

# THE POWER OF BEING UNDERSTOOD

AUDIT | TAX | CONSULTING



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# Transfer Pricing Updates

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## Changes to the Transfer Pricing Landscape in Indonesia

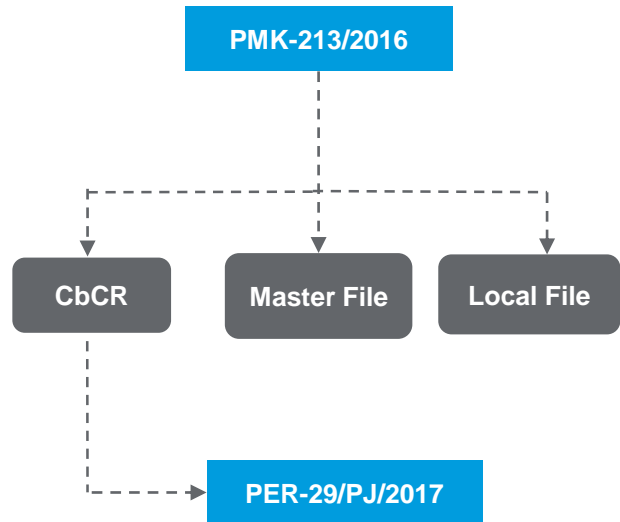
Three-Tiered Approach

Contemporaneous and Price Setting Documentation

“**Master File**” which contain high level information about the global business operations and TP policy of an MNE group.

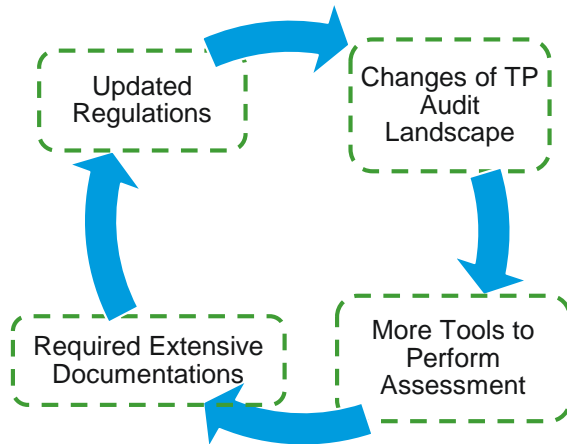
“**Local File**” which contain more detailed information and analysis about the local entity’s intercompany transactions and is expected to be filed with the tax authority in that jurisdiction.

“**CbC**” **report** which contain the information including amount of revenue, profits, income tax paid and accrued, employees, retained earnings and assets, functions performed and business activities by each entity in a particular tax jurisdiction must also be disclosed.



# Transfer Pricing Updates

## Changes to the Transfer Pricing Landscape in Indonesia



- Aligning transfer pricing outcomes with **value creation**
- Tax Audit Policy, Indication of Taxpayer Non-Compliance (DGT's **focus on aggressive tax planning and transfer pricing risk**)

### Purposes and Roles

Allow tax administration to understand how local entities fit within the activities of MNE groups;

Conduct more effective risk assessment to identify high risk arrangements;

Determine appropriate action following the completion of risk assessment.

### Use of CbCR

MNE Group's profile may be compared with that in other jurisdiction, with part of the group or group as a whole. MNE Group's profile may be compared with that of a typical MNE group in same sector. MNE Group's profile can be compared with CbCR information for the same jurisdiction in earlier period.



# Transfer Pricing Updates

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## Transfer Pricing Audit Landscape – SE-15/2018

### SE-15/2018 regarding Tax Audit Policy

#### Indication of Taxpayer Non-Compliance

- Taxpayers who conduct **aggressive tax planning**, among others:

III. There are indications of **transfer pricing risk**, among others:

- Taxpayers have transactions with counterparties who apply **lower effective tax rates**
- There is an indication of a scheme of transactions involving entities / parties that **do not have business substance and/or do not add any economic value (re invoicing)**
- Taxpayers have a **significant related party transaction value** to their revenue
- Taxpayer who conduct intra-group transactions such as the provision of services, **royalty payments, cost distribution arrangements, intra-group financing** and others
- Taxpayer who conduct **business restructuring transactions**, such as such as mergers, acquisitions, and others
- Taxpayer's **financial performance differs** from industry financial performance
- Taxpayers **suffer losses for 3 (three) Tax Years in a period of 5 (five) years**

