15 April 2022

To: International Co-operation and Tax Administration Division
Organisation for Economic Cooperation and Development
Centre for Tax Policy and Administration
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75775, Paris, Cedex 16, France
Submitted by email: taxpublicconsultation@oecd.org

Re: *Business at OECD* (BIAC) comments to OECD's Public Consultation on the GLoBE Implementation Framework

Dear Secretariat Team,

Thank you for the opportunity to comment on what should be covered in the Implementation Framework of the global minimum tax under Pillar Two of the project Addressing Tax Challenges of the Digitalization of the Economy (the "Project"). We support the Inclusive Framework's stated priorities in developing a GloBE Implementation Framework that is efficient for taxpayers and tax administrations and preserves consistent and coordinated outcomes for MNEs that avoid the risk of double taxation while minimizing compliance costs. Importantly, we believe that safe harbors will be crucial in this respect. We also urge a relentless focus over the coming months, wherever possible, on reducing complexity in applying the Model Rules consistent with Pillar Two's stated policy objectives. In that light, we offer our comments and responses to your suggested questions on issues that should be addressed as part of the development of the GLoBE Implementation Framework, while noting that because of the short timeframe for comments, we have addressed these in template, rather than pure narrative form, in our detailed comments.

We highlight several general themes in this preamble, which should be read in conjunction with our more detailed comments.

First and foremost, the Implementation Framework should eliminate administrative burden wherever possible. This can be achieved, in part, by implementing a centralized filing mechanism, consistent formatting of submissions (i.e., using standardized templates), consistent means for reporting and notification requirements and imposing uniform deadlines.

We believe that the development of broad, simple, and administrable safe harbors is vital to the administrability of the GloBE rules and to the ability of MNEs to manage the overwhelming complexity and additional compliance posed by the rules. Delay in the release of the safe harbors will significantly impede the ability of MNEs to implement the systems and process changes necessary to meet the aggressive implementation and compliance timeline. We provide a number of suggested safe harbors in our more detailed comments that follow.

While we understand several Inclusive Framework jurisdictions are not supportive of this, we would support a multilateral convention to codify and coordinate jurisdictions' political commitment regarding the common approach. Such a multilateral convention could also contain a mechanism for multilateral dispute resolution. Nevertheless, even if such a convention is not possible at this time, the Implementation Framework should specify a robust dispute resolution framework in which there is a process that produces a result that is accepted by all jurisdictions. This will ensure a coherent application of the Model Rules worldwide and potentially facilitate audits and settle disputes between companies and authorities or between authorities.

It would also be appropriate to develop commentary and administrative guidance on a rolling basis throughout the initial years of implementation. Key to the effective implementation of the new rules by both MNEs and tax authorities is a consistent understanding, implementation, and administration of the rules. Given the complexity of the rules this will not be achieved without a significant investment in commentary and administrative guidance on an evolving basis as areas warranting further clarification are identified. Without a uniform approach to implementation, double taxation and disputes will arise.

Finally, we reiterate that there remain two as yet unquantifiable issues that will also require attention:

- First, there will be interactions between Pillar One and Pillar Two (once outstanding Pillar One issues have been resolved) that will need to be addressed to avoid double taxation.
- Second, if it were ultimately determined that the U.S. Global Intangible Low-Taxed Income (GILTI) regime was not a Qualified IIR, as defined in the Model Rules, then further work will also need to be done to reduce uncertainty and instability to the greatest extent possible

The *Business at OECD* (BIAC) tax committee again thanks the Secretariat and WP11 for the opportunity to engage with it on these important issues, and fully supports the continuing work on Pillar Two. We believe that significant work is required between now and implementation and beyond implementation to ensure that Pillar Two achieves its stated goal of implementing an administrable global minimum tax without adding double taxation burden. We look forward to working with you to advance this goal in your ongoing work and would be pleased to provide additional support and assistance in further implementation efforts. Please let us know any questions arising from both our general and specific comments provided, and we look forward to constructively engaging with you on these important topics throughout 2022.

Sincerely,

Alan McLean
Chair, *Business at OECD* (BIAC) Tax Committee

William H. Morris
Chair Emeritus

Cc: Hanni Rosenbaum, Executive Director, *Business at OECD* (BIAC)

We group our comments under the relevant questions suggested in the request for input and include a separate section specific to the funds and Insurance Sector:

Question 1

Do you see a need for further administrative guidance as part of the Implementation Framework? If so, please specify the issues that require attention and include any suggestions for the type of administrative guidance needed.

Note: The below issues are ordered by article for ease of reference. The BAG will work with the secretariat to agree prioritisation for addressing these items within the administrative guidance.

Ref	Issue	Recommendation
General	A significant component of the Pillar 2 regime for MNE Groups is the impact on the Annual Report, including the disclosures that will be required to comply with International Accounting Standards. This is relevant for both reporting current and deferred income tax, tax disclosures and general disclosures.	It is critical that the OECD Secretariat work together with the International Accounting Standards Board to clarify the accounting treatment of Pillar 2 taxes under the Model Rules. For example, are Pillar 2 taxes "income taxes" for the purposes of the International Accounting Standards. If so, deferred tax accounting must be applied to Pillar 2 tax. In addition, the outcome of the above will also be important for transitional deferred tax balances brought into the regime.
General	Undefined terms should take the meaning from international accounting standards.	It would be helpful if the administrative guidance confirms any accounting terms in the Pillar 2 model rules and commentary that are not specifically defined should take the meaning from international accounting standards.
2.1.5 and 2.3.2	Partially Owned Intermediate Parent Entity (POPE) Examples will assist to demonstrate jurisdictional blending and allocation of top up tax involving a POPE.	Recommend including an example in the Implementation Guidance that demonstrates jurisdictional blending for a POPE in a jurisdiction where the POPE has its own Constituent Entities and also CEs of the broader MNE Group.
Article 3.1.2	There is uncertainty regarding the currency to be used in computing GloBE Income and Covered Taxes of a Constituent Entity. For example, if the UPE of a	There are a number of elements related to currency exchange which require consideration in the implementation guidance. We propose to work with the secretariat to provide information on processes and systems

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	Group prepares its consolidated financial statements in Pounds sterling, but US subsidiaries prepare their financial results in US dollars. Article 3.1.2 states that the starting point for this computation is the net income or loss determined for a Constituent Entity in preparing the Consolidated Financial Statements of the UPE. In this case US subsidiaries would typically compute their financial results in USD, and then translate the year-end balances to GBP for consolidation purposes (with any USD to GBP FX gains & losses going into OCI). Therefore, the GloBE Income of the US subsidiaries would be computed in USD. However, the rules are unclear on this point.	relevant to currency translation so that an approach can be adopted through the relevant elements of Pillar 2 that achieve appropriate outcomes, whilst also ensuring the approaches do not create onerous levels of compliance and complexity. We anticipate that in some cases a more prescriptive approach to currency translation may be necessary to ensure consistency in application of things like thresholds, in other areas we will likely recommend a more flexible approach to currency translation to enable alignment with MNE accounting systems.
Article 3.1.2	Confirmation of consolidation adjustments that can and cannot be reliably and consistently traced	Inclusion of a list of common consolidated adjustments that should be respected for Pillar 2 purposes (ie. that are expected to be reliably and consistently traced for inclusion in a CE's globe income) will assist MNE Groups to interpret this step of the GloBE Income calculation. Common examples of consolidated adjustments that will be able to be reliably traced to the underlying Constituent Entity are accounting entries related to lease accounting, hedge accounting (where different outcomes are relevant to different levels of the group), realised FX on intragroup loan arrangements, late adjustments that are booked at the consolidated level after the local books are closed. We recommend that it is clarified that current tax expense and deferred tax expense items that are booked as consolidation adjustments should also be respected for Pillar 2 purposes on the condition that such taxes can be reliably and consistently traced to the relevant Constituent Entity and are not otherwise excluded under the Pillar 2 regime (for example tax expense related to purchase price accounting on stock/share acquisitions).

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Article 3.1.2	Can an MNE Group elect to use the MNE Group's local statutory accounts if these accounts are prepared using the same accounting standard as the MNE Group's consolidated accounts?	Confirmation that where an MNE group's local statutory accounts are prepared using the same accounting standard as the group accounts, and this accounting standard is an acceptable accounting standard for purposes of the Model Rules, these local stats would be a valid starting point for a GloBE calculation.
Article 3.1.3.	In some jurisdictions, audit of consolidated subsidiaries' accounts varies depending on classification of those subsidiaries. Such classification is as follows: A. Important subsidiaries B. Subsidiaries, certain accounts of which are important C. Other subsidiaries Subsidiaries classified as A are audited at the same level of accuracy as the parent company. With respect to subsidiaries classified as B, only their important accounts are audited at the same level of the parent company's accuracy. Subsidiaries classified as C are only subject to comparison analysis with past financial years and other analytical examinations. In view of the different levels of audit procedures, accuracy of financial income/loss of those consolidated subsidiaries differs if they are computed using income/loss in the consolidation procedures, depending on the classification of the subsidiaries. In some cases, such income/loss of those subsidiary significantly differ from those of	The net income or losses of the Constituent Entities classified as B or as C may be more accurate if determined using the local statutory financial accounts. Consideration of whether the UPE can elect to use local statutory accounts for computing the net income or losses of the Constituent Entities classified as B or as C. This methodology may provide more comfort for local tax authorities in respect of computation of the net income/losses of the local Constituent Entities rather than those income or losses computed thorough consolidation procedures based on UPE's accounting standard.

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	the local statutory financial accounts. Especially, this difference may be significant in case of subsidiaries classified as B or as C. In some cases, those statutory accounts are more accurate since they may be subject to detailed closing procedures, full local audit with extended time periods or may be subject to local tax examination later-on, which may assure more accuracy of those accounts than those computed through consolidation procedures with limited time allowance, which are subject to only simplified audit.	
Articles 3.2.1(c) / 4.1.3(a) / 7.1	In many cases, tax credits are a critical part of the economic return from investments in a limited partnership or other tax transparent entity engaged in the activity that generates the credit. This is particularly the case in the U.S. in respect of low-income housing tax credits and renewable energy tax credits. Since investors in these entities use equity method accounting to report income or loss from these investments, it appears that the results of these investments (including allocable tax credits) are outside the scope of Pillar 2.	Clarification that income, gain, loss, deductions, and tax credits allocated to a partner by these partnerships (tax transparent) should be excluded from such partner's GloBE ETR calculation under Articles 3.2.1(c) and 4.1.3(a). Also, clarification that these partnership structures are not within the intended scope of the Article 6.4 (Joint Ventures) and, even if they are in scope, the principles of Article 7.1 (Ultimate Parent Entity that is a Flow-through Entity) would apply to reduce GloBE Income and Loss of these partnerships to zero (with no net adverse effect on the JV owners under the GloBE rules). Further clarification of the Pillar 2 treatment of a tax transparent partnership structure such as those often used for renewable energy investment will be very helpful.
3.2.5 3.2.6 10.1.1	Realisation method election Timing of the disposal giving rise to aggregate asset gain Net asset gain/Net asset loss	Confirm that the concept of "disposal" follows the accounting treatment under accepted accounting standards to cover instances where the disposal occurs by way of something other than a transfer.

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	In some instances a disposal occurs by way of something other than a transfer. For example scrapping, particularly of impaired assets (where the realisation method may have been elected) as these assets are often not physically transferred but may be deemed abandoned or destroyed. It may also have wider implications, for example it may also be relevant to elements of chapter 6 which uses the term "transfer". There may be instances where there is no "transfer" giving rise to a disposal, but instead a cessation of rights / dissolution of a company or JV arrangement that should still trigger the gain/loss or other adjustments.	
3.2.5	All gains or losses attributed to fair value / impairment accounting for an asset shall be excluded from globe income/loss	"All gains or losses attributed to fair value/impairment accounting" should be expanded to include resulting subsequent adjustments for accounting depreciation. It should be clarified that in the years following impairment of assets, the depreciation calculation is adjusted accordingly (ie impairment reduces asset carrying value in year 1, which means the asset base for calculating depreciation in year 2 is reduced, and the year 2 depreciation that would have been booked in absence of the impairment is also reduced accordingly. A simplified administrative measure could be to prorate the reduction in accounting depreciation, if it is not separately identifiable, or as the difference between opening/closing balance sheet impact of the impairment "provision/adjustment".

