

# Federation of Bosnia and Herzegovina

## Transfer Pricing Country Profile

April 2023

		SUMMARY	REFERENCE
<b>The Arm's Length Principle</b>			
1	Does your domestic legislation or regulation make reference to the Arm's Length Principle?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Law on Corporate Income Tax ("Official Gazette of the Federation of Bosnia and Herzegovina ("BiH" or FBiH)") No. 15/16 and 15/20) Article 44, paragraph (1) states that: "The taxpayer that takes part in a transaction with a related entity shall determine its taxable income in a manner consistent with the at arm's length principle."	<a href="#">Law on Corporate Income Tax</a> ("Official Gazette of the Federation of BiH" No. 15/16 and 15/20) Article 44, paragraph (1)
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	The OECD Transfer Pricing Guidelines are not applicable under legislation in the Federation of BiH. However, the Rulebook on Transfer Pricing lays down more specifically the application of particular transfer pricing methods, determining the transfer pricing, and the burden of proof procedure in transfer pricing.	Rulebook on Transfer Pricing ("Official Gazette of the Federation of BiH" No. 67/16)
3	Does your domestic legislation or regulation provide a definition of related parties? If so, please provide the definition contained under your domestic law or regulation.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <b>Law on Corporate Income Tax</b> "(3) The term "related entities" shall apply to any two entities if one entity is acting or will probably act in accordance with guidelines, requests, proposals or wishes of the other entity or if both entities act or will probably act in accordance with guidelines, requests, proposals or wishes of the third entity regardless of whether such guidelines, requests, proposals or wishes were communicated. Related entities shall be considered to include especially the following:	<a href="#">Law on Corporate Income Tax</a> ("Official Gazette of the Federation of BiH" No. 15/16 and 15/20) Article 44, paragraph (3)

- a) Spouses, whether by marriage or common-law, descendants-adoptees or descendants of adoptees, parents, adoptive parents, siblings and their descendants, grandparents and their descendants as well as siblings and parents of the spouse, whether by marriage or common-law;
- b) A legal entity and any individual directly or indirectly owning 25 percent or more of the value or the number of shares or voting rights in the stated legal entity.
- c) Two or more legal entities if an individual or a third entity directly or indirectly owns 25 percent or more of the value or the number of shares or voting rights in each of the stated legal entities”.

**Rulebook on Transfer Pricing**

(1) Related parties to a taxpayer are considered to be:

- a) natural persons – citizens who, through family relations under Article 44 Paragraph (3) Point a) of the Act, are related to the ones who manage, control or have capital of the taxpayer;
- b) legal persons who directly or indirectly control persons, or are directly or indirectly controlled by persons, or are together with a taxpayer controlled by one joint entity referred to in the Article 44 Paragraph (3) Point a) of the Act;
- c) natural persons – citizens, who directly or indirectly own 25% or more of the value of capital or number of shares or voting rights of the taxpayer;
- d) legal persons who directly or indirectly own 25% or more of the value of capital or number of shares or voting rights of the taxpayer, or in which the taxpayer directly or indirectly owns 25% or more of the value of capital or number of shares or voting rights.

(2) Participation in the control means the ownership of capital, with a minimum of 25% of the capital or number of shares or voting rights of the taxpayer.

(3) Management participation means a material liability for the performance of certain legal person's obligations vis-à-vis third parties, regardless of the shareholders' equity.

(4) Legal persons are considered to be related parties even if one person directly or indirectly participates in the management, control or capital of the other, or if a third party participates directly or indirectly in the management, control or capital of both, or if the same person or the person referred to in the Article 44 Paragraph (3) Point a) of the Act shall participate in the management, control and capital.

(5) Related party shall also be considered the person who knowingly enters into a business relationship with the taxpayer in order to transfer the profits. In such

Rulebook on Transfer Pricing (“Official Gazette of the Federation of BiH” No. 67/16) Article 6

cases, an individual transaction is executed under circumstances as if it were a related party.

### Transfer Pricing Methods

4	<p><b>Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?</b></p>	<p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></p> <p>If affirmative, please check those provided for in your legislation:</p> <table border="1" style="width: 100%; text-align: center; border-collapse: collapse;"> <thead> <tr> <th style="padding: 5px;">CUP</th> <th style="padding: 5px;">Resale Price</th> <th style="padding: 5px;">Cost Plus</th> <th style="padding: 5px;">TNMM</th> <th style="padding: 5px;">Profit Split</th> <th style="padding: 5px;">Other (<i>If so, please describe</i>)</th> </tr> </thead> <tbody> <tr> <td style="padding: 5px;"><input checked="" type="checkbox"/></td> </tr> </tbody> </table> <p>FBIH applies the OECD TPG, which means that other methods are allowed. However, in practice, they are not often used.</p>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other ( <i>If so, please describe</i> )	<input checked="" type="checkbox"/>	<p><a href="#">Law on Corporate Income Tax</a> (“Official Gazette of the Federation of BiH” No. 15/16 and 15/20) Article 45, paragraphs (2) and (3)</p>					
CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other ( <i>If so, please describe</i> )										
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>										
5	<p><b>Which criterion is used in your jurisdiction for the application of transfer pricing methods?</b></p>	<p>Please check all that apply:</p> <p><input checked="" type="checkbox"/> Hierarchy of methods</p> <p><input type="checkbox"/> Most appropriate method</p> <p><input type="checkbox"/> Other (<i>if so, please explain</i>)</p> <p>The most appropriate transfer pricing method shall be selected from among the following transfer pricing methods: comparable uncontrolled price method; cost plus method and resale price method. In case that it is not possible to apply methods referred here, one of the following alternative methods may be applied: income split method, transactional net margin method, or any other method, provided that they can be reasonably applied to determine the conditions according to the arm’s length principle for transactions between related entities, and that such other method yields a result consistent with the at arm’s length principle.</p>	<p><a href="#">Law on Corporate Income Tax</a> (“Official Gazette of the Federation of BiH” No. 15/16 and 15/20) Article 45, paragraphs (2) and (3)</p>												
6	<p><b>If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.</b></p>	<p><input type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed.</p> <p><input type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities (<i>if so, please explain</i>)</p> <p><input checked="" type="checkbox"/> Other (<i>if so, please explain</i>)</p>													

