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Law Administration Practice Statement compendium – PS LA 2025/2

❗ Relying on this Compendium

This Compendium of comments provides responses to comments received on draft Law Administration Practice Statement PS LA 2025/D1 *Public country-by-country reporting exemptions*. It is not a publication that has been approved to allow you to rely on it for any purpose and is not intended to provide you with advice or guidance, nor does it set out the ATO's general administrative practice. Therefore, this Compendium does not provide protection from primary tax, penalties or interest for any taxpayer that purports to rely on any views expressed in it.

Summary of issues raised and responses

Issue number	Issue raised	ATO response
1	Conformity with the Explanatory Memorandum The draft Practice Statement does not follow or defer to the Explanatory Memorandum to the <i>Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024</i> (EM). The Practice Statement does not do what parliament mandated in the EM.	We note this submission. However, no change has been made to the Practice Statement. Secondary materials may be used to inform interpretation of the legislation, they cannot limit the operation of the statute. These materials have been taken into account in the interpretation of the legislation, where relevant.
2	Unfettered scope of the discretion The facts and circumstances that may be considered for exemption have not been limited in any way by parliament. To presume certain matters raised in the legislative consultation process have been excluded from consideration is a fetter on the broad discretion granted by the legislative exemption power (paragraphs 30, 35 and 63 of the draft Practice Statement).	We have partially incorporated this comment into the final Practice Statement. Paragraph 7 confirms that the Practice Statement does not direct or restrict the Commissioner's discretion, which must be exercised or not exercised based on the facts and circumstances of each case. While the discretion is broad, its exercise is intended to reflect parliament's purpose. The Practice Statement provides guidance on the discretionary power with reference to the law, the EM, and other relevant extrinsic materials. The structure and content of the final Practice Statement have been adjusted (see paragraphs 23 to 57).

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3	<p>Decision-making process</p> <p>The final Practice Statement should provide more details on the decision-making process for transparency and predictability (paragraph 37 of the draft Practice Statement), including clarification of how different factors are weighed in a holistic assessment by decision-makers. Introduction of a standard checklist, criteria or scoring, based on objective thresholds, should be considered.</p>	<p>We have partially incorporated this comment into the final Practice Statement. It is not possible to introduce a standard checklist or weighing process for decision-making, as each case must be considered on its merits.</p> <p>However, the final Practice Statement provides guidance on the considerations that would generally weigh towards, or against, granting an exemption in particular circumstances (see, for example, paragraphs 35 to 39 and 53).</p> <p>Further guidance has also been provided on the decision-making process (see paragraphs 110 to 113 of the final Practice Statement).</p>
4	<p>Scope of exceptional circumstances</p> <p>The interpretation of 'exceptional circumstances' is too narrow (paragraphs 29 and 34 to 37 of the draft Practice Statement). The Practice Statement should not require situations to be 'unusual' or 'exceptional' to qualify for exemption, as this may conflict with parliament's intent. The objective standard alone should suffice for exemption, without needing to prove the situation is unusual or exceptional. Where this objective standard is met, it should weigh heavily in favour of granting an exemption.</p> <p>It is also suggested that, when developing the final Practice Statement:</p> <ul style="list-style-type: none"> • 'exceptional circumstances' should be broadened to specifically include geopolitical risks (for example, trade sanctions, instability, threats to staff safety) where disclosure might increase risks to a company's operations or employees, and • the words '(and not already considered by parliament)' in paragraph 35 of the draft Practice Statement should be removed. 	<p>We have partially incorporated this comment into the final Practice Statement. Paragraph 7 of the Practice Statement reflects the Commissioner's broad discretion to grant exemptions.</p> <p>In the final Practice Statement, paragraphs 30 to 32 provide added clarity, as a result of feedback.</p> <p>Additional matters have been added (see, for example, paragraphs 84 to 88 of the final Practice Statement).</p> <p>The final Practice Statement does not limit the grounds on which an entity might seek an exemption. An applicant may ask the Commissioner to exercise their discretionary power to grant an exemption based on their circumstances.</p>
5	<p>Publicly available information</p> <p>Paragraph 40 of the draft Practice Statement highlights that publicly available information is 'unlikely to warrant an exemption'. It is recommended that a reasonable person</p>	<p>We note this submission. However, no change has been made to the Practice Statement.</p> <p>Paragraph 47 of the final Practice Statement provides the example of information that can be obtained by payment of an access fee. Such information</p>