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		The same would need to be replicated in the covered taxes (deferred tax expense) adjustment.
3.2.5	Realisation method applied to fair value or impairment adjustments to assets A Constituent Entity can elect to use a realisation method for determining gains and losses with respect to assets in a jurisdiction. It is uncertain what happens on transition if an asset has been impaired? Is there an ability for an MNE to make an election in relation to the asset such that any future reversal of the impairment is excluded?	An explanation or example in the implementation guidance that this election could be made for an impairment that has been made in the past, for the Transition rules (so that future impairment reversals can be excluded from GloBE income).
Article 3.3	International Shipping Income Exclusion Where shipping tax regimes differ from the exclusion as outlined in Article 3.3 of the model rules, it is not clear how covered taxes should be attributed between GloBE and ISI/QAISI. For example, interest income from cash deposits or short-term working capital will form part of QAISI but this may in fact be taxed under normal domestic tax rules if it does not qualify for shipping tax regimes. On the calculations of the 50% threshold for the QAISI, the Commentary suggests that net income rather than cost (per para 173) should be included in the calculation. The example in	Additional clarity to be provided to address the issues raised. It is recommended that the treatment of any hedging profits/losses follow the same treatment as the hedged item.

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	para 179 supports this, but para 178 gives rise to unnecessary confusion. It is not clear whether hedging profits / losses should be included as QAISI.	
Article 3.5	Flow through entity mechanism requires further clarification when coupled with permanent establishments (PE).	Further clarification through examples in situations where a flow through entity has a PE in the same jurisdiction as its incorporation, in the same jurisdiction as its owner and has a domestic and foreign PE.
Article 4.1.3 / 4.4.1(e)	Certain investments depend heavily on tax credits for their profitability. Under US GAAP it is considered that the accuracy of financial results is best achieved by netting the pre-tax cost of those investments against the tax credits and presenting them as a single line item either in the income tax line or in pre-tax. For investments in low-income housing that result in a US tax credit, if the investment is made through a limited liability entity (as is generally the case) an investor may elect to account for the investment using the proportional amortization method. Under this method the pre-tax effect and related tax benefits of such investments are presented as a component of income taxes. For investment tax credits (ITC) US GAAP allows an investor to elect to recognize an ITC using either the deferral method of accounting or the flow-through method. The guidance indicates that the deferral method is preferable. If the deferral method is elected, the ITC is reflected in income over the life of	Clarification as to whether the US GAAP approach (or another Acceptable Accounting Standard if applicable) is to be followed for these investments/credits. If not, please provide guidance on the adjustments to be made for Pillar 2 purposes.

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	an acquired property. The benefit of the tax credit can be presented as a reduction in the carrying value of the investment and recognized in the P&L in pre-tax as a reduction in depreciation expense. An alternative is to recognize the ITC on the balance in a deferred income account which would be recognized in the P&L in income tax expense over the life of asset. Typically, an entity will choose the reduction in carrying value. The deferral with reduction in carrying value means the ITC is never recognized in income tax expense but rather is recognized net over time in pre-tax.	
4.2.1	Page 92, para 29 of the Commentary clarifies that any income tax associated with Pillar 1 adjustments (reallocation of profits under Pillar 1) will be included in the Constituent Entity that takes into account income associated with such tax.	We recommend this is clarified to state that *"…any income tax **accrued** with respect to Pillar One adjustments will be taken into account by the Constituent Entity that records the **underlying income in its financial accounting net income or loss** to which such Tax is associated"*
4.4.1	For the purposes of the ETR calculation, there is concern that the Total Deferred Tax Adjustment Amount in the numerator is drawn from entity-level statutory accounts whereas current tax expense (numerator) and the income denominator will be drawn from group-level consolidated financial statements. We assume that this is not intended since the lack of a consistent basis between deferred tax expense as compared to current tax expense and GloBE Income	The Implementation Guidance should confirm that the tax numerator (both current **and** deferred tax expense) and income denominator are both sourced from the Constituent Entity's accounts used to prepare the Consolidated Financial Statements of the Ultimate Parent Entity. That is, the term "its Financial Accounting Net Income or Loss" referred to in 4.1.1 to determine Total Deferred Tax Adjustment Amount is the same accounts used to determine the Constituent Entity's Financial Accounting Net Income or Loss a defined in 3.1.2. Further clarification that the accounting standard applied to deferred tax calculations is the UPE's accounting standard and accounting policies.

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	in the ETR calculation will result in unintended outcomes and additional compliance burden.	
Article 4.4.1(e)	*Pillar 2 treatment of tax credits* The commentary confirms that foreign tax credits (FTC) are included in the definition of "tax credit" for the purposes of Article 4.4.1(e).	The removal of the deferred tax expense component of carried forward FTC in the year of utilisation may cause double taxation. This is because the current tax expense will be reduced (credited) by the amount of the FTC being utilised and Pillar 2 disallows the deferred tax expense (debit) recognising the utilisation of the FTC carried forward. The circumstances of being able to carry forward FTC is very complex and varies in each jurisdiction. Common examples are, the entity entitled to the FTC is in an overall loss position, the FTC is related to controlled foreign company income inclusion (a simple timing mismatch between the year of inclusion of CFC income for local tax purposes and the timing of the crystallisation of the foreign tax being "paid") or the local country may have a capping mechanism regarding the quantum of FTC used in an income year. We recommend consideration of specific examples to highlight outcomes from the treatment of FTC's as tax credits to identify anomalous outcomes. Whether or not this process results in a change to approach within Pillar 2, we believe this is important to enable delegates to understand the implications of Pillar 2 on domestic FTC regimes.
4.4.2	Commentary includes some remaining references to "paid" in respect of DTL's. A literal application of the recapture rules referencing the term "paid" will result in the recapture of DTL's regardless of the fact that they have reversed with the consequential reduction to covered taxes and will not enable recognition of the reduction to covered taxes in the year of the reversal where a recapture has been applied. The result will be double taxation.	Inclusion of additional guidance/examples in the guidance that the intention of 4.4.2 is to reflect circumstances where the relevant DTL has reversed. Suggested wording "Paragraph (b) permits the addition of Recaptured Deferred tax Liabilities that have been paid **or otherwise reversed** during the fiscal year.
4.4.4	Recaptured Deferred Tax liability (**DTL**)	We recommend discussion of potential simplification approaches to the determination of DTL recapture.

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	Recaptured DTL is determined with reference to the increase "in a category of DTL" from the 5th preceding year that has not reversed by the end of the current year. Guidance is needed to determine what determines a "category" to enable DTLs to be tracked to apply the recapture rule. Tracking these DTLs will be onerous for MNE Groups so any simplification in terms of category definitions is welcome. Further, many jurisdictions apply accelerated tax amortisation regimes on a collective basis to both tangible and intangible assets.	Possible DTL Categories: 1) GL account: DTL category grouping that is at a minimum a group of transactions recorded in a single GL account in the MNE's trial balance or a group of GL accounts that are similar in nature (eg same current/non current classification). The grouping should be consistently applied year on year. 2) Match to underlying asset/liability to which the temporary difference relates. The DTL recapture categories are grouped in accordance with nature of the underlying asset/liability to which the temporary difference relates. For example, categories could include intangible assets with an indefinite life, intangible asset with a finite life, financial liability perpetual life, financial liability fixed term etc. A de minimis threshold for recaptured DTLs will be welcome to assist in reducing the compliance burden.
4.4.5 (b)	Recapture exception clarification "Cost of a licence or similar arrangement from the government for the use of immovable property, or exploitation of natural resources that entails significant investment in tangible assets"	Rights can be held in various ways for example an MNE may hold "an interest in" a mining right where it's joint venture partner has the legal ownership of the right granted by the state. This holding structure will usually come about because of limitations on the ability for multiple legal holders or limitations on transfer of legal ownership. The Implementation Guidance should clarify that economic or beneficial interests in licences should qualify for the recapture exception. Economic interests or beneficial interests in licences are common in the extractives industry since acquisitions of interests in the right that amount to a legal interest after the initial grant of the licence are often not achievable due to Government or commercial restrictions.
Article 4.4.5(e)	It is currently unclear whether the deferred tax impact relating to unrealised gains and losses on	Suggested clarification:

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	financial instruments, including derivatives meets the definition of Recapture Exception Accrual in Article 4.4.5(e).	"Some examples of fair value gains and losses for accounting purposes include increases in value of the investment assets of insurance companies, **increases in value of financial assets or liabilities such as derivatives** or increases in the value of rights to timber held by a forestry company.
Article 4.5 GloBE Loss Election	There is a strong desire for certain MNE Groups to elect to not apply Article 4.4 and remove the requirement to comply with the complexities of the Total Deferred Tax Adjustment Amount.	The Implementation Guidance should make it clear that an MNE Group may elect to use the GloBE Loss method in a jurisdiction notwithstanding that the jurisdiction is not in an overall GloBE loss. We acknowledge that the GloBE Loss election has restrictions such as the requirement to make the election in the first year the jurisdiction is in the Pillar 2 regime for that MNE Group and once revoked cannot be applied again to that jurisdiction.
Interaction between 4.1.3(c), 4.2 and 4.6	It would be useful to include examples illustrating what the Covered Tax amount is and how Article 4.6 operates in the following scenarios where cash tax is greater than the accounting charge: • In year 1, a company deducts WHT from payments but subsequently files a refund request either under a DTT or requesting a ruling be given that the payment is not actually in scope of the WHT. The refund request / ruling is approved in year 2 but the refund is not actually received until year 3. • A tax audit has been initiated in jurisdiction A and the taxpayer may be forced to make a payment in order to contest that audit or chose to make a payment in order to prevent additional penalties and interest from arising. At the end of the audit, the balance of this additional payment in	Consider inclusion of examples in the administrative guidance.

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	excess of the final agreed settlement is returned to the taxpayer. • A company may file its tax return including a supportable filing position for a contentious point but determine that it is likely not to prevail under audit. This could be because of a very aggressive view or it is making a protective claim as a case is heard through the courts. As there is significant doubt on the treatment, the company may wish to avoid penalty and interest by making an additional payment on the assumption that its treatment does not prevail.	
5.1.1	Clarify how the effective tax rate (ETR) calculation is determined when a jurisdiction has an overall GloBE Income but negative Adjusted Covered Taxes.	Recommend that the Implementation Guidance clarifies that when there is negative Adjusted Covered Taxes and positive GloBE Income that the ETR is deemed to be zero. That is the Top Up Tax percentage is 15%.
Article 5.3.4 Substance-based income exclusion – tangible assets Article 5.3.4 – point 38 of the commentary	It is required that the tangible assets should be located in the same jurisdiction as the Constituent Entity that owns them or, in the situation where the tangible asset is leased, in the same jurisdiction as the Constituent Entity that leases the asset. There are a number of complexities associated with mobile assets which may be located in multiple jurisdictions at different times during the Fiscal Year for some types of businesses (e.g. iso containers for industrial gasses, airplanes..). In these cases, the condition that the asset be	In the container example shown - Permit the option to allocate the value of these assets in the jurisdiction of the owner, i.e. jurisdiction A in our example, for the purpose of applying the substance-based carve out, provided that the business is conducted in that country and the owner assumes the risks and functions required to operate the containers. This option will be aligned with the substance of the operations and will be easily auditable. For the airline industry - provide, via industry specific guidance, a specific allocation rule for Highly Mobile Assets and Employees (defined as types of assets and employees that are ordinarily located in more than one

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	located in the same jurisdiction as the owner may not be achievable. We understand alternative options are being considered by the Inclusive Framework which include the following: - Constituent Entity owning the assets to include the latter in the substance-based carve out of its jurisdiction; OR - Allocate the value of these assets in each country where the assets are located and used for the purpose of calculating the substance-based carve out in these countries **The second option may prove impossible to apply in many instances – see example below.** Recognition of specific industry issues should be considered in framing an approach to mobile assets – what is an appropriate approach for an industry with a particular type of mobile asset may not be appropriate for industries whose core business is based upon the operation of wholly mobile assets (eg the airline industry). **Example:** A Group has about 20 000 Helium iso containers traveling around different countries. The	jurisdiction over the course of the Fiscal Year) of an airline to its PEs that are within the scope of Pillar Two due to an airline's non-exempt Passenger Air Transport Services and/or Cargo Air Transport Services Revenue, based on Pillar One revenue generated in such jurisdictions. This would be in addition to actual local (non-highly mobile) employees and assets of such PE."