		Currently, FBIH has no specific guidance on commodity transactions.	
<b>Comparability Analysis</b>			
7	<b>Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>  The Rulebook on Transfer Pricing prescribes basic parameters of comparability analysis, concept, steps in the comparability analysis, functional analysis, property, risk, functions and economic circumstances.	Rulebook on Transfer Pricing (“Official Gazette of the Federation of BiH” No. 67/16) Articles 29-45
8	<b>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>  This is prescribed by the Rulebook on Transfer Pricing.  If possible, taxpayers should use local comparable data in the comparability analysis. In a situation where taxpayers are unable to find enough reliable local comparable data, they can expand their search for regional comparable data, and beyond.	Rulebook on Transfer Pricing (“Official Gazette of the Federation of BiH” No. 67/16) Article 42, paragraph (4)
9	<b>Does your tax administration use secret comparables for transfer pricing assessment purposes?</b>	<input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b>	
10	<b>Does your legislation allow or require the use of an arm’s length range and/or statistical measure for determining arm’s length remuneration?</b>	<input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b>	
11	<b>Are comparability adjustments required under your domestic legislation or regulations?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>  The Rulebook on Transfer Pricing prescribes that the comparable transactions adjustment is an important element of the comparability analysis which, when applied appropriately, improves the accuracy and reliability of the comparison.	Rulebook on Transfer Pricing (“Official Gazette of the Federation of BiH” No. 67/16) Article 45

		<p>The differences between the transactions with which they are compared and the comparable must be examined in such a way as to determine and adjust the basis for comparison that would be useful for determining the arm's length price. Adjusting comparable transactions eliminates the differences between the situations being compared and those that could have a significant impact on the condition being examined in the methodology (e.g. price or margin). The comparable transactions adjustment should not be made on differences that do not have a significant impact on the comparison. The comparable transactions adjustment includes accounting adjustments and adjustments to functions and/or risks. The following situations should be avoided as they do not improve comparability:</p> <ul style="list-style-type: none"> <li>a) questionable adjustments because the comparability base criteria are broadly set;</li> <li>b) too many adjustments that largely affect comparability, as it indicates that the party in question is actually not sufficiently comparable;</li> <li>c) adjusting the differences that do not materially affect the comparability;</li> <li>d) very subjective adjustments, such as differences in product quality.</li> </ul>	
<b>Intangible Property</b>			
12	<p><b>Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?</b></p>	<p><input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b></p> <p>The Rulebook on Transfer Pricing prescribes the classification, aspects and types of intangible assets, methodology and price.</p>	<p>Rulebook on Transfer Pricing (“Official Gazette of the Federation of BiH” No. 67/16) Articles 59-64</p>
13	<p><b>Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard-to-value intangibles (HTVI)?</b></p>	<p><input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b></p> <p>The Rulebook on Transfer Pricing and Law does not provide for transfer pricing rules or special measures regarding hard-to-value intangibles (HTVI).</p>	
14	<p><b>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?</b></p>	<p><input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b></p>	

## Intra-Group Services

15	<b>Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	Rulebook on Transfer Pricing (“Official Gazette of the Federation of BiH” No. 67/16) Articles 46-58
		The Rulebook on Transfer Pricing prescribes types of intra-group services, support services, services within an MNE group, methodology and price.	
16	<b>Do you have any simplified approach for low value-adding intra-group services?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	Rulebook on Transfer Pricing (“Official Gazette of the Federation of BiH” No. 67/16) Article 54, paragraph (2)
		<p>The Rulebook on Transfer Pricing prescribes that taxpayers in support services may apply a 5% cost reimbursement fee under the arm's length principle when the following conditions are met:</p> <ul style="list-style-type: none"> <li>a) support services relate to the activities referred to: accounting and auditing, debt management, budgeting, IT support, database administration, employee benefits, general administration, legal services, payroll accounting, corporate communications, personnel policy and recruitment, tax consulting, employee training and development;</li> <li>b) the service provider does not offer support services to independent parties.</li> </ul>	
17	<b>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?</b>	<input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b>	
		No other rules outside the transfer pricing rules are applicable.	

## Financial Transactions

18	<b>[NEW] Does your domestic legislation or regulations provide guidance specific to financial transactions?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	Rulebook on Transfer Pricing (“Official Gazette of the Federation of BiH” No. 67/16) Articles 65-67
		The Rulebook on Transfer Pricing prescribes types of financial transactions, as a form of financial service or financial assistance between related persons, which includes loans, interest on loans, advances and/or debt, as well as providing any security or guarantee on the basis of financial assistance.	

		<p>The method of comparable uncontrolled transactions is considered to be the most reliable method.</p> <p>The comparative factors in financial transaction include: the nature and purpose of financial assistance; the amount, duration and conditions of financial assistance; the type of interest rate (e.g. fixed or variable interest rate); the built-in options; the guarantees included in financial assistance; the collateral for financial assistance; creditworthiness of the debtor; the location of the creditor and debtor.</p>	
19	<p><b>[NEW] Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of financial transactions?</b><i>(e.g. whether your jurisdiction has implemented the measures in BEPS Action 4 to limit interest deductions and other financial payments or any similar rules)</i></p>	<p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></p> <p>In the FBIH, the rule of thin capitalization has been implemented, where financial expenditures resulting from the payment of interest or its functional equivalent under financial contracts and instruments taken from related entities, shall be deductible. If the ratio between total liabilities pursuant to financial contracts and the registered capital of the taxpayer in the court register exceed 4:1, financial expenditures that may be assigned to the amount exceeding the ratio 4:1 represent non-deductible expenditures.</p> <p>This rule does not apply to banks, leasing company and insurance companies.</p>	<p><a href="#">Law on Corporate Income Tax</a> (“Official Gazette of the Federation of BiH” No. 15/16 and 15/20) Article 18</p>
<b>Cost Contribution Agreements</b>			
20	<p><b>Does your jurisdiction have legislation or regulations on cost contribution agreements?</b></p>	<p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></p> <p>The Rulebook on Transfer Pricing prescribes types of contractual relationships:</p> <ol style="list-style-type: none"> <li>a) an arrangement for the joint development of intangible assets, in which each participant contributes a variety of means, resources and expertise and receives a share of the rights in the developed assets on the basis of their contributions;</li> <li>b) a service arrangement on joint financing, or cost and risk sharing of the development, or acquisition of property or services, through the pooling of development funds, advertising campaigns, joint market participation, etc.</li> </ol> <p>Moreover, the Rulebook prescribes terms on whether the cost-contribution contract is carried out in accordance with the arm's length principle.</p>	<p>Rulebook on Transfer Pricing (“Official Gazette of the Federation of BiH” No. 67/16) Articles 57-58</p>