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	standard is applied, that is, an ordinary person making a reasonable level of enquiries.	would be considered publicly available, reflecting an objectively reasonable standard.
6	<p>National security</p> <p>Comments received include that:</p> <ul style="list-style-type: none"> • Legal and security risks arise from requiring defence companies to publicly disclose sensitive data, potentially breaching national security laws and contracts. • Public disclosure of detailed data (for example, sales, assets or personnel) could expose sensitive defence operations, complicating long-term defence investment planning. Australia might be placed at a competitive disadvantage compared to other jurisdictions. • The exemption process is impractical and risky, as defence companies cannot determine whether aggregated disclosures are sufficiently protective. <p>Recommendations included:</p> <ul style="list-style-type: none"> • a class exemption for defence and national security related multinationals, based on an objective revenue standard • a specific exemption for disclosures that may harm Australia or its allies' national security, though such cases are expected to be rare due to the high-level nature of public country-by-country (CBC) reporting data • exemptions for affiliated groups that derive a significant share of revenue from goods and services with a defence or national security purpose and additional administrative review rights for such entities • revisiting the specified countries list, having regard to geographic and strategic defence considerations. 	<p>We have partially incorporated this comment into the final Practice Statement.</p> <p>The Practice Statement sets out principles that ATO officers should apply when considering exemption requests, and specifically provides guidance about exemptions where there is an impact on national security. It is envisaged that exemptions may be granted for issues such as those raised in this feedback. There is nothing in the Practice Statement restricting ATO officers from exercising the discretion in appropriate circumstances.</p> <p>The possibility of aggregation disguising information is addressed in paragraphs 42 to 46 of the final Practice Statement. Where an entity believes that aggregation is not sufficiently protective, they can explain the reasons and how disclosure of aggregated information would impact national security or have substantial ramifications.</p> <p>Paragraph 68 recognises that ATO officers should consider consulting with the Department of Defence regarding some requests.</p> <p>Class exemptions are beyond the scope of the Practice Statement.</p> <p>The list of specified jurisdictions is as outlined in the Ministerial determination, see Taxation Administration (Country by Country Reporting Jurisdictions) Determination 2024.</p>

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7	<p>Breach of law</p> <p>Paragraph 55 of the draft Practice Statement instructs ATO officers to consider whether foreign laws were designed to frustrate Australia's Public CBC regime. This introduces subjective judgment of foreign legislative intent, which is inappropriate. Decisions should be based on legal facts, not perceived motives of foreign governments. The ATO should escalate problematic foreign laws to Treasury, rather than denying exemptions that risk breaching foreign laws.</p> <p>The final Practice Statement should clearly state that exemptions may be granted where Australian Public CBC reporting obligations conflict with legal or regulatory requirements, to avoid legal risk for globally operating entities. This should include pre-existing legal or regulatory obligations, such as licences, authorities, or settlements with foreign revenue authorities.</p>	<p>We have incorporated these comments into the final Practice Statement.</p> <p>The guidance referenced is not included in the final Practice Statement.</p> <p>Additional guidance and an example have been included in the final Practice Statement, noting the guidance is not intended to be exhaustive (see paragraphs 69 to 73).</p>
8	<p>Breach of foreign laws enacted after Public CBC reporting</p> <p>To prevent manipulation, the final Practice Statement should state that no exemption will be granted for foreign laws enacted after Australia's Public CBC legislation.</p>	<p>We note this submission. However, no change has been made in the final Practice Statement.</p> <p>The exercise of the discretionary power cannot be restricted in this manner, as consideration of the particular facts and circumstances is required by the legislation.</p>
9	<p>Commercial sensitivity – substantial ramifications</p> <p>Paragraph 58 of the draft Practice Statement introduces a test requiring both commercial sensitivity and disclosure to result in severe consequences or exceptional harm. This sets a higher bar than expected. Commercial sensitivity typically implies that disclosure would disadvantage a business, even if not severely.</p> <p>To align with the legislative intent and allow for a more balanced, flexible approach, the phrase 'severe consequences' in paragraph 58 and Example 3 of the draft Practice Statement should be changed to 'substantial ramifications', consistent with the EM at paragraph 4.23.</p>	<p>We have incorporated this comment into the final Practice Statement.</p> <p>The references to 'severe consequences' (in paragraphs 74 to 75 and Examples 3 and 4 of the final Practice Statement) are now to 'substantial ramifications', to provide consistency in how this consideration is described.</p> <p>Further guidance is provided to ATO officers on what constitutes 'substantial ramifications' in these paragraphs and examples.</p>