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	subsidiary owning the iso containers is located in jurisdiction A as well as the people managing that business. The iso containers are hardly ever going through jurisdiction A - they are filled in jurisdictions B and C where the helium is extracted but where there is neither another subsidiary, not a customer. They leave jurisdictions B and C to travel to jurisdiction D where subsidiary distributors and/or third party customers are located. Those containers are rented for a period of, in average, between one week to one month to the entities located in jurisdictions D. Then they are sent back to jurisdictions B or C to get refilled and so on. In other words, the assets owned by one jurisdiction A subsidiary are moving across many other jurisdictions and on the sea (outside of any jurisdiction) continuously, without rarely spending over one month in one jurisdiction, it being specified that there are many jurisdictions D as customers are located in at least 50 countries.	
M&A Article 6	In some circumstances an acquirer may not be provided sufficiently detailed information from a seller necessary to prepare or to support Pillar 2 calculations.	Consideration of shortcut methods or endorsement of "best endeavors" in these circumstances. Such as the acquirer being able to make reasonable assumptions about carrying values or tax bases if information is unable to be obtained from the seller (despite best endeavors).
Article 6.4	Joint Ventures (JV) - More detail is required to understand fully understand the mechanics.	Clarification through providing an example of how the Pillar 2 JV rules operate when a JV owns a JV (such as a 50/50 JV owning a lower tier 50/50 JV). Also, if a JV is a look-through entity, confirm that the Covered Taxes paid by the MNE Group shall be excluded from the MNE Group ETR calculation and allocated to the JV to compute the ETR of the JV.

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Article 7.4	The GloBE rules provide a framework for ensuring tax neutrality of Investment Entities by applying the top-down approach to the IIR and by excluding Investment Entities from the UTPR. This framework is undermined to the extent a QDMT can be imposed on an Investment Entity, because the top-up tax is then borne in part by minority investors.	Guidance excluding Investment Entities from application of QDMT.
Article 7.4	Fund structures can be complex and ownership interests can be unclear or change over time. The definition of Investment Entity has mechanical ownership tests that can have a cliff effect if inadvertently failed. (The same is true of the Excluded Entity definition.) For example, suppose a MNE Group has a 75% interest in an Investment Fund that it consolidates for FS purposes. If the Fund inadvertently owns 94% of a subsidiary (instead of 95%), the subsidiary would be a POPE. The POPE might then bear the cost of any top-up tax allocated to a LTCE and that cost would in turn be borne indirectly by minority investors.	Consider some relief for inadvertent failures to meet the Investment Entity ownership tests (e.g., allow an opportunity to cure the problem in the current year or provide special refund rules).
Article 9.1.2 and Article 4.4.1(e)	There is uncertainty as to whether the inclusion of foreign tax credits in the definition of "tax credit" in Article 4.4.1(e) causes deferred tax assets (DTA) that represent unused foreign tax credits to be excluded from DTA transition balances (from 1 December 2021).	The implementation guidance should clarify that the DTAs arising from unused foreign tax credits are not excluded from DTA transition balances from 1 December 2021 since they are not an exclusion from GloBE Income/Loss.
Article 9.1 Tax attributes upon transition	The commentary currently only refers to "prior year losses" in the context of this provision however article 9.1 states "*the MNE should take into account **<u>all of the DTAs and DTLs</u>** reflected or disclosed in the*	Paragraph 6 of the Commentary to Article 9.1 of the MR states that "*The GloBE Implementation Framework will consider providing Agreed Administrative Guidance related to the measurement and treatment of items*

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	financial accounts". We assume this comment is illustrative only and that not only pre-existing losses should be included but also other tax attributes such as tax credits applied on the tax quota (not on the tax base) which were not (fully) applied due to existing domestic tax law limitations.	*of deferred tax expense (i.e., deferred tax assets and deferred tax liabilities) in the Transition Year and subsequent years*." Guidance to clarify that all tax attributes existing prior to the entrance in force of the GloBE rules should be taken into consideration for the purposes of determining the Effective Tax Rate in a jurisdiction.
Article 9.1	The possible interaction between DTL recapture rule and transition balances needs to be clarified.	The implementation guidance should clarify that the deferred tax liability recapture rule in Article 4.4.4 does not apply to DTL transition balances.
Article 9.1.2	The cut-off date for excluding deferred tax assets arising from excluded items from the deferred tax transition balances of 30 November 2021 will likely result in the pre transition period extending past 2 years given anticipated delays in the Pillar 2 commencement.	Recommend that the transition period in Article 9.1.2 be adjusted to "twelve months prior to the effective date of the GloBE rules rather than 30 November 2021 as currently stated. Alternatively, it is preferable that the adjustment be performed on a full Fiscal Year. For example, the first Fiscal Year commencing after 30 November 2021.
10	Definition of Ownership Interest – determination of ownership interest where rights to profits, capital or reserves differ	Clarification of whether it is reasonable to use the <u>higher of</u> profits, capital or reserves to calculate Ownership Interest or another practical solution where these rights differ. Consideration will need to be given to ensure that double taxation or a conflict over taxing rights does not result where different parties have "higher" rights to different elements of ownership.
10.1	Definition of Permanent Establishment	Clarification in respect of the scenario where the Main Entity taxes the income attributable to the PE such that the tax paid by the Main Entity is allocated to the source jurisdiction where the PE is situated.
Qualified Domestic Minimum Top Up Tax (QDMT)	Any tax paid pursuant to a QDMT provides a full credit against GloBE Top-up Tax. A jurisdiction is not required to adopt a QDMT under the common approach but if it does it will in many cases reduce the GloBE Top-up Tax to nil (5.2.3). However, QDMT top up tax paid or accrued in excess of the Top-up	It will be useful for the Implementation Guidance to: • provide examples showing circumstances where a QDMT will not reduce Top-Up Tax to nil and also a situation where QDMT exceeds the Top-Up Tax. One example is where QDMT is based on local financial statements versus Top-Up Tax based on UPE's accounting standard.

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	Tax computed under the GloBE Rules will not reduce the GloBE Top-up Tax below zero or result in a refund of, or credit against future, Top-Up Tax under the GloBE Rules.	• State that QDMT applies to all entities in a jurisdiction, including the UPE if it is a CE in that jurisdiction. • Provide an example demonstrating the interaction between 4.1.5, 5.4 and QDMT. If a QDMT imposes top up tax under its domestic equivalent of 4.1.5, that top up tax is a is a QDMT rather than being Additional Current Top-up Tax in Article 5.4
Article 10 Qualified Domestic Minimum Top Up Tax (QDMT)	Guidance is necessary on what will be a QDMT- especially for developing countries who will not necessarily be able to implement complex rules that directly mirror Pillar 2. Where corporate tax regimes are not considered a QDMT, developing countries will be adversely impacted as they will lose the value of being able to offer MNE Groups the substance based income exclusion. Further, developing countries may implement QDMT's through investment agreement or other specific contracts that set the fiscal terms for a project – indeed this may be one way to resolve tensions related to the implications of Pillar 2 where existing investment agreements and tax stabilisation arrangements are in place.	Consideration of a "QDMT-lite" for developing countries only. Guidance could stipulate the minimum requirements to be considered a QDMT. For example the following could be considered a QDMT - Corporate tax rate of at least 15% - Adjustments between book and taxable income are covered by the recapture exception accrual in 4.4.5 (e.g. fixed assets) - Investment tax credit (off-set) for tangible and pay-roll out calculated in accordance with Article 5.3.3 and Article 5.3.4 of the Pillar 2 Model Rules, multiplied by 15%. - The Investment Tax Credit shall not reduce tax payable below zero, shall result in tax refund and shall not be carried forward. This solution would be granted only to those developing countries which have very limited capacity (e.g. under a certain level of GDP). Confirm that a QDMT can be provided through Investment Agreements or other specific contracts that set the fiscal terms for project (not just through local domestic tax law).
Targeted areas of comprehensive Guidance	There are a number of areas where comprehensive guidance will be extremely beneficial to resolve complexity or to provide certainty	The recommended areas that should be targeted for comprehensive guidance include: • Identification of Qualified Tax Credit • Identification of Covered Taxes • Identification of Disqualified Refundable Imputation Taxes • Turn Off Deferred Tax Mechanism

Ref	Issue	Recommendation
		• Simplify de minimis exemption • Application of the JV/MOCE rules • DTL recapture monitoring Recommend that the Secretariat develops a detailed flow chart to deal with the interactions of the accounting standard classifications of entities (subsidiaries, joint operations, equity accounted units and joint ventures) and the interactions with the various Pillar 2 rules for non-wholly owned entities such as POPEs, MOCEs, Pillar 2 joint ventures.
General - Interaction between MOPE, POPE and UTPR	There is a common scenario in cases of joint operations (that are proportionately consolidated) whereby a POPE holds an interest in a MOCE. Also, more than one MNE Group may proportionately consolidate a Constituent Entity, meaning the same low-taxed entity is a Constituent Entity of multiple MNE Groups. There is uncertainty as to whether the POPE rules effectively override the MOCE rules giving the POPE Pillar 2 taxation rights in relation to the MOCE and whether in this situation the MOCE is blended with other Constituent Entities in the same jurisdiction.	Recommend that an example is developed by the Secretariat that demonstrates the interaction of the POPE rules with a MOCE in cases of proportionate consolidation (joint operations). In particular, where a POPE holds an interest in a MOCE, including where the MOCE is a Constituent Entity of more than one MNE Group (due to proportionate consolidation). An example should cover: • Whether the POPE rules take precedent over the MOCE rules; • If the Pillar 2 taxpayer in respect of a MOCE is the UPE or the POPE; • If the POPE rules do take precedence over the MOCE rules, whether the MOCE is blended with other Constituent Entities held by the MNE Group in the same jurisdiction as the MOCE; and • the outcome if the UPE and POPE do not have a QIIR meaning the UTPR applies with the MOCE being a Constituent Entity of two or more MNE Groups.

Question 2

Do you have any comments relating to filing, information collection including reporting systems and record keeping? In particular, do you have any views on how the design of the information collection, filing obligations and record keeping requirements under GloBE could be designed to maximise efficiency, accuracy and verifiability of information reporting while taking into account compliance costs?

Ref	Issues	Recommendations
Centralised Filing/audit obligations	Simplified approach for filing obligations, sharing and audit of GloBE information especially when MNE Group is headquartered in a jurisdiction that applies the IIR, including on domestic entities (i.e. situation where UTPR cannot apply)	**We recommend a single centralised filing obligation, centralised audit process and reliance on information exchange.** This is especially justified in cases where the UTPR does not apply to MNE Groups that are headquartered in jurisdictions that apply the IIR on domestic entities. Therefore, there is no reason why a comprehensive GloBE Information return would need to be filed in each jurisdiction where Constituent Entities (CE) of the MNE group are located This should allow for simplifications for taxpayers and tax administrations: • The filing obligation can be limited to the filing in the jurisdiction of the UPE (or the jurisdiction of the designated filing entity). In jurisdictions of CE's, there would only be a notification that the CE belongs to an MNE Group whose UPE (or designated filing entity) is subject to IIR including on domestic entities in the jurisdiction of the UPE (or designated filing entity). • The audit of the IIR liability would be carried out by the jurisdiction of the UPE (or the jurisdiction of the designated filing entity) • Requests by CE jurisdictions should be made to the UPE jurisdiction (or designated filing entity) in order to obtain confirmation that the full IIR liability has been paid and that no UTPR may apply.