# Transfer Pricing Updates

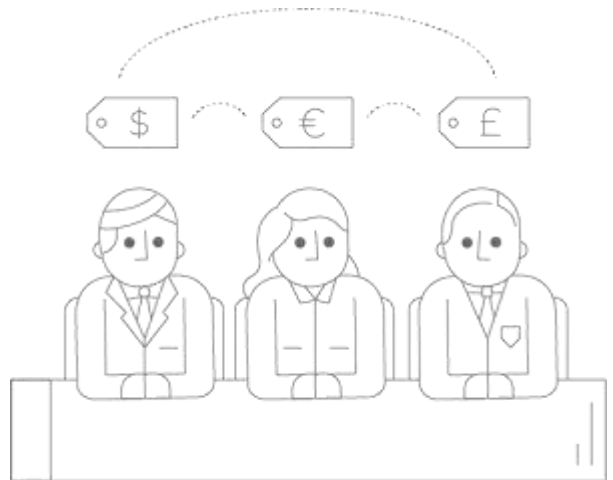
## The Development of Transfer Pricing – A New Digital Business Model

Any change in operating models will usually lead to consideration of the transfer pricing issues related to the change. Some of the key issues to be considered are as follows:

### A possible new value chain:

It is critical, when building a new digital business model, to understand the value creation in the new business and how it is similar/different compared to the traditional business. For example, it will be key to understand the role of technology and brand intangibles, as well as data, synergies and network effects and whether they are market differentiators creating significant value.

These concepts may be familiar territory for technology companies, but perhaps less so in financial services where the value chain typically centres around capital and people functions. Digital business models may therefore require a fresh look at value creation, the value chain, and associated transfer pricing for many financial services institutions.



# Transfer Pricing Updates

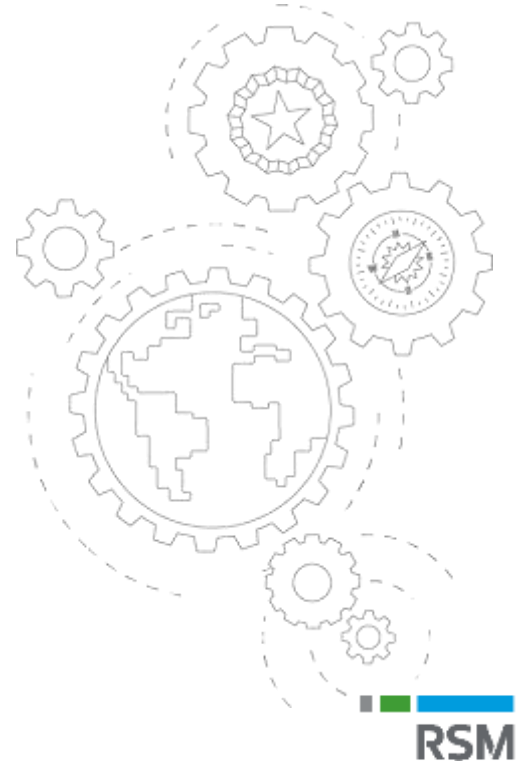
## The Development of Transfer Pricing – A New Digital Business Model

### BEPS:

The OECD's BEPS project has demanded a careful look and focus on DEMPE (development, enhancement, maintenance, protection and exploitation) functions, as well as the control of risk functions. This is particularly important where a new business model contains a high degree of use of non-routine valuable intellectual property.

