Report to the ‘Transparency in Financial Reporting’ Sub Group of the OECD Informal Task Force on Tax and Development
on
Central registration and public availability of statutory accounts in developing countries

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1 Introduction

1.1 Scope

This report explores the potential transparency benefits of public registration of statutory accounts of unlisted companies[1] and the extent to which a number of developing countries currently require such registration. It also looks at the potential benefits that might be realised in developing countries if more countries (not just developing) required public registration of private company accounts. In doing so, it considers the characteristics of such filing obligations which are most helpful for transparency purposes.

1.2 Structure of report

An executive summary of the report's findings is set out in section 2.

The report has two parts. First we look at the contents of accounts and the use to which they can be put, and then we review our research into the public availability of accounts in a number of developing and other countries. In more detail:

- In sections 3 to 8, we consider the nature of accounts data and the benefits which could flow from its public availability, and we analyse possible alternatives.
- In section 9, we look at the access required to accounts registries in order to support realisation of the benefits.
- In section 10, we look at costs and other implications of extending obligations to file accounts and having them publicly available.
- In section 11, we outline the research that we have done into the accounts filing position in 13 developing countries and 6 other countries, and we summarise the findings of that research. The detailed research is contained in the tables annexed to the paper.
- In section 12, we highlight aspects of 'best practice' in accounts filing and for the introduction and use of a filing structure, and note that the benefits should be assessed against the costs.

[1] It looks only at conventional companies, such as public and private limited companies, and does not consider partnerships of any description.

2 Executive Summary

2.1 Background

The issue of 'country-by-country' reporting has been considered by the Task Force – a multi-stakeholder body consisting of representatives from OECD member and non-member countries, business and civil society - since 2010. In September 2010 a group was set up, chaired by Michael Devereux of the Oxford University Centre for Business Taxation, to report on the issue, and its initial report was discussed at the December 2010 meeting of the Task Force's Sub-Group on Transparency in Financial Reporting. The report was developed and submitted to the Task Force for its meeting in April 2011, and published in July 2011. The drafting group included representatives of business, civil society, the OECD and academia. Its report, a discussion paper entitled "Transparency in reporting financial data by multinational corporations"[2], identifies and clarifies issues involving transparency of reporting by multinational companies, and reflects a broad consensus among the drafting group regarding the issues[3].

At its meeting in April 2011, the Task Force was unable to find a consensus on the way forward on 'country-by-country' reporting. However it was proposed that consideration should be given to the extent to which existing publicly-available corporate information could assist in the objective of holding governments and companies to account. In particular, many stakeholders, principally from non-OECD economies, requested that further progress be made in exploring the potential value of the public registration of local statutory accounts of unlisted companies in developing countries as a tool to promote transparency. This study focuses on those issues.[4]

2.2 Summary of the study's findings

The issues are discussed further below, but this section 2.2 gives the 'headlines' and then a brief summary of the key findings.

Headlines

- Statutory accounts of local unlisted companies are publicly available in many but not all OECD countries, and there appears to be less public availability in developing countries.
- Publicly available accounts information in developing countries could be useful in providing potential comparables for transfer pricing purposes.
- Such information, if available on companies in other countries with which developing country companies deal, could provide indicative data to assist tax administrations in making risk assessments, although developing country tax administrations' views on the value of the potential benefits have not been sought.

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[2] The report is available at:
http://www.sbs.ox.ac.uk/centres/tax/Documents/reports/Transparency_reporting_multinationals_july2011.pdf

[3] An analysis of the net effect of greater disclosure of corporate financial information on the quality of public debate about the best set of policies and international rules for protecting the tax base in less developed countries was treated as beyond the scope of that report.

[4] It does not consider compliance with or enforcement of existing filing obligations; clearly, any transparency benefits of public availability of accounts will not be obtained if the obligations are not complied with and enforced.

- Publicly available accounts information on all companies would not provide all of the data sought by proponents of country-by-country reporting, although in some cases indicative figures of corporate tax paid on income and gains, and of profits, would be available and of some indicative benefit.
- Benefits of public accounts filing obligations must be assessed against the costs and other implications.

What are the current requirements in developing countries to file accounts?

Many OECD countries require accounts of private companies to be filed and made publicly available, although there are notable exceptions such as Switzerland and the USA. In developing countries, which have been the focus of our review, we have found the position to be variable – of the 13 countries reviewed, 6 currently require private company accounts to be filed and publicly available, 1 is introducing such a requirement, another may be and the remaining 5 do not have such a requirement.

What data is currently available to tax administrations in developing countries?

There is generally less data available to tax administrations in developing countries than in OECD countries. In particular there is less data which can be used to find potential comparables for transfer pricing purposes. There is also less access to data through exchange of information with other tax administrations, because fewer Tax Information Exchange Agreements and Double Tax Treaties are in place.

Is there a potential transfer pricing benefit from public filing of statutory accounts?

Commercial databases are often used by both taxpayers and tax administrations to look for potential comparables for transfer pricing purposes, to form the basis for resolving transfer pricing disputes. Such databases are generally built on publicly available accounts data, and the lack of such data may therefore adversely affect both the tax administration's and the taxpayer's ability to find potential comparables. This lack of data and comparables has been identified as creating problems for developing countries in effectively implementing their transfer pricing rules.

Is there a potential benefit to tax administrations' risk assessment processes from public filing of statutory accounts?

If statutory accounts were publicly available in all countries, tax administrations could use that additional data to assist them in assessing the international tax risks of their taxpayer companies that belong to a Multinational Enterprise ("MNE"), as it would enable them to see details of the profits made in each group company with which the taxpayer deals. Public availability of such accounts data should give fast access to speed up that risk assessment, and would particularly assist developing countries who may not be able to obtain the accounts data through exchange of information due to their limited Exchange of Information network.

Is increased information in the tax return an alternative to public filing of statutory accounts?

Business representatives have suggested that an alternative to wider public availability of accounts data is that tax administrations could require a company's tax return to give more detailed information on cross-border transactions with other members of the MNE. Some tax administrations do require such detailed information in the tax return, and it does assist with risk assessment, but it does not provide details of the profit made from those cross-border transactions or overall company profit. Publicly available accounts information would provide details of each company's overall profit (although not details of the profit from the cross-border transactions themselves) and each company's substance (such as its capitalisation, asset base and wage costs), elements of which can be useful in deciding whether to investigate particular transactions. So, the suggested alternative may assist with risk assessment and may supplement accounts data, but would not be an alternative to it.

Would the "Holding to account of Governments and Companies" objectives be met?

The public availability of accounts - even if introduced in all countries - would not provide all of the data sought by those seeking country-by-country reporting as, for example, it would not show the actual total tax paid and collected in each country. However, particularly in cases where the accounts contain a cash flow statement, it may provide indicative figures of corporate tax paid on income and gains, and of profits, and so would be of some indicative benefit towards this transparency objective, although only at the 'risk assessment' level. It must be stressed that the figures would only be indicative and should be handled with care, mindful of the imperfections.

Preliminary Conclusions

i) The primary benefit that may arise from publicly available accounts data is a transfer pricing benefit for both taxpayers and tax administrations, as such data may assist in providing potential comparables, for which there is currently a significant gap in the developing world. Accounts of independent companies would be needed for this purpose. This benefit may be derived in any country if it chooses to change its own regulations, on a unilateral basis, to make accounts data publicly available. A regional approach could add to the benefit, if it enables a regional database to be produced (for example, where there is not enough national data). The benefit would be even greater if accounts data was made available in all countries, thus providing potential comparables where either party to the transaction is tested for transfer pricing purposes.

ii) Publicly available accounts data may also provide some indicative data that may assist tax administrations in assessing the international tax risk of their taxpayers which belong to a MNE. Here the potential benefit would arise from such data being available in relation to companies operating in the countries with which the taxpayer transacts. Therefore developing countries are dependent on other countries making accounts data publicly available - the more countries in which accounts data is publicly available, the greater the potential for risk assessment benefit. However before any conclusion can be reached on whether there would be a potential benefit for risk assessment purposes, tax administrations should be consulted for their views on the value of the potential benefits.

iii) These benefits must be assessed against the costs (for business and government) of introducing new public accounts filing obligations, and the other implications of public accounts filing such as the impact on competition, takeover activity and public scrutiny of business. In particular the costs of requiring companies to prepare accounts where they are not currently required may be significant. A full examination of costs is therefore needed and would require more in-depth work.

iv) Some tax administrations require companies to provide detailed information in the tax return on cross-border transactions with other members of the MNE. This may assist the tax administrations in transfer pricing risk assessment and such a requirement could be considered further by developing countries that do not currently require such information in the tax return. However, it should be noted that this information is different from the data that would be obtained from publicly available accounts. The information in the tax return may supplement that accounts data but is not an alternative to it.

3 Potential transparency benefits

Two categories of benefits from greater tax transparency, that are relevant for these purposes, have been identified – one relating to outside scrutiny of governments and companies, and the other to capacity-building for the benefit of taxpayers as well as revenue authorities.

3.1 'Holding to account'

In the debate on transparency in the financial reporting of multi-national enterprises, a number of possible objectives of greater transparency have been put forward. In the 2011 report from Oxford, commissioned by the Task Force, possible objectives discussed were (a) to hold governments to account, with regard to the integrity and efficiency of their tax collection, the appropriateness of their domestic tax policies and their adoption of international tax standards, and (b) to hold companies to account with regard to their paying the tax due and their tax planning strategies.

For the purpose of holding governments to account, the principal focus has been on disclosure of all payments made to governments, whether corporate income tax, payroll tax, other tax or non-tax royalties or charges. This is particularly aimed at the 'integrity' aspect of the objective (has the money paid actually been received by the government?) and the efficient use of funds received (what, broadly, is there - for example in service provision or infrastructure - to show for the sums received by the government?). Other aspects of the objective of holding governments to account, notably appropriateness of tax policies, would require taxes and payments received to be set in the context of profits and revenues earned by the paying companies.

To hold companies to account, a wider range of disclosure has been proposed. For instance, the Task Force on Financial Integrity and more recently the European Network on Debt and Development have called for multi-nationals to disclose, by country, pre-tax profit, sales, purchases and financing (each split between intra-group and third party), labour costs and employee numbers, cost and net book value of physical assets, gross and net assets in total, tax split between current and deferred, tax payments and opening and closing tax and deferred tax balances, as well as identifying which companies trade in which countries[5]. An extended requirement has been proposed by Publish What You Pay Norway, adding requests for separate details on hedges and other derivatives, separate identification of different payments to governments, and current and cumulative data on various matters including intra-group fees, payments to governments, reserves and production[6].

[5] Richard Murphy (2009) 'Country-by-country reporting: holding multinational corporations to account wherever they are', Task Force on Financial Integrity and Economic Development www.financialtaskforce.org/2009/06/17 and Eurodad 'Exposing the lost billions' November 2011.
[6] Publish What You Pay Norway: 'An extended country-by-country reporting standard – A policy proposal to the EU' January 2012 www.pwyp.no .

This report will consider the extent to which the public availability of statutory accounts could assist towards these 'holding to account' objectives.

3.2 Transfer pricing comparables

The report also considers the extent to which greater transparency of company accounts would provide material which could assist in the collection of data which might be used for comparability for transfer pricing purposes. This could be of benefit to business as well as to tax administrations.

Generally the data currently available for developing countries is significantly less than that for more developed countries. As the Oxford report notes[7], developing countries have fewer companies listed on local stock exchanges so there is less public company information than in more developed countries.

Further, there is less information available in databases. For example, Bureau van Dijk's data suitable for transfer pricing gives much deeper coverage of Europe (data from 10 million companies in their Orbis product) than of South America (20,000 companies) and the Far East and Central Asia (580,000), with just 2,000 companies in Africa[8].

The position is similar with Moody's Analytics, whose credit risk model RiskCalc Plus[9] generates default probabilities which are used by Moody's themselves and by CUFTanalytics[10] in pricing financial transactions. Moody's Analytics RiskCalc model for Emerging Markets has been developed using a dataset of 67,245 financial statements of companies from 24 developing countries or regions in Asia, Europe, Latin America and Africa. While this dataset is considered sufficient for the development of a tool like RiskCalc, it is small compared to the 4.9 million financial statements from the UK or 8.3 million from France used to build their respective country models.[11] This comparison illustrates the key problem: scarcity of data.

The OECD Guidelines[12] discourage the use of 'secret comparables' (data on comparable transactions held by one party to the transfer pricing dispute but not available to the other) because the party which does not have the data is unable to investigate and challenge it, e.g. for comparability. Accordingly, data to be used for these purposes should be accessible to the public.

Transfer pricing processes need data which enables the identification of the transactions and functions performed by the company and shows their nature, as well as the terms of the transactions and the pricing (or the return from the business); further, it is critical to be able to see any ownership or other relationship between the parties, and the context and other relationships within which the transaction takes place.

3.3 Risk assessment

Greater transparency could assist tax administrations in auditing the tax returns of companies in their countries, not just in transfer pricing but in other areas too. Authorities may wish to learn more about the

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[7] Footnote 37 page 32 of July 2011 report.
[8] Source: Bureau van Dijk. The figure for North America is 70,000 companies
[9] www.moodysanalytics.com .
[10] www.cuftanalytics.com .
[11] Source: Moody's Analytics.
[12] 2010 Transfer Pricing Guidelines, Para 3.36 in Section A.4.3.3.

companies which they audit, and also about the group companies with which their taxpayer companies deal, to understand more about the business and finances of the taxpayer companies. The relative profitability and financial strength of group companies can be useful in indicating where in group structures or group transactions profits arise. This could assist in consideration of potential controlled foreign company issues or of payment flows following reorganisations such as intellectual property transfers. The availability to tax administrations of more information on these matters may enable the attention of tax administrations to be focused on areas where there is some reason to believe that there may be material extra tax at stake rather than on other areas, discouraging unnecessary challenges as well as identifying realistic routes to pursue, and so could be of benefit to taxpayers as well as to the authorities.

Here, it is relevant that developing countries generally have less access to Exchange of Information rights than do developed countries. For instance, France has 142 Tax Information Exchange Agreements or Double Tax Treaties with information-exchange rights, and the UK has 141, but Zambia has just 20, Ecuador 16, Botswana 11 and Cambodia none[13]. The total number of agreements between OECD countries and African countries is just 280, and the total between African countries and non-OECD financial centres is just 27[14]. The potential for accounts transparency to supplement the information available to developing countries is discussed below.