BUSINESS at OECD

Ref	Issues	Recommendations
		• In addition, where a CE of an MNE Group is exempted from the requirement to file a GloBE Information Return locally, no penalty should apply in the country of such CE for the non-filing of the GloBE return. • Local filing should *de facto* be the exception and there should be protective measures for companies: tax administrations should include confidentiality, data safeguards and appropriate use of the data contained in a GloBE information return in their domestic framework. In addition, a CE jurisdiction should not be able to demand local filing if the UPE jurisdiction has offered to enter into an exchange of information agreement and the CE jurisdiction declines or takes no action in that respect. • The main data substantiating the calculation of the ETR across jurisdictions is to be made available to the tax authority in the jurisdiction of the UPE or of the designated filing entity. Other jurisdictions (e.g. those applying the UTPR, or a safe harbour, or a Domestic Top-up Tax) should access only the specific data which is necessary to check a potential top-up tax liability (e.g. data relating to the ETR in that jurisdiction only). • There should be no access by one jurisdiction to data relating specifically to other jurisdictions, such as the jurisdictional ETR of these other jurisdictions. • It should also be acknowledged that the CE may not have control over the GloBE information return of the whole MNE group (e.g. legal constraints may apply) and may not be in a position to provide such return under a local filing obligation. A standard global return should be made available as soon as possible in order to facilitate MNEs development of processes to ensure compliance and reduce the risk that individual jurisdictions develop returns requiring differing information or formats.
Filing obligations	Maximising efficiency, reducing costs and avoiding disputes by centralising the filing of GloBE Information return and IIR/UTPR liability	To maximise efficiency, accuracy and verifiability of information reporting while taking into account compliance costs, and also to ensure data protection and confidentiality of sensitive information, **we recommend a development of a comprehensive exchange of information protocol.**

Ref	Issues	Recommendations
		Contrary to what has been agreed for Action 13 CbCR, there are no conditions in the Pillar 2 Model Rules to guarantee the confidentiality, data protection and appropriate use of the data contained in a GloBE Information return. It is expected that this information will be quite comprehensive in order for tax administrations of CE jurisdictions to identify the "IIR liability" and determine whether UTPR top-up tax may be due. This information will include sensitive data which should be protected. The Implementation Framework should therefore include: • The development of a comprehensive exchange of information network as the preferred route for sharing data between tax administrations. The development of a robust information exchange framework globally will better support centralised management of the GloBE Information returns for taxpayers as well as for tax administrations. A GloBE Information return would be filed in the UPE jurisdiction (or designated filing entity). It would then be sent to CE jurisdictions. • Such exchanges of information should include confidentiality, data safeguard and appropriate use conditions. For example, privileged information, confidential business data, contracts, and third-party information (subject to notification) should be limited according to the laws of the lead tax authority's jurisdiction. Note: in the absence of confidentiality and data safeguards and appropriate use conditions, we question whether there may be a breach of the Action 13 requirements as part of the information reported for Pillar 2 and Action 13 purposes is similar. Appropriate use condition: the tax base and calculations for Pillar 2 are very specific (in particular, the starting point is the consolidated accounts) and do not serve any other purpose (the tax base of Pillar 2 is different from the tax base for CIT

Ref	Issues	Recommendations
		purposes. This means that the information in a GloBE information return which is exchanged under such agreements cannot, and should not, be used by a jurisdiction for any other tax (or non-tax) matter.
Filing obligations	Minimizing compliance burden / data protection We believe that the granularity of data requested in a GloBE Information Return, as described in the Commentary, is excessive and will entail a huge compliance burden for MNE Groups. We believe it also raises serious concerns around data protection and safeguarding commercially sensitive information. We call on for a balanced and reasonable approach in regard of filing requirements and for simplification avenues. There are a number of requirements in the Commentary that are excessive and do not strike the right balance between the need for tax administration to access data and the compliance burden/costs. The GloBE Information Return should remain an informative tax return, and should not amount to providing the whole detailed calculations and processes carried out by an MNE Group.	The required data should be limited to the data that is strictly necessary to check the ETR calculation, safe harbours and top-up tax liability: • As a principle, MNEs should be required to provide information only when relevant: providing a full GloBE Tax Information return to all jurisdictions will place a huge compliance burden on MNE Groups. • There should be one single GloBE Information return prepared in accordance with an internationally agreed template - but the granularity of the data provided to such or such jurisdiction should be dependent on a number of factors (whether there is IIR liability, UTPR liability, safe harbours, etc). • In practice, the GloBE Tax Information return could contain several parts (or modules) per jurisdiction, allowing MNEs to select which data would be shared with jurisdictions. • The full GloBE Tax Information return should be provided only to jurisdictions that have a particular interest in obtaining such information, mainly the jurisdiction of the UPE or of the designated filing entity. For instance, the main data substantiating the calculation of the ETR across jurisdictions (amount of revenue and covered taxes) would be made available to the jurisdiction of the UPE or of the designated filing entity. • Other jurisdictions (e.g. those applying the UTPR, or a safe harbor, or a Domestic Top-up Tax) should access only the specific data which is necessary to check a potential top-up tax liability (e.g. data relating to the ETR in the said jurisdiction). There should be no access by one jurisdiction to data relating specifically to other jurisdictions, such as the jurisdictional ETR of these other jurisdictions. • Data and calculations, notably the ETR, should be provided at jurisdictional level and not at Constituent Entity level. If further information is required

Ref	Issues	Recommendations
		(e.g. during a tax audit), the MNE Group would of course provide more granular data to substantiate the calculations. • The data necessary to substantiate the jurisdictional ETR should not exceed the Financial Accounting Net Income or Loss and the amount of Covered Taxes (per jurisdiction, and not per Constituent Entity). If the type and amount of the adjustments is requested, then it should be a simple "tick the box" approach (MNE Group to indicated what types of adjustments have been applied). • Also provide for a simple "tick the box" approach in the GloBE Information Return in order to indicate whether elections have been made and whether safe harbours have been applied. Finally, the collection and/or sharing of certain items of information may be challenging. Information on the overall corporate structure of the group is often difficult to provide and retrieve in a practical manner (it is sometimes only available in Excel format). Given the size of many MNE Groups, it is technically unrealistic that a diagram or list be provided in the GloBE Information Return. In addition, providing such information in a structured way may be impossible. In any event, the structure of certain groups evolves on a constant basis. Requiring to document changes that have occurred during the tax year is an excessive requirement. As a simplification, MNEs should be allowed to provide high-level information in this respect or to make reference to their website or any other course of information which is public (e.g. annual reports).
Audit aspects	Maximising efficiency, reducing costs and avoiding disputes by centralising the control of GloBE Information return and IIR/UTPR liability	**We recommend a centralized audit and review process to maximise efficiency, reduce compliance cost and avoid disputes.** The tax administration of the UPE jurisdiction (or designated filing entity) will be the best placed to audit the IIR / UTPR liability of an MNE Group as it will have ready access to the data and it will generally have a good knowledge of the group, its structure and tax situation.

Ref	Issues	Recommendations
		• It would therefore be more efficient to "centralise" the audit function, whereby the jurisdiction of the UPE (or designated filing entity) would act as the main point of contact. CE jurisdictions would send any requests to this point of contact (no requests made directly to the local CE's). • The UPE jurisdiction (or designated filing entity) can provide confirmation that the correct IIR/UTPR liability has been paid by the UPE and whether UTPR liability occurs or not. It could also carry out further investigations.
Consistency of the rules - harmonised interpretation - compliance burden	Preventing disputes and ensuring consistent and harmonised application of the Pillar 2 rules globally: pre-clearance process and peer review process	We anticipate that the primary source of disputes will be in respect of the application of the UTPR. We are particularly concerned about potential tensions from numerous jurisdictions wanting to check the calculation of the IIR/UTPR liability at the level of numerous Constituent Entities of an MNE Group. We believe it would be more efficient, timesaving and resource-saving for taxpayers and tax administrations to set up an optional pre-validation process, whereby the MNE Group could ask for the clearance of its calculations. The pre-clearance process should be limited to the information required to be disclosed in the GloBE Return. This pre-clearance process could be carried out by the UPE jurisdiction (or designated filing entity) or via a panel process (under the lead of the UPE jurisdiction). This would be similar to the panel process envisaged for Pillar 1. Once the IIR/UTPR liability/calculation has been cleared, there should not be any requests or reassessments made by any jurisdiction (even if it was not part of the panel). A panel process may mitigate the risk of divergent applications and interpretations of the Pillar 2 rules, thus ensuring for consistency and harmonisation globally. This could be designed in a manner similar to the approach being discussed for early certainty in Pillar 1.

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<tr><th>Ref</th><th>Issues</th><th>Recommendations</th></tr>
<tr><td></td><td></td><td>In the absence of a pre-clearance process we suggest an approach whereby there can be no assertion by a jurisdiction on the basis of UTPR without prior notice to the jurisdiction of the UPE. A dispute resolution process will be required to resolve disputes between the application of UTPR vs IIR between the relevant jurisdictions.

Finally, a peer review process is also a key feature, being noted that it will necessarily involve an ex-post evaluation preferably in combination with an ex-ante evaluation. It is important that the peer review process allows input from business, including on anonymous basis in order not to generate or exacerbate tensions in relationships between tax administration and taxpayers.</td></tr>
<tr><td>GloBE Information Return</td><td>A prescriptive GloBE Information Return should be developed by the OECD for countries to adopt.

Past experience with CbC and Master File, the OECD recommendations have been non-prescriptive, leading to countries interpreting inconsistently. It is important that there is no doubt as to the content required and countries adopt them consistently.

Many MNE groups will have a large volume of GloBE constituent entities which form part of jurisdictional top up tax calculations and top up tax obligations in GloBE filings.

Most of if not all MNEs subject to Pillar 2 will also have other global reporting obligations such as CbC Reporting.</td><td>Every effort should be made by the OECD to provide a complete and standard GloBE information Return for countries to implement. This will help reduce uncertainty and compliance costs OECD should develop the standard template of the GloBE Information Return that all countries should adopt. Remove flexibility for tax administration to modify requirements, especially requesting for information above and beyond what is included in the standard template. Tax administration may modify to reduce disclosure requirements (but not increase).
To reduce the significant administrative burden of submitting large amounts of data across jurisdictions, a standardized submission framework should be consistent with other transparency filing and exchange obligations (such as Country-by-Country (CbC) Reporting). Noting that developing countries may not support a prescriptive method for which they do not have sufficient infrastructure & technical support to administer.
In order to provide taxpayers and tax administrations level of certainty and stability implementing systems changes to capture required information, OECD should commit to no changes to disclosure requirements for a period of 5 years
OECD should release a complete, detailed template for the GloBE Information Return for public consultation and ultimately for countries to consistently adopt.</td></tr>
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Ref	Issues	Recommendations
		• Tax identification numbers (**TINs**) are already required to be disclosed in CbC report. We see the merit for including TINs in the GloBE Information Return, however these are already disclosed in the CbC Report and recommend that the GloBE Information Return reference any duplicated information in the CbC
8.1.8 Penalties	The GloBE Information Return is likely to be a significant change and challenge for MNEs, therefore there needs to be a grace period for any penalties for incorrect disclosures.	OECD to recommend that countries provide a level of leniency in good faith for penalties for incorrect disclosures made by MNEs, by providing them an opportunity to rectify any disclosure errors within 12 months after lodgement without penalty (say for the first 3-5 years).
Disclosure simplifications	There is expected to be significant amount of information that will be difficult to source from existing reporting systems, increasing the compliance burden. Therefore, every effort should be made to include de minimis safe harbour disclosure requirement.	• In the GloBE Information Return, allow a MNE Group to group information for de minimis entities in the same jurisdiction. For example, any Constituent Entity within a country that is less than [5%] of revenue can be grouped together • Confirmation there is no UTPR filing obligation where there is no UTPR Top-up Tax Amount: Under 2.5.2 the UTPR Top-up Tax Amount is fully reduced to zero if all the UPE's ownership interests in a LTCE are held directly or indirectly by one or more Parent Entities that has apply the IIR. In this case, it would be helpful that there are not additional disclosures for UTPR Top-up Tax Amount where it is fully reduced. Alternatively, a simple nil disclosure item on the GloBE form could indicate that Article 2.5.2 applies such that the taxpayer is acknowledging UTPR has been considered but does not apply. • Where country has a Qualified Domestic Minimum Tax (**QDMT**) – filing simplification where Pillar 2 tax reduced to nil: Introduce a GloBE return filing simplification for countries that introduce a QDMT. Limited filing GloBE obligations for MNE Groups with Constituent Entities in countries with a QDMT. If any jurisdiction has a QDMT, no information with respect to the activities of that entity should be required to be disclosed. Consider a clearance letter provided by the jurisdiction of the qualified domestic minimum top up tax confirming P2 compliance that can be shared upon request.

