

# **International Compliance Assurance Programme (ICAP)**

Information on Participating Tax Administrations

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# Overview

The purpose of this document is to provide up to date information regarding each of the tax administrations participating in the OECD Forum on Tax Administration (FTA) International Compliance Assurance Programme (ICAP).

This document also includes a list of the contact details for each tax administration, which can be used to determine the correct contact person in the jurisdiction in which an MNE Group may wish to apply to ICAP. This is usually the jurisdiction in which the MNE Group is headquartered but this is not always the case. If an MNE Group wishes to apply for ICAP and the jurisdiction in which they are headquartered does not currently participate in ICAP, the MNE Group may as an alternative reach out to the OECD ([icap@oecd.org](mailto:icap@oecd.org)) to express interest, or may contact another participating ICAP jurisdiction in which the MNE Group has significant business operations.

The OECD is actively working to increase the number of participating ICAP jurisdictions.

The information in this booklet will be updated on a regular basis.

## Summary of Contact Details

Jurisdiction	Name	Email
<b>Argentina</b>	Luis María Méndez	lmendez@afip.gob.ar
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# Argentina

## Contact details

<b>Name:</b>	Luis María Méndez	Hugo Julián Cardozo	Sergio Oscar Vieiro
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## Composition of ICAP team

Within the International Taxation Directorate, there is a Division in charge of participating along the entire Programme. The agents that take part of that team have experience in large-business audits and transfer-pricing issues. Alongside, we work altogether with the Exchange of Information Team since they are the Competent Authority, in addition to the Director.

## Consent to discuss local tax arrangements

Yes, the tax authority needs consent to discuss local tax arrangements directly with an MNE group parent. The Lead Tax Administration for an ICAP risk assessment will discuss the detailed requirements with MNEs at an early stage in the process.

## Available virtual meeting platforms

- ☒ Microsoft Teams
- ☒ Zoom
- ☒ Skype
- ☒ Cisco WebEx
- ☒ Other

The Argentinian Tax Authority has its own videoconference system to host meetings. Argentina has no limitations in participating as a guest in any videoconference system.

## Exchange of information and data room technology

Argentina uses Nextcloud, an ARCA developed room, to send information. In order to receive information from the MNE, a data room solution would need to be provided by the MNE.

## Covered periods

Argentina has no preference for the number of periods assessed in ICAP or the periods covered by a roll forward of the assessment.

## ICAP scope and limitations

There are no specific limitations on the transactions to be included in the ICAP program. However, the ICAP case cannot include transactions:

- that are already subject to an APA;
- that are subject to audit for the covered periods of ICAP;
- that are under the MAP process for the covered periods of ICAP;
- that are in litigation for the covered periods of ICAP.

## Outcome letters and caveats

The outcome letter and its conclusion do not limit the authority of ARCA to conduct examinations/audits in the future. The statements in the outcome letter constitute the conclusion of a risk assessment and do not provide legal certainty.

## Reporting requirements for roll forward periods

There is no specific and regular reporting required.

## Restrictions and/or preferences regarding issue resolution

For ICAP, the Tax Authority can only participate in discussions concerning matters of risk assessment and evaluation.

## Approach to ICAP risk assessment process

The Argentinian Tax Authority carries out a comprehensive risk assessment when looking at an ICAP case. The Argentinian Tax Authority considers all the information available and the information shared by the MNE in the ICAP process.

# Australia

## Contact details

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## Composition of ICAP team

The Australian ICAP team is led by senior officers in the Public Groups and International Support & Programs divisions of the ATO. These senior officers have lead roles for EOI, MAP, risk, assurance and client engagement strategy development and implementation.

ICAP risk assessments are undertaken by Client Engagement Officers with the assistance of transfer pricing and international tax experts from the Economist Practice and International Tax Structuring teams. These officers are in the Public Groups and International Support & Programs divisions of the ATO, that collectively manage the income tax and indirect tax affairs of Australian publicly listed companies and multinationals (MNE). The risk assessment team is chosen based on a number of factors, including location of the MNE office in Australia, engagement history with the MNE and capability required to undertake the review.

## Consent to discuss local tax arrangements

Yes, the tax authority needs consent to discuss local tax arrangements directly with an MNE group parent. The Lead Tax Administration for an ICAP risk assessment will discuss the detailed requirements with MNEs at an early stage in the process.

## Available virtual meeting platforms

- ☒ Microsoft Teams
- ☐ Zoom
- ☐ Skype
- ☒ Cisco WebEx
- ☐ Other

The ATO is unable to discuss taxpayer details over certain platforms, including Zoom, even in circumstances where the MNE is the host of the call.



## Exchange of information and data room technology

The ATO's ICAP risk assessment team is required to work with the ATO's IT Security area to enable access to all data rooms.

## Covered periods

Two covered tax years and two roll-forward periods.

## ICAP scope and limitations

None.

## Outcome letters and Caveats

ICAP covered transactions are rated by the ATO as either "Low Risk", "Medium Risk" or "High Risk". These ratings are provided in the outcomes letter which an MNE receives at the conclusion of the ICAP risk assessment.

Subject to certain caveats and limitations set forth in the outcome letter, the ATO does not anticipate dedicating further ATO resources to "Low Risk" covered transactions. The ATO outcome letter specifies the limitations that support the maintenance of risk ratings for the roll forward period.

## Reporting requirements for roll forward periods

In addition to the standard domestic reporting requirements in Australia for an MNE, the ATO sets additional reporting or notification requirements on a case-by-case basis. The limitations outlined in the outcome letter indicate the circumstances in which the MNE should re-engage the ATO, for example, where there is a material change in the Australian operations, etc.

The ATO regularly reviews information provided by multinational enterprises, for example income tax returns, Country-by-Country reports, reportable tax position disclosures, etc. The ATO may re-engage the MNE if further information comes to light that shines a different light on the risk rating in the covered or roll forward years.

## Restrictions and/or preferences regarding issue resolution

The ATO is exploring options for resolution pathways for issues identified in ICAP risk assessments. These options include:

- Adjustments to covered transactions in the covered years – the ATO and the MNE agree to the treatment of a covered transaction within the covered years. The Australian entity of the MNE would be required to give effect to this agreement within their domestic filing (e.g., income tax return);
- Prospective resolution – the ATO (and other tax administrations where relevant) and the MNE agree to the prospective treatment of a covered transaction.

## Approach to ICAP risk assessment process

The ATO has a strong focus on the largest corporate groups operating in Australia (publicly listed, multinational enterprises and private companies with total Australian income of greater than AUD250

million).

The ATO focuses on whole-of-taxpayer profiling and risk assessment using our justified trust methodology. This helps us understand the taxpayer's business model and any tax planning motivation and opportunities they may have. The profile and the risks involved tell us what we need to do to gain confidence each taxpayer is paying the right amount of tax.

We take a structured approach to gain this confidence by considering:

- the taxpayer's tax risk management and governance framework;
- whether the taxpayer is involved in any arrangements we've indicated we're concerned about or consider high risk;
- understanding the tax impacts of current business activities, particularly any significant and new transactions the taxpayer has entered into;
- if the taxpayer's accounting and tax results vary, understanding why this is the case.

Our effective tax borne (ETB) methodology provides an approach to analyse the income tax and economic performance of corporate groups. It identifies an economic group's worldwide profit from Australian-linked business activities and the Australian and offshore tax paid on that profit. Analysing and understanding a taxpayer's ETB provides evidence of the absence of risk and assists in identifying risk.

We use our existing knowledge of a MNE's Australian operations to tailor our engagement with the MNE in an ICAP risk assessment. We work with the Lead Tax Administration and the MNE in relation to what transactions are to be covered, what additional information we require from the MNE to undertake the risk assessment (where required) and the most efficient and effective way the MNE can meet our information needs.

## Further information

- Tax and Corporate Australia: <https://www.ato.gov.au/General/Tax-and-Corporate-Australia/>
- ATO engagement approach for the largest Top 100 corporates in Australia: <https://www.ato.gov.au/Business/Large-business/Top-100-risk-categorisation-approach/>
- Top 1000 tax performance program (Top 1000 largest public and multinational businesses in Australia): <https://www.ato.gov.au/Business/Large-business/Top-1,000-Tax-Performance-Program>

# Austria

## Contact details

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## Composition of ICAP team

The ICAP team is composed of personnel from the Tax Authority for Large Traders / Sector ICAP Team.

## Consent to discuss local tax arrangements

Yes, the tax authority needs consent to discuss local tax arrangements directly with an MNE group parent. The Lead Tax Administration for an ICAP risk assessment will discuss the detailed requirements with MNEs at an early stage in the process.