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10	<p>Commercial sensitivity – examples</p> <p>The final Practice Statement should include more illustrative examples of commercially sensitive and exceptional situations, such as:</p> <ul style="list-style-type: none"> • ongoing government contract negotiations • major joint ventures or procurement bids • disclosure of supply chain arrangements that could be exploited by competitors • operations in unstable jurisdictions where disclosure could create risks to staff safety or security, that is, geopolitical risks • intellectual property risks, where disclosure could expose proprietary strategies or research and development investments like asset book values or related party revenues. <p>New categories and examples of exceptional and commercially sensitive situations could be subject to robust evidence requirements.</p>	<p>We note this submission. However, no change has been made in the final Practice Statement.</p> <p>The Practice Statement does not limit the grounds on which an entity may seek an exemption. It is not an exhaustive list of potentially relevant circumstances. An applicant may make the case for an exemption based on any of their circumstances.</p>
11	<p>Commercial sensitivity – scope and interpretation</p> <p>The interpretation of ‘commercially sensitive’ information provided in the draft Practice Statement should be reconsidered. The factors outlined in paragraph 59 of the draft Practice Statement imply commercially sensitive information is something that has been internally developed at a cost and its value would be diminished by disclosure. Commercially sensitive information identifiable through disclosure is more likely to be a business strategy or commercial advantage not known to competitors that provides the business with a commercial or economic advantage.</p> <p>In the final Practice Statement, paragraph 59 should be changed to ‘Factors indicating information <i>may be</i> commercially sensitive include ...’. The following dot points</p>	<p>We have partially incorporated this comment into the final Practice Statement.</p> <p>Paragraph 77 of the final Practice Statement provides non-exhaustive examples of the types of factors which weigh towards information being commercially sensitive. We have not included the additional information and factors raised and have not deleted the factors suggested to be removed as the examples are not exhaustive. An applicant may ask the Commissioner to exercise their discretionary power to grant an exemption based on their circumstances.</p> <p>Paragraph 77 replaces the reference to ‘<i>is commercially sensitive</i>’ with ‘<i>may be commercially sensitive</i>’, to reflect that the factors listed are non-exhaustive.</p>

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	<p>(which give undue weight to costly, internally developed information by being specifically included) should be deleted:</p> <ul style="list-style-type: none"> the value or cost for its development, and whether the information's value would be diminished or destroyed by disclosure. 	
12	<p>Commercial sensitivity – information in this category</p> <p>The disclosure of employee numbers in a jurisdiction or details explaining differences between effective and statutory tax rates (for example, government or local investment incentives) can be 'commercially sensitive information' that would warrant a partial exemption. This could provide insight into local capital investment not publicly known. The disclosure of this type of information could have 'substantial ramifications' in the way that Example 3 of the draft Practice Statement envisages.</p>	<p>We note this submission. However, no change has been made in the final Practice Statement.</p> <p>The guidance in the Practice Statement is not exhaustive. It is open to applicants to describe such scenarios in an exemption application based on their circumstances.</p>
13	<p>Commercial sensitivity – private groups</p> <p>There was a legislative decision not to exclude private groups or legislate a carve-out for commercial sensitivity. While some advocated for such exemptions, there is no concrete evidence of harm from disclosures. Reporting is seen as beneficial for investor insight and tax morale. Parliament prioritised transparency over broad commercial sensitivity concerns. Paragraphs 30, 55 and 58 in the draft Practice Statement strike the right balance, placing the onus on applicants to provide reasons and evidence.</p>	<p>We note this submission. No changes have been made in the final Practice Statement.</p>
14	<p>Commercial sensitivity – repeat requests</p> <p>The final Practice Statement should clarify that commercial sensitivity must be temporary to qualify as 'exceptional' for the exemption purposes. Where information deemed sufficiently commercially sensitive as to qualify for an exemption is present year after year, that information</p>	<p>We have partially incorporated this comment into the final Practice Statement. Exemptions are granted on a single reporting period basis. We are required to consider an exemption application on its merits, notwithstanding that the discretion may have been exercised for a prior reporting period.</p>

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	becomes part of the firm's routine operations and should be disclosed to uphold the law's transparency purpose.	
15	<p>Commercial sensitivity – contextualising disclosures</p> <p>Paragraph 67 of the draft Practice Statement advises entities to provide contextual information outside Public CBC reports (that is, websites or annual reports). This is unrealistic and legally problematic as readers may not seek additional sources and securities law basic anti-fraud principles discourages fragmented disclosures. Most private companies do not publish annual reports and website disclosures may require revealing sensitive financial data beyond the scope of the legislative intent. This also increases compliance costs. For example, explaining low or no profits through public statements could expose strategic vulnerabilities and increase commercial risk. In the final Practice Statement, paragraph 67 should be deleted. Reporting entities should provide necessary context within the report itself.</p> <p>Risks specific to privately owned groups should also be recognised as a relevant consideration (paragraph 63 of the draft Practice Statement).</p>	<p>We have partially incorporated this comment into the final Practice Statement. Paragraph 52 of the final Practice Statement explains that the free-text fields in the Public CBC report provide an opportunity to contextualise information. This paragraph acknowledges that reporting entities <i>may</i> also have the ability to contextualise information in other places.</p>
16	<p>Commercial sensitivity – retrospective publication</p> <p>Paragraph 64 of the draft Practice Statement implies that retrospective publication (up to a year later) reduces commercial sensitivity. Some submissions disagreed with this conclusion and suggested deleting this paragraph. This is because even delayed disclosures can reveal non-public, strategic financial data, especially for entities not subject to disclosure elsewhere. Further, commercially sensitive information may be sensitive for qualitative reasons, rather than quantitative ones, even if disclosed in arrears.</p> <p>Applicants should have the opportunity to demonstrate the objective impact of disclosure, without the harmful</p>	<p>We have partially incorporated this comment into the final Practice Statement. Paragraphs 48 and 49 of the final Practice Statement reflect that while the retrospective nature of Public CBC reports is a relevant consideration, the retrospective disclosure of information may still be harmful.</p> <p>Further, in the final Practice Statement, the examples also demonstrate that the timing of disclosures will be a consideration that may weigh in favour of granting an exemption (see Example 3).</p>