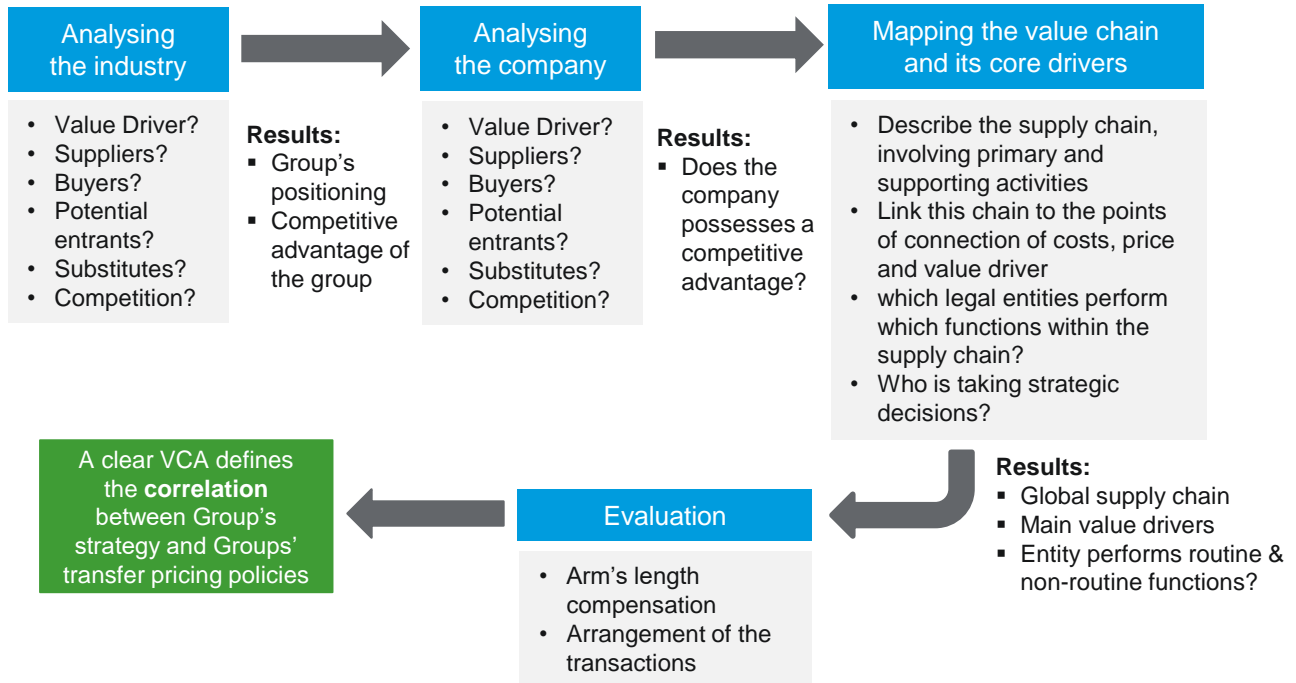
### Fintech driving revenue:

Where new financial technology is a key driver of revenue generation and increased profits, the transfer pricing policies used may need to be modified to incorporate a reward for the contribution of technology; such as when residual profit split or revenue/profit sharing approaches are employed. Depending on the fact pattern, one may also need to consider pricing based on royalties for the use of intellectual property.



# Transfer Pricing Updates

## Stages in Performing Value Chain Analysis (“VCA”)



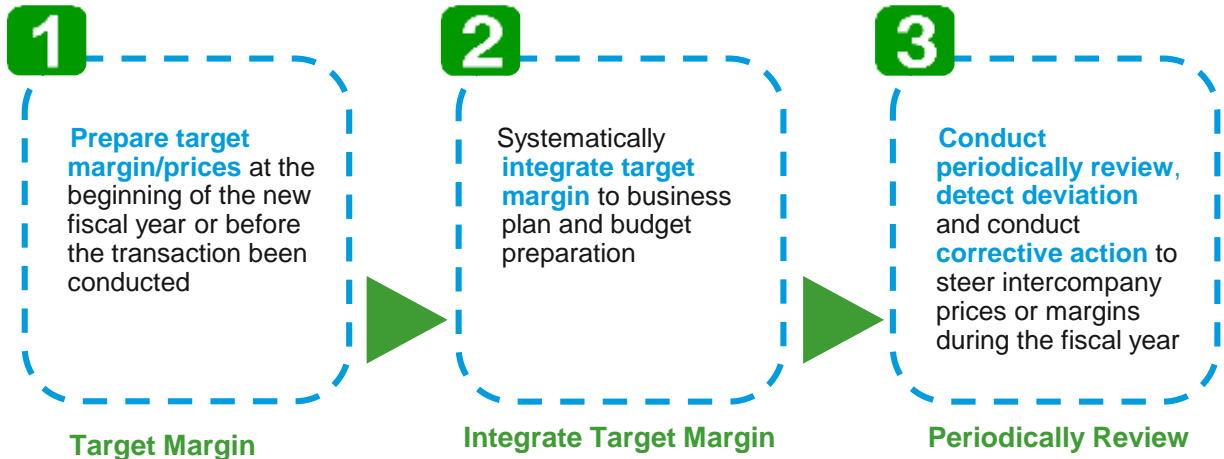


# Transfer Pricing Updates

## Contemporaneous and Price Setting Documentation

### Contemporaneous

Local file is to be based on the data and information available at the time the related party transaction are conducted. If the above is not satisfied, the Taxpayer shall be deemed not to apply the arm's length principle.