## Available virtual meeting platforms

- ☒ Microsoft Teams
- ☒ Zoom
- ☒ Skype
- ☒ Cisco WebEx
- ☐ Other

## Exchange of information and data room technology

No information provided.

## Covered periods

Austria follows the general approach in the ICAP handbook and prefers the option to include two covered tax years and two roll forward periods. However, we are open to discussions for longer roll forward periods as our Federal Fiscal Code, as well as the ICAP Handbook provide for an option to do so.

## ICAP scope and limitations

Austria does not have official reservations. However, the Austrian tax administration thinks that an MNE participating in ICAP should have a Master File and a Local File (for Austria) in place and the footprint in

Austria should be significant or at least have a special role in the group (e.g. license-holder, cash pooling/financing company etc.). Furthermore, an ICAP participant should be able to provide assurance on handling international/cross-border tax risks. It is therefore advisable to have a documented tax strategy/transfer pricing policy/tax control framework regarding the transactions in scope. In general, Austria does prefer a holistic risk assessment approach, meaning that we want to include an MNE's footprint in Austria covering all local constituent entities and, as best as possible, all cross-border transactions.

### **Outcome letters and caveats**

The outcome letter is designed to give comfort not certainty. Austria also has a unilateral co-operative compliance programme (begleitende Kontrolle) where the Austrian tax authority grants tax certainty if this is the desired status. Each outcome letter is the result of an internal risk assessment, performed by the Tax Authority for Large Traders, disclosed to the taxpayer as part of ICAP. It does not constitute an Advance Pricing Agreement or Advance Tax Ruling. Furthermore, this letter does not limit our authority to conduct examinations/audits in the future and also doesn't prevent the opportunity for a voluntary disclosure by the MNE in subsequent audits.

### **Reporting requirements for roll forward periods**

Any specific reporting obligations will be subject to each individual ICAP and will be stated in the respective outcome letter if needed.

### **Restrictions and/or preferences regarding issue resolution**

None.

### **Approach to ICAP risk assessment process**

The Austrian tax administration is of the opinion that an MNE participating in ICAP should at least have a Master File and a Local File (for Austria) in place. Furthermore, an ICAP participant should be able to handle international tax risks themselves. It is therefore advisable to have a documented tax strategy/transfer pricing policy/tax control framework.

# Belgium

## Contact details

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## Composition of ICAP team

Transfer pricing ICAP team and support from delegated Competent Authority for ICAP.

## Consent to discuss local tax arrangements

No, the tax authority does not need consent to discuss local tax arrangements directly with an MNE group parent.

## Available virtual meeting platforms

- ☒ Microsoft Teams
- ☐ Zoom
- ☐ Skype
- ☐ Cisco WebEx
- ☐ Other

## Exchange of information and data room technology

No information provided.

## Covered periods

Two covered tax years and two roll-forward periods. The 2 roll-forward periods are related to the fiscal years of the Belgian entity or entities of the MNE.

## ICAP scope and limitations

No limitations as long as the issues are strictly those from the OECD TP Guidelines.

## **Outcome letters and caveats**

The purpose of the outcome letter is to provide comfort. A rating of the level of the risk is provided by type of transaction. Three risk scorings are possible: low, medium and high. The outcome letter specifies the limitations that support the maintenance of risk ratings for the roll forward period.

## **Reporting requirements for roll forward periods**

None.

There is no specific and regular reporting required. However, the MNE has to notify the Belgian TA of any expected or actual material changes that may impact the covered risks. Therefore, reporting requirements could be linked to the limitations mentioned in the outcome letter and, if needed, determined on a case-by-case basis.

## **Restrictions and/or preferences regarding issue resolution**

For the ICAP project, the Belgian tax administration can only participate in discussions concerning matters of risk assessment and evaluation.

## **Approach to ICAP risk assessment process**

No information provided.

# Canada

## Contact details

<b>Name:</b>	Carla Tomassetti
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## Composition of ICAP team

The Canada Revenue Agency's (CRA) ICAP team is made up of transfer pricing specialists, competent authority analysts, economists, and international auditors, as required.

## Consent to discuss local tax arrangements

Yes, the tax authority needs consent to discuss local tax arrangements directly with an MNE group parent. The Lead Tax Administration for an ICAP risk assessment will discuss the detailed requirements with MNEs at an early stage in the process.

## Available virtual meeting platforms

- ☒ Microsoft Teams
- ☐ Zoom
- ☐ Skype
- ☒ Cisco WebEx
- ☐ Other

The CRA is currently reviewing all videoconferencing and data platforms, with a view to expand its list of approved platforms. At the current time, the CRA has authorized the use of MS Teams and WebEx but the use of these platforms to discuss taxpayer-specific information is constrained. We anticipate broader authorization to use MS Teams in this regard in the coming months.

## Exchange of information and data room technology

The CRA has security protocols that need to be adhered to before a data room can be accessed.

## Covered periods

Two covered tax years and two roll-forward periods.

## ICAP scope and limitations

The CRA is currently unlikely to include cash pooling or financial transactions, such as hybrid mismatches.

## Outcome letters and caveats

The CRA offers the MNE tax comfort on any of covered risk(s) that present a low risk of non-compliance. For any covered risk(s) that present a low risk of non-compliance, the CRA does not anticipate any further review of the transaction(s) for the covered period, or for the next two succeeding reporting fiscal years, provided no prospective or retrospective material change arises, which may impact the covered risk(s) during this time.

## Reporting requirements for roll forward periods

For a covered risk to retain a determination in the roll forward period, the CRA requires the MNE to file an annual report to the Director of Competent Authority Services Division (CASD) of the CRA within 180 days after the close of the covered reporting fiscal years, or the issuance of the outcome letter, whichever date is later. The annual report must be signed by an authorized individual of the MNE and must include the following information in relation to the two roll forward reporting fiscal years. The information required is a scaled back version of what is contained within the CRA's APA annual reporting requirements.

1. a copy of the financial statements of the MNE, including audit or engagement reports and management and certification letters or notices to reader;
2. a reconciliation of any differences between amounts reported with respect to the Covered Risks on the CRA Form T106, equivalent forms and any accompanying schedules in relation to the amounts reported by the MNE and the Canadian constituent entity(ies) in their financial statements;
3. a statement confirming the continued validity and relevance of the ICAP risk assessment documentation package and additional information provided by the MNE to the CRA, or, if a document or information is no longer valid or relevant, a statement explaining the reasons therefor;
4. any other items appropriate to the particular circumstances, including but not limited to a change of structure, methodology, business operations, or accounting of the MNE and the Canadian constituent entity(ies); and
5. any other information as requested by the Director of CASD.

## Restrictions and/or preferences regarding issue resolution

None.

## Approach to ICAP risk assessment process

The CRA adopts a comprehensive approach to risk assessment when looking at an ICAP MNE group. The CRA risk assessment process will begin by considering the information currently held by the CRA. We use our existing knowledge of the MNE's Canadian operations to tailor our engagement with the MNE in an ICAP risk assessment. We work with the Lead Tax Administration and the MNE in relation to what transactions are to be covered, what additional information we require from the MNE to undertake the risk assessment (where required) and the most efficient and effective way the MNE can meet our information needs. Overall, the CRA reviews all international cross border transactions where Canada is a counterparty.



# Chile

## Contact details

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## Composition of ICAP team

The ICAP team of the Tax Administration (Servicio de Impuestos Internos - SII) is a multidisciplinary team composed of tax experts and data analysts from the Department of International Compliance and Risk Assessment. They are responsible for centrally managing the nationwide analysis of risk, designing, proposing, and implementing strategies to address tax compliance for MNEs. Additionally, the ICAP team includes specialized auditors in international taxation and MNEs who can communicate with Regional Offices and the Large Taxpayers Division in case audit to the MNE is required.

## Consent to discuss local tax arrangements

Yes, the tax authority needs consent to discuss local tax arrangements directly with an MNE group parent. The Lead Tax Administration for an ICAP risk assessment will discuss the detailed requirements with MNEs at an early stage in the process.

## Available virtual meeting platforms

- ☒ Microsoft Teams
- ☒ Zoom
- ☐ Skype
- ☒ Cisco WebEx
- ☐ Other

## Exchange of information and data room technology

Chile provides an electronic system for the MNE to submit information. For exchanges with other tax administrations, the CTS System is utilized for CbC and CRS purposes. In the case of exchanges on request or spontaneous exchanges, communication occur through email with encrypted files if needed.

## Covered periods

The specific period to be included in an ICAP risk assessment would need to be discussed during the assessment. Notwithstanding, we anticipate that we could agree to the Handbook's proposal to cover two tax years and two roll forward periods.

## ICAP scope and limitations

The following transactions cannot be covered in an ICAP case (this list is not exhaustive):

- that are already subject to an Advance Pricing Arrangement (APA).
- that are in litigation for the covered periods of ICAP.