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	presumption that the data will be stale by the time it is disclosed.	
17	<p>Commercial sensitivity – future or hypothetical harm</p> <p>Paragraph 65 of the draft Practice Statement states that detriment being real or actual weighs towards an exemption, while hypothetical detriment weighs against it. However, how can actual harm be demonstrated when the information is still confidential? The final Practice Statement should clarify how pre-emptive exemption applications can meet this evidentiary standard. Given the novelty of the disclosure regime, hypothetical harm may be the only evidence available, yet it still reflects a real risk. Therefore, the phrase 'or hypothetical detriment' should be removed to avoid unfairly discounting legitimate concerns.</p>	<p>We have incorporated this comment into the final Practice Statement at paragraphs 35 to 39.</p> <p>Paragraph 39 reflects that some severe consequences less likely to eventuate may still be a relevant consideration, particularly where such consequences would be irreversible.</p> <p>Additional guidance has also been provided at paragraphs 75 to 76 of the final Practice Statement about evaluating the ramifications of the disclosure of commercially sensitive information.</p>
18	<p>Commercial sensitivity – aggregation of data</p> <p>The draft Practice Statement sees 'rest of world' aggregation as a compliance simplification tool, overlooking its role in safeguarding commercially sensitive information. The final Practice Statement should better balance transparency and commercial harm by supporting partial exemptions from reporting 'rest of world' aggregate values when:</p> <ul style="list-style-type: none"> the reporting entity predominantly operates in an overseas jurisdiction not listed in the legislative instrument disclosure would reveal commercially sensitive information disclosure would cause substantial ramifications for the entity (by an objective standard), and aggregation would not effectively disguise the information. <p>The final Practice Statement should also clarify that the evidence would weigh strongly in favour of granting a partial</p>	<p>We have partially incorporated this comment into the final Practice Statement. The factors and scenarios raised require consideration of the particular facts and circumstances of the applicant.</p> <p>Paragraphs 42 to 45 of the final Practice Statement acknowledge that aggregated reporting may not necessarily disguise information. Example 4 of the final Practice Statement also considers this issue.</p> <p>Paragraph 46 of the final Practice Statement outlines that an applicant must explain the circumstances supporting why the aggregated information should not be disclosed.</p>

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	exemption where publication would expose sensitive commercial information attributable to a single commercial relationship or agreement, for example, confidential fee arrangements where an entity has only one client in a jurisdiction.	
19	<p>Commercial sensitivity – unique private companies</p> <p>The draft Practice Statement does not sufficiently consider unique circumstances particularly for privately held, competitively bid project-based companies whose financial information is not otherwise publicly available. Disclosures could harm competitiveness and customer relationships.</p> <p>The final Practice Statement should explicitly consider the commercial sensitivity of third-party agreements, including risks arising from competition, information asymmetries and transactional impacts, when assessing potential consequences of disclosures for entities, applying an objective standard.</p> <p>Additionally, the final Practice Statement should include a detailed example of exceptional circumstances warranting partial or full exemption.</p>	<p>We note this submission. However, a Practice Statement cannot encompass every possible fact pattern.</p> <p>The final Practice Statement recognises that circumstances related to competitors, including commercial relationships or operations, may be a relevant consideration in making an exemption decision (see paragraphs 44 to 46, 79 to 81 and Example 4).</p>
20	<p>Commercial sensitivity – unique circumstances of the financial sector</p> <p>Disclosures may allow service providers to increase charges on individual companies. In the financial sector, even small cost increases can have significant commercial impacts, ultimately reducing investor returns. Aggregation of data does not effectively protect sensitive information. The draft Practice Statement examples do not fully capture the unique impact on financial services products where disclosed data is critical to product design and strategy, especially asset managers that face distinct risks compared to other privately held funds, which should be considered in an exemption decision.</p>	<p>We note this submission. However, a Practice Statement cannot encompass every possible fact pattern.</p> <p>The final Practice Statement includes additional content about aggregation of data, and commercial sensitivity considerations (see paragraphs 44 to 46, 79 to 81 and Example 4).</p>