## Transfer Pricing Documentation

21	<p><b>Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?</b></p>	<p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></p> <p><i>If affirmative, please check all that apply:</i></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG</li> <li><input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG</li> <li><input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG</li> <li><input checked="" type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return)</li> <li><input type="checkbox"/> Other (specify):</li> </ul>	<p><a href="#">Law on Corporate Income Tax</a> (“Official Gazette of the Federation of BiH” No. 15/16 and 15/20) Article 49, paragraph 4</p> <p>Rulebook on Transfer Pricing (“Official Gazette of the Federation of BiH” No. 67/16) Articles 68-96</p>
22	<p><b>Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)</b></p>	<p><b>1. Master and local file</b></p> <p>Transfer pricing (TP) documentation should be organized at the MNE group level (master file), and at the level of the taxpayer (local file). TP documentation at the MNE group level is mandatory for taxpayers who have a consolidated gross profit of over BAM 1.5 billion (approx. EUR 750 million).</p> <p>The taxpayer engaging in transactions with the related entities shall be obligated, when filing its tax return, to have local transfer pricing documentation which includes sufficient information and analysis to confirm that the conditions of its transactions with related entities were consistent with the principle at arm’s length. Upon receipt of a request from the tax administration, the taxpayer shall submit the transfer pricing documents to the tax administration within 45 days.</p> <p>Local TP documentation should contain the transfer pricing report, which should at least include the following information on: a) the organizational structure and the operations overview of the group of related parties to which the taxpayer belongs; b) the analysis of the taxpayer's activities; c) the functional analysis; d) the transfer pricing method selection; e) the conclusion.</p> <p>Local transfer pricing documentation should be prepared and submitted in one of the official languages in Bosnia and Herzegovina, whereas the MNE group report (i.e. master file) may be in English. The tax administration reserves the right to request the translation of TP documentation.</p>	

		<p>Taxpayers may store TP documentation on any form, i.e. keep paper or electronic records. They must, however, be able to promptly provide relevant information at the request of the tax administration.</p> <p><b>2. Country-by-country report</b></p> <p>Taxpayers should submit the Form CBC-901 along with the corporate income tax return, if it is a resident of the Federation and generates a consolidated gross revenue of at least BAM 1.5 billion (approx. EUR 750 million).</p> <p>Form CBC-901 must be submitted by 31 March of the current year for the previous year.</p> <p>Form CBC-901 must be submitted in an official language in BiH.</p> <p><b>3. Specific transfer pricing returns</b></p> <p>Taxpayers should submit Form TP-902 along with the corporate income tax return, if the total amount of transactions of the taxpayer with related party exceeds the amount of BAM 500 000 (approx. EUR 254 033) in the tax period.</p> <p>Form TP-902 must be submitted by 31 March of the current year for the previous year.</p> <p>Form TP-902 must be submitted in an official language in BiH.</p>	
23	<p><b>Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</b></p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>A fine of BAM 3 000 (approx. EUR 1 524) up to BAM 100 000 (approx. EUR 50 867) shall be imposed on the taxpayer for a violation if the taxpayer:</p> <ul style="list-style-type: none"> <li>- fails to submit a summary of transactions exceeding the amount of BAM 500 000 (approx. EUR 254 033) in the tax period;</li> <li>- Fails to render the transactions with related entities consistently with the arm's length principle;</li> <li>- does not have transfer pricing documentation;</li> <li>- fails to submit documentation to the tax administration upon its request.</li> </ul>	<p><a href="#">Law on Corporate Income Tax</a> (“Official Gazette of the Federation of BiH” No. 15/16 and 15/20) Article 58, paragraphs 2e), h), j), k)</p>
24	<p><b>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</b></p>	<p>There is no exemption or materiality threshold.</p>	

### Administrative Approaches to Avoiding and Resolving Disputes

25	<b>Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?</b>	Please check those that apply: <input type="checkbox"/> Rulings <input type="checkbox"/> Enhanced engagement programs <input type="checkbox"/> Advance Pricing Agreements (APA) <input type="checkbox"/> Unilateral APAs <input type="checkbox"/> Bilateral APAs <input type="checkbox"/> Multilateral APAs <input checked="" type="checkbox"/> Mutual Agreement Procedures <input type="checkbox"/> Other ( <i>please specify</i> ):	
		There are no MAPs procedures or guidance in place.	

### Safe Harbours and Other Simplification Measures

26	<b>Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
27	<b>Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No No other simplification measures are used.	

