

Transfer pricing – overview and regional developments

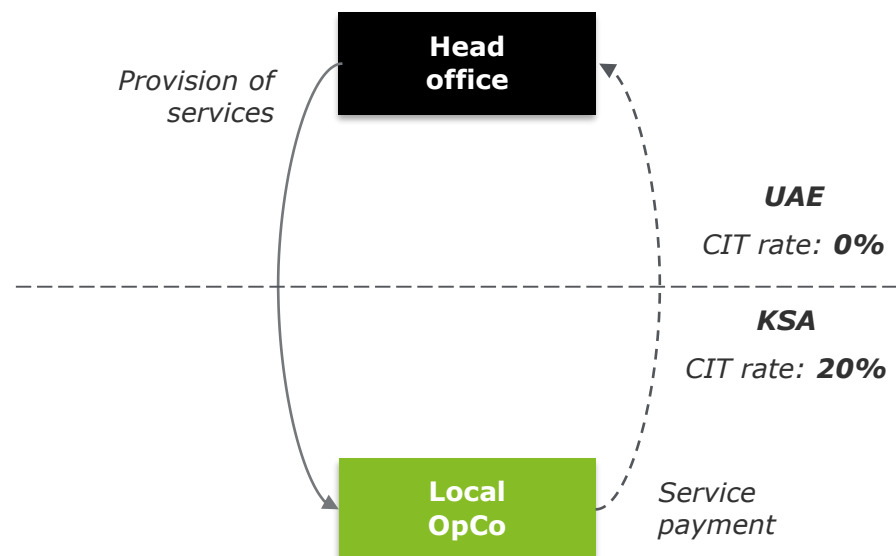
13 July 2019

Introduction to transfer pricing

Transfer pricing

An introduction

- Transfer pricing regulations govern the pricing of cross-border transactions between related parties.
- A transaction between related entities should be concluded at **arm's length** (i.e., the price should be comparable to that of a similar transaction concluded between unrelated parties).
- The **Organization for Economic Cooperation and Development's Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations** ("OECD guidelines") provide guidance on the application of the arm's length principle using several transactional and profit-based methods.
- Many countries, including Egypt and KSA have implemented local transfer pricing regulations consistent with the aforementioned OECD guidelines.
- The **OECD's Base Erosion and Profit Shifting** initiative was launched to combat tax avoidance globally, and has seen significant uptake by tax authorities in the Middle East, including in the United Arab Emirates ("UAE"), Oman, Qatar, KSA, Bahrain and Kuwait.
- The example alongside illustrates the impact of adjusting transfer prices on total system profit (and tax payable).



	Scenario 1		Scenario 2	
	UAE	KSA	UAE	KSA
Profit	100	100	100	100
Service fee	10	(10)	20	(20)
Adjusted profit	110	90	120	80
Tax	0	(18)	0	(16)
Net income	110	72	120	64
Total system profit	182		184	