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21	<p>Commercial sensitivity – Example 4</p> <p>Example 4 in the draft Practice Statement is too strict and may lead to narrow interpretations that dismiss valid commercial sensitivity claims. Key concerns include:</p> <ul style="list-style-type: none"> • over-reliance on dismissing hypothetical harm, which may be the only evidence available for private companies • misapplication of an ‘exceptional circumstances’ threshold, contrary to the legislation’s objective standard • lack of clarity around bargaining power impacts and why a partial exemption was not granted • need for the final Practice Statement to elaborate on the officer’s reasoning and clarify whether further engagement with the applicant is expected. <p>Example 4 should be revised to better reflect legislative intent and practical realities for affected entities, as it is not clear if the example is intended to illustrate where the officer does not reach an ultimate conclusion, and instead would engage further with the applicant and consider more specific harm-related information.</p>	<p>We have partially incorporated this comment into the final Practice Statement. In the final Practice Statement, Example 4 now expands on the engagement process and concludes with a partial exemption being granted.</p> <p>Content regarding consequences of disclosure and commercially sensitive information has also been clarified in the final Practice Statement to provide guidance about the decision-making process and the objective standard applied (see paragraphs 33 to 39 and 74 to 81 of the final Practice Statement).</p>
22	<p>Wholly domestic groups</p> <p>While submissions recognise parliament’s intention to include domestic groups in the Public CBC reporting regime, concerns have been raised about the disproportionate compliance burden this imposes. It is suggested that the Commissioner could exempt wholly domestic groups, given much of their data is already publicly available and compliance burdens outweigh the transparency benefits. Alternatively, reporting requirements for these entities could be simplified.</p> <p>The regime must balance the goal of increased transparency with the need to avoid unnecessary</p>	<p>We have partially incorporated this comment into the final Practice Statement. The final Practice Statement does not provide specific guidance regarding exempting wholly domestic groups. Parliament’s intention that domestic entities be subject to the reporting regime was stated in the EM.</p> <p>Paragraph 53 of the final Practice Statement acknowledges compliance costs may be a relevant consideration and guides readers about the weighting of it.</p>

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	compliance costs for domestic entities with no foreign operations and tax risks, for whom this would introduce a new and burdensome obligation.	
23	<p>Domestic property trusts</p> <p>An exemption from the Public CBC reporting regime is recommended for domestic property trusts with annual turnover above \$1 billion but no offshore operations due to irrelevant data, disproportionate compliance burden, risk of misleading disclosures and turnover thresholds triggered by unrealised gains.</p> <p>It is also further noted that the final Practice Statement should consider the scenario where a domestic property trust is brought within the Public CBC reporting regime due to unrealised movements in property values, which are accounting entries rather than indicators of actual economic activity or tax risk.</p>	<p>We note this submission. However, no change has been made in the final Practice Statement.</p> <p>In addition to the response at Issue 22 of this Compendium, note that a trust will only be within the Public CBC reporting regime if all trustees are constitutional corporations.</p>
24	<p>Fiscally transparent entities</p> <p>Fiscally transparent entities should be exempt from Public CBC reporting, as they do not pay income tax at the entity level, rather the income is attributed and taxed in the hands of the partner, member or shareholder who are often individuals. Disclosure risks revealing individuals' personal financial data, misrepresents actual tax paid at the shareholder level and undermines the Public CBC reporting regime's transparency objectives.</p>	<p>We note this submission. However, no change has been made in the final Practice Statement.</p> <p>The scope of the Public CBC reporting regime is a matter of government policy. If an entity meets the criteria set in the law, they will be within scope of the Public CBC reporting regime. Any entity within scope may apply for a discretionary exemption based on their circumstances.</p>
25	<p>Tax exempt entities</p> <p>An exemption should be made for reporting entities that are tax exempt under Division 50 of the <i>Income Tax Assessment Act 1997</i>, and wholly owned subsidiaries of these entities, on the basis that they are not required to lodge private CBC reports under the ATO guidance. Foreign constituent entities or foreign permanent establishments of</p>	<p>We note this submission. However, no change has been made in the final Practice Statement.</p> <p>The scope of the Public CBC reporting regime is a matter of policy, not a matter for the ATO.</p> <p>If an entity meets the criteria set in the law, they will be within scope of the Public CBC reporting regime. Any entity within scope may apply for a discretionary exemption based on their circumstances.</p> <p>Class exemptions are beyond the scope of the Practice Statement.</p>