### Other Legislative Aspects or Administrative Procedures

28	<b>Does your jurisdiction allow/require taxpayers to make year-end adjustments?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		Generally, the taxpayer can adjust the transfer price in the tax return. The adjustments can be made at any point, up to the deadline for submission of the	

		tax return. After that filing date, a taxpayer may submit, within the period of 180 days, an amended tax return for the relevant fiscal period, in which can be incorporated a change to any transfer pricing adjustment.	
29	Does your jurisdiction make secondary adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>Attribution of Profits to Permanent Establishments</b>			
30	<b>[NEW]</b> Does your jurisdiction follow the Authorised OECD Approaches for the attribution of profits to PEs (AOA)?	<input checked="" type="checkbox"/> Yes <i>In how many tax treaties?</i> None of Bosnia and Herzegovina's tax treaties contain the new version of Article 7 of the OECD MTC. <i>If yes, how do you implement it in cases, where the old tax treaties do not contain the new version of Article 7 (OECD MTC 2010 and later)</i> FBIH has not encountered such cases in practice.	
		<input type="checkbox"/> No	
31	<b>[NEW]</b> Does your jurisdiction follow also another approach?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>Other Relevant Information</b>			
32	<b>Other legislative aspects or administrative procedures regarding transfer pricing</b>	Currently, there is no special tax audit procedure for transfer pricing that differs from the regular tax audit procedure.	
33	<b>Other relevant information</b> (e.g. whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire)	FBIH will harmonize the Rulebook for Transfer Pricing audit with the outcomes of BEPS Actions 8-10 on Transfer Pricing in the short-term.	

# Republic of Srpska

## Transfer Pricing Country Profile

April 2023

		SUMMARY	REFERENCE
<b>The Arm's Length Principle</b>			
1	<b>Does your domestic legislation or regulation make reference to the Arm's Length Principle?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>  Corporate Income Tax Law (Official Gazette of the Republic of Srpska, 94/15, 1/17 and 58/19), Article 32, paragraph (1), states that:  "A taxpayer which has one or more transactions with related persons shall determine its taxable profit in a manner compliant with the arm's length principle."	Corporate Income Tax Law (Official Gazette of the Republic of Srpska, 94/15, 1/17 and 58/19), Article 32, paragraph (1)
2	<b>What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?</b>	OECD Guidelines are not formally set as compulsory legislation in the Republic of Srpska, however, all parts of the law and rulebook are based on the OECD Guidelines regarding the application of certain methods for determining transfer pricing, and the process of authentication of transfer pricing. OECD Guidelines are used as guide for determining transfer pricing. Amendments to the Rulebook on transfer pricing is planned in order to introduce missing parts from the OECD Guidelines.	Rulebook on transfer pricing and methods of determining transfer pricing (Official Gazette of the Republic of Srpska, 47/16)
3	<b>Does your domestic legislation or regulation provide a definition of related parties? If so, please provide the definition contained under your domestic law or regulation.</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>  Article 31 of the Corporate Income Tax Law states that: (2) A person is related to another person when such person participates directly or indirectly in the management, control or capital of that another person, or when the same person or same persons participate directly or indirectly in the management, control or capital of both persons. (3) A person participates directly or indirectly in the management, control or capital of another person when such person holds directly or indirectly at least 25%	Corporate Income Tax Law (Official Gazette of the Republic of Srpska, 94/15, 1/17 and 58/19), Article 31, paragraphs (2) (3) (4) (5)

	<p>of shares or stakes in another legal person or when such person has a de facto possibility to control the business decisions of another person.</p> <p>(4) A person has the de facto possibility to control the business decisions of another person when it:</p> <ol style="list-style-type: none"> <li>1) has or controls 25% or more of the voting rights in another legal person,</li> <li>2) has control over the composition of board of directors of another legal person,</li> <li>3) has the right to a share in profits of another person of 25% or more,</li> <li>4) is a family member or a related person of a family member or</li> <li>5) otherwise has de facto control over the business decisions of another person.</li> </ol> <p>(5) Family members referred to in paragraph 4, point 4) of this Article shall include: spouses and common-law spouses, children and adopted children, parents and adoptive parents, siblings or relatives in a straight line regardless of the degree, in a collateral line to the third degree as well as in-laws up to the second degree.</p>	
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**Transfer Pricing Methods**

4	<p><b>Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?</b></p> <p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></p> <p>If affirmative, please check those provided for in your legislation:</p> <table border="1" style="width: 100%; text-align: center;"> <thead> <tr> <th>CUP</th> <th>Resale Price</th> <th>Cost Plus</th> <th>TNMM</th> <th>Profit Split</th> <th>Other (<i>If so, please describe</i>)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </tbody> </table> <p>Any other method by which it is possible to determine the price of the transaction based on the arm's length principle, provided that the application of the CUP method, Resale Price method, Cost Plus method, TNMM, and Transactional Profit Split methods are not possible.</p>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other ( <i>If so, please describe</i> )	<input checked="" type="checkbox"/>	<p>Corporate Income Tax Law (Official Gazette of the Republic of Srpska, 94/15, 1/17 and 58/19), Article 33, paragraph (1)</p>					
CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other ( <i>If so, please describe</i> )									
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>									

5	<p><b>Which criterion is used in your jurisdiction for the application of transfer pricing methods?</b></p> <p>Please check all that apply:</p> <p><input type="checkbox"/> Hierarchy of methods</p> <p><input checked="" type="checkbox"/> Most appropriate method</p> <p><input type="checkbox"/> Other (<i>if so, please explain</i>)</p> <p>Article 8 of the Rulebook on transfer pricing states that:</p>	<p>Rulebook on transfer pricing and methods of determining transfer pricing (Official Gazette of the Republic of Srpska, 47/16), Article 8</p>
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		<p>(2) Appropriate transfer pricing inspection method shall be selected out of the methods referred to in Article 7 of this Rulebook by taking into consideration following criteria:</p> <ol style="list-style-type: none"> <li>1) advantages and disadvantages of the selected method,</li> <li>2) how much does the method correlates with circumstances of the case, taking into consideration the nature of the transaction, most importantly analysis of functions which will be undertaken by each person in order to inspect the transaction,</li> <li>3) availability of reliable information necessary for the application of selected transfer pricing inspection method and/or other methods and</li> <li>4) level of comparability between controlled and uncontrolled transactions.</li> </ol> <p>(3) When a taxpayer uses one of the methods for determining compliance of the conditions of controlled transactions with the arm's length principle referred to in Article 7 of this Rulebook and when the method is selected and applied in accordance with this Article, then the Tax Administration, during the inspection of compliance of the conditions of controlled transactions with the arm's length principle, is obliged to perform that inspection based on the methods selected by the taxpayer.</p>	
6	<b>If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.</b>	<input checked="" type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed. <input type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities ( <i>if so, please explain</i> ) <input type="checkbox"/> Other ( <i>if so, please explain</i> )	
<b>Comparability Analysis</b>			
7	<b>Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b> <p>In order to have quality control of the result, it is necessary to perform a comparability analysis having in mind all five factors. Namely, a comparability analysis shall include: description of the process performed in order to determine comparable uncontrolled transaction; explanation of reason why any potential internal comparable transaction is dismissed (if that is the case); description of comparable uncontrolled transaction; comparability analysis of controlled transactions and comparable uncontrolled transactions and details and explanation if there were any compliance activities referred in Article 5, paragraph 2, point 2) of the Rulebook (related to comparability adjustments when necessary to increase comparability). According to point 2), an uncontrolled transaction is comparable</p>	Rulebook on transfer pricing and methods of determining transfer pricing (Official Gazette of the Republic of Srpska, 47/16), Article 12, point 6)