Ref	Issues	Recommendations
		• Allocation of top up tax to CEs: The rules still require an exercise to be undertaken to allocate top up tax to each relevant CE in the jurisdiction. Where entities are wholly owned within the MNE group this adds an additional compliance burden that would not appear necessary Simplification suggestion: Where required for annual filing return purposes, allow for only jurisdictional results to be reported where all Constituent Entities in a jurisdiction are wholly owned within the MNE group with one or more parent entities in jurisdictions with a QIIR. • Allocation of top up tax to CEs: where an allocation to CE's is prima facie required, apply a de minimis rule – eg if top up tax in under [x] EUR for the jurisdiction, no allocation to the CE is required (it can be elected to be borne by the UPE/filing entity). Allocation of top up tax to CEs- Tax Group allocation rule: If local tax law allows grouping/offsetting of local taxes between a group of CE's the MNE should be able to elect which CE is allocated the top up tax amount for that group of CE's. This is a compliance saving where the total jurisdictional top up tax is small. Might also prevent cash flow/settlement issues where there is a top up tax during a period of economic loss (and therefore would also expect there to be negative cash flows).
Payment and Filing dates	There should not be any prepayment or accelerated payment of Pillar 2 top-up tax. It is extremely difficult to forecast any Pillar 2 top-up tax because of the highly complex rules and the calculation being required on a jurisdictional basis. It is expected that many countries will introduce a Qualified Domestic Minimum Tax such that those calculations will also need to be performed prior to the finalisation of any Pillar 2 top-up tax calculation for the UPE (or other Parent Entity). Further, if payment and filing dates for GloBE returns are not aligned, this will result in a complex system of	Payment of GloBE liabilities and filing dates for GloBE returns should be aligned. Countries should be strongly discouraged from introducing accelerated Pillar 2 payment dates that differ from the GloBE Return lodgement deadline since MNE Groups require all of the period up to the GloBE Return lodgement to complete Pillar 2 calculations and any relevant Qualified Domestic Minimum Tax calculations MNE Groups need sufficient time to perform the Pillar 2 calculations, including any relevant Qualified Domestic Minimum Tax calculations

Ref	Issues	Recommendations
	post-payment adjustments. To avoid penalties and/or late payment interest, MNEs may prefer overpaying but this has cash flow implications. Moreover, certain countries have a very weak record of processing and paying out refund claims.	
Pillar 2 Implementation – No Part Year Application	Application of Pillar 2 to part year periods for the first income year that a Qualified IIR applies will be near impossible for MNE Groups to apply. Financial information is aligned with the MNE Group's reporting period and is not otherwise reported for other periods. Tax certainty is also needed where the UPE's jurisdiction implements Pillar 2 at a date after other jurisdictions implement Pillar 2. That is, an MNE Group in the first income year, could be subject to Pillar 2 in multiple jurisdictions because the UPE jurisdiction start date is after the start date of intermediary parent entities. This creates an unnecessary additional compliance burden requiring lodgements in multiple jurisdictions. To the extent possible it would be easier if the implementation dates for Pillar 2 were aligned amongst the IF by using the terminology "Pillar 2 rules will commence for income years commencing on or after xxx".	It is recommended to prevent any part year reporting periods for Pillar 2 that where in the first income year the implementation date of Pillar 2 in the UPEs jurisdiction is after the start of the MNE Group's reporting period that I) the MNE Group applies Pillar 2 to the next reporting period that follows the UPE's implementation date and II) the MNE Group is not required to apply a Qualified IIR in respect of any intermediary parent entity in the intervening period where the UPEs jurisdiction is proposing implementation of Pillar 2 by an agreed date.
3.2.3 Para 101 of commentary on page 62	Unilateral transfer pricing adjustments which are made to taxable income in a single year may cover multiple prior years depending on the agreement which has been reached with tax authority. This is particularly relevant and common for long dated transfer pricing audits which often span many years.	The implementation guidance should clarify the treatment of unilateral TP adjustments (for prior years) to taxable income which occur in Pillar 2 year. Particularly in cases where the unilateral TP adjustment increases or decreases the MNE Group's taxable income in a jurisdiction that has a nominal tax rate below the Minimum Rate.

Ref	Issues	Recommendations
	While it appears policy intent to not relieve double taxation for CEs that have been recently (in last two years) a Low-Tax Jurisdiction it presents two issues: • If a multi-year audit is under way what happens to periods preceding the two-year period? What if it was a mix of High-Tax and Low-tax Jurisdiction years? • Double tax could occur related to the prior year not within scope unless the above point is clarified.	Clarify relevance of 2 preceding fiscal years in this scenario. Is it trying to capture the 2-year MAP resolution period? If so, this may not be effective as MAP can be instigated three years from the first notification double taxation is likely to arise.
5.3.4 Substance Based Income Exclusion	Concern that Tax Administrations will create a high degree of burden of proof at the level for Substance Based Income Exclusion (SBIE).	Administrative guidance should encourage tax authorities to incorporate audit procedures which envisage the <u>optional</u> ability for MNE's to seek additional attestation from external statutory auditors to support tangible assets and payroll costs for each Constituent Entity. Opportunity for additional safe harbours or simplifications to be explored further during implementation framework. **The ability to leverage additional attestation from external statutory auditors could be considered for other elements of the Pillar 2 calculations in addition to the SBIE.**
4.4.5 Recapture Exception Accrual	Categorisation of DTLs to apply recapture	Administrative guidance should encourage tax authorities to incorporate audit procedures which envisage the <u>optional</u> ability for MNE's to seek additional attestation from external statutory auditors on the accuracy of the process adopted to monitor DTL's for recapture for each Constituent Entity. Opportunity for additional safe harbours or simplifications to be explored further during implementation framework.
2.3 Allocable Share	Allocable share is based on a % of equity and profit that applies to JVs and investments in associates similar to a subsidiary controlled entity. There would be limitations on information available for those investments as in	Inclusion of guidance and a simplified approach in recognition of the limitations to information available by the MNE or UPE in relation to JV's and investments in associates.

Ref	Issues	Recommendations
	many cases equity method adjustments is based on limited information based on financial statements rather than a line by line consolidation.	
Administration	Include a limit on the time allowed to amend a GloBE Return filing, except as a result of a specific provision (eg the look back provision)	Limit amendment window to [5] years of the GloBE Return for tax administrations unless required/elected under a specific article.
Record Keeping	Document/information request provisions	General time limitation of 5 years to request information by revenue authorities in relation to a lodged GloBE Return.
Payment timelines	Globe tax payments should be made annually and not on an instalment basis. Payments on an instalment basis create an additional compliance burden	Payments should be annual (not via instalments). Payment of disputed items should be on resolution of the dispute (or 50 /50). Prevent another administrative requirement to prescribe/work out instalments and potential for these to be inequitable between jurisdictions. Prevent upfront payments at the outset of dispute that could be inequitable between jurisdictions.

Question 3
Do you have any suggestions on measures to reduce compliance costs for MNEs including through simplifications and the use of safe-harbours?

Ref	Issues	Recommendations
General	Development of broad, simple and administrable safe harbours is vital to the administrability of the GloBE rules and to the ability of MNE's to manage the overwhelming complexity and additional compliance posed by the rules. Delay in release of the safe harbours will significantly impede the ability of MNE's to implement the systems and process changes necessary to meet the aggressive implementation and compliance timeline. For safe harbours to make a meaningful difference to the implementation effort, they need to be decided as early as possible in order to allow MNE's to implement the systems and process changes necessary to comply with the rules.	• Safe harbours offer considerable opportunity to mitigate the overwhelming complexity and additional compliance of the rules; • Safe harbours could operate in various forms: to both eliminate the requirement for detailed Pillar 2 calculations for jurisdictions in an overall sense, or to simple mitigate the level of compliance otherwise required for an element of the Pillar 2 calculations (eg the DTL recapture rules); • The sooner safe harbours are developed, the higher the compliance savings will be. However, whilst ideally safe harbour details would be available prior to commencement of implementation, safe harbours are still valuable tools to mitigate compliance at any stage in the Pillar 2 implementation process; • Safe harbours will offer compliance savings even where MNE's determine a need to implement systems changes to cater for the possibility that safe harbours will not be applicable to a jurisdiction in every year; • The compliance savings from safe harbours can arise from targeting implementation, mitigating detailed lodgement and documentation processes year by year, reduction of scope for tax authority review/audit processes etc; • The simpler the safe harbour, the higher the level of compliance saving will be. We recommend formulation of a larger number of simple safe harbours (accepting that the simpler a safe harbour is, the narrower the scope of that safe harbour may be) to enable multiple opportunities for a safe harbour to be applicable to a jurisdiction rather than an attempt to design a smaller number of more complex safe harbours that seek to have broad application.

Ref	Issues	Recommendations
8.2 Safe harbours	We recommend formulation of a number of safe harbours to be applied in any order at the option of the MNE. In other words, where multiple safe harbours are applicable to the MNE, the MNE can choose which safe harbour to apply.	We have identified a number of possible approaches to safe harbours (listed in no particular order): **Tax Administrative Guidance (TAG) Safe Harbour** In our view one of the most effective forms of safe harbour is the establishment of a TAG which is designed to identify countries in which it is not considered likely that material undertaxed profits will arise and therefore detailed Pillar 2 calculations are not required. This guidance could be determined by identifying countries which have a high rate and a broad base such that the likelihood of material undertaxed profits is low. Criteria could be established for inclusion in the TAG – eg the statutory rate is above [x]%. Determination of the breadth of the base would be established by identifying the permanent benefits (ie non-taxable income or additional deductions) permitted under the local law. Jurisdictions which offer potentially material permanent benefits would not be included in the TAG. Additional criteria could be included to support the application of the TAG as follows: • Jurisdictional ETR based on the consolidated jurisdictional accounts is above 15% [note there will need to be alternative to consolidated jurisdictional accounts since many MNE Groups will not have consolidated accounts for each jurisdiction]; • No agreement has been entered into between the MNE group and the jurisdiction which offers permanent tax benefits which do not exist in the local laws and therefore have not been considered in the formulation of the TAG; • Jurisdictions are required to notify OECD of changes to domestic tax laws to enable determination of whether tax settings relevant to the TAG have been modified. We understand that consideration has been given to the formulation of a TAG which requires the MNE to confirm it has not applied any provision within the relevant domestic law which offers a permanent benefit (eg an incentive etc). We believe this approach greatly constrains the opportunity for this safe harbour to benefit MNE's on the basis that it would require MNE's to forgo any beneficial provisions under the domestic law, regardless of whether those benefits are material enough to cause the rate to fall below the minimum rate – the higher the tax rate in the relevant jurisdiction, the more punitive

Ref	Issues	Recommendations
		the requirement would be. Perhaps this element could be applied in respect of jurisdictions which have a local statutory rate which is closer to the minimum rate. For example – if the rate is between x% and y% the MNE would need to confirm it has not applied any of the listed beneficial provisions but above y% this requirement does not apply. **QDMT Safe Harbour** A country that has implemented a DMT that has been confirmed to be "qualifying" should qualify for a Pillar 2 safe harbour which removes the need for completion of the Pillar 2 calculations. That is, no GloBE ETR calculation is required for that jurisdiction. MNE Group should be able to rely on the assertion by the country that their DMT is Qualifying until a peer review process is in place. **CbCR Safe Harbour** The purpose of a CbCR Safe Harbour would be to determine ETR on accrued current tax expense ignoring the impact of deferred tax expense. Therefore, it will likely only have relevance for MNE Groups in countries with either insignificant timing differences or during the mature phase of a business (once significant timing differences have reversed). The safe harbour would apply by determining the MNE Group's CbCR Effective Tax Rate for that country based on the CbCR tax and accounting profit disclosures. That is, the MNE Group's ETR will be based on accrued current tax expense divided by accounting profit before tax for the relevant country in the relevant income year. Accrued current tax expense and accounting profit before tax is aligned with and can be extracted from CbCR Reporting data. Additional criteria could be included to support the application of the CbCR safe harbour as follows:

Ref	Issues	Recommendations
		• Safe harbour can only be applied if the local statutory rate is at least [x]% (consideration needs to be given to jurisdictions with covered taxes that are do not have a simple corporate tax rate such as surcharges or “in lieu of” taxes) • MNE uses top-down approach to CbCR filings (ie group accounts) The safe harbour could be supplemented to overlay the Substance based income exclusion (**SBIE**): reduce the CbCR accounting profit before tax by the SBIE for each country. That is, sum of 8% of net tangible assets + 10% of payroll costs (the percentages will decline at the same rate as the SBIE percentages in the GloBE rules). **Accounting ETR Safe Harbour** Accounting ETR Safe Harbour adopts the same approach to the CbCR Safe Harbour but would provide recognition for timing differences, whilst still providing an ETR which reflects the impact of permanent differences. Under this approach the MNE would determine the jurisdictional ETR by reference to accounting profit before tax and total tax expense. We recognise that under this safe harbour deferred tax would be reflected at the statutory rate instead of the min rate (as required under GloBE). This could be dealt with by requiring the resulting ETR to be greater than [x]% in order for the safe harbour to apply. **GloBE Loss Safe Harbour** Introduce a specific safe harbour method whereby if the jurisdiction is in an overall GloBE Loss position, Pillar 2 calculations are not required. **Substance Based Income Exclusion (SBIE) Safe Harbour** Introduce a SBIE safe harbour based on a calculation that starts with a jurisdiction’s CbCR accounting profit before tax and is reduced by the SBIE for that jurisdiction. That is, sum of 8% of net tangible assets + 10% of payroll costs (the percentages will decline at the same rate as the SBIE percentages in the main GloBE rules).

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		If the result of this calculation is zero or negative, then the SBIE Safe Harbour applies. **Multi-year Safe Harbour based on base-line ETR** Introduce a Safe Harbour based on satisfying a jurisdictional ETR of [X% or more] in the base year. If this ETR is satisfied, detailed Pillar 2 calculations are not required in that jurisdiction for a grace period of [3-5 years]. This safe harbour will require a full Pillar 2 ETR calculation for each relevant jurisdiction in the base year. If the ETR is [X%] or greater, a detailed ETR calculation is not required for the next [3-5 years]. We acknowledge that some form of safeguard may be considered appropriate in this scenario.
8.2	Safe Harbour for wholly domestic groups	Wholly domestic groups may be subject to the Pillar 2 rules in certain jurisdictions e.g. in the EU or in jurisdictions that decide to apply Pillar 2 rules to their domestic groups. The issue would become even wider where a jurisdiction also decides to lower the 750M€ threshold). Simplification and safe harbour options should be designed with these groups in mind. For example, purely domestic groups do not file a CbCR (they are not in scope of Action 13) and may not necessarily be required to prepare consolidated financial accounts. This highlights the need for a longer list of safe harbour options as noted above to provide opportunity for purely domestic groups to access simplification. We believe it is necessary that the OECD develops guidance of safe harbours rules for purely domestic groups, even though it may be considered as being beyond their role: the reason is that the OECD guidance will be the only guidance available for the application of an EU Directive.
4.6.1	*Simplification Safe Harbour for Under/Over Adjustments* There is confusion regarding what type of 'subsequent corrections' are in scope of Article 4.6.1. That is, subsequent corrections resulting from audits versus subsequent corrections resulting from regular provision versus return differences that will be known	A specific safe harbour should be introduced for Article 4.6.1 as a simplification to enable MNE Groups to elect to reflect under/over adjustments in the year that aligns with the relevant GloBE Income/Loss. For example, a 5 year election for an MNE Group to allow under/over adjustments to be reflected in the GloBE Return in the year that the Covered Tax relates for both increases and decreases in Covered Taxes.

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	in most jurisdictions before filing the return (referred to as "under/over adjustments"). Simplification method is needed for under/over adjustments since otherwise these common adjustments will fall into Article 4.6.1 creating a compliance burden for MNE Groups to assess whether it resulted in a material decrease (EU1m or more) causing multiple unnecessary Pillar 2 re-calculations under Article 5.4.1. Increases may cause double taxation. Post filing adjustments in Article 4.6.1 also incorporate prior period adjustments referred to as under/overs that arise under the ordinary estimation approach to the calculation of tax balances for financial reporting purposes. Under/over adjustments are very common and arise for a number of reasons. For example, many intragroup transactions are eliminated and the tax impact for Group Reporting is not relevant so these tax balances are considered in detail at the time the local stand-alone statutory accounts are prepared. Further, Group Reporting applies a high materiality to tax balances that may be material at the country level. By the time the GloBE returns are lodged most taxpayers will know the actual tax applicable to a particular year since both local statutory accounts will be prepared, audited and lodged and income tax filings for that relevant year lodged. This provides the opportunity to reflect under/over adjustments in the	It will follow that the "under/over" adjustments will be omitted from the Globe Return filing in the subsequent year (ie the year the true up is booked in the consolidated accounts on the basis that it has already been included in the prior year Globe Return filing & calculation). Under/over adjustments are separately tracked and disclosed in consolidated financial accounts so the adjustment outlined above should be simple to comply with. This recommendation should be a 5 year election on a jurisdictional basis made by the UPE since MNE Groups in certain jurisdictions may not choose to adopt this election method.

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	correct year for GloBE Return purposes, reducing the need to amend prior period calculations and the anomalies that result from the one-sided approach to 4.6.1.	
8.2.2. Safe Harbor Application	For safe harbours to be truly effective, clear boundaries must be set to tax authorities' ability (discretion) to challenge safe harbour elections and the timeframe within which they can do so. Tax authorities' (TA) discretion and the proposed timeframe could undermine the benefit of simplification and the stated goal of improving tax certainty. Under the Model Rules, TAs can challenge a taxpayer's election to apply a GloBE Safe Harbour "where specific facts and circumstances may have materially affected the eligibility of the MNE Group for the relevant GloBE Safe Harbour" (Article 8.2.2). The Commentary to Article 8.2.2(a) makes it clear that neither the tax administration nor the taxpayer are required to compute the ETR of the jurisdiction to test whether the ETR is below the minimum rate.	Aside from the areas identified in the Commentary, guidance is needed, amongst others, around: the meaning of "materially affected"; how a taxpayer would be expected to clarify the effect of the facts and circumstances identified by the tax administration without doing the ETR calculation; who makes the final determination (a panel of – selected? – jurisdictions that would otherwise be allocated a top-up tax?). For consideration: If multiple safe harbours apply, could the bar be set higher for tax authorities to be able to challenge a safe harbour election; set the bar lower or higher depending on the safe harbour? Tax authorities should have a limited time frame to challenge the ability of an MNE Group to satisfy a safe harbour in a jurisdiction for a period of [3 years] from the time that the GloBE return was filed.
Targeted simplifications	Other targeted simplifications	**Identification of qualified tax credit** OECD to issue a list of qualified tax credit to ease the groups and tax administration to apply consistently P2. Each IF jurisdiction could provide a list of such credits (if any) to the OECD and update the list once a year. **Identification of Covered Taxes** OECD to issue a list of covered taxes to ease the groups and tax administration to apply consistently P2. List could be updated each year. **Identification of disqualified refundable imputation taxes**

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		OECD to issue a list of disqualified refundable imputation taxes to ease the groups and tax administration to apply consistently P2 Each IF jurisdiction could provide a list of such taxes (if any) to the OECD and update the list once a year **“Turn off” deferred tax mechanism** Inclusion of an election to exclude deferred tax (both DTLs and DTAs) from the definition of covered taxes as a simplification measure. This election would be optional and irrevocable for a set period to prevent businesses opting in and out depending on their deferred tax position in a particular period. Transition between periods of election vs no election would need to be considered. [Although we note that the GloBE Loss Election in Article 4.5 turns off deferred tax]. **Simplify de minimis exemption** Suggestion that the De minimis exemption is limited to testing Globe Revenue only to avoid computation of Globe Income/Loss that is far more burdensome. **Application of the JV/MOCE rules** JVs and Minority Owned Constituent Entities are required to apply the Globe Rules as if they are a separate MNE Group requiring detailed Pillar 2 calculations. • In the case that the JV or MOCE is immaterial to the MNE Group it will reduce the compliance burden to enable blending of these immaterial JVs and MOCEs with the rest of the MNE Group if certain de minimis thresholds are met. • To reduce compliance obligations, it would be helpful not to prepare separate calculations where the JV and/or Minority-Owned Constituent Entity’s income is a below a % of the MNE’s Total Globe Income or a % of the MNE’s Globe Income in the relevant jurisdiction. • Election to have the JV perimeter included in the MNE perimeter if data available (eg 50/50 JV) by election of the MNE Group. That is, the MNE Group may elect to blend its share of the JV with the other Constituent Entities in that jurisdiction.

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		Other candidates for simplification: There are many areas where simplification is warranted and achievable. We will continue to provide constructive input to the secretariat on simplification options. For example, simplification options in respect of: • DTL recapture monitoring; • Others will undoubtedly be identified as MNE's progress their implementation activities.
POPE Simplification measure	Partially Owned Parent Entity (POPE) The POPE Rules require jurisdictional blending with Constituent Entities held by the UPE but for which the POPE itself has no economic interest. The POPE may not be able to access the financial information needed to comply with Pillar Two obligations and forecast Pillar Two tax liabilities.	As a simplification measure, recommend enabling the UPE to make an election for the POPE to perform standalone ETR calculations (in a similar manner to a Minority Owned Constituent Entity or Minority Owned Parent Entity).
Transition Rule Simplification	Article 9.1.3 provides a limitation on intragroup asset transfers before applicability of the GloBE Rules. If an asset is transferred between entities after 30 November 2021 and before the Transition Year of a MNE Group, such asset must be recorded at its historic carrying value for GloBE purposes to limit the ability to step-up the basis in such assets without including the resulting gain in the computation of GloBE Income or Loss. This provision applies whether or not tax is paid on the intra-group asset transfer, as for example could be the case in integrating newly acquired assets.	Consideration should be given to including a safe harbour that would disapply this restriction in cases in which assets are transferred and tax is paid on the gain arising on the transfer.

Question 4
Do you have views on mechanisms to maximise rule co-ordination, increase tax certainty and avoid the risk of double taxation?

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Tax Certainty	Enforceability of the common approach-- We are concerned that simple country-by-country enactment of Pillar 2 will create substantial dispute resolution difficulties which won't be readily resolved, especially in the frequent instances where disputes can affect multiple jurisdictions. Domestic remedies will not suffice to address this concern. Similarly, mutual agreement procedures (MAP) under bilateral tax treaties (where they exist) will also provide a wholly inadequate solution. This is true in the first place because it is not at all obvious that taxpayers would have access to MAP for disputes relating to GloBE Rules, given the Inclusive Framework's apparent position that GloBE Rules do not conflict with bilateral tax treaty obligations. Second, while MAP provisions based	• While we understand a number of Inclusive Framework jurisdictions are not supportive of this, we recommend a multilateral convention solidifying jurisdictions' political commitment regarding the common approach, including adherence by implementing jurisdictions to the Model Rules and associated guidance. Such a multilateral convention could also contain a mechanism for bilateral and multilateral dispute resolution, as well as facilitating administrative implementation (eg exchange of information) and a mechanism for the development of authoritative future guidance (eg through the establishment of a body with authority to issue rulings or other guidance; further details on the potential operation of such a body are provided below). • Implementing Inclusive Framework jurisdictions should give adequate legal recognition to the Commentary and any Administrative Guidance. This requires consideration of the means of parliamentary acceptance as recognised in the Commentary to Article 8.3.1, paragraph 40 with respect to the Agreed Administrative Guidance within the context of each implementing jurisdiction's judicial system. Implementation of Pillar 2 through a multilateral convention could allow such documents to be given authoritative status under Article 31 of the Vienna Convention on the Law of Treaties, thereby greatly improving certainty. • The examples in the Examples document should be approved by the Inclusive Framework Peer review process and be endorsed by the implementation framework as an important element of the implementation to be taken into consideration by implementing jurisdictions.