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	a Division 50 entity that are also tax exempt should similarly be exempt from Public CBC reporting.	
26	<p>Merger and acquisition events</p> <p>The final Practice Statement should include guidance and additional criteria or examples on ‘merger and acquisition’ events and complexities, to avoid misalignment with private CBC rules and to reduce unnecessary compliance burdens. For example, when an Australian subsidiary is sold between groups subject to Public CBC reporting, double reporting may occur. Existing private CBC guidance typically assigns reporting to the new group only and exemptions apply when a subsidiary is no longer a reporting entity post-disposal. An exemption should also be made for an acquired entity where the entity changes its reporting period to align with that of its new parent following a takeover.</p> <p>Further, exemptions should be granted where a foreign CBC reporting parent disposes of its Australian business within 12 months after the reporting period, and its Australian-sourced income falls below \$10 million. The parent is no longer subject to Australian Public CBC reporting and may lack access to the subsidiary’s data. An exemption would prevent unreasonable reporting obligations.</p> <p>Other scenarios raised include the acquisition of a CBC reporting parent by another CBC reporting parent and demergers, which may result in unintended reporting outcomes. It was noted that a reporting entity may no longer be a CBC reporting parent in the reporting period and year of publication of a Public CBC report.</p>	<p>We have partially incorporated this comment into the final Practice Statement. The final Practice Statement acknowledges (see paragraphs 86 to 88) that there may be anomalous outcomes from changes in ownership which affect the information to be disclosed.</p> <p>Paragraph 53 of the final Practice Statement acknowledges compliance costs may be a relevant consideration and guides readers about the weighting of it. A Practice Statement cannot address all possible variations of circumstances. We will work with impacted parties who seek assistance from us about specific fact patterns interacting with the Public CBC reporting legislation.</p>

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27	<p>Compliance burdens and proportionality</p> <p>Various submissions raised issues relating to compliance burdens and proportionality:</p> <ul style="list-style-type: none"> • The final Practice Statement should explicitly address proportionality (paragraphs 34 to 37 of the draft Practice Statement), ensuring the rules are not overly burdensome, especially for entities with minimal Australian operations. Entities with Australian-sourced income only slightly above the \$10 million threshold could be exempted to avoid disproportionate global reporting obligations. This would align with the small presence exclusion, making the guidance more responsive to the global tax environment and reducing unnecessary compliance costs. The Practice Statement should also outline how proportionality will be assessed, balancing disclosure risks against transparency benefits. • Further guidance on the \$10 million threshold is recommended, particularly for foreign groups unfamiliar with Subdivision 328-C of the <i>Income Tax Assessment Act 1997</i>. • Various scenarios relating to compliance burdens are considered disproportionate to the transparency intent of the regime. <ul style="list-style-type: none"> – Differences between the Australian Public CBC reporting regime and other CBC regimes, particularly the European regime, were stated to create significant burdens. – Inconsistent legislative definitions for terms such as 'related party revenue' were raised. – Alignment with the European regime was recommended and the publication of additional guidance to explain any differences. 	<p>We note these submissions. Public CBC reporting obligations apply where the \$10 million Australian-sourced income threshold (and other criteria) are satisfied. This small presence exclusion was set by parliament and enacted into the law which the ATO must administer.</p> <p>The list of specified jurisdictions is set by Ministerial determination (see Taxation Administration (Country by Country Reporting Jurisdictions) Determination 2024).</p> <p>Policy issues relating to the Australian Public CBC reporting regime (for example, differences from the European regime) are not within the ATO's statutory role.</p> <p>The final Practice Statement includes content about proportionality (see in particular paragraphs 74 to 76, regarding whether disclosure would result in 'substantial ramifications' for an entity (by an objective standard)).</p> <p>In addition, content about the relevance of compliance costs and particular scenarios has been included at paragraphs 53 and 84 to 88 of the final Practice Statement.</p>

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	<ul style="list-style-type: none"> Submissions suggested the specified countries list should exclude treaty partners such as Singapore, Switzerland and United States of America. However, other submissions suggested to expand the list of specified jurisdictions. Submissions also suggested exemptions should be considered where there is no CBC reporting outside Australia, as the burden of reporting only in Australia outweighs the transparency benefits. It was suggested the final Practice Statement should consider exemptions for groups not headquartered in jurisdictions with Public CBC reporting regimes, especially where their income falls below the private CBC reporting threshold in their home country. Requiring Public CBC reporting in Australia in such cases was stated to create a compliance burden that misaligns with international standards and favours countries which have implemented Public CBC reporting regimes, at the potential disadvantage of treaty partners. 	
28	<p>Foreign currency fluctuations</p> <p>Various submissions raised exemptions for foreign currency fluctuations (paragraphs 68 to 70 of the draft Practice Statement) bringing reporting entities in and out of the regime to reduce compliance burdens:</p> <ul style="list-style-type: none"> Submissions welcomed the positive weighting at paragraphs 68 and 69 to an exemption request where an entity is subject to a Public CBC regime in their 'home' jurisdiction and is brought within the Australian regime due to currency fluctuations. Submissions noted the draft Practice Statement was unclear on whether an exemption would be granted if an entity's 'home' jurisdiction had no Public CBC reporting regime, and it was brought into Australia's 	<p>We have partially incorporated these comments into the final Practice Statement.</p> <p>The purpose of Australia's Public CBC reporting regime is different from the purpose of the Organisation for Economic Co-operation and Development (OECD) confidential CBC reporting regime. The former is to improve transparency, the latter is for information sharing between cooperating tax administrations around the world.</p> <p>Australia's Public CBC regime is world-leading. Parliament was conscious about the differences from other Public CBC reporting regimes. Australia's regime is to share information with the public about entities which generate revenue beyond a certain threshold from Australian operations, to better inform community understanding of policy settings in Australia.</p> <p>The ATO must administer the revenue thresholds that were set in the law.</p>