4 Nature of accounts data

4.1 General

When we talk of publicly-filed accounts for unlisted companies, we think principally of filings containing balance sheets and profit and loss accounts, which may also include cash flow statements and directors' reports. From these filings, information should be available on tax, income and costs and ownership, which could be relevant for transparency purposes. Accordingly, where such publicly-filed accounts are available, they may provide some (although not all) of the disclosure outlined above for subsidiaries of multi-national companies and for stand-alone local companies. The depth of information will vary with the level of detail required to be included in the accounts, which in turn will be influenced by the accounting standards required to be used and other applicable regulations. Further, in some cases the information disclosed may not be sufficiently disaggregated to achieve the objectives fully. The types of information that may be available, and some of the issues with using that information, are outlined in this Section 4. We also consider the need to look at data on other group companies, as well as the company in question, to fulfil some of the transparency objectives.

4.2 Tax

Accounts will typically show a tax charge. The 'holding to account' transparency objective is generally to see actual tax paid. The tax charge in local company accounts will give a reasonable indication of the corporate income tax paid or to be paid, although there are a number of points to note.

First, the tax charge will be an accounting charge, and may not distinguish between tax paid and tax provided for but not paid. Cash tax paid would be shown in a cash flow statement, as required by IAS 7 in

[13] Exchange of Information portal: www.eoi-tax.org .
[14] Source: OECD.

relation to taxes on income[15], but other national accounting standards do not require a cash flow statement in all cases[16].

Second, the tax charge would in general be largely in respect of current year income or gains, but may also include charges now considered necessary in respect of prior years; IAS 12[17] requires separate disclosure of these items, but the position in jurisdictions which do not require IAS has not been investigated.

Third, the tax charge may well not distinguish between local taxes and taxes paid to other countries, as the standard does not require such distinction (although some companies may choose to analyse the tax charge in the notes); this would be a real rather than a theoretical issue only if the company in question had a taxable presence or other tax liability in another jurisdiction.

Fourth, the tax charge (in the accounts and cash flow statement) is likely to show taxes on income and gains, but not payroll taxes (which would typically be recorded within wage costs), nor royalties on production or turnover nor duties on imports and exports (both typically in sales and cost of sales), so the tax line should not be regarded as the total tax paid collected or borne by the company.

Fifth, there is likely to be some form of reconciliation of the tax charge to the company's statutory tax rate; IAS 12 requires an explanation of the relationship between the tax charge and the accounting profit [18]but the position in other accounting standards has not been checked. The disclosures required under IAS are to enable users of financial statements to understand whether the relationship between tax charge and accounting profit is unusual and to understand the significant factors that could affect that relationship in the future. The level of detail disclosed can be expected to vary from company to company.

Finally, deferred tax assets and liabilities are likely to be shown; IAS 12 requires these items to be shown separately from current tax, but again the position has not been checked in other accounting standards.

4.3 Usefulness of tax data

Given the characteristics of accounts tax disclosure, as discussed above, we can say as follows:

- Where there is a cash flow statement as required by IAS, tax paid on operating income is likely to be visible.
- Tax paid can include instalments or payments on account. These are cash tax payments, but are not final payments, and can be different from the amount of tax ultimately due. Over time, though, the total of instalment payments (and refunds) should equate to the total cash tax ultimately due.
- In the absence of a cash flow statement, the tax charge is likely to provide a reasonable proxy for current tax payments, when looked at over a number of years, as in principle provisions should over time broadly equate to tax paid.

[15] International Accounting Standard 7 (Para 35) requires cash flows from taxes on income to be disclosed separately.
[16] For example, UK GAAP has an exemption for 90%-owned subsidiaries covered by consolidated financial statements (FRS 1, on www.icaew.com).
[17] IAS 12 (paras 79, 80).
[18] In the form of a numerical reconciliation between the tax charge and the accounting profit multiplied by the applicable tax rate (or between the effective tax rate and the applicable tax rate), pursuant to IAS 12 (paras 81(c), 84).

- However, as a tax charge may include a provision for tax, the liability or amount of which is uncertain, there may be some differences. Providing for such tax involves an element of judgment, and the making and releasing of provisions for tax may make the tax charge harder to relate to cash tax paid.
- The data will be more useful for identifying the tax paid to particular countries if the company has a taxable presence in only one country, because then the tax data will clearly relate to that country.
- The accounts are unlikely to show taxes other than corporate income tax (such as payroll taxes, royalties and duties), so the accounts data will not identify the total tax paid and collected by the company.

Therefore, when looked at over a period, accounts data would be of some use for the 'holding to account' objectives, but only in relation to taxes on profits, and only really where the company operates in just one country; in that context, it would give some indication of tax collection and also enable some element of comparison with profits generated (see section 4.4 below). As noted, the available data is not perfect for the objectives, and needs to be handled with care, mindful of the imperfections. That is, the data may be indicative, in a 'risk assessment' sense, but is unlikely to show issues definitively.

4.4 Income and costs

In accounts of private companies, net income can be expected to be disclosed, so this information would be visible if private company accounts were centrally filed and publicly available. As with tax, income may not be broken out between local and external income, but this may not be relevant if the entity does not operate outside its own country. Under IFRS, certain companies are required[19] to disclose the results of their reportable operating segments[20], and (unless disclosed separately in such segmental reporting) to break out different products and services, and foreign as distinct from home country revenues (with any material individual foreign country revenues shown separately)[21]. However, the requirements only apply to companies which have made public share or debt issues[22], so they will generally not apply to the subsidiaries of multi-national enterprises. For companies to which the IFRS segregation requirements do apply, though, local income should be visible (unless the split information is unavailable and excessively costly to obtain). Nonetheless, even where required, precise segmentation of results may not be realistically achievable, as there may be different ways in which items such as group overhead costs could be split.

Employee benefit costs (including but not limited to wage costs) should be shown separately under IAS[23]. There is no requirement to disclose employee numbers in this context, though. (Again, the position under other national accounting standards has not been investigated.)

A balance sheet is likely to show tangible and financial assets and liabilities; the position with intangibles like Intellectual Property and Goodwill can be expected to be more variable. Segmental disclosure of assets

[19] International Financial Reporting Standard 8 paras 5-11 and 31-33.
[20] The requirement is to show information broken down in the manner used by management for decision-making.
[21] Unless the necessary information is not available and the cost to develop it would be excessive (in which case this must be disclosed).
[22] IFRS 8 Para 2.
[23] Either because expenses are disclosed according to their nature or because, if expenses are disclosed by function rather than nature, they must be accompanied by additional information on the nature of expenses such as employee benefit costs (IAS 1 paras 102-104 and IAS 19).

and liabilities may be required, for example under IFRS for companies with public debt or share issues, as for net income (see above).

Aggregates for sales, purchases and financing are likely to be disclosed in accounts, but the extent to which they are broken down between intra-group and third party is likely to vary. The position under other national accounting standards has not been investigated. IAS 24[24] requires all companies (not just those with public share or debt issues) to disclose related party transactions (which would include sales, purchases, financing and service provision between group members) with the minimum disclosure being the amount of the transaction (together with outstanding balances and provisions and expenses for bad and doubtful debts). Dealings with a parent are to be disclosed separately from dealings with subsidiaries[25]. The nature of the related party relationship must be given, together with sufficient information to enable readers to understand the potential effect of the relationship on the accounts, so there should be some disclosure about the transaction (e.g. its pricing) to enable readers to judge whether the relationship has an effect on it and thus on the results. Similarly, although IFRS 8[26] requires disclosure of reliance on major customers (accounting for 10% of revenues), it does not insist on naming the customer, and (unlike IAS 24) it is not applicable to companies which do not have public share or debt issues. Accordingly, although some information may be available, it may not be easy to see which transactions are intra-group and which are with third parties.

Segmentation of accounts data can be helpful for the 'holding to account' objective (separating local income and tax from foreign, related party from third party dealings) and possibly for the transfer pricing objectives (segregating by transaction, product or function, as well as separating related from third party dealing). We have noted the IAS segmentation obligations. As we have said above, matters such as general overheads make segmentation difficult and require caution when approaching segmented data.

4.5 Group structure/ ownership

Companies are likely to be required to report the identity of their parent[27] and at least their significant subsidiaries[28]. Also, statutory obligations (separate from IFRS) in some cases require filing of details of (i) shareholders and (ii) (less frequently in our research) subsidiaries.

Ownership data of this nature should assist tax administrations in understanding how a company and its transactions fits into (and could be affected by) a group relationship. Assuming the information was to be in the public domain, representatives of civil society looking at the company could also find it useful for understanding group relationships and considering their potential impact on transactions and tax liabilities.

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[24] IAS 24 paras 18-24.
[25] Under IAS 24 Para 4, intra-group related party transactions and balances are eliminated on consolidation. They would, however, appear in the individual company accounts of the relevant companies.
[26] IFRS 8 Para 34.
[27] IAS 24 Para 13.
[28] New IFRS 12 (to take effect in 2013) will require a parent to disclose the composition of its group, and IAS 24 Para 13 requires the relationship of parent and subsidiary to be disclosed. PwC consider that the effect of these provisions is to require disclosure of a list of principal subsidiaries, with percentage shareholding and voting power. If a parent does not prepare consolidated accounts, IAS 27 Para 42(b) requires significant investments in subsidiaries to be listed (with name and country of incorporation or residence). Similarly, the solus accounts of a parent of a consolidated group (if produced: IAS does not require separate accounts so the position is left to local law) must list significant subsidiaries – IAS 27 Para 43.

The ownership information is also needed to assist in identifying the dependence or independence of parties for transfer pricing purposes (including the preparation and review of databases).

4.6 Usefulness of income and costs data

4.6.1 Holding to account

Companies in developing countries

For holding governments to account, data on income and costs are needed when considering the appropriateness of the government's laws and policies and the efficiency of its collection. The same need exists when seeking to hold companies to account for their tax planning.

In each case, to make an accurate comparison between revenues and taxes would require access to the actual data for the relevant items to be taken into account in the tax return, plus understanding of a number of matters, including: the actual transactions carried out (in context, including the business model within which the company operates); the applicable tax law and any elections that could be made under it; and the company's tax status arising from, for instance, its past business (e.g. any losses) and its group relationships. The items of data requested to be disclosed under the various transparency initiatives cover many of the items that would be needed for a tax return as well as some which show more of the nature of the company's transactions. Sales and employee costs have been requested, to allow estimation of VAT and payroll tax obligations, and to enable a unitary tax calculation to be made (on the formulary approach, by reference to fixed assets, employees and sales) as a check on profit allocation[29]. Accounts data will not answer all of these requests. They should, though, give some indication of most items, although (as noted) the numbers may not be sufficiently broken down, e.g. by country.

It is not realistic to contemplate the production of a shadow tax return from outside the company, without input from the company or its advisers, because too much company-specific data and background are needed. However, accounts data could be of some use in holding to account governments and companies, particularly in the less complex cases where a company operates in just one country.

Accounts can be expected to give net income and tax. A basic comparison of these two could be useful for 'risk assessment' purposes, to indicate that questions might need to be raised. It would not, though, identify a particular issue or reason. For instance, a combination of high accounting profit and low current tax charge may be due to one or more of a number of factors, such as tax incentives, accelerated tax depreciation and carry-forward tax losses, not just tax planning. Similarly, low accounting profit, whether on low turnover or high turnover, could be due to commercial issues or tax planning. Indeed, while the accounts data may encourage users to want to ask questions, it may not be clear to whom any challenge should be addressed – to government for granting incentives, to the company for its tax strategy, or to neither because the position results from prior commercial trading. If accounts contain a reconciliation between the tax charge and the operative tax rate, that may provide some guidance (for instance, it may show the effect of a tax exemption), but the assistance given by such a reconciliation will depend on the complexity of the company's operations and the level of detail provided. As discussed further below, access to accounts of other group companies, giving an idea of global distribution of profits and tax, could assist in identifying the questions to ask.

[29] Pages 15 and 33 of Richard Murphy's 2009 report (see footnote 3).

The discussion above considers a basic comparison of income and tax where a company only operates in one country. Inevitably, that simple comparison, for highlighting issues, would be less feasible where a company operates in more than one territory, since the accounts may not segregate tax and income by country. Data for more detailed tax comparison, and for other purposes such as VAT and payroll tax calculations, may not be fully available, especially as there may not be the necessary segmentation.

Affiliates in other countries

The accounts of a company in a developing country only show the state of affairs of that company itself. Campaigners for country-by-country reporting wish to see data not just on developing country companies but also on affiliates in other countries.

Public availability of accounts of affiliates, as well as developing country companies, would allow an approximate comparison of profits of the developing country companies and other companies, giving an indication of how profits are split between them. It might not be possible to compare the results of different companies in a group precisely – for instance, because there may be material differences in applicable GAAP and company law rules, accounting reference dates may not coincide and differences in exchange rates used may cause discrepancies. (Of course, this is nothing new – there are already companies with consolidated and local accounts in the public domain, to which these concerns could apply.) Nonetheless, the accounting results of different companies may be informative, particularly if used carefully (bearing in mind the possibility of discrepancies as mentioned above) and just to identify issues and questions to raise.

Conclusion on 'holding to account'

We consider that the data which can be expected to be available in accounts, although it is not perfectly segmented and does not provide all the information requested by campaigners for 'country-by-country' reporting, would still be of some benefit towards the 'holding to account' objectives, at the level of indicating whether there are questions to be asked. Accounts data is most useful where the company operates in only one territory. Accounts of affiliates can assist in identifying questions to be asked and issues to be considered about tax receipts and tax payments. Still, it must be recognised that data from published accounts may indicate that questions might be asked, and may help in identifying what those questions are and to whom (government or company) they should be addressed, but cannot be expected to identify answers and problems conclusively.

4.6.2 Transfer pricing and related issues

There are a number of ways in which accounts data might be of use for transfer pricing purposes and to assist tax administrations.

Data showing the terms of transactions, or more likely the return from transactions or functions, can be used as potential comparables; this is covered in more detail at section 5 below. Accounts data might also assist in the making of policy on transfer pricing (including thin capitalisation), for example, evidence of the terms of transactions between independent parties could assist in designing simplification measures such as 'safe harbours'.

Data on profitability and on factors such as size and substance can be relevant for risk assessment, for transfer pricing and other international tax purposes; for this, see section 6 below.

5 Use of accounts for transfer pricing: comparable transactions and companies

5.1 Introduction to comparables

To provide potential external transfer pricing comparables, to benefit taxpayers and tax administrations alike, data is needed on transactions between independent parties. In this context, publicly-available accounts of a particular company would be used, not to challenge the company or the government in whose territory it operates, but to provide data for the benefit of other taxpayers and the tax administration, in that country or region.