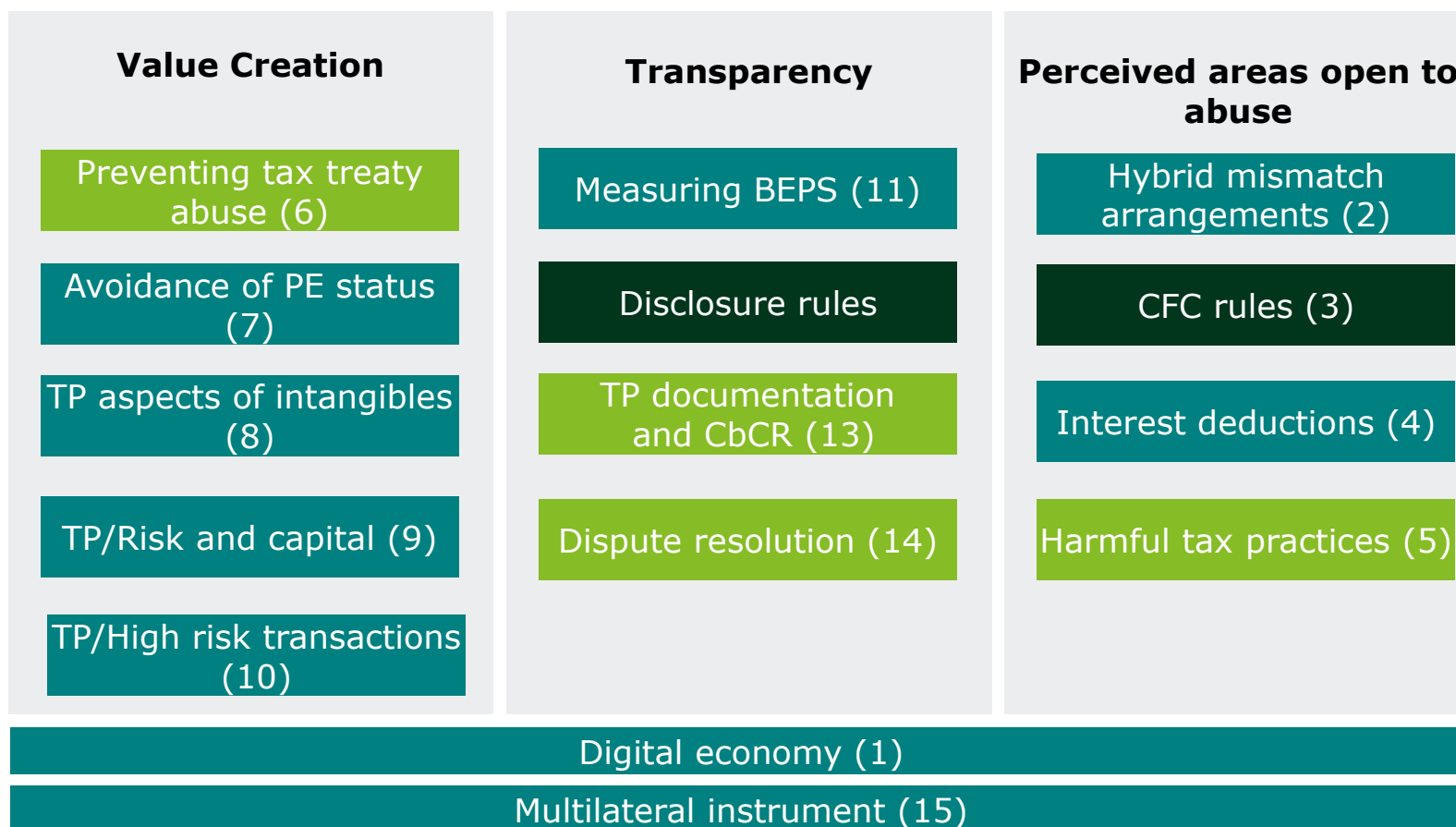
! Transfer prices must be benchmarked to support their arm's length nature as there may be an impact on tax payable as detailed above!

Transfer pricing

What is BEPS?

Base Erosion and Profit Shifting (“BEPS”) refers to strategies to exploit mismatches in tax rules and/or artificially shift profits to low or no-tax locations often where there is little or no commercial activity or substance.

Against this back drop the G20 requested that the OECD investigate BEPS and provide recommendations to modernize the international tax framework and limit the level of BEPS. In October 2015 the OECD published its final reports on BEPS, broken down 15 actions.



What is Action 13?

A quick recap

Master file ("MF")

- Purpose of the MF is to provide tax authorities with a high-level overview of a multinational enterprise's ("MNE") global business operations, transfer pricing policies, and global allocation of income and economic activity.
- The MF should include:
 - ✓ Organizational structure incl. geographic location of operating entities
 - ✓ Description of business and supply chain
 - ✓ Main geographic markets and products/services
 - ✓ Brief functional analysis focusing on principal contribution to value creation by group entities
 - ✓ Information on intangibles, intragroup financing, business restructurings and overall financial and tax positions

Local file ("LF")

- The purpose of the LF is to supplement the MF, and provide information relating to specific intragroup transactions, to assure tax authorities that it has complied with the arm's length principle in relation to its transfer pricing positions.
- The LF should include:
 - ✓ Description of management structure and business strategies
 - ✓ Description of the local business activities and industry analysis
 - ✓ Identification of material intragroup transactions, amounts and agreements
 - ✓ Detailed description of functions performed, risks assumed, and assets owned by the local entity
 - ✓ Selection of transfer pricing method and benchmarking
 - ✓ Financial information of the local entity

Country-by-country Reporting ("CbCR")

- The purpose of CbCR is to provide tax authorities with visibility on aggregate jurisdiction-wise information relating to the global allocation of income, taxes paid, and certain indicators of economic activity.
- The CbC report also provides a comprehensive list of the MNE's global constituent entities and their business activities.
- Preparing Landmark's FY18 CbC report will require a deep understanding of the group, which we already possess.
- We will closely collaborate with key group stakeholders during this process, including providing detailed guidance on all aspects of the data gathering process, notifications, aggregation of reports, conversion and filing.