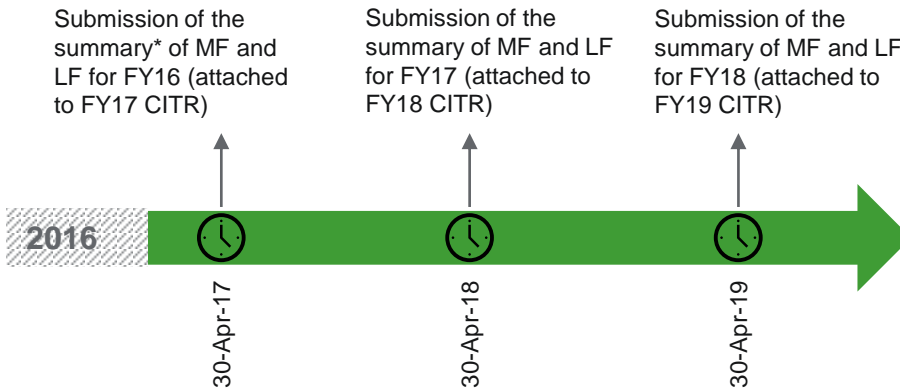


# Transfer Pricing Updates

## PMK-213/2016 – Timing for Filing of MF and LF in Indonesia

Timing for Filing Master File (MF) and Local File (LF)

MF and LF must be available for no later than 4 months following the end of Tax Year



Assuming the FY end to be 31 Dec

\*Taxpayer provides a statement on its availability of MF and LF

### Important things to note:

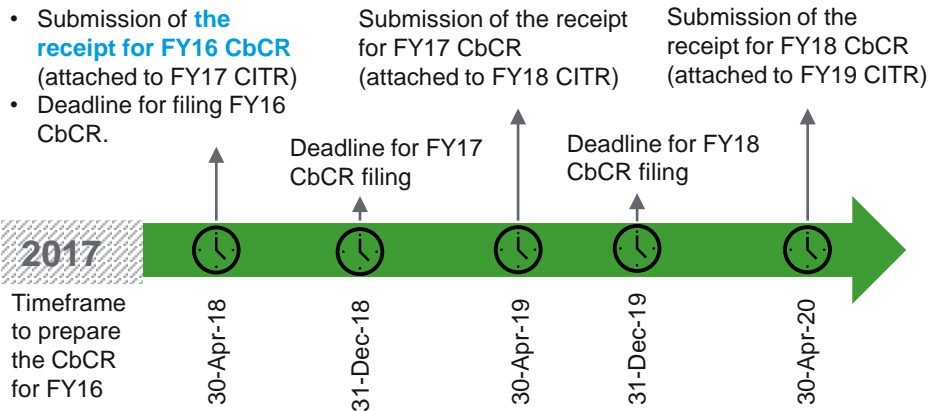
- 1) **MF and LF must be prepared by a Taxpayer in Bahasa Indonesia.** Documentation in foreign language and foreign currency is permitted by approval from the Minister of Finance, nonetheless such documents must be accompanied with a translation in Bahasa Indonesia.
- 2) **MF and/or LF must not be submitted along CITR** but must be submitted upon DGT request and attached with **statement letter** indicating when such documentation has been created.

# Transfer Pricing Updates

## PER-29/2017 – Timing for Filing of CbCR in Indonesia

CbCR Notification Form\* and the CbCR (along with the working paper, where required) should be filed simultaneously at the latest by:

- FY2016: 16 months following the end of Tax Year
- FY2017 and thereafter: 12 months following the end of Tax Year



Assuming the FY end to be 31 Dec

\*Local Taxpayer provides a statement on its obligation to submit a CbCR

### Important things to note:

If the CbCR cannot be obtained by the Government of Indonesia despite having a QCAA, the following steps would be undertaken:

- 1) DGT will provide list of such countries/jurisdictions in its website;
- 2) Local Taxpayer would be required to file the CbCR within 3 months of such listing;
- 3) Upon failing to file within the 3 months period, a formal request letter will be issued by the DGT with the filing deadline of 30 days from the date of such letter.

Thank you  
for your time  
and attention