



January 25, 2023

To: Tax Treaties, Transfer Pricing and Financial Transactions Division  
Organisation for Economic Cooperation and Development  
Centre for Tax Policy and Administration  
2 rue André-Pascal  
75775, Paris, Cedex 16, France  
Submitted by email: [transferpricing@oecd.org](mailto:transferpricing@oecd.org)

Re: *Business at OECD* (BIAC) comments to OECD's Public Consultation Document "Pillar One – Amount B"

Dear Secretariat Team,

Thank you for the opportunity to comment on the public consultation document "Pillar One – Amount B" (the "Document"). The *Business at OECD* (BIAC) Tax Committee supports the work undertaken to date by the OECD Secretariat in developing the Amount B proposals.

It is hoped that Amount B will play a critical role in the stabilization of the international tax framework, especially with regards to simplification, certainty, and reduced controversy. As challenging transfer pricing audits continue to be on the rise around the world, we note that many contentious audits concern the transfer pricing of routine marketing and distribution activities. Specifically, many countries report that a large portion of their MAP inventory concerns transfer pricing cases relating to the wholesale and retail distribution of goods and services. Reducing controversies in this area will create material benefits for both taxpayers and tax administrations in increasing certainty and reducing administrative costs and time invested for such audits. While the underlying rationale of the Amount B proposal is positive, we do have concerns that key parts of the Document will not address the need for certainty for many taxpayers and will therefore be of little benefit to tax administrations, including those from low-capacity jurisdictions (LCJs) for whom this proposal is specifically intended to help.

Our response is structured in two main appendices. In Appendix I, we have summarized the main aspects of our response and outlined the key features that we believe should be included in the final design of Amount B. Appendix II contains a more detailed table of comments (consistent with the previous *Business at OECD* (BIAC) responses to Pillar One consultations).

We would also like to draw your attention to some key issues identified in our feedback, which are as follows:

- 1) **Pillar One as a package of measures:** We recognize and appreciate that the OECD Secretariat, the Task Force on the Digital Economy (TFDE) and members of the Inclusive Framework (IF) have made substantial efforts to make progress on the various aspects of Pillar One. In this regard, we recall from the initial Pillar One Blueprint that Pillar One has always been intended to operate as a package of measures, with Amount A reallocating a portion of non-routine

profits to market jurisdictions and Amount B operating as a risk mitigation measure by ensuring that an appropriate rate of return is retained in market jurisdictions for baseline distribution activities under the arm's length principle, with both measures being supported by a commitment to repeal existing unilateral measures and to prevent the implementation of new similar measures, thereby increasing the stability of the international tax system.

We believe that retaining this context while advancing the project is important, particularly when considering the scope of Amount B. While the number of industries in scope of Amount A has been significantly expanded compared to the original proposals in the Blueprint, the current scope for Amount B appears to have been constructed narrowly such that many businesses that will be affected by Amount A will fall outside the scope of Amount B, and as commented below, we doubt whether the narrow construct Amount B will even apply to many taxpayers in practice. This is counterintuitive. Amount B should at least be guaranteed for all companies in scope of Amount A, and indeed, to achieve the broader goals of Pillar One, should be further expanded in the interests of simplification, certainty and reduced controversy.

We also refer to our previous [comments](#) submitted on the Pillar One Progress Report on Amount A, where we recommended that Amount B could be used as a suitable alternative metric to the return on depreciation and payroll (RoDP) as currently proposed in the Amount A marketing and distribution safe harbor (MDSH). In our view, if a group already has a return in a jurisdiction for baseline routine distribution, the excess should reduce the Amount A allocation to that jurisdiction.

- 2) **Scope of Amount B:** In our view, it is important that Amount B can be applied by a broad range of taxpayers. However, the current scope limitations in Section 3.1, para 18 are extensive and we are concerned that the range of exclusions will mean that a significant number of taxpayers will either fall outside the scope of Amount B or could come within the scope of Amount B in a particular year but then fall out of scope the following year or vice versa. We have put forward suggestions on how the scope of Amount B could be re-configured in Appendix I.