CbCR

An overview

CbCR Table 1 (for illustrative purposes only)

Tax Jurisdiction	Revenues			Profit before Income tax	Income Tax Paid	Income Tax Accrued	Stated Capital	Accumulated Earnings	Number of Employees	Tangible Assets
	Unrelated Party	Related Party	Total							
UAE										
Luxembourg										
Netherlands										

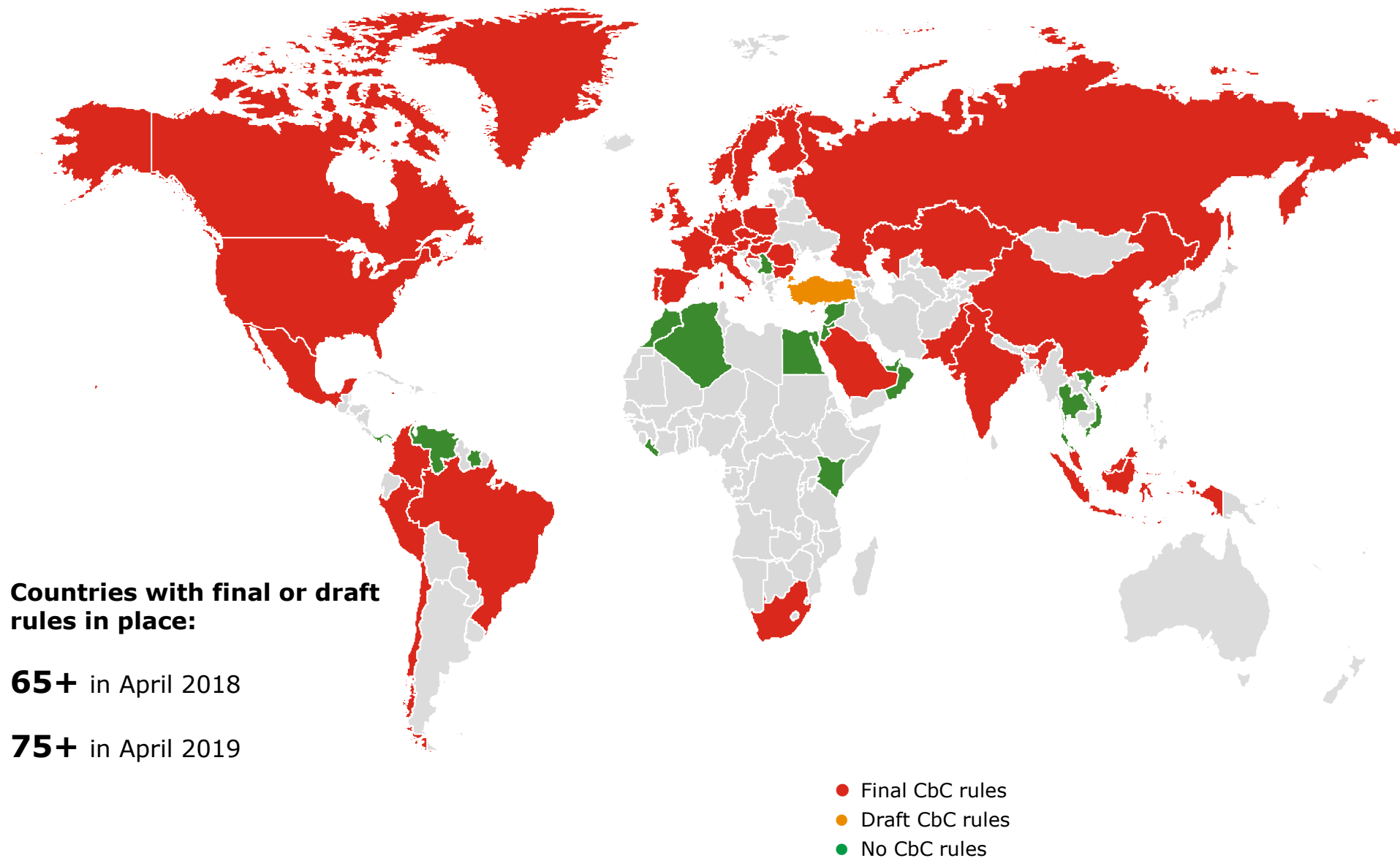
CbCR Table 2 (for illustrative purposes only)