We also anticipate that the following transactions would need to be assessed to evaluate whether they can be covered in an ICAP case (this list is not exhaustive):

- that are subject to audit for the covered periods of ICAP.
- that are under a Mutual Agreement Procedure (MAP) process for the covered periods of ICAP.

## Outcome letters and caveats

The outcome letter and its conclusion does not limit the SII to conduct examinations/audits in the future. Operations deemed low risk reduce the likelihood of the tax authority deploying additional resources for investigation, in accordance with the proportionality principle for the actions of the Tax Administration.

The statements in the final letter constitute the conclusion of a risk assessment and do not provide legal certainty.

The risk assessment is contingent upon the Group providing information that is complete, accurate, and fair in all aspects relevant to the analysis.

## Reporting requirements for roll forward periods

The SII periodically reviews information provided by multinational companies, such as income tax returns, country-by-country reports, disclosures of reportable tax positions, etc. If necessary, the SII authority will request additional information as part of the issue resolution phase. These inquiries aim to clarify any unclear areas. The SII may re-engage with the multinational company if additional information comes to light that sheds a different position on the risk assessment for the covered or transferable years.

## Restrictions and/or preferences regarding issue resolution

For ICAP, the Tax Authority can only participate in discussions concerning matters of risk assessment and evaluation.

## Approach to ICAP risk assessment process

The Department of International Compliance and Risk Assessment of the SII evaluates covered transactions in the ICAP process of multinational companies through the MNEs compliance strategy. This involves assessing risks associated with operations, group business statements, business characteristics, tax control framework evaluation, among others. The evaluation is conducted according to the comprehensive tax compliance management model, utilizing information currently held by the SII and information provided during the ICAP process.

# Colombia

## Contact details

<b>Name:</b>	Clara Ramirez
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## Composition of ICAP team

- SGAO - Coordinación de Programas de Control y Facilitación: Francy Carolina Tellez Sierra <ftellezs1@dian.gov.co>
- SGAO - Coordinación de Administración y Perfilamiento de Riesgos: Johanna Cristina Merchan Briceño <jmerchanb@dian.gov.co>
- SGFI - Subdirección de Fiscalización Internacional: Marco Antonio Casas Rodriguez <mcasasr@dian.gov.co>
- OTI - Oficina de Tributación Internacional: Claudia Consuelo Vargas Cifuentes <cvargasc@dian.gov.co>
- DGJ - Dirección de Gestión Jurídica: Juan Pablo Robledo Londoño <jrobledol@dian.gov.co>

## Consent to discuss local tax arrangements

Yes, the tax authority needs consent to discuss local tax arrangements directly with an MNE group parent. The Lead Tax Administration for an ICAP risk assessment will discuss the detailed requirements with MNEs at an early stage in the process.

## Available virtual meeting platforms

- ☒ Microsoft Teams
- ☐ Zoom
- ☐ Skype
- ☐ Cisco WebEx
- ☐ Other

## Exchange of information and data room technology

The Colombian tax authority does not have approved data room solutions. A data room solution may be provided by the MNE, in which case any risks regarding data security shall be borne by the MNE.

## Covered periods

Currently we do not have any preferences. Please bear in mind that the assessed in ICAP does not guarantee a future audit of the local MNE in Colombia, if some requirements of the local audit programs are met. (Not based on ICAP information, but in other risk analysis and programs developed by the audit team)

## ICAP scope and limitations

The following transactions cannot be covered in an ICAP case (this list is not exhaustive):

- that are already subject to APA
- that are subject to audit for the covered periods of ICAP
- that are under the MAP process for the covered periods of ICAP
- that are in litigation for the covered periods of ICAP

## Outcome letters and caveats

- The ICAP risk assessment does not constitute an examination nor does any request for documentation during this process constitute the commencement of an audit process. Accordingly, the letter does not limit our authority to conduct examinations in the future.
- The outcome letter shall have no impact on any issue or tax year except as expressly provided in the letter.
- Our statements in the outcome letter do not provide legal certainty with respect to the tax consequences of the covered risks.
- Our ICAP risk assessment is based on materials provided by the MNE, representations that the MNE has made during ICAP and the law in effect at the time the risk assessment was performed. Accordingly, inaccurate or incomplete disclosures by the MNE during ICAP, changes to the covered risks, or applicable tax law and regulations, could change our analysis of the covered risks for subsequent years.
- The Colombian Tax Authority shall have the sole discretion, regarding Colombian taxation, to determine the consequences of the ICAP risk assessment process. Our determinations with respect to such matters are not subject to administrative or judicial review.
- The statements in the outcome letter constitute the conclusion of a risk assessment and do not provide legal certainty.
- The conclusions in the outcome letter do not constrain the Colombian tax authority's interpretation of the law in general.
- The outcome letter does not constitute an Advance Pricing Agreement or Advance Tax Ruling of any kind.
- The outcome letter is merely informative, and does not constitute an administrative act that may be subject to appeal.

## Reporting requirements for roll forward periods

The tax authority regularly reviews information provided by multinational enterprises, for example income tax returns, Country by Country reports, reportable tax position disclosures. The tax authority may re-engage the MNE if further information comes to light that shines a different light on the risk rating in the covered or roll forward years.

There is no specific and regular reporting required. However, the MNE has to notify the tax authority of any expected or actual material changes that may impact the covered risks. Therefore, reporting requirements could be linked to the limitations mentioned in the outcome letter and, if needed, determined on a case-by-case basis.

### Restrictions and/or preferences regarding issue resolution

For the ICAP project, the Tax Authority can only participate in discussions concerning matters of risk assessment and evaluation.

The Republic of Colombia can only share information with jurisdictions that have in force the Convention on Mutual Administrative Assistance in tax Matters and the Protocol. However, in cases where countries have not signed the Protocol but participate as signing countries of the Convention On Mutual Administrative Assistance in tax Matters, Colombia could share the information always there is an official exchange of notes.

### Approach to ICAP risk assessment process

There is a Risk Management policy framework, based on ISO 31000 and the CIAT risk manual. The risk department is currently handling the following risk procedures:

1. Management risks: Those related to processes or sub-processes, where there is a risk matrix per area.
2. Tax profile system: Called the Unique Score Model - (in Spanish MOPU), which makes an analysis of variables, at the tax level, through which a risk rating is generated for taxpayers before their responsibilities and obligations for tax purposes.
3. Selectivity system called Lucia: Which is defined as the set of rules and selection criteria for customs operations subject to control and verification by the Tax Office.

It is important to comment that the information from the DIAN Risk Management system has a special reserve established by Law 2010 of 2019 and it is only possible to lift it with an order from a competent judicial authority.

# Denmark

## Contact details

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<b>Mailbox:</b>	<a href="mailto:store-selskaber-sikker-post@sktst.dk">store-selskaber-sikker-post@sktst.dk</a>	

## Composition of ICAP team

The ICAP risk assessment efforts are led by Management of the Large Companies Department, the Transfer Pricing Steering Group and the Transfer Pricing Offices, which is a dedicated group of transfer pricing practitioners that focus exclusively on transfer pricing risk assessment for taxpayers under the jurisdiction of the Danish Tax Agency, Large Companies Department. The Transfer Pricing Steering Group and the Transfer Pricing Offices are assisted in their risk assessments by personnel from the Danish Competent Authority and other personnel from the Large Companies Department, as appropriate.

## Consent to discuss local tax arrangements

No, the tax authority does not need consent to discuss local tax arrangements directly with an MNE group parent.

## Available virtual meeting platforms

- ☒ Microsoft Teams
- ☐ Zoom
- ☐ Skype
- ☒ Cisco WebEx
- ☐ Other

## Exchange of information and data room technology

No information provided.

## Covered periods

Two covered tax years and two roll-forward periods.

## ICAP scope and limitations

No limitations.

## Outcome letters and caveats

The Danish Tax Agency categorizes the covered transactions reviewed in ICAP as either “Low Risk” (low risk of non-compliance with the arm’s length principle and that the issue should not require further compliance review) or “Not Low Risk” (cannot be regarded as low risk of non-compliance with the arm’s length principle). Subject to certain caveats and limitations set forth in our ICAP Outcome Letter, the Danish Tax Agency does not anticipate dedicating examination resources to “Low Risk” covered transactions. No such assurances are made with respect to “Not Low Risk” transactions. Whether “Not Low Risk” transactions require further compliance review will be assessed on a case-by-case basis.

## Reporting requirements for roll forward periods

The Danish Tax Agency doesn’t have an automatic roll forward period. If under special circumstances a roll forward period should be agreed, the Danish Tax Agency requires MNEs to submit an annual report, confirming that no material changes regarding the covered transactions have occurred to retain the low risk assessment. The Danish Tax Agency may on a case-by-case basis set specific reporting requirements.