		to a controlled transaction when, despite the existence of significant differences, these differences can be eliminated by reasonable precise adjustments.	
8	<b>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	Rulebook on transfer pricing and methods of determining transfer pricing (Official Gazette of the Republic of Srpska, 47/16), Article 6, paragraph (1) and (2) and Article 9, paragraph (3)
		<p>There is a preference for domestic comparables if they can lead to a reliable result, but foreign comparables are also accepted.</p> <p>Article 6, paragraphs (1) and (2) states that:</p> <p>(1) Comparable uncontrolled transactions can be:</p> <ol style="list-style-type: none"> <li>1) internal comparable uncontrolled transactions, where a person which is a party in controlled transactions is also a party in comparable uncontrolled transaction,</li> <li>2) external comparable uncontrolled transaction where none of the parties in controlled transactions is a party in a comparable uncontrolled transaction as well,</li> </ol> <p>(2) If there are no domestic comparable uncontrolled transactions, foreign comparable uncontrolled transactions can be used, under the condition that comparability standard referred to in Article 5 of this Rulebook is fulfilled.</p> <p>Article 9, paragraph (3) further states that: Using of testing party which is not a taxpayer in Republic of Srpska (hereinafter: foreign tested party) is allowed under the following conditions:</p> <ol style="list-style-type: none"> <li>1) method used for transfer pricing inspection is one of the methods stated in Article 7 of this Rulebook which is the most adequate,</li> <li>2) tested party is selected in accordance with this Article and</li> <li>3) taxpayer shall secure to the Tax Administration enough information regarding tested party for the purpose of assessment of compliance of the conditions of controlled transaction with the arm's length principle.</li> </ol>	
9	<b>Does your tax administration use secret comparables for transfer pricing assessment purposes?</b>	<input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b>	
		Data must be public and made available to both sides in the procedure, since the analysis by the taxpayer is performed before the control procedure.	
10	<b>Does your legislation allow or require the use of an arm's length range and/or statistical measure for determining arm's length remuneration?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	Rulebook on transfer pricing and methods of determining transfer pricing (Official Gazette of the Republic of Srpska, 47/16), Article 11
		<p>Article 11 of the Rulebook provides as follows:</p> <p>(1) Range of arm's length principle is a range of amount of relevant financial indicator, such as prices, margin or share in profit, which is acquired by applying</p>	

		<p>the most applicable transfer pricing inspection method on a relevant number of comparable uncontrolled transactions.</p> <p>(2) In cases where during the process of inspection of compliance of the controlled or combined controlled transaction referred to in Article 10 of this Rulebook with the arm's length principle a range of financial indicator is determined, it is considered that inspected transaction or inspected combined transactions are in accordance with the arm's length principle if the relevant financial indicator is within that range.</p> <p>(3) In case where a relevant financial indicator, selected out of controlled or combined controlled transaction referred to in Article 10 of this Rulebook, is out of range of arm's length principle, the Tax Administration shall in accordance with Article 32 of the Law increase taxpayer's tax base in order to equalise financial indicator with the median of arm's length principal's range, unless the Tax Administration or taxpayer proves that the circumstance of the case justify the increase of the tax base, based on other point within the arm's length principle's range.</p> <p>(4) Burden of proving that circumstances of the case justify the increase of the tax base, based on other point within the arm's length principle's range is on the party asking for the increase of the tax base, based on other point within the arm's length principle's range that is not the median.</p> <p>(5) Median of the range of arm's length principle is a number dividing upper and lower part of the results from comparable uncontrolled transactions which forms the range of arm's length principle and it is determined by sorting of all results that are part of arm's length principle by size, and the middle number from that list shall represent the median.</p> <p>(6) In cases where the number of results which form the arm's length principle's range is even, the median shall represent the arithmetic mean between two numbers which are in the middle of the list.</p>	
11	<p><b>Are comparability adjustments required under your domestic legislation or regulations?</b></p>	<p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></p> <p>Yes, but only if there is insufficient data to perform the analysis, and if the adjustments lead to more reliable results.</p> <p>(2) A uncontrolled transaction is comparable with a controlled transaction when:</p> <ol style="list-style-type: none"> <li>1) there is no significant difference between transactions which might have material influence on the financial indicator which is being inspected in accordance with the relevant method for control of transfer pricing or</li> <li>2) despite significant differences referred to in point 1) of this paragraph, with reasonable precise alignment of relevant financial indicator, the effect of such differences on compliance is eliminated.</li> </ol>	<p>Rulebook on transfer pricing and methods of determining transfer pricing (Official Gazette of the Republic of Srpska, 47/16), Article 5, paragraph (2)</p>