We believe that evidence from different transfer pricing studies supports the possibility of expanding the scope of Amount B to cover a wider range of taxpayers without undermining the application of the arm's length principle. In this regard, we have provided two transfer pricing studies as attachments to our consultation response. Our intention in doing so is that these studies may help the Secretariat in the ongoing work on pricing, and to also provide support for our detailed comments on scoping. While the studies apply different approaches to the search of comparables for baseline distribution activities, both studies reach conclusions that are broadly consistent. A number of *Business at OECD* (BIAC) Tax Committee members also noted that the results of the studies were aligned with their practical experience of pricing these activities.

- 3) **Application of Amount B:** Based on our understanding of the Document, it appears that is still being considered whether Amount B should apply on a mandatory basis or as a rebuttable presumption etc. In our view, Amount B would operate most effectively as a form of safe harbor, whereby taxpayers could elect to apply Amount B pricing to baseline distribution activities or could use an alternative pricing methodology if the taxpayer can clearly demonstrate why the alternative pricing methodology is more appropriate.

- 4) **Pricing proposals:** We recognize that the pricing of Amount B is still under development. In our response, we have therefore focused on providing more detailed comments on the scoping section of the Document as we believe that the final decisions on the intended scope of Amount B will flow into the pricing analysis. As noted above, we have provided two transfer pricing studies as attachments to our consultation response to support the ongoing work on pricing.

In principle, we believe that Amount B should be kept as straight-forward as possible from an administrative perspective. If adjustments are required, these should be supported by data that becomes available during the pricing modelling analysis. If data does not support adjustments being made, complexity should not be added unnecessarily.

We thank you for the opportunity to comment. We would be pleased to respond to any questions arising from our general and specific comments provided. We would also welcome any opportunity to work with you and the TFDE in order to further progress the development of the pricing analysis for Amount B.

Sincerely,



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



William H. Morris  
Chair Emeritus

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

## Appendix I

### Summary of Key Issues and Considerations

#### **Application of Amount B – Method and Timing**

1. **Amount B as a safe harbor.** We see real benefits in Amount B functioning as a safe harbor. From the perspective of business, MNEs could opt to apply Amount B where they wish to have improved levels of tax certainty. Applying Amount B as a safe harbor would still facilitate other more appropriate methods of pricing being applied where specific cases could result in differing rates of return and where the MNE is comfortable that it can clearly support the transaction being priced in an alternative manner. From the perspective of LCJs, a widely applicable Amount B safe harbor has the potential to give rise to significant simplification benefits if it is well-designed.

We also believe that applying Amount B as a safe harbor could alleviate some of the concerns of other jurisdictions (noted in Section 3.4.1 of the Document on page 17) that Amount B may overcompensate certain arrangements (e.g., sales agency and commissionaire arrangements).

Greater levels of tax certainty arising from Amount B could also be helpful from a Pillar Two perspective. In particular, the potential for Amount B to reduce transfer pricing related disputes would improve the reliability of financial accounting data for taxpayers in different jurisdictions. This would have a corresponding impact on jurisdictional effective tax rate calculations and would reduce the volume of post-filing adjustments that may need to be completed.

2. **Inclusion in Multilateral Convention or OECD TP Guidelines.** We refer to our comments in the cover letter that our understanding is that Amount B was intended to be introduced as part of a package of measures under Pillar One. To the extent that Amount B is introduced alongside Amount A, we believe that there would be merit in incorporating the final Amount B proposals into the Multilateral Convention. Incorporating Amount B into the MLC would significantly improve tax certainty for taxpayers (assuming the scoping issues discussed below are addressed). It could also have the benefit of allowing Amount B to be linked to other aspects of the MLC.

However, where Amount B is being introduced on a standalone basis, our members generally agree that including Amount B guidance in the OECD TP Guidelines would also be a feasible solution if needed to advance the project. However, if Amount B guidance is included in the OECD TP guidelines, it will be important to specify how it is to be used so that taxpayers do not have an additional requirement to make a TP calculation. This is why we recommend that Amount B operates as a safe harbor at the election of the taxpayer.



## Scope of Amount B

We believe that the scope of Amount B should be significantly re-configured to (i) allow taxpayers to qualify for Amount B in a simpler manner and with greater certainty and (ii) allow a broader range of taxpayers to fall within the scope of Amount B. We have set out below some elements of the scoping proposals that we believe should be modified to achieve this.