## Restrictions and/or preferences regarding issue resolution

The possibility for Denmark to participate in an issue resolution stage will depend on the actual case and how the issue resolution stage is taken on.

We will be able to participate in a further analyze of the covered transaction to reach a common understanding of the risk classification within the ICAP framework.

In case a mispricing has taken place, and a reassessment of the tax return will be needed, the ICAP team will have to consult our Competent Authority to discuss if a suggested solution can be accepted, or an alternative process (audit, joint-audit, or APA) will be needed.

## Approach to ICAP risk assessment process

No information provided.

# Finland

## Contact details

<b>Name:</b>	Harri Siltanen
<b>Email:</b>	harri.siltanen@vero.fi
<b>Mailbox:</b>	Finland_ICAP@vero.fi

## Composition of ICAP team

The Finnish Tax Administration's (FTA) personnel is decided on case-by-case basis since there are no ICAP dedicated resources. The team may include experts on risk assessment, transfer pricing, international taxation, valuation, data analysis, etc.

## Consent to discuss local tax arrangements

Yes, the tax authority needs consent to discuss local tax arrangements directly with an MNE group parent. The Lead Tax Administration for an ICAP risk assessment will discuss the detailed requirements with MNEs at an early stage in the process.

## Available virtual meeting platforms

- ☒ Microsoft Teams
- ☐ Zoom
- ☐ Skype
- ☒ Cisco WebEx
- ☐ Other

## Exchange of information and data room technology

Data room solutions are reviewed on a case-by-case basis but so far FTA has used OneDrive.

## Covered periods

Two covered tax years and no fixed roll-forward periods.



## ICAP scope and limitations

Transactions related to business restructurings and intangible property may sometimes prove to be too complicated for an ICAP risk assessment.

## Outcome letters and caveats

The assurance given by FTA is based on our national law, Tax Assessment Act 26 § according to which the guidance given to the MNE is binding towards FTA when the requirements for protection of legitimate expectations in the statute are fulfilled. The Tax Assessment Act does not limit the period that the guidance is applicable as long as no material changes have occurred. Therefore, there is no fixed roll forward period for the assurance.

## Reporting requirements for roll forward periods

There is not a legal obligation to provide regular updates for the roll forward period but FTA is able to request the updates (based on Tax Assessment Act 11 §). Naturally FTA is also more than happy to accept voluntary updates and the transfer pricing unit within the FTA is available for further discussion if there are material changes in relation to the covered transactions or applicable tax law.

## Restrictions and/or preferences regarding issue resolution

None.

## Approach to ICAP risk assessment process

No information provided.

# France

## Contact details

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<b>Email:</b>	guilhem.ressouche@dgfip.finances.gouv.fr	imtiaz.mohammed@dgfip.finances.gouv.fr
<b>Mailbox:</b>	Bureau.sjcf4b@dgfip.finances.gouv.fr	

## Composition of ICAP team

The ICAP team is composed of TP specialists coming both from the International disputes prevention and resolution Department (headquarters of the French Tax Administration) and from the International audit team of Large Business Audit Directorate of the French Tax Administration.

Outcome letters are issued by the International Disputes Prevention and Resolution Department.

## Consent to discuss local tax arrangements

No, the tax authority does not need consent to discuss local tax arrangements directly with an MNE group parent.

## Available virtual meeting platforms

- ☐ Microsoft Teams
- ☐ Zoom
- ☐ Skype
- ☐ Cisco WebEx
- ☒ Other

No limitations if the MNE provides the videoconferencing platform. FTA can only set up conferences using SIP/H.323 protocol, GoToMeeting, or audio-conference.

## Exchange of information and data room technology

Data room: so far, Intralinks and Datasite have been (successfully) tested. OneDrive is not working due to IT restrictions.

The limitation on data is 5 mb per email. Also, the FTA is not able to receive encrypted documents other than .pdf (antivirus requirement).

The FTA runs a secure exchange platform, that enables us to send heavy documents (up to 1Gb each), with or without encryption (either via the document itself or via the platform, or both). We can also allow our correspondents to send us documents through the platform, via an ESCALE access token.

### **Covered periods**

Two covered tax years and two roll-forward periods.

### **ICAP scope and limitations**

None.

### **Outcome letters and caveats**

Transactions will be categorized as “low-risk” or “not low-risk”. The outcome letter will state, with caveats, that the FTA does not anticipate auditing the transfer pricing and permanent establishment issues which are designated as “low risk”, for the covered period, and also, tentatively, for the “roll-forward years”.

### **Reporting requirements for roll forward periods**

For the 2 roll-forward periods, an annual update regarding the ICAP covered transactions, which should also outline any change in the transfer pricing policy, has to be submitted.

The annual update can be submitted either directly to the French Competent Authority, International disputes prevention and resolution Department, or through the Lead Tax Administration.

### **Restrictions and/or preferences regarding issue resolution**

France accepts to enter discussions regarding issue resolution.

Note that for practical reasons, an upward adjustment of the taxable base of a French entity would require the said entity to file an amended tax return, while for a downward adjustment of such entity, MAP framework formalities would need to take place, pro forma (summary request from the French entity that would result in a unilateral adjustment from the French CA).

### **Approach to ICAP risk assessment process**

No information provided.

# Germany

## Contact details

<b>Name:</b>	Ministry of Finance – Division IV B 3	Stefan Greil	ICAP Mailbox at Federal Central Tax Office	Karsten Fluechter
<b>Email:</b>	IVB3@bmf.bund.de	stefan.greil@bmf.bund.de	ICAP@bzst.bund.de	karsten.fluechter@bzst.bund.de
<b>Mailbox:</b>	<a href="mailto:ICAP@bzst.bund.de">ICAP@bzst.bund.de</a> ; <a href="mailto:IVB3@bmf.bund.de">IVB3@bmf.bund.de</a>			

Matters concerning individual cases should primarily be addressed to the Federal Central Tax Office (BZSt) contacts shown above. Before sending confidential taxpayer information, it is recommended to establish contact to discuss available means of protected communication.

More general matters should additionally be addressed to the Federal Ministry of Finance (BMF) contacts given above.

## Composition of ICAP team

The Federal Central Tax Office is in charge of coordinating ICAP on an operational level. The coordinators in this division have competent authority (CA) status for exchange of information in the context of these procedures.

Current practice is that for each ICAP case, a case-specific team will be constituted that usually consists of:

- a coordinator, with CA status
- an auditor from the Federal Central Tax Office (industry specialist)
- one or more auditor(s) from the Federal State(s) in which the German unit(s) of the MNE is/are located (local tax office / large business unit) (typically auditors with experience with the specific taxpayer)

Note: Implication of “auditors” does not mean that the risk assessment procedure is treated as an audit, but in practice, so far, personnel that usually performs tax audits is dealing with the risk assessments.

## Consent to discuss local tax arrangements

Since March 2024, a newly inserted Section 89b of the German Tax Code (in German: *Abgabenordnung*) sets a framework for the participation of the German tax administration in international risk assessment procedures such as ICAP. Among the rules introduced in Section 89b is a requirement for the parent company (the company applying for the international risk assessment procedure) to consent to the disclosure and exchange of personal and company-related data within the framework of the procedure, in accordance with the respective international and national procedural principles, for all affected domestic and foreign companies of the corporate group (Section 89b para. 3 sentence 3 no. 3 and sentence 4). Details should be discussed with the Federal Central Tax Office (see contact details above).

## Available virtual meeting platforms

- ☐ Microsoft Teams
- ☐ Zoom
- ☐ Skype
- ☒ Cisco WebEx
- ☐ Other

The Federal Central Tax Office can host protected WebEx or Jitsi meetings.

Participation in other virtual meetings (including on other platforms) is possible under certain conditions. Options may vary depending on the local tax office(s) involved in Germany. The options available in an individual case should be discussed with the Federal Central Tax Office (see contact details above).

## Exchange of information and data room technology

As to exchange of taxpayer-related information among participating jurisdictions (or potentially participating jurisdiction in the selection stage of a case), established channels for exchanging information should be used. At the same time, [ICAP@bzst.bund.de](mailto:ICAP@bzst.bund.de) should be notified that taxpayer-related information in an ICAP case has been transmitted via the established EoI channels.

With respect to data room technology, the current expectation is that a protected data room is provided by the taxpayer that applies for an ICAP procedure. There are several systems for which accessibility for the German ICAP team has been successfully tested in past cases, but accessibility may also depend on the settings chosen by the taxpayer.

