

International Compliance Assurance Programme – FAQs

(February 2021)

We suggest checking back regularly as questions will be periodically updated, or send your questions to ICAP@OECD.org

Frequently Asked Questions

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What is ICAP?

ICAP is a voluntary programme for MNE groups and tax administrations to work together in a co-operative risk assessment and assurance process. It is designed to be an efficient, effective and co-ordinated approach to provide MNE groups willing to engage actively, openly and in a fully transparent manner with increased tax certainty with respect to certain of their activities and transactions. ICAP does not provide an MNE group with legal certainty as may be achieved, for example, through an advance pricing arrangement (APA). It does, however, give comfort and assurance where tax administrations participating in an MNE group's risk assessment consider covered risks to be low risk. Where an area is identified as needing further attention, work conducted in ICAP can improve the efficiency of actions taken outside the programme, if needed.

What are the benefits of ICAP?

ICAP is underpinned by increasing transparency and flow of information to tax administrations to provide a new tool for greater tax certainty and a more efficient use of resources. ICAP uses CbC reports and other relevant information to facilitate multilateral engagements between MNE groups and participating tax administrations, providing benefits for both, including the following.

Fully informed and targeted use of CbC reports and other information held for risk assessment: ICAP enables MNE groups to talk through their CbC reports and other information held by tax administrations for the purposes of risk assessing covered risks, and to provide additional clarity to aid understanding of their cross-border activities. Tax administrations are also able to discuss their findings with each other, improving consistency in the interpretation of data. This should help tax administrations to reach an early decision about the level of tax risk, if any, presented by the data contained in these documents. It may also improve consistency in the understanding of MNE groups with similar transactions in multiple jurisdictions.

An efficient use of resources: Tax administrations discuss the information provided by an MNE group for its ICAP risk assessment, share their findings with each other and co-ordinate any follow-up questions. An MNE group can thus engage with several tax administrations simultaneously, either through multilateral engagements or via the lead tax administration, rather than needing to deal with multiple separate enquiries.

A faster, clearer route to multilateral tax certainty: ICAP is a managed process with clear and ambitious timeframes, which are agreed upfront, for MNE groups and tax administrations to reach a mutual understanding of the level of tax risk present. Working multilaterally, tax administrations gain a comprehensive picture of an MNE's cross-border activities and can be assured either that the tax position is satisfactory or that any tax risk has been identified. In the spirit of co-operative compliance, this is communicated clearly to the MNE group at an early stage. The process also provides an MNE group with an opportunity to use insights from ICAP more broadly in managing its affairs across its global operations.

Co-operative relationships between MNE groups and tax administrations: ICAP includes a commitment by MNE groups and tax administrations to work together through the ICAP risk assessment and assurance process in a transparent, open and co-operative manner. As a result of participation in the programme, a relationship of mutual trust based on reciprocal openness and good faith may be generated..

Fewer disputes entering into MAP: Mechanisms for a more co-operative and collaborative risk assessment and assurance of MNE groups should improve how tax administrations understand the perception and treatment of transactions by other tax administrations. They also provide an opportunity for tax administrations to discuss transactions at the risk assessment stage, before differing views are adopted and become entrenched. This can improve consistency between tax administrations in the interpretation and treatment of transactions, reducing the number of instances where a case results in dispute and MAP.

What level of comfort is provided in ICAP?

At the end of an ICAP risk assessment, an MNE group will receive outcome letters issued by each covered tax administration, containing the results of the tax administration's risk assessment and assurance of the covered risks for the covered periods. The design, content and wording of an outcome letter is determined separately by each covered tax administration, depending upon domestic practices and processes, but will typically address the following:

- risk ratings, where these are assigned by a tax administration as part of its usual domestic processes, or otherwise a description of key findings from the ICAP risk assessment
- any agreement reached as part of an issue resolution process, if included in the ICAP risk assessment
- confirmation of the covered risks that are considered to be low risk, with a statement that it is not anticipated that compliance resources will be dedicated to a further review of these risks for a defined period (generally the covered period/s, plus the following two tax filing periods, provided there are no material changes)
- appropriate caveats or limitations, including any requirements to notify the relevant covered tax administration as soon as possible of any material changes that impact the covered risks (or, if required by a covered tax administration, to provide an annual confirmation that no such changes are expected or have taken place and/or updated information concerning covered transactions).