Chapter III of the OECD Transfer Pricing Guidelines requires testing of a controlled transaction (a transaction between associated enterprises) for conformity with the arm's length principle, by setting it against comparable uncontrolled transactions. A comparable can be internal (a transaction by one party to the controlled transaction with a third party) or external (a transaction between two independent enterprises neither of which is a party to the controlled transaction). A common source of data to identify external comparables is commercial databases, compiled from filed company accounts[30].

5.2 Accounts as sources of comparables

5.2.1 Accounts and databases

Accounts, whether identified and used directly or accessed via databases, can be helpful for this purpose, where they show the results of genuinely unrelated transactions. We have been told by one of the leading providers of transfer pricing data, Bureau van Dijk, that the core of its databases is data from published accounts. It supplements this with other information, such as from analysts' reports, news and the companies themselves, but the core data is that from accounts; and, in countries where reliable accounts data is not available, it is not possible to produce a database (or the coverage and contents of any database are very limited). Bureau van Dijk have told us that their data suitable for use for transfer pricing, which contains full company accounts for these countries, gives the following coverage: in Europe and North America, data from 10 million and 70,000 companies respectively, in the Orbis product; in South America 20,000 companies and the Far East and Central Asia 580,000; with just 2,000 companies for Africa. The relatively small number for North America is largely made up of listed companies, and reflects the lack of a general accounts filing obligation there for unlisted companies.

It is important to note that databases are not the only means for determining transfer prices – for instance, internal comparables may be available, or external comparables may be identifiable without the need for accounts-based databases. Possible other sources are regulatory filings or research held by trade organisations[31] (to the extent they show the necessary financial data in a useable, 'non-secret' form). Further, there may be some particular transactions within a MNE for which there is not a comparable uncontrolled transaction, because the type of transaction does not take place between independent enterprises. However, that is not generally the case, and it is widely recognised that accounts-based commercial databases can be valuable in seeking to identify external comparables and their availability is

[30] Para 3.30 of section A.4.3 of Chapter III of the Guidelines.
[31] Noted in the October 2011 draft of the UN Transfer Pricing Manual for Developing Countries (chapter 7, paras 3.4.28, 3.4.35).

accordingly considered helpful. For example, the recent report to the G20 Development Working Group by the IMF, OECD, UN and World Bank noted the need, in order to assist developing countries in implementing transfer pricing rules, for databases built on arm's length comparable data (supported where appropriate by the creation of national registries of unlisted companies)[32]. Also, the Forum on Tax Administration noted in its recent report 'Dealing effectively with the challenges of transfer pricing' that the lack of local financial data is a problem, whose position can be improved by a requirement for private company accounts to be filed and publicly available[33]. However, it is also important to note that transfer pricing tools need not be based on published accounts (e.g. the Moody's Analytics/ CUFT analytics approach, covered in section 5.3 below relating to financial transactions). Whichever approach is used, though, the current relative lack of database coverage and of information rights for developing countries (as discussed at section 3.2 above) should be borne in mind.

5.2.2 Requirements - content

For accounts to be useful to help build databases which may be useful for transfer pricing purposes, or just as comparables in their own right, they must show:

- The nature of the transaction or at least the functions performed by the company. For this, users are reliant on the description of the company's business in the directors' report read alongside any narrative in the accounts. Trading transactions are likely to be easier to understand in simple companies with only one business or, best, one type of transaction, but still the narrative descriptions of those transactions are likely to be limited, and the terms (and key features like the location of risks) will not be visible. Financial transactions (e.g. loans) should be identified[34], probably (particularly for third party transactions) with interest rate and maturity, but other terms (such as covenants) are likely not to be. Bureau van Dijk have told us that they do their own research (beyond accounts) to provide business descriptions for about 4 million companies.
- Information about the terms of, and/or the return from, the transaction. Ideally, transaction-specific data would be visible. As noted, the terms are unlikely to be available, including matters such as where risk is borne, as well as pricing. So, accounts are unlikely to assist with traditional transactional transfer pricing methods such as the Comparable Uncontrolled Price method. More generally, accounts may be of use for the Transactional Net Margin Method of transfer pricing, looking at the results of the company from the business or function it carries on, using whichever ratio (return on assets, operating income to sales, etc.) is appropriate. This is easiest if the company has no other activities; where this is not the case, the accounts will be useful for comparability data only if the results are reliably segmented, separating the function in question from the company's other functions.
- Relevant factors for comparability, such as the size of the company or the transactions or, where relevant, the use of intangibles or the level of R&D activities[35]. The overall capitalisation and turnover of the company would be visible in accounts. Research and development recognised as an expense during the period would be shown under IAS[36]. As already noted, the coverage of intangibles can be expected to be variable.

[32] Page 34 of 2011 report 'Supporting the development of more effective tax systems'.
[33] Page 73 of 2012 report 'Dealing effectively with the challenges of transfer pricing' by the OECD's Forum on Tax Administration.
[34] IAS 7 requires qualitative and quantitative disclosure on financial instruments.
[35] Para 3.43 of the OECD Transfer Pricing Guidelines (2010).
[36] IAS 38 Para 126.

- The relationship between the parties – so users can judge whether the transactions are genuinely arm's length or are affected by a relationship. Some ownership information may well be available – see section 4.5 above – but that may not be complete (for example, it may not go beyond the immediate parent) and there will generally not be information as to economic and commercial connections.[37]

All this data needs to be up-to-date; for example, the business description should not be just as filed when the company was set up or first registered, and ownership details should be current, so data from periodic (e.g. annual) filings is needed.

For preparation of databases, it is best if accounts are in a standard format and follow the same accounting standards, or are sufficiently similar across companies that they can be readily harmonised.

5.2.3 Requirements – companies

The most useful accounts for generating comparables are accounts of stand-alone local companies, as companies which do not belong to a group will not have intra-group dealings (although it would be necessary to check for any dealings with other related parties such as individual shareholders or officers). Also, because of the difficulties around segmentation of results, accounts of companies with just one business stream are most useful.

On this basis, accounts of subsidiaries of multi-nationals are unlikely to be useful for purposes of generating transfer pricing comparables. On its face, if such a company has a simple business in which it only supplies its product to third parties, it could be said that any data discernible from the accounts about those supplies would be useful evidence of unrelated party dealing in that product. In some cases, a subsidiary of a group will deal with related parties as well as third parties; (as noted above) for companies in a 100% group the results may not be segregated in the accounts, and even if they are there is much caution about using segmented data for comparables because of the difficulties of achieving accurate segmentation. In any event, even if data on the third party transactions can be seen, such trades could not be assumed to be fully unrelated, unless it was possible to verify that the customers were not, for example, taking some comfort in their dealings with the subsidiary from its relationship with its parent or that the customers or their affiliates were not dealing with the parent or its subsidiaries in other ways. Further, although accounts may show the net margin, that may just indicate the margin that the group allows the company to make, taking into account its funding structure and other matters specific to the group, in which case the margin may be influenced by the group's policies and not just by the nature of the product and market. Adjustments might therefore have to be made to the data from such companies.

So, accounts of companies which are not part of a group are likely to be most useful for generating comparables. Those comparables themselves could, of course, be of benefit for all types of company, large as well as not so large.

5.2.4 Requirements – Scale

[37] Bureau van Dijk looks for details of directors as well as corporate ownership structures, to identify links between companies. We have not in this exercise looked at obligations to file directors' details.

Databases are most useful when they can incorporate data from a large number of companies. To give sufficient scale, some providers produce regional databases. Where accounts are the core of such databases, the regional nature gives rise to extra technical challenges, if the different countries in the region use different local accounting standards, because that makes it harder to produce comparable data. (Also, markets can be different, and so not comparable, even within a region, so regional data is of benefit where the markets are comparable and not so helpful when they are not.) On the other hand, particularly in countries where comparable data is sparse, the generation of just one or two comparables would provide a useful cross-check against the pricing under consideration, even though it would not be enough of itself to constitute a fully-researched arm's length price.

5.3 Alternatives to accounts-based databases: financial transactions

As noted, comparable data may be generated from sources other than accounts. Financial transactions provide an example, where Comparable Uncontrolled Prices are identified directly using market data. Some providers work from published credit agreements. CUFTanalytics build a database of credit agreements from stock exchange filings (with the US SEC) and use that and credit risk data from Moody's to produce comparable loan pricing. Moody's Analytics themselves combine their credit risk data with market data to derive interest rates that can be used for loan pricing. Moody's Analytics has built its family of RiskCalc models predominantly from (anonymous) financial statement data (audited or unaudited) supplied by banks, from what the banks receive from clients. Moody's Analytics supplements this with data published by listed companies, and with data from commercial databases and corporate registries, where necessary to enhance their coverage.

The RiskCalc model is used to calculate the Expected Default Frequency (EDF) for a company or its subsidiary – the user's own data (e.g. the financial statement of the company) is analysed by the model to calculate the EDF. In order to make the communication of the EDF easier, it is mapped to a corresponding Moody's rating grade (e.g. an EDF of 1% corresponds to a Ba1). Since most of the underlying data has been submitted by banks, the users of RiskCalc do not have access to the data. Instead the RiskCalc models need to be filled by the user with the required input positions from the user's own financial statement.

It should be noted that the EDF produced by the Moody's RiskCalc models is typically used for estimating <u>interest rates</u> on loans, not for generating an arm's length amount of debt. It does not directly address the thin capitalisation aspect of transfer pricing, although we are told that users could input larger or smaller amounts of debt into the model to see the effect on the EDF, which would be relevant in considering what amount of debt the company may wish to take on or what amount a lender may be prepared to lend.

Some relevant data for thin capitalisation can be expected to be available from accounts. Overall gearing levels are likely to be apparent. The ratio of third party debt to equity will be visible if third party and affiliate debt are shown separately. Measures that are currently considered relevant for thin capitalisation purposes, such as the level of income cover of interest and the ratio of debt to profits, could be calculated, but of course only in arrears; accounts are by nature backward-looking, so cannot be expected to give the forward projections that a lender may require before deciding whether to lend, which would be relevant for arm's length comparability. Interestingly, even though Moody's Analytics uses bank data in its model, it uses only historic accounts for the development, not any forward-looking projections which the banks may have.

There is an interesting difference between comparable information from published accounts and information on arm's length pricing generated from models like Moody's Analytics'. The former is identifiable to a specific company, so it is possible for both 'sides' of the transfer pricing debate to consider just how comparable that company's situation is to the case in hand. The Moody's Analytics model, on the other hand, generates its output (default risk estimates that can be used for pricing) from a database of anonymous data, and the users do not have access to the underlying data (for bank client confidentiality reasons); so, although users can see how their credit risk and ratios compare to the overall dataset (and in the US, Canada, the UK and Germany they can see more detailed industry-specific comparisons), they cannot contend that the model's findings for them should not be followed for pricing purposes on the grounds that their situation is different from that of the dataset (since they cannot see the dataset).

We also note that the RiskCalc model gives an output which is used (in the transfer pricing context) to select a price from available data on market transactions for firms with comparable default risk. This is quite different from published accounts data which can give comparable returns for particular transactions or functions where there may not be a public market.

Although the methods of producing comparables are different, it is noteworthy that more publicly-available audited accounts[38] would be beneficial for Moody's Analytics, as data sources where the available bank data does not give sufficient coverage[39].

6 Use of accounts for risk assessment

6.1 Introduction to risk assessment

We have just discussed the use of accounts to generate comparability data. There, taxpayers and their advisers, and tax administrations, would be using data from the accounts of <u>other companies</u>, either by accessing the accounts directly or through databases built from those accounts. The same data could also be used for risk assessment, before a possible full comparability exercise.

Going down a different route, the accounts of <u>the actual companies being audited and related companies</u> may be useful to tax administrations, for risk assessment in matters such as transfer pricing (including thin capitalisation) and other international tax issues, and in general in understanding the operations of the relevant group. As such, they could help the taxpayer as well as the tax administration, since giving the tax administration more information may cut off unnecessary enquiries. (The effect of good risk assessment in speeding up resolution of transfer pricing processes was highlighted in the recent Forum on Tax Administration report[40].)

6.2 Risk assessment – accounts of affiliates

Where a taxpayer company deals with affiliates in other jurisdictions, the accounts of those affiliates could be useful to the developing country tax administration. The accounts of a particular subsidiary only show

[38] Audited so as to give the necessary reliability.
[39] Source: Moody's Analytics.
[40] Page 20 of FTA 2012 report 'Dealing effectively with the challenges of transfer pricing'.

the state of affairs of that company itself. A fuller picture of the company and its transactions may only be obtained if information on the main related companies with which it does business is available.

For instance, if a taxpayer company is supported by services from one affiliate and trades extensively with another, anyone looking at the taxpayer company may want to find out more about the services affiliate and the trading affiliate, for example to see what role the trader plays or to see how the services provider provides its services, to assist in judging whether the price paid is arm's length. This means that, where the taxpayer company's accounts are being viewed by the local tax administration for tax audit purposes, including risk assessment, just as by civil society representatives wanting to consider the levels of tax paid, there is likely to be a need to see also the accounts of the services and/or trading affiliate.

Even when a one-sided pricing model is used (for example, Cost-Plus), the OECD Transfer Pricing Guidelines note that data on the other party is needed, to determine the appropriate method and characterise the transaction and the functions performed[41]. Where a transactional profit split is used, information on the foreign associated party to the transaction is clearly needed, to calculate the profit split[42].

The profitability of the affiliate could be directly relevant if testing the affiliate under the Resale Price Method or the Transactional Net Margin Method. The relative profitability of the affiliate and the taxpayer company could be useful as an indicator of risk if other methods are being used, and/or if the taxpayer company is the tested party; for instance if the margin of the taxpayer company is being tested, it would be interesting to know the relative profit being made by the affiliate, principally as a risk indicator[43].

The accounts would give an indication of profitability. They would also show the capitalisation of the affiliate, its fixed assets and its wage costs.

As noted at section 4.6.1 above, the accounts of developing country companies and affiliates in other countries may not allow a precise comparison of profits of the respective companies, because of differences in applicable GAAP and company law rules, accounting reference dates and exchange rates. Nonetheless, the accounting results of different companies may still be helpful for risk assessment, so long as used carefully (bearing in mind the possibility of discrepancies as mentioned above) and just to identify issues and questions to raise.

Figures on capitalisation, fixed assets and wage costs would give some idea of the 'substance' of the affiliate – for instance, low fixed assets and wage costs could indicate limited presence, and low capitalisation could suggest limited capacity to absorb risk. On the other hand, low fixed assets may be entirely appropriate if the function in question is not asset-intensive, and significant capital may not be needed for the business. Affiliate accounts data of this nature could be of interest to the developing country tax administration, but would be indicative of areas to consider, not conclusive.