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	on Article 25(3) of the OECD Model Tax Convention theoretically allow jurisdictions to consider double taxation cases outside the scope of the treaty rules, tax administrations retain discretion whether to accept Article 25(3) cases, many jurisdictions are unwilling to do so, and even where such a MAP case could be pursued, it's purely bilateral nature will not operate to resolve disputes with multilateral implications. Moreover, even a robust peer review process is unlikely to be able to guarantee the timely and certain resolution of disputes that are liable to arise in countries' application of Pillar 2 leaving taxpayers with unacceptable uncertainty and risk of double taxation.	• Ideally, there would be an ex-ante certification process to determine whether jurisdictions' domestic implementation of the IIR, the UTPR and/or the domestic minimum tax is GloBE-compliant. An ex-post certification process would bring tax uncertainty, potential double / multiple taxation and disputes over a prolonged period of time. • We understand jurisdictions may be under pressure to start collecting top-up taxes before the peer review process has been completed. Could a "fast track" initial review against agreed key design features be contemplated as part of the peer review process which MNEs could rely on until the more detailed review (examining jurisdictions' legal and regulatory GloBE framework and implementation of the framework in practice) further down the line? Alternatively, could MNEs rely on an assertion by a jurisdiction that a rule is a qualified IIR, UTPR or domestic minimum tax unless and until a contrary determination is made by a relevant body to be designated by the Inclusive Framework? In both cases (and more broadly, in the context of any ex-post peer review process), consideration should be given to how jurisdictions will deal with tax that has been collected under a rule that is ultimately considered not to be a qualified IIR, UTPR, domestic minimum tax. One possible solution is to accept the jurisdictions initial determination, but for future years once a determination has been made that the relevant regime is not in fact qualified, remove the qualified status until the jurisdiction makes the change. This way, taxpayers are not punished for any inconsistencies between the jurisdiction's approach and the OECD accepted approaches retroactively.
Tax Certainty	With or without a multilateral convention, a mechanism will be needed to ensure that both generic and taxpayer-specific issues can be addressed on an ongoing basis in authoritative fashion, to guarantee	We recommend that the OECD establish a Standing Body (which could be comprised of OECD Secretariat staff, select tax administrative personnel and/ or business representatives) to hear and advise on disputes which should be accorded deference in national tax controversy processes. Ideally, this deference would be confirmed through a commitment in a multilateral convention, but a fallback could be a supplement to the Model Rules to require such deference.

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	consistency in application of the Model Rules.	This OECD Standing Body should make public its findings (except for confidential information).
		Among its many areas of focus, such OECD Standing Body may--
		• On an ex-ante basis, certify if a country's DMTT, IIR and/ or UTPR regimes are 'qualified' in accord with the outcomes of Pillar 2.
		  • Likewise, determine other 'qualifying' items such as Imputation Taxes, Refundable Tax Credits, etc.
		  • Provide an advance ruling or certification, applying an Early Certainty/ APA/ ex ante-like process, to achieve early certainty for both taxpayers and jurisdictions (which has a minimum five-year life).
		  • Review double taxation outcomes, which would be brought to its attention, and identify and seek approaches to frame mitigation consistent with Pillar 2 principles.
		    o Advise as to how the ETR is calculated, involving Consolidated Financial Statements, as adjusted, as well as Covered Taxes.
		    o Review and comment on what are likely to be numerous technical questions which will arise as affected MNEs begin to implement Pillar 2 in order to clarify application of the Model Rules and Commentary.

Tax Certainty	To enhance the continuing operation of Pillar 2	The OECD should publish answers to questions raised by tax administrations or business organisations (e.g., BIAC) on a regular basis (e.g., every quarter), ideally through the Standing Body referenced above.
Avoid Double Taxation	Risk of double taxation in case of CFC reassessment	Mandatory refund of Top up tax in case of a mistake or reassessment of CFC taxes whatever the jurisdiction.
Avoid Double Taxation	Maximising efficiency, reducing costs and avoiding disputes by centralising the control of GloBE Information return and IIR/UTPR liability.	The tax administration of the jurisdiction of the UPE (or designated filing entity) will be best placed to audit the IIR / UTPR liability of an MNE Group as it will have easier access to the data and it will generally have a good knowledge of the group, its structure and tax situation. It would therefore be more efficient to "centralise" the audit function, whereby the jurisdiction of the UPE (or designated filing entity) would act as the main point of contact.

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		Jurisdictions of Constituent Entities of the MNE Group would send any requests to this point of contact (no requests made directly to the local Constituent Entities). The jurisdiction of the UPE (or designated filing entity) may notably be in a position to send confirmation that the correct IIR/UTPR liability has been paid by the UPE and whether UTPR liability occurs or not. Unless the auditing jurisdiction agree to an amendment of its initial validation (i.e., in case of a mistake), the other jurisdictions would be bound by the work performed by the auditing jurisdiction. It could also carry out further investigations. The OECD could perform peer review to assess the adequacy of the local validation process but ideally this process would be provided for under a multilateral convention, or through a supplement to the Model Rules.
Avoid Double Taxation	The complexity of the computations (adjustments, data collection) and the extensive nature of the scope (i.e., MNE perimeter + JVs) require a specific kind of audit i.e., specific team and specific method of audit.	Need for each jurisdiction to set up a specific team able to audit the P2 computation of the MNE Group, starting with the UPE, as noted above, but also to answer to questions raised by MNEs in their implementation process. An audit could be done at the request of the MNE in advance, i.e., between the closing and the filing (15-month period) as for an APA.
Maximise rule coordination	Need to distinguish CFC Tax Regimes from QDMTTs/ IIRs	Require countries to characterise their own relevant regimes as either CFC Tax Regimes or QDMTTs/ IIRs. Make that characterisation the subject of an OECD peer review mechanism. See also above request for an OECD Standing Body.
Maximise rule coordination	Need to develop a mechanism through which the Model Rules can be amended in the future in a way that will be implemented consistently by all relevant jurisdictions.	Include in the Model Rules a "best efforts" commitment to update national implementing legislation to reflect modifications to the Model Rules agreed by the Inclusive Framework. If possible, include such a commitment in a multilateral convention to be developed to implement Pillar 2.
Maximise Rule Coordination	Arm's Length Principle (ALP)	While para 97 of the Commentary refers to the tax administrations in the jurisdictions subject to the controlled transactions being in the best place to assess compliance with the arm's

Ref	Issues	Recommendations
3.2.3 See para 97 page 61	The requirement for transactions between CEs to be consistent with the Arm's Length Principle could introduce a third jurisdiction (for example the UPE or PoPE) to the transfer pricing allocation of income between CEs for the purposes of calculating a Pillar 2 tax liability.	length principle, it should be made explicit in the implementation framework that the UPE or other Parent Entity cannot challenge the ALP for Pillar 2 purposes, including adjustments made under Article 3.2.3. Rather, the requirement is that the controlled transactions are by definition arm's length to the extent the pricing is agreed between the tax administrations in the jurisdictions subject to the controlled transactions. Para 105 also discusses disagreement. There should be administrative guidance on how a fast-track arbitration can settle such disputes. Given that a legal instrument would most likely be required to authorize such dispute resolution, serious consideration should be given to including this in a multilateral convention or a supplement to the Model Rules. Perhaps work done under Pillar 1 Amount B will assist with providing safe harbours which could be extended for more common transaction types to allow for speedy resolution.

Pillar 2 – Issues to be addressed in Implementation Guidance
Funds and Insurance Sector

Ref	Topic	Issues	Recommendations
4.4.5	Recapture Exception Accrual	The model rules provide for a recapture exception accrual that includes insurance reserves. The amount of insurance reserves required for future claims are defined by insurance regulatory bodies, under applicable prudential rules. The principle is rather consistent across various jurisdictions worldwide, but accounting and tax regulations may differ locally. Given the range of insurance classes available, some local accounting rules may provide for specific insurance reserves items, or specific splits of insurance reserves items depending on local markets' issues. Thus, global insurance groups should not have to select locally among insurance reserves which items or related items may be eligible. In this respect, the scope of insurance reserves that allow for a recapture exception accrual should be defined as broadly as possible.	The scope of this exception for insurance reserves should be defined broadly and should include all insurance reserves items or related items allowed by accounting and consolidation rules, to the extent that they are linked to the insurance business, irrespective of what is eligible to a tax deduction.
7.4 to 7.6	Treatment of investment funds in the insurance sector	Investment funds are used by individual consumers to provide pension savings. In the life insurance industry, policyholders pay premiums to the insurer which are invested to generate a return sufficient for the insurer to meet the long-term commitments to policyholder. This means that the vast majority of the invested assets and investment returns are for the benefit of the policyholders. The insurance company is taxed on the profits attributable to shareholders after taking into account premiums received, movements in insurance reserves, payments to policyholders, investment returns and other operating expenses.	Comment: As written, the rules will result in additional tax charges on investment funds which are often held by insurance companies to provide pensions for individual consumers. These funds are structured to be tax neutral so a return can be passed gross to the individual saver who is taxed in their jurisdiction of residence. The October 2020 Pillar Two Blueprint recognised this principle of tax neutrality, which has not carried through to the final published rules: in order to maintain this

Ref	Topic	Issues	Recommendations
		Typically, investment funds are structured to be tax neutral so that the return can be passed gross to the underlying saver who will be taxed on that return in accordance with the tax provisions of the jurisdiction where the individual lives. Worldwide insurance companies and fund managers hold trillions of dollars through investment funds which underpin the pension savings of millions of individual consumers. It is therefore fundamentally important that the Pillar Two rules do not impose additional tax charges on investment funds that will damage individual consumers, which would be outside of the policy rationale for Pillar Two. The October 2020 Pillar Two Blueprint recognised the special features of investment funds and concluded that tax neutrality does not trigger the concerns that underpin the policy rationale of the GloBE rules and should not therefore be affected by the Pillar Two proposals.	principle for individual pension savers the amendments and clarifications listed below are needed.
7.4 3.2.1	Effective Tax Rate Computation for Investment Entities	Where the investment return is attributed to the Constituent Entity-Investment Entity, is there a corresponding adjustment to the investment income of the CE-owner? This is not explicitly covered by the categories of adjustment in 3.2.1.	Please clarify if there is a corresponding adjustment to the investment income of the Constituent Entity owner. No clarification was provided in the commentary.

Ref	Topic	Issues	Recommendations
7.5	Election under 7.5	The election under 7.5 is available for an Investment Entity or an Insurance Investment Entity, provided that the constituent-owner is subject to tax in its location under a mark-to market or similar regime based on the annual changes in the fair value of its ownership interests in the entity. Article 7.5 is not consistent with tax regimes applicable throughout the Inclusive Framework jurisdictions. As regards insurance groups in respect of their controlled investments entities, the tax regime applicable to the ownership interests of the owner may be on the annual changes in fair value or but also on the historic value of said ownership interests. The taxable distribution method election according to Article 7.6. cannot serve as a workable alternative in many cases. This is partly due to its narrow scope which excludes insurance investment entities. Also, the requirements are very restrictive. Amongst others, the requirement whereby the funds (deemed) distributions must be subject to a minimum tax rate of 15 % leads to conflicts with domestic tax laws and renders the election largely unusable in respective jurisdictions. It is paramount for insurers that the issue is given proper consideration that should result in giving the elections greater accessibility. Therefore, the scope of the Investment Entity Tax Transparency Election under Article 7.5. should be extended through a generous interpretation of its requirements.	Can the scope of Article 7.5 be widened or can the commentary be clarified so that investors in Germany and other continental European jurisdictions may use this election. If this is not possible, then there need to be changes to Article 7.6 (see below). The Commentary acknowledges that further work will be done - Para 77 says of Articles 7.4 to 7.6 "As part of the GloBE Implementation Framework, further consideration will be given to the treatment of Insurance Investment Entities whose Constituent Entity-owners are not subject to a mark-to-market or similar tax regime on their investments in such Entities."