- 1. Over-emphasis on exclusions from Amount B.** We note that the current scoping criteria in Section 3.1, para 18 of the Document includes an extensive list of 12 scoping points, with 18 further sub-points that an entity would need to satisfy to qualify for Amount B. Within these conditions, there are a number of exclusions which will significantly limit the number of MNEs that would be able to avail of Amount B. These include, amongst others, restrictions on certain types of activities, multiple restrictive scoping ratios and an inability to segment the financial results of an entity to isolate baseline distribution activities. In some cases, the exclusion criteria do not add any value in the pursuit of identifying a routine distributor and therefore could be removed from the scope. The majority of our members believe that, based on the current wording of Section 3.1, the group entities engaged in distribution activities would fail to qualify for Amount B (due to a variety or combination of reasons) and that there is a need to re-configure the scope criteria for Amount B as a result. Our recommendation therefore is that the scoping criteria for Amount B should include greater levels of flexibility to ensure that a wider range of taxpayers can qualify. This will also enhance the utility of Amount B for LCJs.
- 2. Over-emphasis on subjective qualitative scoping assessments.** It is unclear to us whether a taxpayer will be required to perform an Amount B scoping assessment and also be required to perform a separate assessment to accurately delineate the transaction before qualifying for Amount B (i.e., does a scoping assessment need to be undertaken on an entity basis, with a separate assessment being undertaken on a transaction-by-transaction basis). If this is the case, it does not appear to us that Amount B will result in any meaningful simplification for taxpayers. We are concerned that there also appears to be a wide scope for tax authorities to challenge the ability of an entity to avail of Amount B on subjective grounds. This would significantly reduce the impact of the intended tax certainty benefits for taxpayers, as we believe that it would likely result in a shift of disputes from pricing to Amount B scoping related disputes. It is therefore important that the scoping criteria are revised to be more objective in nature, simplified and focused on objective criteria that are easily verifiable. Any qualitative criteria should be designed as a 'positive' list of factors that would bring a distributor into the scope of Amount B, rather than a 'negative' list of factors designed to exclude entities.
- 3. Expansion to non-tangible digital goods and services.** Our members generally feel that it should be possible to expand the scope of Amount B to cover the distribution of non-tangible goods and services in digital-related industries. We believe that the functions performed by distributors of these goods and services are sufficiently similar to warrant inclusion. Inclusion in Amount B would be welcomed by many taxpayers in these industries which currently can often face challenging transfer pricing audits. However, in order to be effective, the scoping issues raised above would also need to be addressed for these distributors.



As noted above, we believe that a position could be reached where the final Amount B pricing methodology could apply to a broader group of taxpayers than currently envisaged, while remaining consistent with the arm's length principle. Where specific issues are identified, save for the specific industry exclusions (e.g., commodities), our preference would be for an industry-specific adjustment to be included, rather than for the relevant industry to be excluded from the scope of Amount B as a first step. The experience of our members is that comparables sets for routine distribution functions regularly combine distributors of tangible goods, digital goods, and services, since the underlying sales and marketing functions are sufficiently similar, and the results are consistent. We therefore believe that extending the scope of Amount B to distributors of digital goods and services within digital-related industries should not be unduly complicated.

4. **Use of local market comparables.** We are concerned that allowing jurisdictions to disapply Amount B by asserting that local comparables exist and that they should take precedence over Amount B will substantially reduce the impact of Amount B from a tax certainty and simplification perspective. As the application of local market comparables gives rise to transfer pricing disputes currently, we believe that allowing for a local market comparable exclusion will import these disputes into Amount B.

Our experience is that ranges for comparable transactions do not differ meaningfully enough between jurisdictions to justify an exclusion for Amount B in any market that chooses to use local comparables. Depending on the jurisdiction and due to the availability of financial data, local market comparables can in fact be very challenging to identify (e.g., very few or no local market comparables). In these cases, regional benchmarking studies are currently undertaken in practice. If jurisdictions have local market comparables available, we believe that a better course of action would be for these comparables to be provided to the OECD Secretariat and incorporated into the global dataset being used for the Amount B pricing analysis.