[41] Paragraph 3.20 of the 2010 Guidelines.
[42] Paragraph 3.21 of the 2010 Guidelines.
[43] That is, not cutting across the principle that the taxpayer, as the tested party, should be the one whose margin is tested.

Of direct relevance here, an African tax commissioner quoted in the FTA 2012 report[44] notes that inability to access financial statements of affiliate counterparties can make it harder to test whether prices are arm's length.

7 Alternatives to public disclosure on transfer pricing

We will discuss here whether more detailed filing in relation to related party transactions would be as helpful for developing country tax administrations as publicly-available accounts, and the extent to which accounts filed centrally but privately would be of benefit.

7.1 Details of related party transactions

Some countries require taxpayers to make extra disclosure to the tax administration (not publicly) as regards intra-group transactions, to which transfer pricing can be relevant. For instance, Denmark requires completion of a questionnaire, giving gross figures for particular types of related party transaction. In South Africa, taxpayers may be requested by the tax administration to give similar figures and also to identify the transfer pricing method (Comparable Uncontrolled Price, Transactional Net Margin Method, etc.) used[45]. Canada and the USA require taxpayers to include in their tax filings the name of the counterparties, with amount and type of transaction[46].

One recommendation from the business sector[47] is that, instead of requiring publication of financial data, tax administrations generally should require all companies, with their tax return, to make filings like those described above; these filings would then highlight for the tax administration all related party transactions above a particular monetary threshold, the identity of the counterparty, the type of transaction and the basis for pricing. If desired, more information could be required for transactions with companies in low tax rate territories.

We can see that details in these filings could help in identifying transactions which the tax administration should investigate further – factors such as size and type of transaction, tax location of counterparty and pricing method used can all be useful in this regard. Accordingly, it could be beneficial for developing countries to require filings of this nature, for risk assessment purposes.

Those filings do not, though, give any indication of the return made on a transaction by the taxpayer company or its affiliate counterparty. The tax administration will, of course, see the overall results of the taxpayer company through its tax return and (typically) its accounts. The authority will not, though, through this approach see the accounts of or other financial data on, the affiliate. So, whilst the authority may see a transaction which it wishes to investigate, for example because of its size, type and the overall

[44] Box 20 on page 72 of the Forum on Tax Administration 2012 report 'Dealing effectively with the challenges of transfer pricing'.
[45] See Annexes A and B of the FTA 2012 report, referred to above.
[46] Canada T106 Summary and Slips; USA Form 5472.
[47] Put forward by Chris Lenon and Janine Juggins of Rio Tinto.

low profitability of the taxpayer company, it will not know much detail about the counterparty to the transaction. In particular, it will not know whether the taxpayer company's low profitability is matched by its affiliate counterparty (suggesting, for instance, that the business is not very profitable for the group as a whole), or whether instead the affiliate is making a large profit (in which case the authority may wish to investigate the pricing on the intra-group transaction). Information of this nature could cut off unnecessary investigations at an early stage and provide a steer as to where attention should be focused. We can still, therefore, see benefit in the developing country having access to the accounts of the affiliate counterparty, as part of the risk assessment process.

7.2 Access to accounts without publication

We have considered whether a developing country tax administration could have access to affiliate accounts or other financial data, for instance when a desire to see them is prompted by a filing of the nature just discussed at section 7.1, without them being made public.

The purpose for access would be risk assessment, or other consideration in relation to the particular taxpayer; as noted above, data which can only be accessed by a tax administration and is not public should not be used as a potential comparable because it would be a 'secret comparable' whose use is discouraged.

7.2.1 Right of access?

The tax administration might request such data from its taxpayer company. The data may be provided – the taxpayer's group may take the view that such data should be made available to tax administrations. However, generally a taxpayer company could not be required to produce financial data on its sister or parent company; this is because in many cases tax administration information powers are limited to information within the possession or power of the taxpayer, and typically a subsidiary would not have, or be entitled to require, information from a sister or parent over which it has no control.

7.2.2 Exchange of information

Where the taxpayer company does not supply the requested financial data, all of the following conditions would need to be satisfied for access to be given:

> ***Exchange of Information right***
> The developing country tax administration would need rights to call for information from the tax administration of the affiliate. As already noted (see section 3.3 above), developing countries have many fewer information exchange agreements than developed countries have – 20 for Zambia as against 142 for France, for instance. So, the developing country may not have rights to call for information from the relevant state; or, looked at another way, for developing countries to have access of this nature, they would need many more information exchange agreements.
>
> ***Accounts right***
> If the developing country does have a right to call for information from the affiliate's state, it is then necessary for the affiliate's state to have, or to be entitled to demand, the desired accounts or other financial information from the affiliate. Exchange of information agreements require the country of which a request is made to use its information gathering powers , if necessary, to obtain the information requested, even though it does not need it for its own purposes; so, the data sought

will not be given if it is beyond the information gathering powers of the country asked to produce it.

We have not investigated information gathering powers, but we have looked in our sample (see section 11 below) at whether accounts have to be filed with a tax return. Generally they do; so if our sample is representative in this respect, it is likely that this condition would be fulfilled, although there will be some countries in which it will not.

Timing

Tax information exchange agreements generally require the requesting tax administration (the developing country, in our case) to have exhausted all means of its own to obtain the required information, except any that would give rise to disproportionate difficulties[48]. (This requirement is absent from Article 26 of the OECD Model Tax Convention.) The requesting tax administration is likely to need, therefore, to ask the taxpayer for the financial data which it wishes to see, before it can go to the affiliate's tax administration. This may make it harder to use the data on the affiliate in an initial risk assessment exercise, before any enquiry is opened with the taxpayer.

There may be a need to demonstrate that the information requested is 'foreseeably relevant' (the typical standard in information exchange obligations), which may include requirements to set out the purpose for which the information is sought, grounds for believing it is within the possession or control of a person within the jurisdiction of the country to which the request is addressed and a statement that the requesting authority would be able to demand the information if it was in its jurisdiction[49]. These are not insuperable obstacles, but they can take time.

Inevitably it can also take time for the requested country to obtain and deliver the information requested, especially if it does not already hold it and so has to use its information powers to obtain it.

In summary, therefore, if developing countries have to rely on information powers to obtain financial data on affiliates of their taxpayer companies, they may be limited in doing so by lack of information exchange agreements with relevant countries and the process may take a considerable amount of time (making it less useful for the risk assessment stage). If, on the other hand, the affiliate had to file its accounts publicly, the accounts should be able to be accessed more quickly and would be available without the need for Exchange of Information rights.

8 Conclusion on use of accounts for transfer pricing

8.1 Conclusion on comparables

Public availability of statutory accounts in developing countries could be of considerable assistance in building data on comparable transactions. Given the current lack of coverage of developing countries, even a small number of additional comparables would be useful. Accounts are not the whole or only answer,

[48] See article 5 of the OECD Model Agreement on Exchange of Information on Tax Matters, and article 21 of the Convention on Mutual Administrative Assistance in Tax Matters.
[49] See Article 5 of the OECD Model Agreement, above.

since, where published accounts are the core of a database, they are still supported by other data, and some providers use other data in preference. Also, directly comparable transactions may be identifiable without accounts, for example where there is an applicable public market. However, accounts, whether accessed directly or through a database, can be a significant source of potential non-secret comparable transactions or businesses, particularly where there is no public market.

The accounts which are most relevant here are accounts of companies operating in the relevant developing country, since a local transaction or company is likely to be more closely comparable to the transaction or company in question than one in a different market. Databases are sometimes presented on a regional basis, to give greater scale, and this can still be of benefit for transfer pricing purposes if the relevant markets in the region are sufficiently comparable. In this respect, public availability of accounts in one country in a region can be of benefit not just to its own tax administration and taxpayers but also to those in other countries in its region.

Accounts are most useful where they show data on independent trading in the function in question, so accounts of a company are most helpful where the company has only one business line and deals only with third parties. Where that is not the case, it is preferable for there to be segmentation of related and third party transactions and for different functions or transactions to be reported as separate segments (although it is acknowledged that segmentation can rarely be precise, so even fully segmented accounts may be little more than indicative of returns for the respective functions).

Data from accounts is most likely to be used for the Transactional Net Margin Method of transfer pricing, as the data should show the return from a function. Accounts are less likely to show sufficient detail on specific transactions to give a Comparable Uncontrolled Price. Whichever transfer pricing method is used, it has to be recognised that, whilst many factors relevant for comparability should be shown in accounts filings (such as ownership information and overall size), some relevant factors (in particular, where risks are borne) may not be visible in accounts.

8.2 Conclusion on risk assessment

Access to the accounts of affiliates could be of assistance to developing country tax administrations in considering whether to investigate the related party transactions of their taxpayer companies. Such accounts would give an indication of relative profitability and also of substance, giving some data which could be useful in focusing attention on transactions which may not be at arm’s length (and, consequently, in showing transactions which are less likely to be in need of challenge).

Public availability of such accounts (that is, where the affiliate is obliged to file its accounts in its home territory and those accounts are made available for public inspection) would give developing country tax administrations easy and quick access to those accounts.

Enhanced tax filing requirements in relation to related party transactions, showing amount, counterparty and transfer pricing method used, is required by some developed countries and should also be useful for developing countries if adopted by them. That filing can highlight transactions to consider, but does not indicate relative returns or profitability, which can be useful indicators for risk assessment. Such indicators could be obtained from accounts. If accounts are not available publicly, exchange of information may be a route to obtain those accounts, but only if the developing country has agreements in place with the relevant countries; exchange of information can also be a lengthy process. Accordingly, we consider that the enhanced tax filing requirements discussed would be a useful source of information for developing country tax administrations, and would supplement, but would not be a substitute for, readily-available accounts. Public filing of accounts would be an effective route to ready availability of accounts for this purpose.

If a particular country does not require public accounts filing, and does not wish to implement it, and yet wishes to assist developing countries in their transfer pricing enforcement, it could still take some steps; it could check that it has domestic powers to require accounts or equivalent financial data from its taxpayer companies, ensure that it has exchange of information agreements in place with developing countries with which its taxpayer companies trade , and operate those agreements swiftly. This would not be as fast or effective as public accounts availability, but it should still give some benefit to developing countries.

9 Practical issues with accessing accounts

9.1 Access

For the public filing of accounts to deliver the transparency benefits discussed above, the accounts must be accessible by those who need to use them. We have identified three broad categories of access – direct access to the registry, indirect access via a service-provider to the raw registry data, and access to processed data produced by a service-provider from the registry data.

9.1.1 Direct access

Where public access to accounts is allowed, access can be in person (inspecting or receiving copies of the physical documents) or in many cases online. Of the developing countries which we have reviewed, a majority of those which allow access provide for web as well as physical access.

Internet access is the most convenient for potential users, particularly those outside the country, which could include other tax administrations, business or civil society. It is also most valuable for providers of databases, because of the greater ease of collating the records for access. The same is the case for providers of processed data such as transfer pricing databases. They also have a preference for filing in fully electronic format, not PDF, so that they can most easily harmonise the data into a common structure for their analysis.

9.1.2 Registry database providers

In a number of countries there are commercial organisations which provide access to public registers of accounts and other corporate information. They acquire access to the data in the public registry and then make it available to their customers. Some provide a direct link to the unadjusted registered data – e.g. GBRDirect provides a portal which links with official registries in 22 European countries[50]. Others download and reformat the data – e.g. DueDil[51] for the UK and Ireland. Some charge for the data (e.g. GBR), others provide it for free (e.g. DueDil). (We have mentioned two providers; others exist and we mean nothing by singling out these two for mention.) Typically with these providers, as with the underlying registers, the data is searchable by company name or number.

[50] www.gbrdirect.eu
[51] www.duedil.com

For providers to make this service available, and indeed the further service to be covered at section 9.1.3 below, it is necessary that the regulations on access to public registers of accounts allow acquirers of data from the registers to process and on-supply that data. For instance, UK accounts data can be made available by providers because the UK registry places no restriction on the use of information once purchased (save that users must take their own advice as to third party copyright)[52].

9.1.3 Transfer pricing and other databases produced from registry data

We have already discussed the use of accounts to populate commercial databases that may provide potential external comparables for transfer pricing purposes. The data produced by these providers is harmonised (so that results of companies can be compared more easily) and made searchable, to assist in the process of identifying transfer pricing comparables.

9.1.4 Conclusion on access

To generate benefit from the public availability of accounts, it is not necessary to have service providers in place to provide the added services discussed at 9.1.2 and 9.1.3 above. Public access to the accounts is the key, and remote internet access is of course easier than local hard copy access. The involvement of service providers may make access to and analysis of the registered data easier, particularly for identifying comparable transactions or companies, but for some of the objectives covered here it is sufficient to have access to the raw accounts data by name. For service providers to operate, it is helpful if the registered data is filed and made available electronically, and it is important that acquirers of the data are allowed to process and on-supply it.

9.2 Cost of access

For filed data to be considered properly accessible, the cost of access must not be prohibitive. In general in our research[53], access costs have been relatively small – around US$10 or less (often a lot less).

9.3 Compliance

It should go without saying that obligations to file accounts in a public registry are useless if not complied with and enforced. Generally in our research we have found penalty obligations, but in some cases the penalties are not of a material amount and in others we are told that enforcement is rare.

9.4 Timing

Accounts do not have to be registered instantaneously. There will inevitably be a gap between the end of an accounting period and the accounts filing deadline. So long as the deadline for accounts filing is not too long, and in particular is in line with the tax return filing deadline in the country, the timing should not be an issue. If accounts are available with the tax return, they can be used to inform the review of the tax return. Clearly, the sooner data is available for comparables and for review by other tax administrations, the better, but accounts data is inevitably in arrears; again, if the filing deadline is in line with typical tax return filing schedules, timing of filing should not prevent the use of accounts for these purposes. We have

[52] www.companieshouse.gov.uk/aboutus
[53] See section 11 below.

already commented that a long-term view needs to be taken when using accounts for the ‘holding to account’ objective.

10 Other issues with extending obligations to file accounts

In this paper we discuss the transparency benefits in having statutory accounts available for public inspection, and the limitations on those benefits. It is, of course, also necessary to consider the costs of requiring public registration of accounts, particularly in countries which do not currently have such a requirement.

Potential direct financial costs are touched on in section 10.1 below; other possible significant costs or issues with having information in the public domain are noted in section 10.2.

10.1 Cost

Filing of accounts is not without direct financial cost. The costs of filing itself are generally small (in many cases in our sample[54] US$10 or less) but in some cases the fees are more substantial. However, if a filing obligation would require the preparation and auditing of accounts which otherwise would not have been prepared and/or audited, the extra costs would be more substantial.