Is ICAP right for us?

ICAP is one of the tools available to tax administrations to provide greater tax certainty to MNE groups. When considering ICAP as an option, an MNE group may consider different factors to determine whether it is the most suitable.

The level of certainty required: ICAP is a risk assessment tool to provide comfort that a covered tax administration does not anticipate that compliance resources will be dedicated to a further review of covered risks for a defined period.

The scope of certainty required: Under ICAP, an MNE group may obtain comfort that multiple covered tax administrations do not anticipate dedicating compliance resources to a further review of the covered risks. This is wider than the scope of most Advance Pricing Arrangements (APAs) and Mutual Agreement Procedure (MAP) cases, and many audits, which may provide certainty with respect to specific transactions or categories of transactions, with particular jurisdictions.

The level of documentation required: The level of documentation required for an ICAP risk assessment is less than that typically needed in order to agree an APA or in the course of a tax audit or MAP with respect to covered transactions. Under ICAP an MNE group is able to provide a single documentation package for use by all covered tax administrations, whereas it may be required to prepare different documents in each jurisdiction under domestic programmes.

The amount of time taken: ICAP includes a clear timeframe and typically a risk assessment will be completed and outcome letters issued within 24-28 weeks from delivery of the main risk assessment documentation. Reflecting differences in terms of the level of documentation typically required and the level of certainty provided, this timeframe is shorter than may be required to agree an APA, or for completion of a tax audit or MAP case.

The extent to which early certainty is required: An ICAP risk assessment focuses on an MNE group's recent completed fiscal period/s for which information, including the MNE group's CbC report, is available. This will often be undertaken sooner after the end of the covered period than would be possible for a tax audit, and will certainly be sooner than would be possible under dispute resolution mechanisms such as MAP.

Which tax administrations are participating in ICAP?

A list of tax administrations participating in ICAP will be posted on the OECD website and updated as further tax administrations join the programme.

Will we be accepted into ICAP?

An MNE group's suitability for ICAP is considered on a case-by-case basis. Factors that an MNE group should take into account in considering whether it is suitable for an ICAP risk assessment include:

- whether the MNE group's Ultimate Parent Entity (UPE) is resident in the jurisdiction of an FTA member tax administration participating in the programme
- the footprint of the MNE group and the volume and materiality of the MNE group's covered transactions in jurisdictions of FTA member tax administrations participating in the programme
- whether the MNE group is subject to a CbC reporting filing requirement in its UPE jurisdiction¹ and whether CbC reports are available for the relevant fiscal years commencing on or after 1 January 2016
- where the MNE group has previously participated in ICAP, the value of a further ICAP risk assessment by the same covered tax administrations, by different covered tax administrations or a combination of the two
- whether the MNE group has a group tax strategy which is clearly documented and owned by senior management at board level, and internal structures to set and manage its tax policies
- whether the MNE group has an effective tax control framework (or equivalent) over the covered risks at a global level

- whether the MNE group is willing to commit to engaging co-operatively and transparently throughout the ICAP process, including by:
 - participating in open and frank discussions with tax administrations
 - providing documentation and information in a timely manner
 - being open with respect to areas of uncertainty and the positions it takes in these areas
 - working pro-actively towards resolving issues that arise.

There may be cases where, due to resource commitments or other considerations, a tax administration is not able to act as lead tax administration or covered tax administration for a particular MNE group's ICAP risk assessment, even though the MNE group satisfies many of the factors described above.

How can we find out more about ICAP?

Details of the ICAP process can be found in the [Programme Handbook](#), through awareness events for [MNE groups](#), and from participating tax administrations.

How do we apply to join ICAP?

The next three deadlines for submission of an application to participate in ICAP are **30 September 2021**, **31 March 2022** and **30 September 2022**. Future deadlines will be released in due course.

MNE groups that wish to discuss possible participation in ICAP should contact the tax administration in the jurisdiction where their ultimate parent entity is resident in advance of the next application deadline.

For more information on ICAP, visit: <http://oe.cd/icap>

ⁱ This includes MNE groups that are able to file a CbC report on a voluntary basis under parent surrogate filing in accordance with the BEPS Action 13 minimum standard and OECD *Guidance on the Implementation of Country-by-Country Reporting*.