5. **Commodity exclusion.** We have included a range of detailed comments in Appendix II in respect of the proposed commodity exclusion from Amount B. Our recommendation is that the carve out applicable to extractive businesses contained within the Amount B paper, should be consistent with Amount A and that a reference to the Amount A definition should be included in the Amount B rules. We believe that clarifying explicitly that Amount A extractive products are excluded for Amount B purposes will reduce complexity, uncertainty and compliance burdens for taxpayers. If it is intended to exclude a wider range of commodities from Amount B than purely extractive products, we believe that this can be added to the scope along the lines of including the reference to the definition of commodities per paragraph 2.18 of the OECD TP Guidelines. To the extent there are intended differences in the drafting of the commodities exclusions between Amount A and Amount B, we believe that the rationale for the differences should be clearly explained and that further consultation with commodity and extractive industry participants would be warranted.





## Pricing of Amount B

1. **General comments.** We appreciate that the pricing methodology for Amount B is still under development and that it will be challenging to finalize this analysis before conclusions are reached on the final intended scope for Amount B. We would be happy to engage and contribute further as the pricing analysis continues to be developed.
2. **Insights from the relevant transfer pricing studies.** In Appendix III, we have provided two separate transfer pricing studies. The report prepared by KPMG utilizes comparables searches completed two years prior to the report and which were used to benchmark arm's length returns for sales, marketing and distribution in a variety of geographies and industries. The report prepared by PWC reflects a traditional comparables search, the search strategy applied a number of qualitative (e.g., inclusion and exclusion words) and quantitative (e.g., independence and screening out companies that recognize intangible assets or undertake significant research and development) in order to derive a set of 11,160 independent wholesale distribution and marketing companies.

While the studies apply differing approaches to identifying search comparables, we note that the conclusions reached are broadly consistent. In particular, both studies suggest that there are not, generally speaking, material differences in benchmark returns across geographies, industries, or even in cases where profit margins diverge for the business as a whole.

- The 2020 KPMG analysis shows that arm's length returns to sales, marketing and distribution functions are very consistent (with a median 2.5% return for limited risk distributors (LRDs) and a 3.6% value-added return) across geographies and industries and do not increase as industry profitability increases.
- The report prepared by PWC also found that results across the industries modelled displayed relatively limited variability<sup>1</sup>, using both return on sales and Berry Ratio profit level indicators<sup>2</sup>. The study was also prepared using two geographic regions and the results across both regions were largely consistent.
- While the PWC study did identify a variation in results when working capital levels (particularly working capital as a percentage of turnover) were considered, the impact of other potential comparability adjustments (similar to those suggested in the Document) were observed to have a negligible effect.

We would invite the OECD Secretariat to review the studies provided and would be happy to engage in further discussions as required. Ultimately, we believe that the reports signal that a reasonable pricing solution could be found which allows Amount B to be applied to a wider cohort of taxpayers. In particular, limitations placed on scope and/or differentiated criteria should only be applied where it can be demonstrated by data that materially different pricing

---

<sup>1</sup> The PWC transfer search strategy excludes retail distributors.

<sup>2</sup> The inclusion of the Berry Ratio is in keeping with the commentary in the OECD Transfer Pricing Guidelines (para 2.107) on situations where the Berry ratio might be appropriate. This includes situations in which "the value of the functions performed in the controlled transaction is proportional to operating expenses" and is "not proportional to sales".

outcomes could arise. In these cases, we recommend that the data supporting differentiation is made publicly available in the final Amount B report. If the data modelling exercises do not support differences in returns, we believe that Amount B should be kept as simple as possible.

3. **Pricing Matrix or Mechanical Pricing Model.** Our overarching view is that the final output should be as simple as possible to administer, for both taxpayers and jurisdictions (particularly LCJs). Based on the pricing information available so far, it is difficult to confirm whether a pricing matrix approach or a more detailed pricing tool would be preferable. We have concerns that a detailed pricing tool could add layers of complexity which would reduce the simplification benefits of Amount B. In contrast, the use of a pricing matrix with broad ranges could reduce the level of tax certainty for taxpayers (if disputes were still permitted to arise in respect of where an entity was positioned in the pricing matrix).