Tax Jurisdiction	Constituent Entities Resident in the Tax Jurisdiction	Tax Jurisdiction of Organization or Incorporation if Different from Tax Jurisdiction of Residence	Main Business Activity(ies)											
			R&D	Holding or managing IP	Purchasing or Procurement	Manufacturing or Production	Sales, Marketing or Distribution	Administrative, Management or Support Services	Provision of Services to unrelated Parties Internal Group Finance	Regulated Financial Services	Insurance	Holding Shares or Other Equity instruments	Dormant	Other
UAE	UAE Co1	-									X			
	Branch 1	-			X	X								

CbCR Table 3

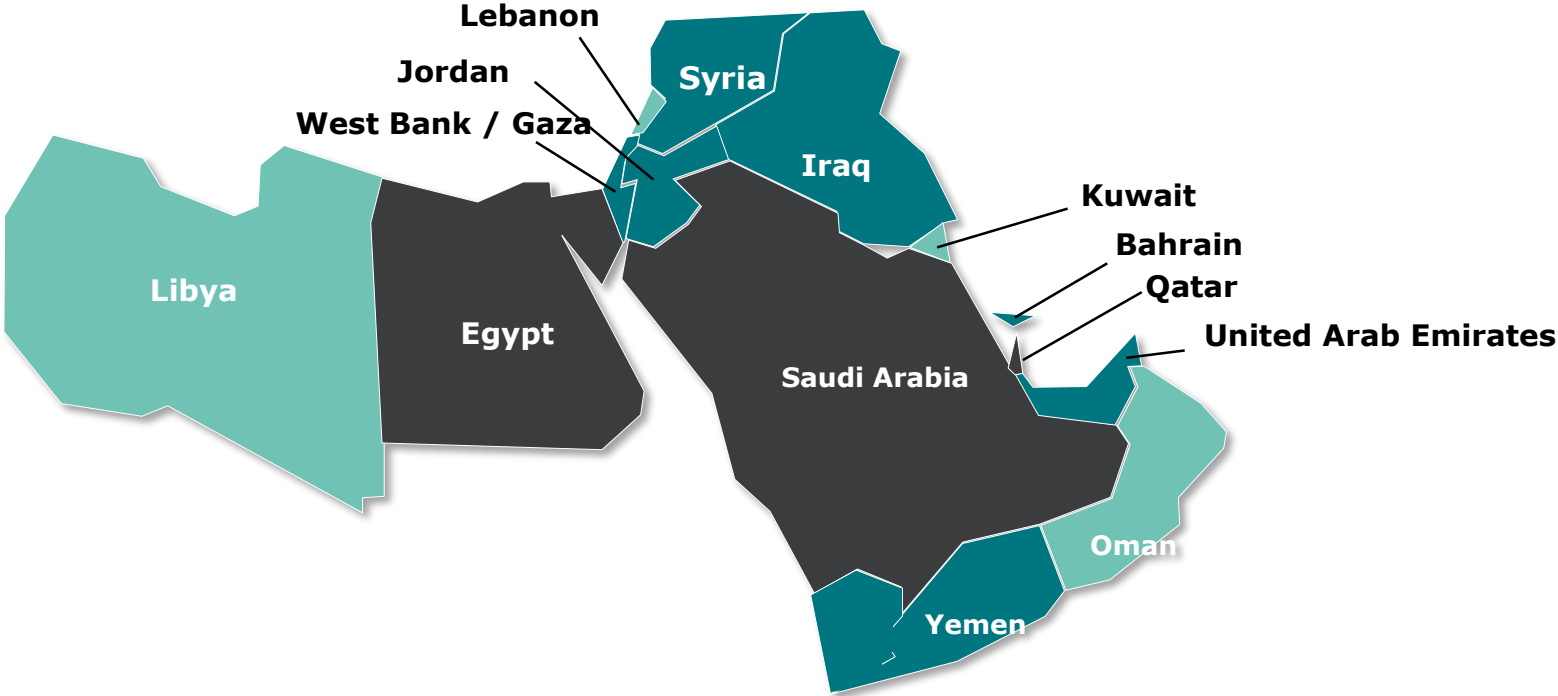
This is a free text table to provide the tax authorities with additional information on Table 1 and 2 data

