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**Re: Public Country-by-Country Reporting in Spain Under Law 28/2022**

The National Foreign Trade Council (the “NFTC”) is writing concerning Spain’s compliance with EU Directive 2013/34/EU, published on 24 November 2021 (“the Directive”). In December 2022, the Spanish Government passed Law 28/2022 and published it in the Official Gazette to implement the EU Public Country-by-Country Reporting (“CbCR”) Directive (“the EU CbCR Directive”). The NFTC is writing to express concerns regarding the upcoming CbCR deadline in Spain, and to urge the Spanish government to align its timeline to the EU CbCR Directive.

The NFTC, organized in 1914, is an association of U.S. business enterprises engaged in all aspects of international trade and investment. Our membership covers the full spectrum of industrial, commercial, financial, and service activities. We value work that focuses on establishing and maintaining international tax and transfer pricing norms that provide certainty to enterprises conducting cross-border operations.

The EU CbCR Directive is effective for financial years beginning on or after June 22, 2024. It requires the report to be approved and published within six months, while the EU directive permits 12 months for reporting. Thus, for companies with a financial year coinciding with the calendar year, the first report for financial year 2025 must be published in June 2026, versus December 2026 for other EU countries, while companies with a June fiscal year-end would need to file as soon as December 2025. This early deadline (a US UPE is not required to file its confidential CbCR with the Internal Revenue Service until US tax returns are due, which for calendar year taxpayers is October 15<sup>th</sup>) requires additional time and resources to ensure that the reporting requirements are met. Most other EU countries do not require compliance before the end of 2026. While Romania and Croatia adopted CbCR effective for fiscal years starting 2023 and 2024 respectively, both of these jurisdictions grant 12 months from the end of the fiscal year to complete the reporting. The accelerated deadline in Spain will cause a more burdensome implementation of the Public CbCR rules across EU Member States, diminishing the EU’s business and investment climate.

Critically, this disjointed timeline creates a fragmentation of the European Single Market and a ‘two-speed’ compliance requirement. The interplay between the Spanish legislation and the EU CbCR Directive results in a clear disparity between EU Ultimate Parent Entities (UPEs) and Non-EU UPEs. An EU UPE located outside of Spain (*e.g.*, France or Germany) can rely on the 12-month rules of its home Member State, whereas a US UPE is exposed to the local Spanish deadline. Consequently, two competing MNEs operating in the Spanish market are subject to unequal compliance burdens solely based on the geographic location of their parent company. This undermines the goal of harmonized transparency within the EU.

For companies working to comply with this new reporting requirement, the early deadline in Spain creates a number of additional challenges. For calendar year companies, the June 30, 2026, deadline conflicts with the first Pillar Two GloBE Information Return (GIR) filing deadline for Tax Year 2024. (For fiscal year companies, the Spanish CbCR deadline may be even earlier.) Many taxpayers rely on the same internal resources to comply with the burden of both provisions. Furthermore, under the proposed Pillar Two framework, tax obligations for 2025 are more complicated to compute than in a typical year, requiring tax teams to simultaneously manage complex data aggregation and significant system changes under a parallel and challenging timeline.

From an operational standpoint, while some local statutory accounts may be finalized within three months, others may take nine or ten months to complete. For groups of significant size, complex, multi-jurisdictional audits often require a substantial amount of time to finalize. It is further complicated by the fact that multinationals aim to harmonize private CbCR submitted to the tax authorities, CbCR used for Pillar 2 Temporary CbCR Safe Harbour purposes and EU Public CbCR. Final CbCR data can be a combination of consolidated financials of the UPE and statutory financials from various jurisdictions. Furthermore, because Public CbCR data is raw and complex, the full 12-month period is essential to gather accurate data and draft the necessary explanatory narratives that prevent misinterpretation by the public and media.

Given these challenges, companies may not be able to aggregate the necessary information to publish the CbCR report in 6 months. Therefore, NFTC recommends permitting companies that are subject to Public CbCR filing requirements in multiple European countries to submit the report 12 months after the end of their tax year, to align with the EU CbCR Directive. This will allow for administrative efficiency in line with the goals of streamlining tax compliance and reporting.

## **Conclusion**

To avoid fragmenting the Single Market and penalizing non-EU MNEs with premature deadlines, the NFTC strongly urges the Spanish government to align its reporting deadline with the 12-month standard set by the EU CbCR Directive. Harmonizing this timeline ensures that transparency goals are met without creating discriminatory barriers to trade or forcing the disclosure of unaudited data. We welcome the opportunity for further engagement and are happy to answer any questions or clarify any of the comments raised.