## Intangible Property

12	<p><b>Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?</b></p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>Rulebook on transfer pricing and methods of determining transfer pricing (Official Gazette of the Republic of Srpska, 47/16), Article 3, paragraph (2), point 3)</p>
	<p>Article 3, paragraph (2), point 3) of the Rulebook prescribes that controlled transactions involving intangibles are transactions regarding immaterial asset such as: royalty payments, licence, fees for using patents, brands, know-how, etc. and any other payment for other immaterial asset. <b>Beyond this</b>, intangibles are not defined and not specifically regulated. The principles and guidance included in the Rulebook also apply to controlled transactions involving intangibles.</p>		
13	<p><b>Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard-to-value intangibles (HTVI)?</b></p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
	<p>The Rulebook on transfer pricing and Law do not provide for transfer pricing rules or special measures regarding hard-to-value intangibles (HTVI).</p>		
14	<p><b>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?</b></p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	
	<p>There is no special law that separately regulates intangible assets from the point of view of taxation. The same is treated through accounting rules that include International Accounting Standards (IAS), International financial reporting standards (IFRS), International financial reporting standard for small and medium-sized entities (IFRS for SMEs), International Auditing Standards (ISA), International accounting standards for the public sector (IPSAS), International Valuation Standards (IVS), International gender standards for the professional practice of internal auditing, Conceptual Framework for Financial Reporting, Codex of ethics for professional accountants (hereinafter: Code) and accompanying instructions, explanations and guidelines issued by the International Accounting Standards Board (IASB) and all accompanying instructions, explanations and guidelines issued by the International federation of accountants (IFAC).</p>		

## Intra-Group Services

15	<p><b>Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?</b></p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Intra-group services are not specifically regulated. The principles and guidance included in the Rulebook also apply to intra-group services. Furthermore, it is expected that rules on safe harbours for intra-group services will be introduced.</p>	
16	<p><b>Do you have any simplified approach for low value-adding intra-group services?</b></p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Not specifically regulated.</p>	
17	<p><b>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?</b></p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(1) Withholding tax shall be paid on the following payments of income to a foreign legal person:                  (...)                  5) for professional, scientific, technical and educational services (market research, advertising and promotion, management, consulting, tax and business consulting, audit, accounting and legal services, education and similar services),                  (...)                  7) for telecommunication services between the Republic of Srpska and foreign countries                  (...)</p> <p>(2) Apart from the requirement of paying the tax referred to in paragraph 1 of this Article, withholding tax shall be paid on the income from services paid by the resident of the Republic of Srpska to the resident of a country which did not conclude a double taxation avoidance agreement with Bosnia and Herzegovina.</p> <p>(3) Withholding tax shall be paid even in cases where the payment of the income referred to in paragraph 1 and 2 of this Article to a non-resident is conducted by other means, apart from money.</p>	<p>Corporate Income Tax Law (Official Gazette of the Republic of Srpska, 94/15, 1/17 and 58/19), Articles 44 to 49</p>

Financial Transactions			
18	<b>[NEW] Does your domestic legislation or regulations provide guidance specific to financial transactions?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Financial transactions are not specifically regulated. General guidelines on transfer pricing included in the Rulebook are relevant for financial transactions.	Rulebook on transfer pricing and methods of determining transfer pricing (Official Gazette of the Republic of Srpska, 47/16)
19	<b>[NEW] Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of financial transactions?</b> <i>(e.g. whether your jurisdiction has implemented the measures in BEPS Action 4 to limit interest deductions and other financial payments or any similar rules)</i>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Article 14 provides that: (1) Accrued interest and related costs on loans shall be recognised as expenditures only if the amount of interest and related costs deductible refers to the obligation of the tax year in which the deduction is done. (2) If the parent legal person does not exercise the right to deduct interest based on loan, such right may be exercised by the dependent legal persons in proportion to the amount of used loan.  Article 14a.: (1) Notwithstanding Article 14 of this Law, expenses of interests shall not be recognised in the tax balance for the amount in which net expenses of interests exceed 30% of the tax base, and which do not include income and expenses based on interest. (2) Net expenses of interests, in terms of paragraph 1 of this Article, shall represent a positive difference between expense and income based on interest.	Corporate Income Tax Law (Official Gazette of the Republic of Srpska, 94/15, 1/17 and 58/19), Articles 14 and 14a.
Cost Contribution Agreements			
20	<b>Does your jurisdiction have legislation or regulations on cost contribution agreements?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Contracts are integral part of documentation on transfer pricing, and they are taken into consideration in the transfer pricing analysis.	Rulebook on transfer pricing and methods of determining transfer pricing (Official Gazette of the Republic of Srpska, 47/16), Article 12, paragraph (2), point 8)
Transfer Pricing Documentation			
21	<b>Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>If affirmative, please check all that apply:</i>	Rulebook on transfer pricing and methods of determining transfer pricing (Official Gazette of the Republic of Srpska, 47/16), Article 12

		<input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG <input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG <input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG <input checked="" type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return) <input type="checkbox"/> Other (specify):	
22	<b>Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)</b>	<p>(1) At the time of filing the tax return for corporate income tax, the taxpayer that has transactions with related persons shall have the documentation on transfer pricing which provides sufficient information and analysis to confirm the compliance of the conditions of transactions with related persons with the arm's length principle.</p> <p>(2) The taxpayer shall deliver the documentation and analysis on transfer pricing referred to in paragraph 1 of this Article to the Tax Administration within 30 days from the receipt of the request of the Tax Administration for its delivery.</p> <p>(3) A taxpayer which has transactions with a related person in the amount above the threshold prescribed by the Minister shall submit an annual declaration of controlled transactions.</p> <p>The threshold prescribed by the Minister is BAM 700 000 (approx. EUR 350 000).</p> <p>The transfer pricing documentation should be submitted in the local language.</p>	Corporate Income Tax Law (Official Gazette of the Republic of Srpska, 94/15, 1/17 and 58/19), Article 34
23	<b>Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b> <p>(1) A fine of BAM 20 000 (approx. EUR 10 173) to BAM 60 000 (approx. EUR 30 500) shall be imposed for a minor offence on a legal person for:</p> <ol style="list-style-type: none"> <li>1) failure to have the documentation on transfer pricing which provides sufficient information and analysis to confirm the compliance of the conditions of transactions with the arm's length principle (Article 34, paragraph 1),</li> <li>2) failure to deliver the documentation referred to in point 1) of this Article at the request of the Tax Administration within 30 days (Article 34, paragraph 2).</li> </ol>	Corporate Income Tax Law (Official Gazette of the Republic of Srpska, 94/15, 1/17 and 58/19), Article 58, paragraph (1), point 1. and 2.