## Covered periods

Under Section 89b of the Tax Code (in German: *Abgabenordnung*), which sets a framework for the participation of the German tax administration in international risk assessment procedures such as ICAP, the German tax administration can participate in international risk assessment procedures that concern the tax risks of already realized facts and circumstances.

In accordance with OECD guidance, the specific period or periods to be included in a particular MNE group's ICAP risk assessment (the covered period/s) will be agreed between the MNE group, the lead tax administration and other covered tax administrations and may therefore vary. It is anticipated that, in most cases, an ICAP risk assessment will focus on a single or two consecutive covered periods, which will be the most recent for which necessary documentation, including the MNE group's CbC report, is available.

Under current German practice, German ICAP outcome letters do not include any statements concerning a roll forward of the outcomes for the covered period(s).

## ICAP scope and limitations

Current practice is to follow the general OECD guidance concerning ICAP scope and limitations.

## Outcome letters and caveats

Under current practice, a German ICAP outcome letter categorizes the covered transactions as either "low risk" or "not low risk", for the covered period(s).

Section 194 para. 1a of the German Tax Code (in German: *Abgabenordnung*) provides that the result of an international risk assessment procedure (such as ICAP) shall be taken into account when determining the substantive scope of a tax audit.

The German outcome letter does however not limit the authority of the German tax administration to conduct audits.

## Reporting requirements for roll forward periods

Under current German practice, German ICAP outcome letters do not include any statements concerning a roll forward of the outcomes for the covered period(s). Consequently, there are no specific reporting requirements for roll forward periods (other than the general reporting requirements that also apply in the absence of an ICAP procedure).

## Restrictions and/or preferences regarding issue resolution

The Federal Central Tax Office's current approach is that the German tax administration can participate in an issue resolution stage *within* ICAP in the following way: Participating tax administrations can discuss whether, if the taxpayer amended its approach and consequently its tax returns for the covered period(s) in a specific way, all affected administrations could come to a "low risk" conclusion where without such amendment some would come to a "not low risk" conclusion. Where the discussions suggest that this could be feasible, the MNE could be approached to discuss whether it would be prepared to file such amended returns. If the MNE then does file such amended returns for the covered period(s), the relevant transactions would subsequently receive a "low risk" outcome.

The above approach to issue resolution within ICAP will only be pursued where it appears realistic that the issue could be resolved within a relatively short timeframe, without substantially exceeding the overall target timeframe for ICAP procedures.

If issue resolution *within* ICAP is not feasible, the German tax administration is open to international follow-up processes, in particular joint audits or bilateral APA procedures (potentially with roll back to the period(s) covered in ICAP).

In addition, the general rules on access to mutual agreement procedures (MAP) under the relevant bilateral tax treaties or other instruments apply.

## Approach to ICAP risk assessment process

Section 89b of the German Tax Code (*Abgabenordnung*) sets a framework for the participation of the German tax administration in international risk assessment procedures. As provided in paragraph 2 of section 89b, the German ICAP team will assess the tax risks by taking into account the scope and plausibility of the documents and information submitted by the taxpayer, the expected tax consequences, and the time and personnel expenditure that would be expected in case of an in-depth examination of the facts.

The ICAP team will review the ICAP documentation packages. Additional questions to the MNE, to an extent appropriate for a risk assessment, are not excluded. Occasional discussions with company representatives, in a setting coordinated by the lead tax administration, such as video conferences, in which e.g. any ambiguities regarding the submitted documents can be addressed, are also not excluded.

# Ireland

## Contact details

<b>Name:</b>	Anthony Crewe
<b>Email:</b>	acrewe00@revenue.ie

## Composition of ICAP team

The Irish ICAP programme is co-ordinated by Anthony Crewe. The team draws on the expertise of competent authorities and transfer pricing case workers as appropriate.

For each ICAP risk assessment, the Irish team will be made up of a competent authority and a risk assessment team. The competent authority will oversee the process, all exchanges of information, and support the risk assessment team. The risk assessment team will perform the risk assessment and draft the outcome letter. Where the MNE is in the LCD case base the case management team for that MNE will conduct the risk assessment. Where the MNE is in a Division outside of LCD the risk assessment team will be drawn from the LCD Sectoral Branch relevant to the sector in which the MNE operates.

The risk assessment team will be supported by experts from the Transfer Pricing Audit Branches as required and also by the Exchange of Information (EOI) Branch in International Tax Division (ITD)

## Consent to discuss local tax arrangements

Yes, the tax authority needs consent to discuss local tax arrangements directly with an MNE group parent. The Lead Tax Administration for an ICAP risk assessment will discuss the detailed requirements with MNEs at an early stage in the process.<sup>1</sup>

## Available virtual meeting platforms

- ☐ Microsoft Teams
- ☒ Zoom
- ☒ Skype
- ☒ Cisco WebEx
- ☒ Other

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<sup>1</sup> Ireland requires consent for the Revenue Commissioners to deal with a third party or representative of the Irish entity. This includes the parent of the MNE Group if in a different jurisdiction.

## Exchange of information and data room technology

The exchange of information within ICAP is overseen by the Irish delegated Competent Authority who is part of the ICAP team.

Ireland uses established channels for exchanging information. Emails may be directed to the CA in International Tax Division or directly to Anthony Crewe as the delegated CA for ICAP. Any files sent as attachments to emails will be password protected.

Ireland has security protocols that need to be adhered to before access to a data room can be granted. The Irish CA will typically ask for information relating to the data room from the MNE Group to allow the Revenue ICT&L Division to advise on whether the proposed data room can be used.

## Covered periods

Ireland's preferred option is to review two years of information within the ICAP risk assessment process, although will consider periods of one year where appropriate. Ireland aims to provide comfort for a further two years on a roll forward basis once the same transfer pricing policies apply.

## ICAP scope and limitations

Ireland adopts a holistic approach to risk assessment and considers the MNE Group as whole. Ireland will consider all transactions to be within scope of the risk assessment unless specifically out of scope for the reasons stated in the ICAP handbook, for example, if covered by an APA or subject to an open compliance intervention.

Ireland will consider any case where there is an Irish presence.

## Outcome letters and caveats

Ireland's outcome letter provides the result of the risk assessment performed and will indicate the risk rating of the transactions. The roll forward period is permitted, provided that an annual update regarding the ICAP covered transactions, specifying any change in the transfer pricing policy, is submitted to Revenue Commissioners. The rating will have no effect on the Irish Competent Authority's review of a covered transaction in the context of a Mutual Agreement Proceeding (MAP). In such cases, the ICAP team's risk assessment conclusions shall be without prejudice to the Irish negotiating position.

## Reporting requirements for roll forward periods

Ireland requires/expects MNE Groups to notify the relevant Revenue Division if there any material changes that may impact the comfort provided by the outcome letter. Ireland has no other reporting requirements.

## Restrictions and/or preferences regarding issue resolution

Ireland will consider engaging in issue resolution on a case-by-case basis for covered transactions that are determined to be "Not Low Risk" by Ireland and/or another covered tax administration. Relevant factors that may consider in determining whether issue resolution in ICAP is suitable in a particular case may include the materiality of the potential adjustment, the complexity of the transaction and the extent to which there is agreement on the underlying facts of the transaction.



If necessary, Ireland will ask for additional information as part of the issue resolution stage. These questions will seek to clarify any areas that are unclear. Ireland will only do this if it believes that a low-risk outcome is achievable.

Where a low-risk outcome is not possible:

- It may be possible to move to an APA. Ireland has established Guidelines on the criteria for its APA programme that can be found [here](#). Any information gathered in the ICAP programme will be leveraged in the APA process.
- Where a non-low risk outcome letter is issued, whether the transactions are considered for further enquiry activity will be the decision of the Irish case management team in conjunction with the ICAP risk assessment team.

### Approach to ICAP risk assessment process

Ireland is developing an approach to risk assessment based on a co-operative compliance model. Ireland adopts a holistic approach to risk assessment and will consider the whole business when risk assessing.

The ICAP risk assessment process will begin by considering the information currently held by the Revenue Commissioners in Ireland. If there is an Irish case management team, the ICAP team will discuss the customer with them.

Ireland will then review the ICAP documentation package and ask additional questions if necessary. The Irish experience to date has been that additional questions are almost always required.

Ireland is willing to undertake work which would ordinarily fall outside a normal risk assessment at the issue resolution stage. This is contingent on the MNE being willing to do so and a low-risk outcome is a realistic possibility.

# Italy

## Contact details

<b>Mailbox:</b>	dc.gci.icap@agenziaentrate.it
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## Composition of ICAP team

The Italian ICAP team is composed by Head and officials of the Italian cooperative compliance unit.

## Consent to discuss local tax arrangements

No, the tax authority does not need consent to discuss local tax arrangements directly with an MNE group parent.