The current CbCR landscape



Transfer pricing in the Middle East

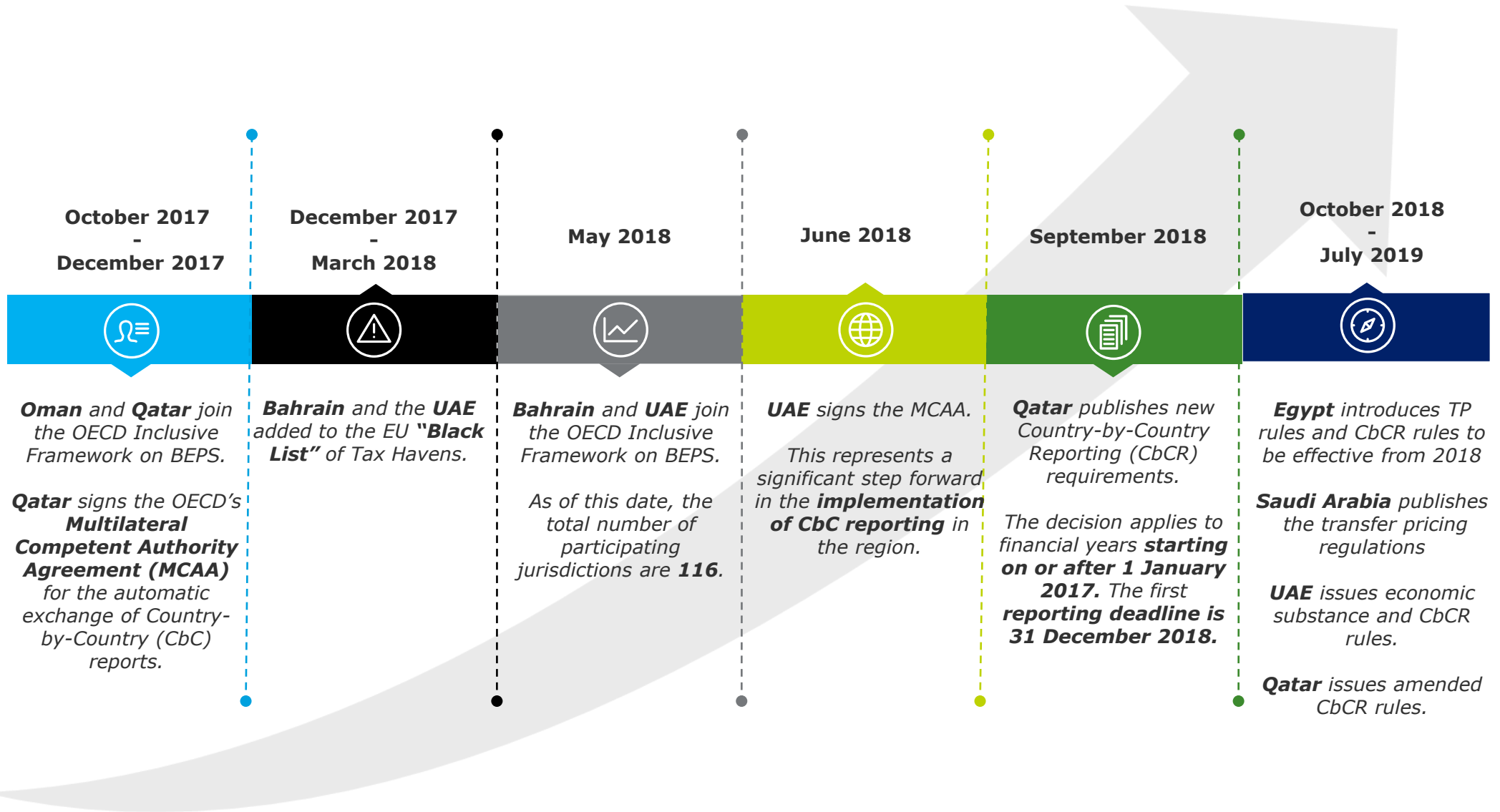
Transfer pricing landscape in the Middle East



- Countries with specific transfer pricing provision
- Countries with transfer pricing covered as part of their anti-avoidance rules
- Countries with no transfer pricing rules

Transfer pricing developments in the Middle East

Increase in tax audits requesting support for Arms length Pricing (“ALP”)



Where is the puck headed?

Increased regional tax/TP developments are a good indicator of things to come

- Focus will be on increased transparency, disclosure and compliance
- UAE, KSA, Qatar, Oman have gone 'all-in' on BEPS
 - Economic substance rules and CbCR in the UAE
 - Formal Action 13 compliance requirements in KSA and Qatar
 - Frequency of tax audits in Oman and elsewhere
 - Increased pressure on GCC governments to implement legislation to combat BEPS
- TP will play a crucial role:
 - in supporting operating model and substance-driven attribution of global profits
 - and ensuring global compliance, penalty protection and defensibility under audit

Thank you!



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