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	<p>regime due to currency fluctuations. Submissions suggested this should warrant exemption.</p> <ul style="list-style-type: none"> • Submissions suggested exemptions should extend to entities that have private CBC reporting obligations in their home jurisdiction and are brought into Australia's regime due to currency fluctuations, even if they don't have a Public CBC reporting regime in their home jurisdiction. 	
29	<p>Timeframes for decisions</p> <p>The final Practice Statement should provide indicative timeframes for the exemption decisions outlined at paragraphs 79 to 81 of the draft Practice Statement, even if the timeframes are only a guideline. This would be consistent with other Practice Statements.</p> <p>The final Practice Statement should also identify the last day that an exemption request must be lodged so that it might be considered before the due date for lodging the Public CBC report.</p>	<p>We have incorporated this comment into the final Practice Statement. Paragraphs 101 and 114 of the final Practice Statement now clarify this issue.</p>
30	<p>Ongoing reporting and lodgement deferral requests</p> <p>The final Practice Statement or related guidance should clarify ongoing reporting obligations while an exemption application is pending (paragraph 81 of the draft Practice Statement). The final Practice Statement should also clarify if an exemption decision is delayed beyond the statutory publication date, whether the requirement for a separate extension request under section 388-55 of the Schedule 1 of the <i>Taxation Administration Act 1953</i> exists. Alternatively, will the ATO confirm that a timely application will result in favourable extension decisions to provide certainty and avoid penalties?</p>	<p>We note this submission. However, no change is required in the final Practice Statement.</p> <p>This issue is covered in paragraph 103 of the final Practice Statement.</p>
31	<p>Review of decisions</p> <p>Submissions raised concerns that exemption decisions are not reviewable objection decisions and the only formal</p>	<p>We have partially incorporated this comment into the final Practice Statement.</p>

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	<p>review rights are recourse to judicial review by the Federal Court of Australia. Submissions suggested that consideration be given to an internal review process, and that the legal basis for the decision not being reviewable should be more clearly outlined in the final Practice Statement (paragraphs 95 to 97 of the draft Practice Statement).</p>	<p>The legislation provides that a Public CBC reporting exemption decision is not a 'reviewable objection decision' for the purposes of Part IVC of the <i>Taxation Administration Act 1953</i>. This is not an administrative choice made by the ATO. The final Practice Statement includes content about an internal review process and rights of judicial review (see paragraphs 111 to 113 and 116 to 118).</p>
32	<p>Streamlined process for repeat requests</p> <p>The 2-year limit for streamlined exemption requests is too restrictive, especially where there are enduring circumstances (paragraphs 84 to 87 and Example 5 of the draft Practice Statement). The reasons for an exemption may be based on qualitative reasons which may not change year to year. The final Practice Statement should clarify what sort of information should be provided for subsequent requests, including requests after 2 reporting periods.</p> <p>The streamlined process should permit affidavits or attestations that the circumstances that gave rise to the initial exemption have not changed.</p> <p>The final Practice Statement should also refer to 'facts and circumstances relevant to the grounds for exemption' rather than the period itself.</p>	<p>We have partially incorporated this comment into the final Practice Statement (see paragraphs 106 to 109).</p>
33	<p>Publishing a list of entities that receive an exemption</p> <p>The ATO should publish an annual list of entities that received full or partial exemption (without disclosing reasons) to promote transparency and public confidence in the regime.</p> <p>The ATO should publish annual statistics on the number of exemption applications received and rejected to ensure the process is not being misused.</p> <p>In the final Practice Statement, paragraph 78 should include a note that while an application remains confidential,</p>	<p>We note this submission. However, no change has been made in the final Practice Statement.</p> <p>This is beyond the scope of the Practice Statement.</p> <p>We cannot publish a list of entities that received an exemption. The ATO is bound by confidentiality and privacy obligations which restrict the ability to publish information, unless authorised by statute. The Public CBC law does not provide for disclosure of exemption recipients.</p> <p>We will encourage reporting entities to self-disclose where a full or partial exemption is granted.</p> <p>Any future class exemptions made will be public (as they are made via legislative instrument or regulation).</p>