It is unclear currently in the Document whether Amount B will be stated as an actual number, a range or whether it could be the case that Amount B will only prescribe a methodology to be followed, including search and screening criteria for comparables and necessary adjustments. If this is the case and the taxpayer is required to create the ranges and adjustments, we have a real concern that this could have an impact from a certainty perspective as tax authorities could dispute the Amount B findings, either by challenging the adjustments and/or disqualifying the distributor from the scope of Amount B.

### **Documentation**

1. **Excessive documentation requirements.** In Appendix II, we have discussed various aspects of the documentation requirements contained in Section 5.1, para 87 of the Document. In our view, the list of documentation appears to be excessive, going beyond the level of documentation that is required to be provided in the normal course of business currently. This is contrary to the objective of Amount B to provide increased levels of certainty and simplification.

If progress can be made in re-configuring the scope of Amount B to be more objective in nature, we believe that it would reduce the volume of documentation required. Getting the documentation requirements right is critically important if Amount B is to function as a safe harbor in practice and bring about real simplification benefits for both taxpayers and LCJs.

### **Tax Certainty**

1. **Amount B as a dispute prevention tool.** Where Amount B operates as a safe harbor, we believe that this should lead to a reduction in disputes with tax administrations. We note that this concept has been recognized in the existing OECD TP Guidelines at para 4.108 where it states that “another advantage provided by a safe harbour is the certainty that the taxpayer’s transfer prices will be accepted by the tax administration providing the safe harbour, provided that they have met the eligibility conditions of, and complied with, the safe harbour provisions”. In our view, this supports our feedback in this response that Amount B would most appropriately be





applied as a safe harbor, as a well-designed and broadly applicable Amount B proposal could, in and of itself, operate as a useful dispute prevention tool. For the application of Amount B itself, we also believe that it could be possible to expand the concept of using memoranda of understanding for Competent Authorities to establish bilateral safe harbors to cover Amount B scoping issues, as outlined currently in Annex I to Chapter IV of the OECD TP Guidelines.

If Amount B is not designed as a safe harbor, we believe that there will be a much greater need for tax certainty mechanisms to be available for Amount B related issues. In this regard, Amount B would be greatly complimented by the addition of an early certainty mechanism, to allow taxpayers to clarify if they qualify for Amount B. If the scope of Amount B is re-configured to apply on a more objective basis, this would simplify any early certainty process.

In terms of delivery, Amount B could seek to leverage the Scope Certainty process being proposed for Amount A. We would also welcome further detail on the streamlined APA process mentioned in the Document (particularly if this would be applied on a globally consistent basis).

## **Implications for other related matters**

1. **Customs implications.** We note that one of the potential outcomes of Amount B is that there could be a variation in the returns allocated to jurisdictions where group distribution entities are located. To achieve a revised pricing outcome under Amount B, the pricing of intra-group transactions between supplier and distributor may need to be updated. This could give rise to customs implications, particularly if the price of a transaction is reduced and a refund of customs duties becomes due. We can envisage practical difficulties arising in these scenarios. Further clarification on how Amount B and transfer pricing adjustments in general should be treated from a customs perspective would be welcomed.

Our detailed comments are provided below:

Para	Topic	Issue	Recommendation
<b>Introductory Comments</b>			
General	Method of implementation	Inclusion of Amount B in the OECD Transfer Pricing Guidelines	<ul style="list-style-type: none"> <li>• Our response here is linked to our comments above on whether Amount B will be introduced alongside Amount A or on a standalone basis.</li> <li>• To the extent that Amount B is introduced alongside Amount A, we believe that there would be merit in incorporating the final Amount B proposals into the Multilateral Convention, as this would bring increased certainty for businesses. It could also have the benefit of allowing Amount B to be linked to other aspects of the MLC.</li> <li>• Where Amount B is being introduced on a standalone basis, our members generally agree that including Amount B guidance in the OECD TP Guidelines would also be a feasible solution if needed to advance the project. However, concerns have been raised that some jurisdictions could choose to ignore the OECD TP Guidelines as they are a form of soft law, and this could greatly reduce the certainty benefits which Amount B could otherwise bring.</li> <li>• If possible, we would also recommend that the OECD works with the UN to see if UN TP Guidelines could also be updated to include the Amount B guidance.</li> </ul>
General	Method of application		<ul style="list-style-type: none"> <li>• In our view, it is important that Amount B provides a meaningful simplification of the arm's length principle to be of value for taxpayers and LCJs. However, the current structure of Amount B in the Document seems to replicate the application of the arm's length principle without significant simplifications or improvements.</li> <li>• In the absence of clear, more objective scoping criteria, we expect that the nature of disputes with tax authorities would likely shift from an assessment of whether an arm's length price has been applied to whether or not an entity is within the scope of Amount B.</li> </ul>