It seems to us that there are four categories of country in this respect:

i. Countries which require filing of accounts and public availability – e.g. France, Spain, Pakistan and the Philippines.
ii. Countries which require central filing of accounts but do not require public availability – e.g. Ecuador.
iii. Countries which require preparation of accounts but do not require their public filing – e.g. Botswana and Zambia for private companies, and Angola. Accounts may need to be filed with a tax return (e.g. Angola and Zambia) or prepared for other purposes (such as shareholder access in Botswana).
iv. Countries which do not require preparation of accounts – e.g. Panama as regards companies with no local operations or local source income, and the British Virgin Islands. Companies in these countries would have the greatest extra cost if they had to prepare accounts to file.

If a general obligation to file accounts centrally were to be introduced, different levels of cost would fall on companies in the different categories of country listed above.

Category i. Countries – no cost, as no change.

Category ii. Countries – Government cost in setting up and running public access, presumably to be recovered through charging for access. Should be no company cost.

Category iii. Countries – Government cost in setting up and running systems to receive and record filings, and in setting up and running public access, presumably to be recovered through charging for access. Company filing costs (assumed to be small).

[54] See section 11 below.

Category iv. Countries – Government costs as Category iii. Significant extra costs for companies.

We understand that companies do not prepare accounts (especially audited accounts) unless there is a particular requirement to do so. Unsurprisingly, the costs of an audit would not be incurred if not needed. We understand that, as a general matter, a significant factor in the extra work required to prepare individual company accounts, over and above that for a group's consolidated accounts, is that the materiality levels for individual subsidiaries' accounts are much lower than for the group accounts. In the absence of a requirement to produce and audit accounts, a company would typically produce the data it needs for its business purposes but would not necessarily produce accounts.

We have not investigated the cost of producing accounts, for locally-owned companies or members of a MNE group. We have been told, though, by one multi-national enterprise, Rio Tinto, that it estimates that the incremental cost to it of producing individual company accounts for companies that are not currently required to publish accounts (internal preparation and external audit) would be US$10m per year[55]. (To put it in context, this estimate of US$10m for internal and external costs compares with US$14.2m external costs incurred for auditing group subsidiaries in 2011 and US$2.8m external costs incurred for auditing the parent company accounts for 2011[56].) Of course, Rio's estimate of its incremental cost in preparing and auditing additional accounts reflects the composition of the Rio group; the costs will vary from group to group. In Rio's case, a majority of the companies that currently do not prepare audited accounts are in the USA.

10.2 Non-tax uses of accounts

Consideration should be given to the uses, outside the tax transparency arena, to which published accounts, and the data which they bring into the public domain, could be put. It is for others to consider whether these potential uses add to the case for requiring accounts to be filed publicly or counter it.

Customers, suppliers, competitors and potential bidders may be able to find out more about a company's business, and its financial state, with implications for competition and takeover activity. (For instance, Bureau van Dijk's databases, built on accounts data supplemented by matters such as news, research and rumours, are advertised as assisting in the identification of potential target companies[57].)

Business or ownership details which parties wished to keep confidential may no longer be so; this could have a beneficial effect in relation to concerns over conflicts of interest, but may be less helpful in private matters.

Accounts data is already, where available, used in creating databases and tools addressing credit risk[58] and valuation. Indeed, public accounts filing obligations have always had a significant element of creditor

[55] Source: Rio Tinto. Their methodology was to determine the average cost per company of a set of audited accounts from existing audit cost data, plus an estimate of internal costs of preparation, multiplied by the total number of active (non-dormant) entities in the group (parent and controlled subsidiaries only) less the number of entities for which accounts are already prepared.

[56] Note 41 to the Rio Tinto 2011 annual report: www.riotinto.com/annualreport2011/financial_statements.

[57] E.g. brochure for Amadeus product at www.bvdinfo.com .

[58] E.g. Bureau van Dijk's Amadeus product.

protection – creditors were and still are able to assess the credit-worthiness of companies with whom they are considering dealing.

More detail may be available to investors and analysts as to the geographical split of a group's revenue and activities. Currently, consolidated accounts may report in quite broad segments, if that is the way data is produced and reviewed for management purposes (see section 4.4 above in relation to IFRS 8). If local subsidiary accounts are not available, accounts users may not be able to see how much profit, for instance, is made in individual countries. Having local accounts publicly available may make the geographic spread of a group's revenue clearer, especially if the subsidiaries in question operate only in one country.

11 Availability of accounts in developing countries

11.1 Nature of review

We have investigated the position on compulsory public registration of accounts of unlisted companies in 13 countries - 5 in Africa, 3 in Asia and 5 in South and Central America. We have also reviewed 6 other countries, as examples of countries in which affiliates of developing country companies might be based. The results are summarised in the attached Tables (Annex I and Annex II).

The countries reviewed were not chosen at random. We used some initial indications[59] of whether or not a filing obligation was present to select a number of countries which we expected to be Yes and a number which we expected to be No. To these we added a small number for which we did not have an initial indication. We sought to cover countries in Francophone as well as Anglophone Africa, and to cover some Asian countries with varied colonial and legal histories. We also looked at some developed countries and other potential trading partners of developing countries.

We reviewed publicly-available legislation and websites of ministries and registries. In our own research we have had to assume that the information and law available is up-to-date, as we have not had access to local authorities to confirm this. However, comfort can be taken in relation to all of the developing countries (and all but one of the other countries) from the fact that PwC have reviewed our tables, which reflect their comments.

We looked for obligations on unlisted companies to file accounts in registries accessible to the public, and in the absence of such an obligation we looked for requirements to make accounts available otherwise, e.g. at the company's registered office. We have noted the type of accounts to be filed, whether they must be audited and (where apparent) the accounting standards required to be followed. We have also checked for penalties for non-compliance. Where there is no filing obligation, we have looked at whether there is another obligation to prepare accounts, to see whether the imposition of a filing obligation would require the preparation of accounts which would not otherwise be prepared. Our findings are set out in the tables of detailed results, which each include a summary page.

[59] Including from the 'Doing Business in …' guides on the website of Practical Law for Companies, containing input from the Lex Mundi grouping of law firms, at http://corporate.practicallaw.com/crossborderhandbook3-500-0017 .

11.2 Findings

11.2.1 Developing countries

We found the following in our relatively small sample (as noted, the countries were not selected at random).

Existence of public filing obligation

- Of the 13 countries reviewed, 6 (Madagascar, Rwanda, Pakistan, the Philippines, Colombia and Jamaica) require all or virtually all relevant companies to file accounts and have them publicly available.

- 2 more (Botswana and Zambia) require some companies (broadly public but not private) to file for public access, and 1 (Ecuador) requires private companies to file but the filings are not publicly accessible.

- One country in our sample, Peru, is introducing a public filing obligation, and another, Cambodia, is bringing in central filing but the position on public access is not yet known.

- Just 2 (Angola and Panama) require no public filing.

- We looked also at two other countries (not verified by PwC); from that (less thorough) research it appears that Bangladesh has filing but no public access for private companies, and that the Democratic Republic of Congo has public filing but the access position was not apparent to us.

- In addition to our own research, we have been told by ActionAid that they have successfully accessed company accounts in India (online), and some in Tanzania, Ghana and Nigeria (all in person only), and been unable to access accounts in Uganda. Christian Aid have told us that in practice they were unable to access accounts in India and Ghana, that access in Argentina was difficult and in Brazil was time-consuming, and that they could not access accounts in Egypt and Paraguay.

- Taking all these inputs together, we see a significant number of developing countries enabling public access to accounts, with some further countries having access only to public and not to private companies' accounts, a smaller number having central filing but no public access, and others having neither filing nor access.

- The remainder of the discussion of our research results addresses the detailed research on our 13 countries only.

- Where private companies are excluded from public filing obligations, we consider that this exclusion is significant, because subsidiaries of multi-national companies are likely to be private companies, as they would have no need to be public companies. (Public companies are typically allowed to issue shares to the public, as distinct from private companies which are not allowed to do this; as a result, public companies (whether or not they have in fact issued to the public or have their shares listed) have to comply with added company law burdens.)

- In general, the position on branches mirrors that of local companies – if a local company has to file its accounts for public availability, in most cases an external company operating in the country similarly has to file either branch or company accounts.

- Some countries (a majority of those reviewed) have small companies' exemptions from filing and/or audit obligations, and we note that the EU directives, including the recent draft[60], retain such an exemption. We consider that it is appropriate to have such an exemption, because of the likely disproportionate cost to small companies in preparing and auditing accounts as compared with the limited transparency benefits which would result (for example, their data is unlikely to be valuable for transfer pricing comparables, particularly because of their size).

Data to be filed

- Where filing is required, companies must file a balance sheet and profit and loss account, which generally (at least for local companies) have to be audited.

- In addition, cash flow statements are generally required.

- Requirements to produce directors' reports are variable (and even where needed, we have not investigated the contents required).

- Only around half of the countries in our sample require details of shareholders to be filed, and less require details of subsidiaries. Greater coverage of these items would be very important for indicating dependence/ independence for transfer pricing purposes.

- Almost all countries reviewed require IFRS, or local GAAP (which reflects IFRS).

- We have noted our findings on mode and cost of access at sections 9 and 10 above.

- Generally, where accounts have to be filed, the deadline is not later than the tax return deadline.

Accounts obligations in countries without public access

- Even where public access is not required, almost all countries reviewed require accounts to be prepared and audited for some purpose (typically tax return or shareholder access), generally with a 'small companies' exemption.

11.2.2 Other countries

France and Spain illustrate the typical EU position, in line with the 4th Company Law Directive, requiring public access to accounts. The Netherlands also requires public access, in accordance with the Directive, but makes use of the exception in Article 57 of the Directive, so that a Dutch subsidiary of an EU parent does not have to file accounts if the parent does file consolidated accounts publicly and the parent guarantees the commitments of the Dutch subsidiary.

[60] European Commission draft directive on financial statements etc., of 25 October 2011.

Switzerland, the British Virgin Islands and (as regards Global Business Licence companies) Mauritius do not require public access to accounts, although Mauritius does nonetheless require central filing. The BVI has no requirement for accounts as such.

12 Conclusions

12.1 Executive summary

The overall conclusions are as set out in the Executive Summary. Fuller, separate summaries of the conclusions on the ‘holding to account’ objective and transfer pricing are at sections 4.3 and 4.6.1 above, and section 8 above, respectively.

12.2 Filing requirements

For an accounts filing obligation to be most successful for transparency purposes, we consider that the following would be required.

- Filings should include audited Balance Sheet, Profit and Loss Account, Cash Flow Statement (for cash tax) and Directors’ Report or Annual return (or other statement of ownership and narrative description of the company’s business).
- Filing should be made within the tax return filing deadline.
- Filing obligations should be enforced – there should be a penalty regime, and governments should put in place necessary resources to monitor and enforce compliance.
- There should be an exception for small companies (with the threshold set at a level to reflect the local economy[61]).
- Apart from this, the filing obligation should apply to all companies, locally-owned as well as owned by multi-national enterprises, in order to fulfil the transparency objectives and to avoid creating an instance of unfair competition.
- Access to the records should not be prohibitively costly. Charges may reflect the costs of the system, but should not deter access.
- Ideally, filing should be able to be made electronically, and internet access should be available.
- Acquirers of records should be free to on-supply and process the data.
- Consideration should be given to encouraging and supporting the creation of structures for remote internet access to the accounts data, maybe on a regional basis[62].

Further, for a successful implementation of a public accounts filing obligation, and to enable the most benefit to be obtained, it may be appropriate for assistance to be made available:

- to developing country governments in setting up and operating registries for publicly filed accounts; and
- to developing country tax administrations in accessing and using the accounts of taxpayer companies and their affiliates;

[61] So that companies which are too small to justify preparation and auditing of accounts are exempt but independent companies which could be material for comparability purposes are not exempt.
[62] For example, the ‘cloud’ structure described at pages 73-74 of the 2012 FTA report, referred to above.

by countries (developing and developed) which already have and use such structures.

12.3 Cost/Benefit analysis

12.3.1 Benefits for taxpayers and tax administrations

This report shows that some benefits may arise from the public availability of the statutory accounts of unlisted companies.

The primary benefit is that accounts may provide potential comparables for transfer pricing purposes. This benefit would come from having publicly available financial data on companies operating in the country (or region) where the transfer pricing is being considered.

Secondly, publicly available accounts data in other countries may assist tax administrations in their risk assessment of taxpayer companies in their country which belong to a MNE. The more countries that have such publicly available data, the greater the potential for benefit.

In this review, we have not had access to tax administrations. Their views on the value of the benefits identified should also be considered.

Also, the financial and other costs of generating accounts data and making it publicly available should be considered.

12.3.2 Costs

The financial costs of introducing a public accounts filing obligation would be greatest in countries which currently do not require unlisted companies to prepare audited accounts at all.

For those countries which require accounts but just do not require them to be filed and publicly available, the costs of setting up a filing and access system are assumed to be recoverable through the fees that would be charged for access.

Further investigation would be needed into the costs, for governments and companies, of setting up and running a filing system, and of preparing and auditing accounts where this is not currently required.

12.3.3 Other implications

Also, the non-tax implications of creating this greater transparency, such as the visibility of some business data to customers, suppliers, potential bidders and public scrutiny, would need to be considered.

12.3.4 Other entities

If a public accounts filing obligation was to be introduced for companies, the treatment of different types of partnerships in countries which currently do require registration of accounts should be reviewed, and the results taken into account in deciding the scope of any new registration obligation to be proposed in other countries.

ANNEX I

Detailed results of preliminary research on selected countries (Developing)

Part 1

	a. REGISTRATION	b. INFORMATION	c. AUDIT	d. ACCOUNTING PRACTICE	e. DETAILS SHAREHOLDERS/ SUBSIDIARIES	f. PUBLIC ACCESS	g. PENALTY	h.FEE FOR FILING	i. DEADLINE ACCOUNTS/ TAX RETURN
Country (and sources)	**a. Are unlisted companies required to register accounts in a public registry? Which category of companies?**	**b. What information has to be filed? E.g.: balance sheet (BS), profit and loss (P&L), cash flow statement, director's report (DR), nature of business, companies dealt with…**	**c. Must the filed information have been audited?**	**d. What accounting practice must be used (Local GAAP, IFRS, etc)?**	**e. Must the company file details of (i) shareholders or (ii) subsidiaries?**	**f. How can the public access the information? Location (online, hard copy, visit registry), ease of access, cost, language.**	**g. Is there a fine/penalty for non-compliance with a registration obligation, and if so is it a material amount?**	**h. What is the fee for filing accounts?**	**i. What is the deadline for filing (i) accounts and (ii) tax return?**
AFRICA									
Angola [PwC source]	No, except for banks and insurance companies (that need to file accounts with Central Bank and Insurance Supervising Institute).				No.	Public access to banks and Public Entities (i.e. state owned companies, with share capital provided by other public companies) which are required to publish accounts. No access to private companies apart from Private Banks.			Accounts to be submitted for Corporate Income Tax (CIT) purposes by 31 May 2012.