24	<b>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</b>	There is no exemption for transfer pricing documentation. For CbCR, the threshold is EUR 750 million.	
<b>Administrative Approaches to Avoiding and Resolving Disputes</b>			
25	<b>Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?</b>	Please check those that apply: <input checked="" type="checkbox"/> Rulings <input type="checkbox"/> Enhanced engagement programs <input type="checkbox"/> Advance Pricing Agreements (APA) <input type="checkbox"/> Unilateral APAs <input type="checkbox"/> Bilateral APAs <input type="checkbox"/> Multilateral APAs <input checked="" type="checkbox"/> Mutual Agreement Procedures <input type="checkbox"/> Other ( <i>please specify</i> ): There are no MAPs procedures or guidance in place.	
<b>Safe Harbours and Other Simplification Measures</b>			
26	<b>Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
27	<b>Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

### Other Legislative Aspects or Administrative Procedures

28	<b>Does your jurisdiction allow/require taxpayers to make year-end adjustments?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	<p>Article 32, Paragraph 4 of the Law on Profit Tax, and Article 11 of the Rulebook on transfer pricing and methods of determining transfer pricing (Official Gazette of the Republic of Srpska, 47/16)</p>
		<p>That is obligatory after the analysis is performed, the method is applied and documentation is drafted.            Generally the taxpayer can adjust the transfer price in the tax return.            The adjustments can be made at any point, up to the deadline for submission of the tax return. After that filing date a taxpayer may submit an amended tax return for the relevant fiscal period, in which can be incorporated a change to any transfer pricing adjustment.</p>	
29	<b>Does your jurisdiction make secondary adjustments?</b>	<input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b>	
		<p>Secondary adjustments are not defined by law.</p>	

### Attribution of Profits to Permanent Establishments

30	<b>[NEW] Does your jurisdiction follow the Authorised OECD Approaches for the attribution of profits to PEs (AOA)?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <i>In how many tax treaties?</i> N/A <i>If yes, how do you implement it in cases, where the old tax treaties do not contain the new version of Article 7 (OECD MTC 2010 and later)</i> There is no practical experience with this situation.	
		<input type="checkbox"/> <b>No</b>	
31	<b>[NEW] Does your jurisdiction follow also another approach?</b>	<input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b>	

## Other Relevant Information

32	<p><b>Other legislative aspects or administrative procedures regarding transfer pricing</b></p>	<p>Currently, there is no special tax audit procedure for transfer pricing that differs from the regular tax audit procedure.</p>	
33	<p><b>Other relevant information</b> (e.g. <i>whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire</i>)</p>	<p>Republic of Srpska plans to harmonize in recent period the Rulebook for transfer pricing audit with BEPS Actions 8-10 Transfer Pricing.</p>	

# Brcko District of Bosnia and Herzegovina

## Transfer Pricing Country Profile

April 2023

		SUMMARY	REFERENCE
<b>The Arm's Length Principle</b>			
1	<b>Does your domestic legislation or regulation make reference to the Arm's Length Principle?</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b> The Rulebook on Corporate Profit Tax Law ("Official Gazette of the Brcko District of Bosnia and Herzegovina" No. 9/2011, 40/2012 and 9/2013), Article 35, paragraph (2) states that:  "Taxpayer is obliged to show in his tax balance sheet related parties transaction value using transfer prices and prices to free competition market prices under the arm's length principle."	Rulebook on Corporate Profit Tax Law ("Official Gazette of the Brcko District of Bosnia and Herzegovina" No. 9/2011, 40/2012 and 9/2013), Article 35, paragraph (2)  To download this specific rulebook <a href="#">open the link</a> and then click to: "Pravilnik o primjeni Zakona o porezu na dobit"
2	<b>What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?</b>	The OECD Transfer Pricing Guidelines are not applicable under Brcko District of Bosnia and Herzegovina ("BiH") legislation. However, the Rulebook on Corporate Profit Tax Law lays down more specifically the application of particular transfer pricing methods in accordance with the OECD Guidelines.	Rulebook on Corporate Profit Tax Law ("Official Gazette of the Brcko District of Bosnia and Herzegovina" No. 9/2011, 40/2012 and 9/2013), Article 35, paragraph (4)
3	<b>Does your domestic legislation or regulation provide a definition of related parties? If so, please provide the definition contained under your domestic law or regulation.</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>  <b>Corporate Profit Tax Law</b> j) "Related Person": a person is related to another person if the relationship between the persons is described in any of the following: <ol style="list-style-type: none"> <li>1. a physical person is related to a legal person if the physical person owns, directly or indirectly, 10% or more of the stock in the legal person;</li> <li>2. a legal person is related to another legal person if a legal person owns, directly or indirectly, 10% or more of the stock in the stock holding company, i.e. share in ownership of 10% or more in the capital of a non-stock entity;</li> </ol>	Corporate Profit Tax Law ("Official Gazette of the Brcko District of Bosnia and Herzegovina" No. 60/2010, 57/2011, 33/2012 and 30/2020) Article 2, paragraphs j). 1), 2) and 3)

3. a physical person is considered to own stock that are owned by his or her spouse, children, adopted children, parents, grandparents, children, and grandchildren.

**Transfer Pricing Methods**

4 **Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?**

Yes  
 No

If affirmative, please check those provided for in your legislation:

CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (If so, please describe)
<input checked="" type="checkbox"/>	<input type="checkbox"/>				

5 **Which criterion is used in your jurisdiction for the application of transfer pricing methods?**

Please check all that apply:

Hierarchy of methods  
 Most appropriate method  
 Other (if so, please explain)

**Rulebook on Corporate Profit Tax Law**  
 (4) When determining and evaluating whether the transactions and commitments between related parties are agreed under market prices, the following methods can be applied:

- a) comparative market prices method that compares prices of related transactions or commitments with the price under market conditions for the same or similar transactions. If this comparison is possible, then this method is the primarily used method;
- b) Net profit method determines the net profit on a certain base, e.g. total expenses, sale income, assets or capital, that one party makes from business with another or more related parties;
- c) trade pricing method determines the price of goods acquired by related parties and then sold to non-related parties by reducing the amount of gross trade margin that is made on market terms;
- d) gross profit added costs method, determines the costs of product or half product sold or services provided to related parties by adding the gross profit that can be made on market terms.