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7.5.1 and 7.6.1	Difference in wording between the two articles	Article 7.6.1 includes 'reasonably expected' to be subject to tax. This wording is different to that included in 7.5.1, which says: 'the tax rate applicable to the Constituent Entity-owner with respect to such income equals or exceeds the Minimum Rate'	Please clarify why Article 7.6.1 is based on a reasonable expectation and Article 7.5.1 is based on an actual rate.
7.5.1	Tax rate applicable to Constituent Entity Owner	It is unclear if the reference in 7.5.1 to "the tax rate applicable to the CE-owner with respect to such income" means the statutory tax rate applicable to that income or the GloBE ETR?	Please clarify if the reference in 7.5.1 is to the statutory tax rate applicable or the GloBE ETR rate. Para 91 refers to "subject to tax in its location… at a rate that equal or exceeds the Minimum Rate", so not totally clear but it could be the statutory rate as there is no reference to Covered Taxes. Further clarification would be welcome.
7.6 Article 10 definitions	Election under 7.6 Definition of Insurance Investment Entity	The election under Article 7.6 is only open to an Investment Entity (as defined in Article 10). As an Insurance Investment Entity is defined separately the election cannot seem to be made for an Insurance Investment Entity. There is no policy reason why an Insurance Investment Entity should not be able to make this election.	Ideally Article 7.6.1 should be amended to read: "an Investment Entity may apply the Taxable Distribution Method with respect to its Ownership Interest in a Constituent Entity that is an Investment Entity or an Insurance Investment Entity if the Constituent Entity-owner can be reasonably expected to be subject to tax on distributions from the Investment Entity or the Insurance Investment Entity at a tax rate that equals or exceeds the Minimum Rate" If it is not possible to amend Article 7.6.1, the implementation guidance to Article 7.6 should clarify

Ref	Topic	Issues	Recommendations
			that, for the purposes of Article 7.6, an Investment Entity is deemed to also include an Insurance Investment Entity. The commentary does not reference Insurance Investment Entities. However, it is noted that further work will be done on this area (para 77).
7.6	Election under 7.6.1	The requirement that distributions must be subject to a minimum tax rate of 15% at the Constituent Entity-owner, does not take account of tax systems which partially tax the income of the fund at the level of the fund e.g. Germany, and leads to conflicts with domestic tax laws. It seems to presuppose that investment income is only taxed when it is distributed by the fund. However, this is not always the case. The design of a domestic tax system may ensure tax neutrality of a fund by taxing investment income at the level of the fund but exempting such income from tax when it is distributed or deemed to be distributed. According to German investment tax law, distributions made by a fund are partially tax free in order to avoid a second layer of taxation on the same income. In this scenario, even an amended election under Article 7.6 could not be used simply because the 15% minimum tax rate	It is unclear how this provision will interact with domestic law in certain countries. Is the Implementation Guidance able to clarify this or to specify the requirement under Article 7.6 is amended in order to align it with taxation systems which tax investment at the level of the fund. Commentary states that further work is to be done in the Implementation Guidance under para 77.

Ref	Topic	Issues	Recommendations
		requirement only takes into account the tax rate on the (deemed) distributions. It is paramount for insurers that extending the election under Article 7.6 is given proper consideration to take account of tax regimes applicable throughout the Inclusive Framework jurisdictions, that should result in giving the election greater accessibility. Therefore, the scope of the election under Article 7.6 should be extended through a generous interpretation of its requirements.	
7.5 and 7.6	Elections under 7.5 and 7.6 where there are multiple Constituent Entity owners of the same investment entity.	It is common for insurance groups to hold a majority stake in multiple investment funds, furthermore an investment entity could be held by several insurance companies in the same MNE Group. With regards to the elections in Articles 7.5 and 7.6, clarification is needed as to how the election works where there are multiple Constituent Entity-owners of the same investment entity (see the attached PowerPoint). Pillar 2 - illustration 7.5 and 7.6.pptx In the example, there are three Constituent Entity-owners of the same Investment Entity. One Constituent Entity-owner can make an election under 7.5, one can make an election under 7.6 and one cannot make either election. It is unclear if the election can be validly made for the first two CE-owners.	Please clarify if an election under 7.5 and 7.6 can be made by the Filing Constituent Entity-owner, irrespective of the position of other Constituent Entity-owners investing in the Investment Entity. With regard to Insurer 3 in the example, which is expected to be subject to tax at a tax rate lower that the minimum rate, please clarify that the respective elections in 7.5 and 7.6 (made by Insurers 1 and 2) should still be able to be made in this situation. Additionally, please clarify that any top up tax should then be calculated in relation to Insurer 3 not the Investment entity. This was orally confirmed by OECD but has not been confirmed in the commentary. To be considered in the para 77 work for the Implementation Guidance.

Ref	Topic	Issues	Recommendations
		If elections under 7.5 and 7.6 can be made for the first two Constituent Entity owners, this ensures that policyholders in Insurer 1 and 2 are unaffected Insurer 3 could either be subject to tax on a MTM basis or on distributions, but it is expected to be subject to tax at a tax rate lower that the minimum rate.	
7.5 and 7.6	Issues for Insurance Investment Entities when elections under 7.5 and 7.6 cannot be made	Where an Insurance Investment Entity cannot make elections under 7.5. or 7.6, it seems that a GloBE ETR will be required to be calculated at the Fund level on the gross amount of the Constituent Entity-owner's investment return. This will give rise to top-up tax being suffered by the Fund on income attributable to both the Constituent Entity-owner and policyholders, impacting the policyholder investment return. See the attached simple worked example (see the excel file). Pillar 2 for funds example.xlsx Two identical Insurance companies both invest into a Constituent Entity-Investment Entity and the investment returns are taxed on a MTM basis. The only difference is Company A has a tax rate of 20% and Company B has a tax rate of 10%. Company A can make the election under Article 7.5 whereas Company B	One solution would be to clarify the commentary to state that where an insurance company cannot meet the elections under 7.5 or 7.6 because it doesn't meet the minimum tax rate criteria, that the amount of investment return attributed to the Constituent Entity-Investment Entity is the portion that is attributable to the shareholder profit i.e. investment return net of payments to policyholders, in the excel example that would be $10,000. However, given the significant number of Investment Entities that an insurance group invests in, it would administratively be a lot simpler to be able to apply the top up tax at the insurance company level in respect of the net investment return i.e. amend 7.5 and 7.6 to allow the elections for regulated insurance companies regardless.

Ref	Topic	Issues	Recommendations
		cannot. The inability to make the election means that in this example, the Globe top-up tax is $16,500 when the policy intent should be to apply the top-up tax to the "under-taxed" insurance company profit which would result in top-up tax of $2,500 [$50,000 profit at 15% rate less $5,000 tax charge]. Faced with this unwarranted tax, the insurance company would have to consider less optimal structures from a policyholder investment return perspective which did not give rise to a top-up tax at the fund level.	Again, to be considered in the para 77 work for the Implementation Guidance.
Article 10 definitions	Definition of Insurance Investment Entity	The definition of Insurance Investment Entity refers to liabilities under an (i.e. singular) insurance or annuity contract. In practice funds are established in relation to multiple contracts.	Ideally the definition of Insurance Investment Entity should be amended to read: "an Entity that would meet the definition of an Investment Fund or a Real Estate Investment Vehicle except that it is established in relation to liabilities under insurance or annuity contracts…" If it is not possible to amend the definition in the rules, the commentary to Article 10 should be amended to clarify that an Insurance Investment Entity is established in relation to liabilities under one or more insurance or annuity contracts. This was orally confirmed by OECD, but the commentary contains no reference to the definition of Insurance Investment Entity so not documented.

Ref	Topic	Issues	Recommendations
Article 10 definitions	Definition of Insurance Investment Entity	The definition of Insurance Investment Entity should also include an Investment Fund that is wholly owned by a number of Entities (rather than a singular Entity) that are all part of the same MNE Group.	Ideally the definition of Insurance Investment Entity should be amended to read: "… and is wholly-owned by an Entity or Entities within the same MNE Group that is subject to regulation in its location as an insurance company." If it is not possible to amend the definition in the rules, the commentary to Article 10 should be amended to clarify that an Insurance Investment Entity can be wholly owned by one or more Entities within the same MNE Group. This was orally confirmed by the OECD, but the commentary contains no reference to the definition of Insurance Investment Entity so not documented.
Article 10 definitions	Definition of Insurance Investment Entity	The definition of Insurance Investment Entity is more restrictive than the Investment Entity definition, as it includes only investment funds or real estate vehicles i.e. it does not include any underlying structures which are covered by items (b) and (c) of the Investment Entity definition. This restriction makes the Insurance Investment Entity definition less practically effective – infrastructure investment is an obvious area where it causes issues.	Ideally the definition of Insurance Investment Entity should be amended to include items (b) and (c) from the definition of Investment Entity. If it is not possible to amend the definition in the rules, the commentary to Article 10 should clarify that the Insurance Investment Entity includes items (b) and (c) from the definition of Investment Entity. The commentary makes no reference to the definition of Insurance Investment Entity, so this issue is not clarified or resolved.

Ref	Topic	Issues	Recommendations
Article 10 definitions	Definition of Insurance Investment Entity	The requirement "established under an insurance/annuity contract" is unclear in terms of the type of underlying insurance (eg does this refer to life/health/property/casualty).	The meaning of "established in relation" should be clarified. Secondly, it should be clarified, whether the definition encompasses all types of insurance (life/health, property/casualty an reinsurance). This would open the election to investment entities to the extent that the investment is related to the insurance activity.
Article 10 definitions	Definition of Insurance Investment Entity (+ Commentary in par. 90 for Art. 7.5.1)	The definition requires that the direct owner of the fund is "regulated as an insurance entity". However, sometimes a fund is held by one or more regulated insurance entities of one MNE group through an interposed company which itself is not regulated as an insurance company. There appears no conclusive reason why an indirect holding by one or more related insurance entities should be excluded from the definition.	It should be clarified if an indirect holding of a fund by one or more related insurance entities is included the definition.
Article 10 definitions	Investment Fund definition in Article 10.1.1 (f) (+ Commentary in par. 44.)	The requirement "entity or its management is subject to a regulatory regime in the jurisdiction in which it is established or managed (including appropriate anti-money laundering and investor protection regulation)" is unclear. It poses the question of what constitutes a "regulatory regime" beyond the expressly mentioned anti-money laundering and investor protection regulation.	Further guidance is needed to clarify the "regulatory regime" requirement, including examples of regulation which does not count as a "regulatory regime".

Ref	Topic	Issues	Recommendations
Article 10 definitions	Investment Fund definition in Art. 10.1.1 (g) (+ Commentary in par. 45.a):	According to the definition the fund must be "managed by investment fund management professionals". The commentary mentions as an indicative factor for this requirement: "The fund managers operate independently of the investors and are not directly employed by the investors". Sometimes, fund managers are employed by a related group company of the investor(s).	It should be clarified if, where fund managers are employed by a related group company, the fund manager can be viewed as independent in terms of the indicator.
Article 10 definitions	Investment Fund definition in Art. 10.1.1 (g) (+ Commentary in par. 45.b)	Another indicator for the fact that the investment fund is managed by investment management professionals is where "the fund managers are subject to national regulation regarding knowledge and competence". The indicator poses the question as to what kind of "regulation" is required.	It should be clarified whether the fund managers have to hold a particular professional certificate or must be overseen by an association or any other (professional) body?
Article 10 definitions	Definition of Excluded Dividends	The definition of Excluded Dividends removes "an Ownership Interest in an Investment Entity that is subject to an election under Article 7.6." but it does not remove an election made under 7.5. This means that under the current rules an Insurance Constituent Entity could exclude all distributions covered by an election under 7.5 from its GloBE profit and could end up with a GloBE loss.	Ideally the definition of Excluded Dividends should be amended to read: "(b) an Ownership Interest in an Investment Entity that is subject to an election under Article 7.6. or an election under Article 7.5" If it is not possible to amend the definition in the rules, the commentary should clarify this point. The commentary refers only to an election under Article 7.6, so this point is unresolved.