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Data indicated in the tables reflect the general position and (unless stated) not special factors or exceptions.

	a. REGISTRATION	b. INFORMATION	c. AUDIT	d. ACCOUNTING PRACTICE	e. DETAILS SHAREHOLDERS/ SUBSIDIARIES	f. PUBLIC ACCESS	g. PENALTY	h.FEE FOR FILING	i. DEADLINE ACCOUNTS/ TAX RETURN
Botswana Companies Act (CAP) 42:01. Enacted5/2010. Taken from Ministry's website: http://www.mti.gov.bw/content/acts	Yes, for public companies and other companies in which a public company holds more than 25% of its share capital (and companies required by any other enactment) (s209).No for other companies. Yes for external public companies (s349). No for other external companies.	Local filing companies - BS, P&L and auditor's report (including cash flow statement: s200) (s211). Also copy of the annual return (s213). External filing companies - BS and P&L account (s349). No DR required in the Act.	Yes for non-exempt companies (see part2) (s200, s209). External companies – audit requirement imported by s349 ('other documents').	IFRS for public companies (s206).	(i) Yes for local countries, no for foreign companies (form 31(b)). (ii) Yes : names, countries of incorporation and nature of the businesses of the Company's subsidiaries (CAP, sixth schedule, point 4(2)(i)).	Public may inspect and take copies, for a fee (s13): P10 (USD 1.40) (gazetted regulations). Only shareholders can access the accounts of a private company, and shareholders and the general public in the case of a public company.	Director convicted of non-compliance with the deadline for filing accounts liable to a fine not exceeding P10,000 (USD 1,400) (s212(2),493(1)). Penalty of a minimum of P 300 (USD 42) and maximum of P 900 (USD 125) (gazetted regulations).	No.	Annual return and accounts to be filed within 28 days of the AGM which needs to be within 6 months of the financial year end (s217). Tax return deadline: 4 months after end of business financial year.
Madagascar Art 5-1 and following of Code of Commerce (CC) (on droit-afrique.com) Law 2003-036 of 30 January 2004 on commercial companies	Yes – local companies must file their accounting documents (art.5-6 CC). No for External companies.	BS, income statement and director's management report.	Presume yes. Audit required for companies in the form of société à responsabilité limitée if turnover exceeds MGA 200 M (USD 93,000), or if workforce composed of more than 50 employees (Decree 2005/151, art.25).	Local GAAP called PCG 2005.	(i) Yes - companies in the form of société à responsabilité limitée must file list of shareholders. (ii) Not seen.	Public can request copies or extracts. Currency: MGA. Language – French or Malgache.	Fines from MGA 100,000 to 1M (from USD 46 to USD 463), escalating to MGA 5M (USD 2,500) on repetition.	Less than equivalent of USD 6. [PwC source]	Deadline for filing the account at the public registry is 1 month after the annual shareholders general assembly (i.e. within 7 months from the end of tax year) (art.5-6CC and art.158,303 of the law). Tax return deadline: 4

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									months from end of the fiscal year (http://www.ccifm.mg/entreprendre.php).
Rwanda Law 07/2009 of 27 April 2009 on Ministry of Justice site www.minijust.gov.rw Registrar: org.rdb.rw Law on Direct taxes no. 16/2005 of 18 October 2005 on Rwanda Revenue Authority website.	Yes (art.253). All companies (other than small) must file their accounts (art.253, 258). Small companies required to provide financial summary (art.259). Definition of a small company: when during the previous business year, it had a turnover not exceeding RWF 150,000,000 (USD 251,000) (art.20, art. 2 of the Ministerial Order N°01/09/MINICOM of 08/05/2009).	General - Financial statement (BS, and cash flow statement for companies subject to international accounting standards: art.265) and P&L account (art.264) and auditor's report. Small – financial summary (no guidance). External – BS and particulars with respect to business carried out in Rwanda. The Companies Act requires that a director's report is submitted together with financial statements. In addition, the financial statements need to comply with international accounting	General - Yes (art.247, 258). Audit mandatory for companies, except for small private companies (art.251). For foreign companies, audited accounts or at least a BS required (art.330). Small companies: Revenue Authority requires SMEs to have tax returns certified by an auditor.	Some companies may be required to comply with IAS (art.265). In practice, companies need to comply with IAS (IFRS).	Financial statements should contain details of shareholders and subsidiaries. [PwC source]	Website of Commercial Registration Services Agency: all information, including accounts [PwC source] is public and available free online. To access such information one needs to request a user name and a password on this link: http://org.rdb.rw/inf/Public/LogOn.aspx?product=busreg. Alternatively, one can physically visit the office of the register general and request to access such information upon payment of RWF 5,000 (USD 8).	Yes – twice the business registration fee (art.363), i.e. RWF 500,000 (USD 84) (art.2 Ministerial Order).	The fee of RWF 2,000 for filing accounts (USD 3).	All companies (other than small private limited companies) to file within 30 days after the financial statements are required to be signed. (art.258). External companies to file BS within 3 months of annual shareholders' meeting (art.330). Tax return deadline: March 31st of the following tax period (art.43 of Law 16/2005). Since the filing of tax returns with Revenue authority is required to be done within 3 months after the financial year end, most companies file their financial

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		statements (s254), which includes director's report as part of this compliance.							statements with Registrar within 4 months after the financial year end. [PwC source]
Zambia Companies Act 1994 Chapter 388: http://www.lexadin.nl/wlg/legis/nofr/oeur/lxwezam.htm#Commercial%20Law . Income Tax Act (ITA) 1966 Patents and Companies Registration Agency Act 2010. Patents and Companies Registration Agency website: www.pacra.org.zm	Yes for public companies (s 186). Yes for external companies (s251). No for private companies (s.187).	Public companies: Annual return, BS, P&L accounts, group accounts, DR (on the state of company's affairs) and auditor's reports (s186). External companies: annual accounts and auditors' report in relation to the operations and assets in Zambia, English translation of full company accounts if home law requires accounts to be sent to shareholders (s251).	Yes for public and external companies (ss186, 251). No audit for small companies.	1) Companies with annual turnover equal to or exceeding ZMK 20B (USD 4M): choice of using the IFRS for SMEs or full IFRS. 2) Small enterprises with annual turnover below ZMK 20B (USD 4M): Zambian Financial Reporting Standard for Micro and Small Entities. (http://www.zica.co.zm/content.php?id=199).	(i) Yes, for public and private companies (3rd schedule of CA). (ii) Yes, if related or hold 25% equity shares (3rd schedule of CA).	Yes, to be available within 2 hours of request in English (s369, 162(4)); public may inspect and take copies, for a fee (ss 369-374). Public and foreign companies' accounts may be accessible by the public. Private companies' accounts may only be accessible by shareholders, directors, secretary and auditors.	Yes, default is an offence for company and officers– fine up to 10 000 monetary units (1MU = ZMK 10,000), i.e. ZMK 100M (USD 20,000) for public company and500 MU, i.e. ZMK 5M (USD 1,000) for external (Amendment Act no. 24 of 2011).	Private Companies limited by Shares and by Guarantee: ZMK40,000 (USD 8). Public limited companies: ZMK60,000 (USD 12). (http://www.pacra.org.zm/index.php?option=com_content&view=article&id=102&Itemid=109). For foreign companies, the filing fee is approx USD 30 per year. If the return is filed 3 months after the end of each financial year of the	Annual accounts to be prepared within 3 months after the end of the financial year (s164). Tax return deadline: 30th of September following the end of the charge year (s46(3) ITA). Companies required to include their accounts when filing the income tax returns (s56(1) ITA, as amended).

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								company, a penalty of approx. USD 29 must be paid together with the normal filing fee. (www.pacra.org.zm)	
ASIA									
Cambodia Law on Commercial Enterprises of 19th June 2005 Prakas on obligation to submit financial statements for audit, 26 July 2007 http://www.camcl.org/sub/laws/laws.html	No, only public companies (with more than one shareholder) that have issued securities to the public must file accounts with the Director of Companies (art.228). Once Company registry established (by new law on Auditing and Accounting), companies required to prepare audited financial statements will need to file accounts with the	BS, P&L, cash flow statement [outcome of the Prakas.]	Compulsory audit for all enterprises meeting two of the following criteria: 1) Annual turnover of KHR 3B (USD 750,000) and above, 2) Total assets of KHR 2B (USD 500,000) and above, 3) Number of employees of 100 and above (Prakas 2007).	Public Interest Entities required to prepare financial statements in accordance with Cambodian International Financial Reporting Standards ("CIFRS"): equivalent to IFRS and effective from 1 January 2011. Definition of the entities with public accountability is the same as defined in IFRS for		At this stage, only banks and micro financial institutions publish annual report as required by the National Bank of Cambodia: access to accounts via National Bank website. Public availability of all filed accounts under new provision is currently being discussed.	No, at this stage. The reporting filing body will be established when the new Law on Auditing and Accounting is adopted.	There will be a fee charged for this, but it is not known yet how much at this stage.	Financial statements to be sent to Director of Companies not less than twenty-one (21) days before each annual general meeting of shareholders (art.228), while tax return to be filed within 3 months after the end of the tax year (art.29 Law on Taxation).

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	a. REGISTRATION	b. INFORMATION	c. AUDIT	d. ACCOUNTING PRACTICE	e. DETAILS SHAREHOLDERS/ SUBSIDIARIES	f. PUBLIC ACCESS	g. PENALTY	h.FEE FOR FILING	i. DEADLINE ACCOUNTS/ TAX RETURN
	registry. At this stage, no specific prakas requiring filing, but it has been discussed and MOEF's prakas to be issued when new Law is adopted.			SMEs.					
Pakistan Law on Securities and Exchange Commission of Pakistan (SECP) www.secp.gov.pk Companies Ordinance 1984 + 6th Sch revised Companies (General Provisions and Forms) Rules 1985	Yes for local companies (s234 Companies Ordinance 1984), unless private company with paid up capital of less than PKR7.5M (USD 82,500). Yes for external companies (s453).	Local companies – BS, P&L account and DR for public company or private company which is subsidiary of a public company (covering changes in financial position and equity, nature of business, cash flow statement, accounting policies, and auditors' report) (s236). External companies – BS, P&L and DR for local operations, plus whole company BS, P&L and DR (s453).	Yes (s233). Private company with paid up capital of less than PKR7.5M not required to prepare audited set of accounts (USD 82,500) (s242(3) of Companies Ordinance 1984).	IAS1 to IAS 40 except 3, 15 and 29 (4th and 6th schedule), except insurance and banking companies where financial statements are to be presented in accordance with their respective statutes, and when IFRS for small and medium sized companies applies (s234). Filing in PKR (Rule 8 of Part I of Fifth Sch). External	(i) Local companies: DR to state the name and country of incorporation of holding company, if any, where such holding company is established outside Pakistan (s236(2)(e)). External companies: accounts to be filed together with a list of Pakistani members (s453(1)). (ii) Not seen.	Yes – any person can inspect accounts filed with the SECP by visiting their relevant offices located in various cities in Pakistan, for PKR 500 (USD 5.50), or PKR 200 (USD 2.20) online (s466(6) and 6th Sch.)*. *The Ordinance has amended the fee to PKR 500 (USD 5.70) on 6 February 2009. Filing must be in (or translated into) English or Urdu (Rule 27 of Companies Rules	Yes – up to PKR 2,000 (USD 22) plus PKR 50 (USD 0.57) per day (s242(4)(b)).	Fee for filing audited financial statements with SECP is PKR 600 (USD 6.60) online or PKR 1500 (USD 16.50) offline.	Financial statements required to be filed within 30 days of the AGM in which such financial statements were presented or within 6 months of the close of accounting period with SECP whichever is earlier. Branches of external companies required to file accounts to SECP within 45 days from the date of submission of such documents or returns to public

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				companies – whole company accounts to be under home law if public filing required, otherwise as Pakistani companies (s453 (ii) and (iii)).		1985).			authority of the country of incorporation or within six months of the date up to which the relevant accounts are made up whichever is earlier. Tax return to be filed by December 31 next following if the accounting period ends on June 30 and by September 31 following if the accounting period ends on December 31. Financial statements required to be filed with tax authorities along with the return of income.
Philippines Code and Regulations on SEC website, www.sec.gov.ph Corporation code (CC)	Yes, all companies (domestic and external) to file with SEC annual report together with financial statement of assets and liabilities	Full BS, P&L account, changes in equity, cash flows (Rule 68 (1,4,5 IRSRC), Statement of comprehensive income (Annexe 68-D to IRSRC), General Information	Yes, if paid-in capital exceeds PHP 50,000 (USD 1,200) (Rule 68 (1 and 3)). Also required for any	Philippine FRS, which reflects IAS/IFRS – rule 68 (2).	(i) Yes, GIS (submitted within 30 days after the actual or scheduled stockholders meeting): to include top 20 shareholders. (ii) Yes.	Securities and Exchange Commission (SEC) website. Fee: online PHP 0.20 (USD 0.005) per page to view and 0.50 (USD 0.012) per page to	Penalty imposed for non-filing (Rule 68 (6) IRSRC): not material. Fines based on retained earnings or	No, no filing fee for filing of annual accounts with the SEC.	Audited financial statements (bearing the receiving stamp of the tax office) generally filed within 120 days from the close of the fiscal year;