Rulebook on Corporate Profit Tax Law (“Official Gazette of the Brcko District of Bosnia and Herzegovina” No. 9/2011, 40/2012 and 9/2013), Article 35, paragraphs (4) a), b), c), d) and e)

		e) profit splitting method that eliminates the effects of specific conditions on profit between related parties.	
6	<b>If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.</b>	<input type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed. <input type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities ( <i>if so, please explain</i> ) <input checked="" type="checkbox"/> Other ( <i>if so, please explain</i> )	
		Currently, Brcko District of BiH has no specific guidance on commodity transactions.	

### Comparability Analysis

7	<b>Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		Not defined by Brcko District of BiH's legislation. Taxpayers submit data on TP in their tax returns and the tax authorities increase or decrease the amount of income or expenditure if it is determined that the transfer price indicated by the taxpayer is different from market prices, using the methods described in question 5.	
8	<b>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
9	<b>Does your tax administration use secret comparables for transfer pricing assessment purposes?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
10	<b>Does your legislation allow or require the use of an arm's length range and/or statistical measure for determining arm's length remuneration?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11	<b>Are comparability adjustments required under your domestic legislation or regulations?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

## Intangible Property

12	<b>Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		Not defined by Brcko District of BiH's legislation. The current transfer pricing rules will serve for the purpose of determining transfer prices from intangibles transactions.	
13	<b>Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard-to-value intangibles (HTVI)?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
14	<b>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

## Intra-Group Services

15	<b>Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		Not defined by Brcko District of BiH's legislation. The current transfer pricing rules will serve for the purpose of determining transfer prices from intra-group services transactions.	
16	<b>Do you have any simplified approach for low value-adding intra-group services?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
17	<b>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		No other rules outside the transfer pricing rules are applied.	

Financial Transactions		
18	<b>[NEW]</b> Does your domestic legislation or regulations provide guidance specific to financial transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Not defined by Brcko District of BiH's legislation. The current transfer pricing rules will serve for the purpose of determining transfer prices from financial transactions.
19	<b>[NEW]</b> Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of financial transactions?(e.g. whether your jurisdiction has implemented the measures in BEPS Action 4 to limit interest deductions and other financial payments or any similar rules)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Cost Contribution Agreements		
20	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Transfer Pricing Documentation		
21	Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>If affirmative, please check all that apply:</i> <ul style="list-style-type: none"> <li><input type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG</li> <li><input type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG</li> <li><input type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG</li> <li><input type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return)</li> <li><input checked="" type="checkbox"/> Other (specify):</li> </ul> The Rulebook prescribes mandatory transfer pricing documentation when submitting the income tax return – form 1101, annexes 12 and 13. As examples,

		taxpayers should provide data on supply of goods and on sales to connected persons using prices lower than the market price.	
22	<b>Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)</b>	<u>Specific transfer pricing returns</u> Taxpayers must submit Form 1102 along with the corporate income tax return. Form 1102 must be submitted by 31 March of the current year for previous year. Form 1102 must be submitted in an official language in BiH.	Corporate Profit Tax Law (“Official Gazette of the Brcko District of Bosnia and Herzegovina” No. 60/2010, 57/2011, 33/2012 and 30/2020) Article 22. par. 1) and 2). Rulebook on Corporate Profit Tax Law (“Official Gazette of the Brcko District of Bosnia and Herzegovina” No. 9/2011, 40/2012 and 9/2013), Article 62, paragraph b) 2)
23	<b>Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
24	<b>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</b>	There is no exemption or materiality threshold.	
<b>Administrative Approaches to Avoiding and Resolving Disputes</b>			
25	<b>Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?</b>	<p>Please check those that apply:</p> <input type="checkbox"/> Rulings <input type="checkbox"/> Enhanced engagement programs <input type="checkbox"/> Advance Pricing Agreements (APA) <ul style="list-style-type: none"> <li><input type="checkbox"/> Unilateral APAs</li> <li><input type="checkbox"/> Bilateral APAs</li> <li><input type="checkbox"/> Multilateral APAs</li> </ul> <input checked="" type="checkbox"/> Mutual Agreement Procedures <input type="checkbox"/> Other ( <i>please specify</i> ):	
		There are no MAP procedures or guidance in place.	

### Safe Harbours and Other Simplification Measures

26	Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
27	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No No simplification measures are used.	

### Other Legislative Aspects or Administrative Procedures

28	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Generally, the taxpayer can adjust the transfer price in the tax return. The adjustments can be made at any point, up to the deadline for submission of the tax return. After the submission date, the taxpayer can submit an amended tax return until 31 December of the current year for the previous year. This amended tax return can incorporate changes to any transfer pricing adjustment.	
29	Does your jurisdiction make secondary adjustments?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

### Attribution of Profits to Permanent Establishments

30	<b>[NEW]</b> Does your jurisdiction follow the Authorised OECD Approaches for the attribution of profits to PEs (AOA)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
31	<b>[NEW]</b> Does your jurisdiction follow also another approach?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

## Other Relevant Information

32	<b>Other legislative aspects or administrative procedures regarding transfer pricing?</b>	Currently, there is no special tax audit procedure for transfer pricing that differs from the regular tax audit procedure.	
33	<b>Other relevant information</b> (e.g. <i>whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire</i> )	The current Law on Corporate Tax is from 2010 and current Rulebook on Corporate Tax that contains TP matters is from 2011. Brcko District BiH plans to harmonize the Corporate Profit Tax Law with the Federation BiH and Republic of Srpska and pass the Rulebook for Transfer Pricing.	