## Available virtual meeting platforms

- ☒ Microsoft Teams
- ☐ Zoom
- ☒ Skype
- ☒ Cisco WebEx
- ☒ Other

Italy can use most videoconferencing technology, with the exception of Zoom.

## Exchange of information and data room technology

No information provided.

## Covered periods

One covered tax year and two roll forward periods.

## ICAP scope and limitations

None.

## Outcome letters and caveats

The Italian outcome letter summarizes the ICAP process (covered tax administrations, covered period, covered risks). It is drafted with a transaction-based approach.

The Italian Tax Authority gives comfort that no further review of the covered risks rated as “low” in the covered period and in the roll forward period is expected, unless a) TA finds new information or b) the MNE notifies the TA of the existence of changes having potential impact on the said review

CAVEAT:

The consideration shall be valid as long as:

- all material facts and circumstances relating to covered risk have been fully and truthfully disclosed by MNE for the covered periods and the roll-forward periods;
- there are no material changes to above mentioned facts and circumstances;
- taxpayer provides information that every adjustment required has been implemented;
- changes in law or jurisprudence do not impact covered risks.

Italian tax administration may review or potentially amend income tax assessments for the covered period or roll-forward periods, if it becomes clear that:

- no full and true disclosure was made;
- general anti-avoidance rules may apply;
- fraud or evasion have taken place.

### Reporting requirements for roll forward periods

None.

### Restrictions and/or preferences regarding issue resolution

None.

### Approach to ICAP risk assessment process

No information provided.

# Japan

## Contact details

<b>Mailbox:</b>	nta-oio@nta.go.jp
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## Composition of ICAP team

Large Enterprise Division, National Tax Agency, Japan

## Consent to discuss local tax arrangements

Yes, the tax authority needs consent to discuss local tax arrangements directly with an MNE group parent. The Lead Tax Administration for an ICAP risk assessment will discuss the detailed requirements with MNEs at an early stage in the process.

## Available virtual meeting platforms

- ☒ Microsoft Teams
- ☐ Zoom
- ☐ Skype
- ☒ Cisco WebEx
- ☐ Other

## Exchange of information and data room technology

This will be decided on a case-by-case basis. Consent from the IT security division is needed in advance.

## Covered periods

This will be decided on a case-by-case basis.

## ICAP scope and limitations

The NTA cannot consider the following transactions to be covered in an ICAP case (this list is not exhaustive):

- that are already subject to APA
- that are subject to audit for the covered periods of ICAP

- that are under the MAP process for the covered periods of ICAP
- that are in litigation for the covered periods of ICAP

### **Outcome letters and caveats**

The NTA provides in our outcome letter the conclusion of the risk assessment of the covered transactions but does not provide legal certainty.

The outcome letter will also describe the roll forward period if possible. In that case the outcome letter will contain critical assumptions, for instance that there are no material changes in the covered transactions.

### **Reporting requirements for roll forward periods**

This is considered on a case-by-case basis.

### **Restrictions and/or preferences regarding issue resolution**

Japan cannot make corresponding adjustments under the domestic law in the context of ICAP.

### **Approach to ICAP risk assessment process**

The NTA generally adopts a transactional-based approach in conducting risk assessment. Therefore, we request MNEs to submit segmented PL with specific related parties as the selection documentation package.

# Luxembourg

## Contact details

<b>Mailbox:</b>	ICAP@co.etat.lu;
	comite_de_direction@co.etat.lu

## Composition of ICAP team

The ICAP team is currently composed by members of the Economic Division from the Luxembourg Tax Administration "(LTA)".

## Consent to discuss local tax arrangements

Yes, the tax authority needs consent to discuss local tax arrangements directly with an MNE group parent. The Lead Tax Administration for an ICAP risk assessment will discuss the detailed requirements with MNEs at an early stage in the process.

## Available virtual meeting platforms

- ☐ Microsoft Teams
- ☐ Zoom
- ☒ Skype
- ☒ Cisco WebEx
- ☐ Other

## Exchange of information and data room technology

Data room solutions are reviewed on a case-by-case basis.

## Covered periods

Two covered tax years and two roll forward periods.

## ICAP scope and limitations

None.

## Outcome letters and caveats

The outcome letter informs about the internal conclusions of the risk assessment of the covered transactions for the covered periods, and does thus not provide legal certainty.

The LTA does not anticipate dedicating compliance resources to transactions for which it has concluded that these present “Low Risk” (whereas no assurance is provided for transactions that are determined to be “Not Low Risk”). The assurance with respect to “Low Risk” transactions in the outcome letter is subject to the following limitations and critical assumptions:

- The low risk assessment is expressly conditioned on information gathered during the assessment being complete, accurate and fair;
- The treatment of the ‘roll forward’ periods is dependent on the fact that there will be no material changes concerning business activities, functions performed, risk assumed and assets used;
- The outcome letter does not constitute an Advance Pricing Agreement or Advance Tax ruling;
- The outcome letter is merely informative, and does not constitute an administrative act that may be subject to appeal.

## Reporting requirements for roll forward periods

The taxpayer commits to report any event or material changes that impact or may impact the covered risk.

## Restrictions and/or preferences regarding issue resolution

Under review.

## Approach to ICAP risk assessment process

Under review.

# Netherlands

## Contact details

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## Composition of ICAP team

The NTCA ICAP team is composed of the SPOC (with C.A. status), the ICAP coordinator, two case managers (with C.A. status) and two transfer pricing experts. Per ICAP case the composition of the team will differ. The local client coordinator and account teams per MNE are also involved in the ICAP assessment.

## Consent to discuss local tax arrangements

No, the tax authority does not need consent to discuss local tax arrangements directly with an MNE group parent.

## Available virtual meeting platforms

- ☒ Microsoft Teams
- ☒ Zoom
- ☒ Skype
- ☒ Cisco WebEx
- ☒ Other

Netherlands has no limitations if the MNE is able to provide the videoconferencing platform.

## Exchange of information and data room technology

Several options work well, for the Netherlands but it is not possible for the NTCA team to download encrypted documents. It is also not possible to use plugins or create MS Windows or other type of accounts. The accounts need to be provided by the data room provider.

## Covered periods

Two covered tax years and two roll forward periods.



In a very limited number of cases the covered years need to be limited to years where the tax return has already been filed.

## ICAP scope and limitations

The NTCA participates in ICAP risk assessments if the footprint in the Netherlands is large enough (at least the entity in the Netherlands should meet our Large Business criteria) and if the revenues in the countries participating in the risk assessment combined represent a significant percentage of the worldwide revenue of the MNE.

## Outcome letters and caveats

The NTCA will not provide an explicit low risk rating in an outcome letter, but can give comfort that no compliance activities with regard to the covered risks are planned or expected for the covered year(s) and roll forward years. The outcome letter will contain critical assumptions, for instance that the TP policies of the MNE and the applicable legislation do not change.

## Reporting requirements for roll forward periods

The NTCA expects that the MNE will inform the local account team about relevant changes that may impact the outcomes of ICAP.

## Restrictions and/or preferences regarding issue resolution

There are several options to resolve issues:

- In some cases it can be possible to reach an agreement between the NTCA and an MNE on an issue that has come up for a year that has already been included in a tax return.
- It is only possible to provide certainty on future years via an (B/M)APA process. ICAP is not a fast-track APA, but information gathered in ICAP can be leveraged in an (B/M)APA procedure.
- Issue resolution is also possible after the ICAP process in the case that the NTCA is not able to reach a conclusion from the information provided in ICAP. In this case it will be to the responsibility of the local account team to decide if compliance actions will be executed. The information in ICAP will be leveraged into this process.

## Approach to ICAP risk assessment process

The NTCA perceives a high level, holistic, risk assessment based on the provided information (compliant with the ICAP handbook, made specific for the MNE). Important in the NTCA's ICAP approach are the assessment of the value chain, the MNE's TP policy, the implementation of this policy and the scope and quality of the MNE's control framework.

# Norway

## Contact details

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<b>Mailbox:</b>	ICAP@skatteetaten.no

## Composition of ICAP team

The Norwegian ICAP team consists of personnel from the Transfer Pricing Section within the Priority Risks Division, Large Enterprises, of the Norwegian Tax Administration (NTA). Team members with legal, audit, and economic backgrounds will be determined on a case-by-case basis, based on characteristic of the MNE.

## Consent to discuss local tax arrangements

Yes, the tax authority needs consent to discuss local tax arrangements directly with an MNE group parent. The Lead Tax Administration for an ICAP risk assessment will discuss the detailed requirements with MNEs at an early stage in the process.

## Available virtual meeting platforms

- ☒ Microsoft Teams
- ☒ Zoom
- ☒ Skype
- ☒ Cisco WebEx
- ☒ Other

The NTA may use most of the commonly known virtual communication/meeting platforms once these are provided by MNEs.