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Revised Implementing Regulations for the Securities Regulation Code (IRSRC)	(s141CC).	Sheet (GIS).	corporation whose gross sales/earnings exceed PHP 150,000 in any quarter (USD 3,500) (s232 National Internal Revenue Code of the Philippines).			print; or in person: PHP 5 (USD 0.12) per page to copy plus 20 (USD 0.47) per corporation. Also possible to visit the registry to get hard copy or microfilm.	misstatements, and frequency of violation [SEC Memo Cir: 8-2009]. Non-monetary penalties imposed by the SEC: citation warning to suspension of secondary license, revocation of corporate license issued by the SEC. In rare instances, directors and officers of the company sanctioned with civil/criminal liability, and disqualification to hold office /positions in a registered company [PwC source].		and for companies adopting calendar year-end, the SEC would annually issue filing schedules to manage the surge of filings (http://www.sec.gov.ph/Post_Incorporation_Requirements.htm). Tax return to be filed before the 15th day of the fourth month following the close of the taxpayer's taxable year (http://www.bir.gov.ph/birforms/form_itr.htm).
CENTRAL/ SOUTH AMERICA									
Colombia Act 222 of 1995 (Act):	Yes. Every company, including external companies with	Financial statements (art.34) –.which include BS, P&L account, cash flow,	Yes (art.37).	GAAP (art.36). IFRS to be gradually adopted.	(i) No. (i) No.	Public can examine and take copies of the financial	Possibility of penalties (art.42 Act) but not enforced in	The cost for this filing is COP 9,900 (USD 5.60)	Deadline for filing accounts: April 30th. Deadline for tax

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www.supersociedades.gov.co Code of Commerce (CC) http://natlaw.com/interam/ar/cs/tn/tnarcs1.htm Cámara de comercio camara.ccb.org.co Chambers of commerce and superintendencies [PwC source]	permanent business in Colombia, must prepare and register in the Chamber of Commerce of Colombia their financial statements (at least once a year: December 31st) (art.34 Act, arts.469 ff CC).	DR, auditor opinion, consolidated statements.				statements filed in the Chamber of Commerce, upon payment of prescribed fee. (art.41). The Chamber must keep the statements for a period of 5 years. Also web or electronic access. Some sources charge fees but others do not.	practice.	(year 2012). This amount increases every year according to inflation.	returns: Throughout April for most companies.
Ecuador Code of Commerce (CC), Companies Act (CA), Regulation of the Superintendency From Ministry of Economic and Social Inclusion at www.mies.gov.ec Superintendencia de Bancos, Superintendencia de Compañías [PwC source]	All companies (local and external) must file accounts (arts.20, 23 CA, arts.431, 432 Superintendency Regulation), but for non-listed companies access is limited.	BS, P&L, changes in equity, cash flow nature of business (arts.20, 23). Director's report has to be filed and it is also required to file "Informe de la Administración" in Spanish or CEO Report.	Yes. Companies with assets over USD 1M have to have their financial statements audited. Branches of foreign corporations when assets are over USD 100,000.	Local GAAP (art.289 CA). As of January 1st, 2012 IFRS is mandatory for almost all companies.	(i) Yes, filing information of shareholders is mandatory. (ii) Not seen.	For listed companies – financial statements are accessible on the website for no charge. This is not applicable for other companies – only shareholders can gain access to book accounts; the public can only see very limited financial information.	Fines can be levied (arts.25, 457 CA): not material amount.	No fee in filing accounts with the public registry.	Deadline for filing accounts and tax return: April of the following year.
Jamaica Companies Act 2004	Yes. Both public companies and private companies	BS, P&L account and auditor's report (s124(3), s366(1)).	Yes (s157). Private companies not	Jamaican GAAP for local companies	(i) Yes, annual return requires list of shareholders.	Yes, public can inspect the public records either by	Yes, but fines small: for local companies,	Present fees for filing accounts with	Each annual return to be delivered to the

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at www.miic.gov.jm. Registry website www.orcjamaica.com/	any of whose shares are owned by any body corporate (not just Jamaican) (s124(3), s25(3), s2(4), subject to limited exceptions in sch 13). Yes for external companies, unless Ministry grants exemption (s366).	Company to submit DR within the general financial statement.	owned by Jamaican public companies can opt out if deemed small as set out in paragraph 7 of Part II of the Seventh Schedule of the CA – turnover less than JMD 40M (USD 462,000), BS total less than JMD 30M (USD 347,000) or less than 25 employees. Yes for external companies (s366).	(s146 and Sch 7). External companies can file under Jamaican GAAP, or file home country accounts with Jamaican P&L and BS on Jamaican assets which have to be audited (s366). Jamaica has adopted IFRS for local companies, Jamaican GAAP now equates to IFRS (since 2011).	(ii) No.	visiting the registry or via on-line search. and take copies, for a fee (s352). Online access costs JMD 1,000 (USD 12). Accounts to be in English or with English translation (s124), including external companies (s366).	JMD 100 (USD 1.10) for each day the default continues, maximum of JMD 10,000 (USD 116) (s121). Court can disqualify officer for persistent default. (External companies - fine JMD 2,000 (USD 23) per day, up to JMD 50,000 (USD 590) (s370).) Maximum fine of JMD 1M (USD 12,000) with imprisonment.	the public registry: 1.For an overseas company – JMD 7,000 (USD 81); 2. For a local company limited by shares – JMD 3,000 (USD 35); 3. For a local company limited by guarantee – JMD 1,000 (USD 12).	Registrar within 28 days after the date to which it is made up, i.e. not later than the date which is company's return date anniversary (s121). Tax return to be filed before March 15th of the following year (http://www.jrs.gov.jm/home_template.php?page=forms&ye=1&desc=Income+Tax).
Panama Code of Commerce. Act 2 of August 2nd 1916. Available in pdf (version January 2002).	No. It is not compulsory, it is optional. Section 58-A: Companies can choose to file their financial statements (audited) in the Public Registry of Panama.								

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Peru Law 26887 – Peruvian Corporate Law, and Law 29720, on Ministry of Justice site http://spij.minjus.gob.pe/spij_leg_basica.asp [PwC source]	No at present time. Once Law 29720 (published on June 25th, 2011) is effective, only unlisted companies whose annual income from the sale of goods or services or total assets equal or exceed 3,000 local tax units (UIT - for 2012, 1 UIT equals to PEN 3,650), i.e. PEN 11M (USD 4.1M) must submit to Superintendencia del Mercado de Valores (SMV). To be effective, Law 29720 needs additional regulation. SMV is working on a project of regulation. Please note: SMV has published a draft	According to draft of regulation for public discussion, documents to be required are: financial statements and other information contained in the formats that will be approved by Superintendencia del Mercado de Valores (local authority supervisor). At this stage, not clear whether director's report will be required. However, those approved formats may contain such information and details.	In accordance with Law 29720, all financial statements must be audited by any Firm duly authorized.	Once Law 29720 is effective: unlisted companies under the scope of the Law will need to file financial statements under IFRS.	At this stage, not clear whether details of shareholders and subsidiaries will be required. However, those approved formats may contain such information and details.	Law 29720 establishes that any person can access to such information. The procedure will be regulated by SMV in the next months.	Law 29720 establishes penalties from 1 UIT to 25 UIT, i.e. from PEN 3,650 to PEN 91,000 (from USD 1,350 to USD 34,000). The procedure will be regulated by SMV in the next months.	According to the draft of the regulation for public discussion, the filing of the financial statements will be free of charge.	According to the draft of the regulation for public discussion, the deadline for filing accounts will be 30th May of each year. Currently the filing date for annual tax return is 10 April, according to a schedule approved by local authority considering the Taxpayer ID of each company.

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	of the regulation for public discussion. Deadline for comments is February 1st, 2012. Likely by the end of March that the decree will be issued.								

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Part 2 – for Countries where Part 1 Column a is 'No'

	m. Accounts preparation	n. Audit	o. Public access	p. Tax return	q. Accounting practice	r. Details shareholders/subsidiaries
Country (and sources)	**m. Are unlisted companies obliged to prepare accounts? For what purpose?**	**n. Must they be audited?**	**o. Can they be accessed by shareholders, creditors or the public?**	**p. Must they be filed with a tax return?**	**q. What accounting practice must be used (Local GAAP, IFRS, etc.)?**	**r. Must the company file details of (i) shareholders or (ii) subsidiaries?**
Angola	Yes, all companies required to prepare their accounts for tax purposes.	Yes, Tax Authorities not requesting Audit opinion, but audited accounts required.	Public: no access to companies' accounts unless special request made directly with these companies.	Yes, all companies in Angola required to submit Financial Statements to Tax Authorities for Corporate Tax return purpose only.	Angolan GAAP (*Plano Greal de Contabilidade).*	No.
Botswana Companies Act CAP 42:01. Enacted 5/2010. Taken from Ministry's website: http://www.mti.gov.bw/content/acts	All active (i.e. trading and not dormant) unlisted companies to prepare accounts and keep them at registered office.	Non-exempt private companies required to have accounts audited (s191). Non-exempt company: company that meets one of the following 3 conditions: 1. Total assets >= BWP 10M (USD 1,4M) 2. Turnover >= BWP 5M (USD 700,000) 3. A shareholder is a company.	Private local companies to keep accounts at their registered office, but public access not required (ss189, 218, 219). External private companies not required to keep accounts (s349).	Annual return and accounts to be filed within 28 days of the AGM which needs to be within 6 months of the financial year end (s217). Tax return deadline: 4 months after the end of the business financial year end. [PwC source]	IFRS for non-exempt private companies (s206).	(i) No for companies formed under the country laws, while yes for foreign companies limited by shares (name and address of each shareholder) (Phase 1 Report of the Global Forum). (ii) Yes : names, countries of incorporation and nature of the businesses of the Company's subsidiaries (sixth schedule CAP, point 4(2)(i)).
Zambia Companies Act Chapter 388: www.saflii.org/zm. Patents and Companies Registration Agency Act 2010.			Private company accounts can be accessed only by directors, secretary and auditors.	Yes.		

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	m. Accounts preparation	n. Audit	o. Public access	p. Tax return	q. Accounting practice	r. Details shareholders/subsidiaries
Patents and Companies Registration Agency website: www.pacra.org.zm						
Cambodia Law on www.lexadin.nl http://www.camcl.org/sub/laws/laws.html [Not seen original Law on Commercial Rules and Register]	Yes, for AGM and circulation to shareholders (arts.224-227 Law on Commercial Enterprises). Once Company registry established (by new law on Auditing and Accounting), companies required to prepare audited financial statements will need to file their accounts with the registry. At this stage no specific prakas requiring the filing, but it has been discussed and the MOEF's prakas to be issued when new Law is adopted.	A private company or a single-member company can opt out of the requirement for accounts to be audited (art.230). Compulsory audit for all enterprises meeting two of the following criteria: 1) Annual turnover of KHR 3B (USD 750,000) and above, 2) Total assets of KHR 2B (USD 500,000) and above, 3) Number of employees of 100 and above (Prakas 2007). Once the registry is in place, the answer will be yes.	No, only shareholders may examine financial statements (art.225).	Yes (art.29 Law on Taxation): tax return to be filed with BS, results account and tables of complementary information within 3 months after the end of the tax year (http://www.camcl.org/sub/laws/rkm97_taxation_law.html#ac37).	Entities subjected to statutory audit, but not having public accountability required to prepare financial statements in accordance with CIFRS for SMEs: equivalent to IFRS for SME.	(i) No. (ii) No.
Ecuador Code of Commerce, Companies Act, Regulation of the Superintendency From Ministry of Economic and Social Inclusion at www.mies.gov.ec	Yes. [See part 1]	No.	No public access but access to shareholders.		Local GAAP but interaction with IFRS. [See part 1]	No.
Panama	Note: Panama companies and	Yes, all companies with capital	No, access only for people with	No, tax return due within 3 months from the end of the	IFRS, for taxpayers with annual	Not seen.

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	m. Accounts preparation	n. Audit	o. Public access	p. Tax return	q. Accounting practice	r. Details shareholders/subsidiaries
Code of Commerce (CC). Act 2 of August 2nd 1916. Available in pdf (version January 2002).	partnerships that do not operate within the country and do not generate Panama source income are not subject to the CC and so not bound by the Code's record keeping requirements.	exceeding USD 100,000 or with an annual sales volume greater than USD 50,000 are required to undergo an annual statutory audit (report WB, p.4).	responsibility or interest (s89).	fiscal year (http://www.panama-corporation.com/panama_tax.htm + Deloitte) while financial statements to be prepared and issued within 120 days (Panama review by the World Bank).	revenues in excess of USD 250,000 (Report WB, p.4).	

Peru Code of Commerce, on Ministry of Justice site http://spij.minjus.gob.pe/spij_leg_basica.asp [PwC source]	For those companies that will not be under the scope of Law 29720, and in accordance with Law 26887, they must annually prepare financial statements for tax purposes (supervision of local authority).	No.	No, access only for shareholders, and creditors with responsibility or interest. In some cases regulated by Law 26887, such as spin-off or break up process, creditors can access financial statements.	Yes.	Peru GAAP.	(i) Yes. (ii) Yes.

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Summary of results (Developing countries) [PwC did not verify this summary table]

	Public availability* of accounts required for <u>local public company</u>?	Public availability* of accounts required for <u>local private company</u>?	Public availability* of accounts required for <u>external company</u>?	Cash flow statement requirement?	Other requirements to produce accounts?	Audit required?	Accounting standards required
Angola	NO	NO	NO		Yes, tax		Angolan GAAP
Botswana	YES	NO	YES for public entities NO for private entities	YES	Yes, shareholders	YES	IFRS for public companies
Madagascar	YES	YES	NO	NO		YES	Madagascan GAAP
Rwanda	YES	YES	YES (balance sheet only)	YES		YES	In practice, companies need to comply with IFRS.
Zambia	YES	NO	YES	NO	Yes, tax	YES	IFRS and Zambian GAAP
Cambodia	NO, unless securities issued to the public	NO	DO NOT KNOW	YES	YES	YES	CIFRS equivalent to IFRS
Pakistan	YES	YES	YES	YES for local companies		YES	IAS and other standards notified (not clear if any notified)
Philippines	YES	YES	YES	YES		YES	Philippine FRS, which reflects IFRS
Colombia	YES	YES	YES	YES		YES	Colombian GAAP, IFRS to be gradually adopted
Ecuador	FILING BUT NO ACCESS	FILING BUT NO ACCESS	FILING BUT NO ACCESS	YES	Yes, filing	YES	Ecuadorian GAAP, IFRS mandatory from January 2012 for almost all companies.
Jamaica	YES	YES, if owned by body corporate	YES	NO		YES	Jamaican GAAP, equates to IFRS since 2011
Panama	NO	NO	NO		No, local companies not required to keep accounts if no local operations and no local source income	NO	Not relevant
Peru	NO, to be YES	NO, to be YES	NO, not clear in the future			TO BE YES	To be IFRS

* Public availability of accounts means public availability of balance sheet and profit and loss statement.

