This has been the hallmark of its success to date.

The membership of the Global Forum continues to grow and in the current economic climate the value of the work carried out by the Global Forum is increasingly being recognised by governments, with interest in the membership at an all time high.

The work of the Global Forum is guided by an 18 member Steering Group and the high standards of transparency and exchange of information for tax purposes are met through a comprehensive, rigorous and robust peer review process conducted by teams of experts, independent assessors and overseen by a 30 member Peer Review Group.

The peer review process

The peer reviews examine the legal and regulatory framework of jurisdictions (Phase 1) and the actual implementation of the international standard in practice (Phase 2). The review outputs include determinations regarding the

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availability of any relevant information in tax matters (ownership, accounting or bank information), the appropriate power of the administration to access the information and the administration's capacity to deliver this information to any partner which requests it. When jurisdictions report on changes that are likely to significantly address the deficiencies identified in the peer review, the Global Forum conducts supplementary reviews of these changes. Where the Phase 1 review concludes that elements which are crucial to achieving effective exchange of information are not yet in place in, it is recommended that the jurisdiction does not move to a Phase 2 review until it has acted on the recommendations to improve its legal and regulatory framework.

With 79 jurisdictions already reviewed, and 23 other reviews underway, the Global Forum is reaching the end of the Phase 1 reviews. The Phase 2 reviews, which will examine how a jurisdiction adheres to the international standard in practice, are being launched in the second half of 2012. These reviews will provide in-depth investigations into the procedures and resources available for the exchange of information. In contrast to Phase 1, overall ratings on jurisdictions' compliance with the standards will be provided once a representative subset of Phase 2 reviews is completed. It is expected that the first Phase 2 reviews will be published in 2013 and that more than 50 Phase 2 reviews will be completed by the end of the same year.

Impact of the reviews

The quality of cooperation within the Global Forum has been extremely high, with more and more jurisdictions implementing policy and legislative changes that address the deficiencies identified in their reviews. The quality of cooperation is also attested by the growing number of jurisdictions asking for supplementary reviews which acknowledge the improvements they have made to date in light of the recommendations received. The Global Forum has conducted 13 supplementary reviews with two more underway. As a result of supplementary reviews, six jurisdictions that were previously unable to move to Phase 2 have been able to progress as the changes introduced to their legislation improved elements critical to exchange of information.

The reviews completed so far demonstrate the genuine commitment that members are showing to the international standard as well as demonstrating a strong level of compliance with the process. Nonetheless, nearly all peer reviews to date also show that improvements are needed, with 32 reports concluding that one or more elements essential for the effective exchange of information are not in place. Where these deficiencies are serious, the move to the Phase 2 reviews have been put on hold.

All member jurisdictions have committed to using the results of the peer review process to guide changes and improvements in their tax policy regarding transparency and improved sharing of taxpayer information, and most of the jurisdictions have taken action to address recommendations immediately following their assessment. This is a testament to the remarkable success of the process and is translating into more effective compliance with the standard on the ground.

Enhanced cooperation between Competent Authorities

The Global Forum has also been working closely with the Competent Authorities responsible for exchange of information from each jurisdiction, in order to further facilitate a coordinated approach amongst jurisdictions. The first meeting of Competent Authorities, organised by the Global Forum, took place in Madrid in May earlier this year and brought together 186 delegates from 78 member jurisdictions and 6 international organisations. The participants reaffirmed their strong commitment to effective information exchange and examined the best ways to improve their relationships. It was clear from the meeting that the competent authorities present are all “upping their game”, putting more resources into their EOI operations and improving management systems and staff training.

Countering the erosion of developing jurisdictions’ tax bases

As part of the Seoul Multi-Year Action Plan on Development, the G20 leaders requested the Global Forum to “enhance its work to counter the erosion of developing countries’ tax bases and, in particular, to highlight in its report

the relationship between the work on non-cooperative jurisdictions and development". In response, the Global Forum proposed concrete short and medium-term actions to ensure that developing jurisdictions can benefit from the Global Forum's work and have the training and expertise necessary to fully implement the international standard.

These actions include two pilot projects aimed at providing in-depth technical assistance to Ghana and Kenya, to help them implement the international standards which have been launched in cooperation with the World Bank and with support from the UK's Department for Overseas Development. In the case of Ghana the German Development Co-operation is also supporting the work. Other assistance activities of the Global Forum include regional training seminars for personnel involved in exchange of information, preparing jurisdictions for their peer reviews, and providing manuals and toolkits to enhance information exchange.

In order to facilitate the coordination of technical assistance in the areas covered by the Global Forum, a Coordination Platform to enhance cooperation with international organisations and development agencies was launched in February, 2012. This is a secure website that is used by international organisations and development agencies to identify jurisdictions that need assistance, to locate partners for their own assistance activities and to promote awareness of upcoming events and training seminars related to tax transparency and exchange of information.

Continued support of the G20

At the most recent G20 summit of world leaders in Los Cabos, Mexico, the G20 commended the progress made by the Global Forum and reiterated its commitment to strengthen transparency and comprehensive exchange of information. Furthermore, the G20 reinforced the core message of the Global Forum and urged all countries to fully comply with the standard and implement the recommendations identified in the course of the reviews. The G20

further showed its support for the Global Forum by pledging to follow with attention the ongoing work of the Global Forum in this area.

The way forward: accelerated pace of change at a practical level

The Global Forum has clearly made significant inroads in furthering the cooperation of tax administrations and contributing to effective tax law enforcement. The pace of change will further accelerate as it begins examination into exchange of information in practice and enhances coordination between Competent Authorities. With the ongoing support from the G20 leaders, real results will be seen and felt at a practical level making tax administrations more effective in tackling tax evasion. ■

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