## Exchange of information and data room technology

Norway uses Sharefile for information sharing, other solution need to be considered on a case-by-case basis.

## Covered periods

Two covered tax years and two roll forward periods.

## ICAP scope and limitations

Due to special administrative and legal considerations the NTA is unlikely to participate in ICAP processes related to MNEs covered by the Norwegian Petroleum Tax Act.

## Outcome letters and caveats

The Outcome Letter from the NTA will not characterize the risk profile of the MNE in terms of high-, medium- or low risk. However, the NTA Outcome Letter will, based on the risk assessment performed, give assurance as to whether or not the NTA anticipates using additional compliance resources in relation to any risks identified in the ICAP process.

Caveats:

- The statements in the outcome letter constitute the conclusion of a risk assessment and do not provide legal certainty
- The conclusions in the outcome letter do not constrain the NTA's interpretation of the law in general
- The risk assessment is conditioned that the information provided by the Group (whether written or oral) is complete, accurate and fair in all respects relevant to the analysis
- The outcome letter does not constitute an Advance Pricing Agreement or Advance Tax Ruling of any kind. The Norwegian Competent Authority is not bound by the outcome letter when deciding to allocate resources and/or review a covered transaction in the context of a Mutual Agreement Proceeding

## Reporting requirements for roll forward periods

The NTA has not implemented a general reporting requirement in relation to its risk assessment for roll forwards periods. Reporting requirements will, where applicable, be agreed on a case-by-case basis.

## Restrictions and/or preferences regarding issue resolution

The NTA can enter into discussion on issue resolution. This will be determined on a case-by-case basis.

## Approach to ICAP risk assessment process

The NTA risks assess transactions covered by the ICAP process both holistically and at a transactional level.

Holistically, we focus on the overall TP policy of the MNE based on its value chain analysis and FAR analysis combined with its implementation and control framework. At transactional level we focus on specific transactions based on its relevance from a domestic perspective.

The risk assessment is done as a high-level risk assessment based on domestic information and information provided during the ICAP process. Even though the risk assessment is at a more high-level, the NTA might require supporting information to ensure a sufficient understanding of the facts and circumstances of the case.

# Poland

## Contact details

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<b>Mailbox:</b>	icap@mf.gov.pl

## Composition of ICAP team

No information provided.

## Consent to discuss local tax arrangements

Yes, the tax authority needs consent to discuss local tax arrangements directly with an MNE group parent. The Lead Tax Administration for an ICAP risk assessment will discuss the detailed requirements with MNEs at an early stage in the process.

## Available virtual meeting platforms

- ☒ Microsoft Teams
- ☐ Zoom
- ☐ Skype
- ☐ Cisco WebEx
- ☐ Other

Poland can also use Zoom and WebEx where they are not the host.

## Exchange of information and data room technology

Poland does not have approved data room solutions. Data room may be provided by the MNE, in this case all risks regarding data security shall be borne by MNE only. Particular solutions are reviewed on a case-by-case basis.

## Covered periods

Decided on a case-by-case basis.

## **ICAP scope and limitations**

We cannot consider cases that are in litigation for the covered periods to be covered in an ICAP.

## **Outcome letters and caveats**

Outcome letter is designed to give comfort not certainty. The outcome letter represents a view of Polish tax administration regarding certain transactions limited by the documents and information provided by the MNE. It does not constitute an Advance Pricing Agreement or Tax Ruling. Furthermore, this letter does not limit our authority to conduct examinations/audits in the future.

## **Reporting requirements for roll forward periods**

MNE shall provide annual updates (reports) regarding compliance with ICAP assessment and any actual or pending changes that materially affect the covered transactions. Specific reporting schedule shall be set in the outcome letter.

## **Restrictions and/or preferences regarding issue resolution**

For the ICAP project, the Polish tax administration can only participate in discussions concerning matters of risk assessment and evaluation.

## **Approach to ICAP risk assessment process**

The Polish tax administration understands ICAP as a cooperative and voluntary instrument providing a high-level risk assessment with a focus on transactional approach.

# Portugal

## Contact details

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## Composition of ICAP team

Under review.

## Consent to discuss local tax arrangements

Under review.

## Available virtual meeting platforms

- ☐ Microsoft Teams
- ☐ Zoom
- ☐ Skype
- ☐ Cisco WebEx
- ☐ Other

## Exchange of information and data room technology

Under review.

## Covered periods

Under review.

## ICAP scope and limitations

Under review.

## Outcome letters and caveats

Under review.

### **Reporting requirements for roll forward periods**

Under review.

### **Restrictions and/or preferences regarding issue resolution**

Under review.

### **Approach to ICAP risk assessment process**

Under review.

# Singapore

## Contact details

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## Composition of ICAP team

The Inland Revenue Authority of Singapore (IRAS)'s ICAP team is headed by a Competent Authority and ICAP SPOC who is assisted by the Group Tax Specialist in-charge of transfer pricing audit in the Corporate Tax Division and tax specialist(s)/manager(s) in the Corporate Tax Division.

## Consent to discuss local tax arrangements

Yes, the tax authority needs consent to discuss local tax arrangements directly with an MNE group parent. The Lead Tax Administration for an ICAP risk assessment will discuss the detailed requirements with MNEs at an early stage in the process.

## Available virtual meeting platforms

- ☐ Microsoft Teams
- ☒ Zoom
- ☐ Skype
- ☒ Cisco WebEx
- ☐ Other

IRAS can also use other platforms for virtual meetings hosted by foreign competent authorities and taxpayers.

## Exchange of information and data room technology

None.

## Covered periods

Two covered tax years and two roll forward periods.



## ICAP scope and limitations

No specific limitation provided that the issues are within the scope of ICAP pertaining to transfer pricing and permanent establishment. The proposed transaction(s) should not include those that are covered under APA, MAP, or are subject matters of on-going audit or investigation.

## Outcome letters and caveats

The outcome letter will specify whether IRAS has assessed the covered transaction(s) as low risk or non-low risk. For covered transaction(s) assessed to be low risk, the outcome letter will state that IRAS does not anticipate that it will dedicate compliance resources to a further review of the covered transaction(s) for the covered period. Appropriate caveat(s) will be attached to the outcome letter.

## Reporting requirements for roll forward periods

The outcome of the risk assessment for the covered transaction(s) is subject to the condition that there are no material changes to the critical assumption(s) specified in the outcome letter. The covered entity will be required to provide annual compliance confirmation/ report to demonstrate that the critical assumption(s) are met for the roll forward periods.

## Restrictions and/or preferences regarding issue resolution

IRAS will consider issue resolution on a case-by-case basis and this may include informing the MNE to consider using other appropriate tax certainty tools to resolve the issue(s).

## Approach to ICAP risk assessment process

IRAS encourages voluntary compliance and adopts a collaborative approach in assisting large corporations to manage their tax compliance risks including seeking tax certainty on significant business transactions. IRAS seeks the support of taxpayers to engage in open discussions and proactively provide the requisite documents for the ICAP risk assessment.

# Spain

## Contact details

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## Composition of ICAP team

The Spanish Tax Administration ICAP team is made up of transfer pricing specialists, competent authority analysts, economists and international auditors, officials specialized in cooperative compliance

## Consent to discuss local tax arrangements

No, the tax authority does not need consent to discuss local tax arrangements directly with an MNE group parent.

## Available virtual meeting platforms

- ☐ Microsoft Teams
- ☒ Zoom
- ☐ Skype
- ☐ Cisco WebEx
- ☐ Other

The Spanish Tax Administration as a host - organizer of video conferences can only use Zoom Professional (premium account), a system integrated in our professional equipment, which meets all the requirements of confidentiality. Our computer and security teams have determined that it constitutes the most secure system.

The Spanish tax administration can participate as a guest in any communication system, for this we must use portable equipment, since within our security protocol we can only use professional zoom.

For budgetary reasons and cost savings, communication by means of ordinary telephone conferences is ruled out

## Exchange of information and data room technology

No information provided.

### **Covered periods**

Two covered tax years and two roll forward periods.

### **ICAP scope and limitations**

Tax Rulings that refer to the condition of a Permanent Establishment and an APA in negotiation.

### **Outcome letters and caveats**

The Spanish Tax Administration provides fiscal comfort in any of the covered risks that present a low risk of non-compliance. No further review of the transaction(s) is envisaged for the period covered or for the following two tax years, provided that no material prospective or retrospective changes arise that might affect the risk(s) covered during that period.

Included are the usual guarantees in the typical outcome letter derived from the fact that it is not a typical tax administrative procedure

### **Reporting requirements for roll forward periods**

None.

### **Restrictions and/or preferences regarding issue resolution**

None.