ANNEX II

Detailed results of preliminary research on selected countries (Others)

Part 1

	a. REGISTRATION	b. INFORMATION	c. AUDIT	d. ACCOUNTING PRACTICE	e. DETAILS SHAREHOLDER/ SUBSIDIARIES	f. PUBLIC ACCESS	g. PENALTY	h. FEE FOR FILING	i. DEADLINE ACCOUNTS/ TAX RETURN
Country (and sources)	**a. Are unlisted companies required to register accounts in a public registry? Which category of companies?**	**b. What information has to be filed? E.g.: balance sheet (BS), profit and loss (P&L), cash flow statement, nature of business, companies dealt with, directors' report (DR)…**	**c. Must the filed information have been audited?**	**d. What accounting practice must be used (Local GAAP, IFRS, etc)?**	**e. Must the company file details of (i) shareholders or (ii) subsidiaries?**	**f. How can the public access the information? Location (online, hard copy, visit registry), ease of access, cost, language.**	**g. Is there a fine/penalty for non-compliance with a registration obligation, and if so is it a material amount?**	**h. What is the fee for filing accounts?**	**h. What is the deadline for filing (i) accounts and (ii) tax return?**
British Virgin Islands BVI Business Companies Act 2004,Banks and Trust Companies Act (BTCA), Insurance Act (IA), Financing and Money Services Act (FMSA) Financial Services Commission Act (FSCA) Regulatory Code 2009 (RC)	No, except for companies carrying on financial services business required to obtain a license from the FSC (trust, banking, insurance, investment) (art.15 BTCA, 22 FMSA).								

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Financial Services Commission Registrar: www.bvifsc.vg **[PwC did not verify this country]**									
France Code of Commerce (CC) www.lexinter.net www.legifrance.gouv.fr Registries – www.infogreffe.fr; www.greffes.com; www.greffe-tc-paris.fr http://www.greffes.com/fr/formalites/registre_du_commerce/actes_comptes_annuels/transmission_obligatoire_au_greffe_des_comptes_annuels/societes_concernees_delais_documents_a_produire_cout_du_depot/83-248.html	Joint stock companies, limited liability companies and external companies with establishment in France.	BS, P&L account and annex, DR, auditor's report.	Yes, compulsory for all joint stock companies (art. L.225-218, R.227-1) For limited liability companies: only when 2 of the following 3 elements are met: revenue in excess of EUR 3.1 M (USD 4.1M), employees in excess of 50, and total balance sheet in excess of 1, EUR 55M (USD 73M) (art. L.223-35 CC, R.221-5). For simplified joint stock company:	Local GAAP, and IFRS for consolidated accounts (EU directive 13 June 1983).	(i) Yes if percentage of ownership are the following: 5, 10, 20, 33.33, 50 and 66.66% of the entities (art.L.233-13 CC). (ii) Yes, name and location disclosed if percentage of ownership above 10% (chart of accounts, http://www.planco mptable.com/titre-V/titre-V_chapitre-III_section-1.htm).	Yes, from commercial court registries or from website. Fees apply, e.g. EUR 9.33(USD 12.36) for full accounts.	Yes – non-filing or late filing can result in fines and/or dissolution of the company. Fine of EUR 1,500 (USD 2,000)(art.131 -13 of criminal code).	Fees: EUR 50 (USD 66).	For statutory purposes, the financial statements must be filed with the clerk of the commercial court within 1 month from the shareholder meeting which is to be held within 6 months of the financial year end (i.e. 7 months after the closing of the tax year). The deadline for filing with tax administration is 3 months after the closing of the tax year.

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	a. REGISTRATION	b. INFORMATION	c. AUDIT	d. ACCOUNTING PRACTICE	e. DETAILS SHAREHOLDER/ SUBSIDIARIES	f. PUBLIC ACCESS	g. PENALTY	h. FEE FOR FILING	i. DEADLINE ACCOUNTS/ TAX RETURN
			other threshold (art. R.227-1).						
Mauritius Companies Act 2001 (CA), on Government site (www.gov.mu) Financial Services Act 2007 (FSC) http://www.fscmauritius.org/media/36721/financial%20services%20act.pdf Registrar of companies http://www.gov.mu/portal/site/compdivsite/	Yes, with exception for small private companies (turnover less than MUR 1M (USD 34,000) (art.2, art.215, and art.281 for external companies). Companies with Category 1 Global Business Licence file with Financial Services Commission (art.215(4)). **Note limitation on inspection.**	BS, P&L account, DR, change in equity, cash flow statement, annual report (art.211, 217, art.281). For Small private companies: financial summary (abbreviated BS and P&L) only (art.270).	Yes for full accounts (art.215), no for small private companies (art.209,270).	IFRS (art.211 CA) or any other recognized international accounting standards after having obtained necessary approval from the FSC for global business companies (s30(4) FSA). (Local regulations / standards for small private companies.)	(i) Yes, name and address in the annual report (CA, 10th schedule). (ii) Yes, name, country of incorporation and nature of business (CA, 10th schedule).	Yes, public can inspect and copy **but not in relation to private companies with Category 1 or 2 Global Business Licence** (art.14). Fee: MUR 50 (USD 1.71) per company (registrar website). Financial statements must be in local currency (art.213), in English or French.	Penalty for failure to file financial statements: MUR 200,000 (USD 6,800). Penalty for failure to file annual return with the Registrar within the prescribed delay: MUR 100,000 (USD 3,400) (art.329).	From MUR 2,000 (USD 69) to MUR 9,000 (USD 309) depending on the type of company (registrar website).	Copies of financial statements to be filed within 28 days after they are required to be signed (i.e. balance sheet date, which is in general 30th June (art.210, 215, 216). Tax return to be submitted within 6 months from the end of the month in which the company's accounting year ends (Revenue Authority website).

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	a. REGISTRATION	b. INFORMATION	c. AUDIT	d. ACCOUNTING PRACTICE	e. DETAILS SHAREHOLDER/ SUBSIDIARIES	f. PUBLIC ACCESS	g. PENALTY	h. FEE FOR FILING	i. DEADLINE ACCOUNTS/ TAX RETURN
Netherlands Civil Code (Burgerlijk Wetboek) Law on commercial registers (Handels-registerwet) Economic Offences Act (Wet op de economische delicten) Legislation: www.overheid.nl Trade Register: www.kvk.nl [PwC source]	Yes for public limited liability companies and private limited liability companies. A company can elect not to register accounts if a parent company in the EU makes and publishes a statement taking on liability for its debts, and consolidated accounts including the company's assets and liabilities are filed in the Netherlands (and certain other conditions are fulfilled) (section 2:403 of Civil Code).	The information in accordance with the fourth and seventh EU directives on accounting: small companies: short BS and notes; medium sized companies: abridged BS and P&L account and notes; large companies: full BS, P&L account and notes. DR and cash flow statement for medium and large companies.	Small companies (net turnover ≤ EUR 8.8M, total assets ≤ EUR 4.4M, number of employees < 50): no. Medium sized (net turnover > EUR 8.8M and ≤ EUR 35M, total assets > EUR 4.4M and ≤ EUR 17.5M, number of employees ≥ 50 and < 250) and large companies (net turnover > EUR 35M, total assets	Local GAAP. If so justified by the international structure of its group, the legal person may prepare its annual accounts in accordance with generally accepted accounting principles in one of the Member States of the European Communities. Voluntary use of IFRS is permitted.	(i) Yes, name and place of business of the company heading its group. (ii) Yes, name, place of business and part of the issued capital when the company has a significant influence (of more than 20%).	Yes, the public can access the annual accounts online in the Trade register at the website of the Chamber of Commerce. Fees apply, e.g. EUR 2.90 per full annual accounts for one year or EUR 4 for the full annual accounts for the 3 most recent years.	Not publishing the annual accounts is an economic offence: in short, imprisonment of max 6 months, community service or fine of max EUR 19,500.	No.	(i) The annual accounts have to be published within 8 days from their adoption, at the latest 13 months from the end of the financial year. (ii) The corporate income tax return should be filed within 5 months after the preceding financial year is closed (i.e. for a financial year closed per 31 December, the return must be filed before the first of June in the following year).

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	a. REGISTRATION	b. INFORMATION	c. AUDIT	d. ACCOUNTING PRACTICE	e. DETAILS SHAREHOLDER/ SUBSIDIARIES	f. PUBLIC ACCESS	g. PENALTY	h. FEE FOR FILING	i. DEADLINE ACCOUNTS/ TAX RETURN
			> EUR 17.5M, number of employees ≥ 250): yes.						
Spain Regulation of the Commercial Registry (RCR); Code of commerce (CC) Corporations Act (CA) Regulation of Audit of Accounts: http://noticias.juridicas.com/base_datos/Privado/ccom.html Website of Commercial Registry: http://www.rmc.es/ [PwC source]	Yes for corporations and limited liability companies (art.365 RCR). External companies must file their accounts, unless accounts filed in home registry (art.376). Branches (registered with Spanish Commercial Registry) of foreign companies must file accounts of their "parent". (art.376 RCR). Idem for subsidiary of any EU foreign companies which consolidated its account with its "parent".	BS, P&L account, statement of changes in equity and cash flow statement (art.366 RCR, art 34.1 CC), memo, DR.	Yes, unless turnover, assets or employees are below 2 thresholds of the 3 following for 2 consecutive years: total amount of items in assets not exceeding EUR 2,850,000 (USD 3,776,000); net amount of annual turnover not exceeding EUR 5,700,000 (USD 7,550,000); average number of employees during the	Local GAAP inspired by IFRS.	(i) No, unless information is in the memo. (ii) Yes, only when the company has a "significant influence" (or more than 20%). [PwC source]	Yes, public can request copies (art.369). Access is through Provincial Commercial registries. Some, such as in Barcelona, allow online access. Fees set by provincial registries. Access via RMC website also appears to be possible. Fee: EUR 3.30 (USD 4.37).	Disciplinary procedure in art.371: fine, amounting from EUR 1,200 (USD 1,590) to EUR 60,000 (USD 79,500). For companies with a turnover exceeding EUR 6M (USD 7.9M), penalty may be increased up to EUR 300,000 (USD 397,000). (arts 279 to 284 CA). Additionally, the company in default cannot file other documents in Registry.	The fee for filing accounts is subject to several circumstances (e.g. audited, short memo, etc) but the average is EUR 60 (USD 79). [PwC experience].	Financial statements to be filed within the month following the adoption of annual accounts (art.279 CA). Annual CIT returns must be filed and the tax paid within 25 calendar days following the six months subsequent to the end of the tax year (i.e. if the tax year coincides with the calendar year, the return must be filed between 1 July and 25 July of the following calendar year).

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			exercise not exceeding 50.						
Switzerland Code of Obligations (CO) http://www.admin.ch/ch/f/rs/220/index.html http://www.zefix.admin.ch/	No. Only companies with listed shares or bonds must publish accounts in the official gazette or make available on request (art.697h). Banks, Insurance companies required to register in a public registry [PwC source].	Balance sheet, profit and loss statement and notes for company obliged to publish its accounts.	Yes - only small companies have the right not to audit their accounts (threshold below: - 10 employees - CHF 10M (USD 11M) total assets - CHF 20M (USD 22M) turnover).	Local GAAP and in some cases also further accounting standards (e.g. consolidated financial statements).	(i) No. (ii) No.	No, except for public law entities which are required to publish accounts.	Yes if non-filing. Based on specific laws, different authorities can impose a fine. The penalty amount would thereby depend on the nature of the company. [PwC source]	Fee for filing with public Registry: CHF 200 (USD 220).	Accounts to be filed without delay after being approved by the general meeting (estimated not more than 30 days later).

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Part 2 – for Countries where Part 1 Column a is 'No'

	m. Accounts preparation	n. Audit	o. Public Access	p. Tax Return	q. Accounting Practice	r. Details shareholders/subsidiaries
Country (and sources)	**m. Are unlisted companies obliged to prepare accounts? For what purpose?**	**n. Must they be audited?**	**o. Can they be accessed by shareholders, creditors or the public?**	**p. Must they be filed with a tax return?**	**q. What accounting practice must be used (Local GAAP, IFRS, etc.)?**	**r. Must the company file details of (i) shareholders or (ii) subsidiaries?**
British Virgin Islands Business Companies Act 2004 (BCA) on www.bvifsc.vg/Portals/2/BVI_Business_Companies_Act_2004.pdf [Not verified by PwC]	No. No obligation to keep full accounts. But a company shall keep records that will […], at any time, enable the financial position of the company to be determined with reasonable accuracy (art.98).	Not applicable.	No for public/ creditor/ shareholder access. Only directors can inspect records (art.100).	No.	Not seen.	(i) Details of shareholders kept aside in the Register of members of the company (art.41,96). (ii) No.
Mauritius			Access to documents of Private Category 1 or 2 GBL companies is limited to shareholders, officers.			
Switzerland Code of Obligations (CO)	Yes, companies to prepare accounts for CO's purposes (keep these	Yes, only small companies have the right	Unlisted joint stock companies accounts cannot be requested by the public but	Yes.	Local GAAP and in some cases also further	(i) No. (ii) Yes for material direct subsidiaries: they must be disclosed in the notes to

	m. Accounts preparation	n. Audit	o. Public Access	p. Tax Return	q. Accounting Practice	r. Details shareholders/subsidiaries
http://www.admin.ch/ch/f/rs/220/index.html	accounts for 10 years, art.962) and for tax purposes (see tax declaration).	not to audit their accounts (threshold below: 10 employees, CHF 10M (USD 11M) total assets, CHF 20M (USD 22M) turnover).	may be inspected by shareholders and creditors if they demonstrate an interest worthy of protection (art.697h).		accounting standards (e.g. consolidated financial statements).	the accounts.

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<u>Summary of results (Other Countries) [PwC did not verify this summary table]</u>

	Public availability* of accounts required for <u>local public company</u>?	**Public availability* of accounts required for <u>local private company</u>?**	**Public availability* of accounts required for <u>external company</u>?**	**Cash flow statement requirement?**	**Other requirements to produce accounts?**	**Audit required?**	**Accounting standards required**
British Virgin Islands	NO	NO	NO	NO	NO	NO	
France	YES	YES	YES	NO		YES	Local GAAP and IFRS for consolidated accounts
Mauritius	YES, but NOT for Global Business Licence companies	YES, but NOT for Global Business Licence companies	YES	YES			IFRS [local for small private companies]
Netherlands	YES, unless EU parent guarantees all company's liabilities and publishes consolidated accounts	YES, unless EU parent guarantees all company's liabilities and publishes consolidated accounts	Not investigated	YES		YES	Local GAAP
Spain	YES	YES	YES, unless filed in home registry	YES		YES	Spanish GAAP inspired by IFRS
Switzerland	NO	NO	NO	NO	YES, company law and tax	YES	Swiss GAAP

* Public availability of accounts means public availability of balance sheet and profit and loss statement.