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	<p>successful exemptions may be publicly listed to support the policy goal of enhancing multinational tax transparency.</p> <p>Any class-based exemptions should be made publicly available.</p>	
34	<p>Confidentiality of information provided by applicants</p> <p>The ATO should implement appropriate confidentiality and privacy protocols to address commercially sensitive data shared by applicants. In the final Practice Statement, paragraph 78 should explicitly refer to statutory protections and state that the exemption application remains confidential, although successful applications may result in publication of a list of exempt entities.</p>	<p>We note this submission. However, no change has been made in the final Practice Statement.</p> <p>Paragraph 100 of the final Practice Statement confirms the confidentiality of information provided in support of an exemption request is protected by statute.</p> <p>We cannot publish an annual list of entities that received an exemption due to these statutory obligations.</p>
35	<p>Reasons for decisions</p> <p>For transparency, comprehensive, structured reasons should be provided for all decisions (paragraphs 88 to 89 of the draft Practice Statement). This could involve a template that addresses relevant factors and quantifies impacts, where feasible.</p>	<p>We note this submission. However, no change has been made in the final Practice Statement.</p> <p>The discretion must be exercised, or not exercised, with regard to the applicant's facts and circumstances and as such, does not lend itself to a template that addresses all factors.</p>
36	<p>Registration requirements</p> <p>Clarification is sought on reporting entity obligations and registration requirements. Paragraphs 71 to 72 of the draft Practice Statement should clarify that entities can lodge an exemption application after registering rather than being encouraged to register first.</p> <p>Paragraph 75 of the draft Practice Statement states that only one exemption application is allowed per reporting period, but companies may have multiple reasons for seeking exemption. Clarification is requested on how to submit a request for multiple jurisdictions handling regional difference or varied fact patterns and that the application form can accommodate multiple grounds for exemptions.</p>	<p>We have incorporated this comment into the final Practice Statement.</p> <p>These paragraphs (now paragraphs 89 to 99 of the final Practice Statement) have been clarified.</p> <p>Paragraph 12 of the Practice Statement provides guidance on which entity is the 'reporting entity' responsible for Public CBC reporting.</p>

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37	<p>Penalties</p> <p>The final Practice Statement should clarify:</p> <ul style="list-style-type: none"> that Australian subsidiaries should not face penalties or adverse outcomes if their foreign parents fail to comply, especially when the subsidiary lacks control or access to the required data how penalties for late filings or non-compliance will be applied, that is, to the reporting entity or the Australian subsidiary. 	<p>We note this submission. However, no change has been made in the final Practice Statement.</p> <p>Liability for penalty for not complying with the publishing obligation is imposed by operation of law, not by discretion of the Commissioner. It is imposed on the entity which has the reporting obligation.</p> <p>As it is beyond the scope of the Practice Statement, content about penalties has not been included in the final Practice Statement.</p>
38	<p>Examples of relevant evidence</p> <p>Appendix 2 to the final Practice Statement should be expanded to include:</p> <ul style="list-style-type: none"> transfer pricing documentation (OECD master or local files) risk assessment or third-party records of geopolitical risks or intellectual property issues, and legal opinion on breaches of foreign laws, complete with translations where necessary. 	<p>We have partially incorporated this comment into the final Practice Statement.</p> <p>In the final Practice Statement, it has been clarified that the evidentiary list in Appendix 2 is not an exhaustive list.</p>
39	<p>References in Appendix 2 and 3</p> <p>References in Appendix 2 and 3 to the final Practice Statement should be clarified. For example, Appendix 2 references Public or private CBC reporting regimes and revenue thresholds, which may exclude entities from a non-CBC reporting jurisdiction.</p> <p>In Appendix 3, commentary regarding revenue from related parties should be clarified in the final Practice Statement as it incorrectly suggests there is consistency between the Australian regime, GRI 207 and OECD CBC reporting.</p> <p>Additionally, some terminology in the draft Practice Statement differs from the legislation, for example, the Practice Statement refers to 'labour' and 'capital', however</p>	<p>We have incorporated this comment into the final Practice Statement.</p> <p>Appendix 2 and Example 3 to the final Practice Statement now address this issue.</p> <p>Appendix 3 has not been included in the final Practice Statement, as it will no longer be required following publication of the Public CBC report form.</p>

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	the specific Public CBC reporting items that these terms correlate to are not made clear.	
40	<p>Class exemption process</p> <p>The final Practice Statement should clarify the process for applying for class-based exemptions. Will updated guidance or class exemptions be provided where the ATO identifies patterns regarding exemptions to ensure consistency?</p> <p>Class exemptions are queried in relation to particular circumstances, including for the financial services industry and for entities complying with European Union (EU) Public CBC reporting legislation.</p>	<p>We note this submission. However, no change has been made in the final Practice Statement.</p> <p>The Practice Statement does not provide guidance about class exemptions (see paragraphs 6 to 9 of the final Practice Statement). There isn't a process for applying for class exemptions, nor do we expect to establish one.</p> <p>A broad class exemption for EU-compliant and financial services entities is a policy matter that is beyond the ATO's remit and the scope of the Practice Statement.</p>

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