### **Approach to ICAP risk assessment process**

No information provided.

# United Kingdom

## Contact details

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## Composition of ICAP team

The UK ICAP team is headed by Jon Nash, Katy Miles and Carolyn Comben. The team draws on the expertise of competent authorities and transfer pricing risk assessors as appropriate. Currently the UK has a team of 2 competent authorities and 3 risk assessors who support ICAP risk assessments as needed.

For each ICAP risk assessment the UK team will be made up of a competent authority and a risk assessor. The competent authority will oversee the process, all exchanges of information and support the risk assessor. The risk assessor will perform the risk assessment and draft the outcome letter.

Where the UK entity has an HMRC case team, they will be consulted prior to and during the risk assessment process.

## Consent to discuss local tax arrangements

Yes, the tax authority needs consent to discuss local tax arrangements directly with an MNE group parent. The Lead Tax Administration for an ICAP risk assessment will discuss the detailed requirements with MNEs at an early stage in the process.

## Available virtual meeting platforms

- ☒ Microsoft Teams
- ☐ Zoom
- ☒ Skype
- ☒ Cisco WebEx
- ☐ Other

Note: Skype and WebEx can only be used for telephone calls and not video conferencing.

## Exchange of information and data room technology

The UK has security protocols that need to be adhered to before access to a data room can be granted. The UK will typically ask for information relating to the data room from the MNE Group to allow the UK to

access the data room. The UK experience is that this process can take some time, so early engagement is welcomed.

The exchange of information within ICAP is overseen by a UK competent authority who is part of the ICAP team.

The UK uses established channels for exchanging information. The UK will use encrypted email, with a password going to a separate email address.

The UK has a specified email address for receiving information under treaty.

### **Covered periods**

The UK's preferred option is to review 2 years of information within the ICAP risk assessment process. The UK aims to provide comfort over a further two years on a roll forward basis.

The UK will consider looking at one year of information.

### **ICAP scope and limitations**

The UK adopts a holistic approach to risk assessment and considers the MNE Group as whole. The UK does not scope out transactions unless for the reasons stated in the ICAP handbook, for example if covered by an APA or subject to an open audit.

The UK will consider any case where there is a UK presence. The customer can be either within the HMRC's Large Business or Mid-size directorates.

The UK operates an established resource to risk approach and will apply this when deciding between multiple cases.

### **Outcome letters and caveats**

The UK's outcome letter provides comfort that the transactions are at a low risk of enquiry action provided there are no material changes. Any transactions that are deemed non-low risk will be identified.

### **Reporting requirements for roll forward periods**

The UK expects MNE Groups to notify HMRC if there any material changes that may impact the comfort provided by the outcome letter. The UK has no other reporting requirements.

### **Restrictions and/or preferences regarding issue resolution**

If necessary, the UK will ask for additional information as part of the issue resolution stage.

These questions will seek to clarify any areas that are unclear. The UK will only do this if it believes that a low-risk outcome is achievable.

The UK is willing to consider taking part in additional activities that go beyond a normal risk assessment as part of the issue resolution phase, for example functional interviews. This will be dependent on the MNE being willing to undertake the additional work. The UK considers this

would be the exception and only considered if there was a realistic chance of achieving a low-risk outcome.

Where a low-risk outcome is not possible:

- It may be possible to move to an APA. The UK has an established code of practice on the criteria for its APA programme. This can be found here ([LINK](#)). Any information gathered in the ICAP programme will be leveraged in the APA process.
- Where a non-low outcome letter is issued, whether the transactions are considered for further enquiry activity will be the decision of the UK case team and pursuant to HMRCs resource to risk approach.

### Approach to ICAP risk assessment process

The UK has a well-established approach to risk assessment based on a co-operative compliance model. The UK adopts a holistic approach to risk assessment and will consider the whole business when risk assessing.

The ICAP risk assessment process will begin by considering the information currently held by HMRC. If there is a UK case team, the ICAP team will discuss the customer with them.

The UK will then review the ICAP documentation package and ask additional questions if necessary. In the UK experience, additional questions are almost always required.

The UK is willing to undertake work which would ordinarily fall outside of a normal risk assessment in the issue resolution stage. This is contingent on the MNE being willing to do so and a low-risk outcome is a realistic option. The UK considers this will be the exception.

# United States

## Contact details

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## Composition of ICAP team

The ICAP risk assessment efforts are led by the Transfer Pricing Risk Assessment (TPRA) team, which is a dedicated group of transfer pricing practitioners that focus exclusively on transfer pricing risk assessment for taxpayers under the jurisdiction of the Large Business & International division. The TPRA team is assisted in its risk assessment efforts by other personnel from the U.S. competent authority and economists, advisors, and management personnel, as appropriate.

## Consent to discuss local tax arrangements

Yes, the tax authority needs consent to discuss local tax arrangements directly with an MNE group parent. The Lead Tax Administration for an ICAP risk assessment will discuss the detailed requirements with MNEs at an early stage in the process.<sup>2</sup>

## Available virtual meeting platforms

- ☒ Microsoft Teams
- ☐ Zoom
- ☐ Skype
- ☐ Cisco WebEx
- ☐ Other

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<sup>2</sup> U.S. MNE groups must enter into an ICAP Memorandum of Understanding (MOU) with the IRS before proceeding to the risk assessment stage. The ICAP MOU describes the ICAP program and its limitations, the information sharing that will occur between the tax administrations in ICAP, and the potential outcomes of the risk assessment process. For MNEs that are headquartered outside of the United States, the UPE and the U.S. parent entity must sign a "Consent to Disclose and Authorization of Third Party Contacts," which authorizes the IRS to discuss matters impacting the MNE group's U.S. taxpayers with other members of the MNE group (and vice versa). This form must be signed before the IRS has direct contact with the MNE group.

The IRS can participate in virtual meetings (but not host) on other platforms (e.g., Zoom, WebEx).

## **Exchange of information and data room technology**

Intralinks is the only data room service provider the IRS can access.

## **Covered periods**

Two covered tax years and two roll forward periods. The IRS will, however, entertain requests for different covered tax years and roll forward periods in certain cases.

## **ICAP scope and limitations**

Transactions that are subject to pending or completed bilateral APAs are out of scope.

## **Outcome letters and caveats**

The IRS outcome letter categorizes the covered transactions as either "low risk" or "not low risk". In general, the IRS does not anticipate dedicating compliance resources to the covered transactions that are deemed "low risk" for the covered period(s) or the two subsequent tax years (roll-forward periods) unless there is a change in facts or circumstances considered in the risk assessment. The IRS outcome letter does not limit the authority of the IRS to conduct examinations, and the categorization of the risks specified therein may be limited as appropriate based on the facts and circumstances.

## **Reporting requirements for roll forward periods**

The IRS requires MNEs to submit an "ICAP Annual Update" in order to evaluate whether the assurances provided in our outcome letter should be extended to the roll forward periods. The "ICAP Annual Update" requires the MNE to disclose certain key information about each of the covered transactions (and any new transactions) to the IRS within the later of 90 days of filing its U.S. federal income tax return for each roll-forward period or the date the IRS outcome letter is issued. For MNEs that are headquartered outside of the United States, the IRS requests that MNEs submit the completed Annual Update to the lead tax administration, which will then exchange this information with the IRS.

## **Restrictions and/or preferences regarding issue resolution**

The IRS will consider engaging in issue resolution on a case-by-case basis for covered transactions that are determined to be "not low risk" by the IRS and/or another covered tax administration. Relevant factors that the IRS may consider in determining whether issue resolution in ICAP is suitable in a particular case may include the materiality of the potential adjustment, the complexity of the transaction, and the extent to which there is agreement on the underlying facts of the transaction. Issue resolution may include agreements between the taxpayer, the IRS, and the relevant tax administration(s) to adjust the transfer price of a covered transaction for one or more covered tax years.

## **Approach to ICAP risk assessment process**

The IRS performs a holistic evaluation of the MNE's business operations, value chain, tax reporting framework, and transfer pricing policies. In general, this process begins with a comprehensive review of the MNE's tax compliance history including recent tax return filings, examination activity, and the taxpayer's engagement with the U.S. competent authority (i.e., mutual agreement procedure requests and advance pricing agreements). This initial review also includes an analysis of the taxpayer's financial



statements to evaluate the profitability throughout the MNE's global operations and may be used to identify specific segments of the business for further evaluation. The IRS also conducts a transaction-by-transaction review for each covered risk that it deems material. With respect to the ICAP documentation, the IRS tends to focus its review on transaction-level information including the intercompany transaction schedule (referenced in para. 107 of the handbook), the local transfer pricing documentation, and supplemental information as needed (e.g., intercompany agreements, segmented financial statements).