Para	Topic	Issue	Recommendation
			<ul style="list-style-type: none"> <li>• For Amount B to function as a real simplification, taxpayers should be able to elect to apply Amount B. Amount B would therefore operate in a manner similar to a safe harbor, whereby a taxpayer could opt to apply Amount B for the sake of administrative simplicity or could apply a More Appropriate Method if one exists (e.g., a CUP) and be ready to confirm / support if questioned why the other methodology is more appropriate.</li> <li>• We agree with the comments in the Document that the use of Amount B should be viewed as a <i>“trade-off between the assessing whether there are circumstances under which the application of the exemption may be required to ensure the accuracy of the arm’s length price and the resources that tax administrations and taxpayers could otherwise save by not requiring a case-by-case assessment of the transfer pricing method that should apply to price in-scope transactions”</i>.</li> <li>• A well-designed and broadly applicable Amount B safe harbor should, in our view, also allow tax authorities to focus resources on more complex transactions.</li> <li>• However, for Amount B to operate effectively in practice, it will be necessary for greater flexibility to be added to the scoping conditions to (i) allow taxpayers to perform the scope assessment in an easier manner and (ii) to allow a broader range of taxpayers to qualify. In this respect, it will be important that, where any exclusions to scope are retained or added, these are accompanied by appropriate de minimis thresholds to ensure that taxpayers are not inadvertently excluded from the scope of Amount B.</li> <li>• Based on transfer pricing studies undertaken in recent years and the transfer pricing experience of a number of our members, we believe that it should be possible to expand the scope of Amount B while arriving at an appropriate Amount B output that would not undermine the arm’s length principle. We</li> </ul>

Para	Topic	Issue	Recommendation
			have provided more detailed comments on scoping and pricing in the sections that follow for your consideration.
General	Impact of not qualifying for Amount B	Implications for profitability of non-Amount B distributors	<ul style="list-style-type: none"> <li>Given the current scope and qualifying criteria of Amount B are narrow, an entity may fall outside of Amount B for reasons which are not expected to lead to any increase in profitability.</li> </ul> <p>To avoid unintended consequences, the Document should provide assurance that no inference regarding a distributor's profitability can be drawn from it falling outside the scope of Amount B and that these distributors should continue to apply general transfer pricing principles. It would be particularly useful to include this clarification as an attempt to ensure that all tax authorities operate with the same understanding. Otherwise, we believe that there is a risk that tax authorities could assert that, for example, the TNMM is no longer applicable in a non-Amount B context or that the baseline profit margin determined for Amount B should be seen as a floor for all distributors.</p> <ul style="list-style-type: none"> <li>We recognize that this point may be less important where the scope of Amount B is re-designed, and it is not applied on a mandatory basis.</li> </ul>
General	Scope	Broad application to all taxpayers with baseline distribution activities	<ul style="list-style-type: none"> <li>For completeness, we note that the Document does not clarify whether Amount B should only be applicable to MNEs that are in-scope of Amount A, or if Amount B can be applied to a wider range of taxpayers.</li> <li>While noting our comments on Amount A and B being a package of measures, our understanding of the original Blueprint proposal is that Amount B would be applicable to all taxpayers, and we would welcome if this point could be clarified in the final scoping criteria.</li> </ul>
<b>Scope of Amount B</b>			
General	Scope	Application to branches	<ul style="list-style-type: none"> <li>The application of Amount B to sales branches where the head office makes the actual sale appears to be excluded because the branch does not engage in a buy-sell distribution model. However, we note that the treatment of</li> </ul>

Para	Topic	Issue	Recommendation
			branches is not addressed in the Document. It would be helpful if this scoping point could be clarified.
Section 1, para 2	Introduction	Description of wholesale and retail distributors	<ul style="list-style-type: none"> <li>We note that Section 1, para 2 states that “<i>distribution may refer to wholesale or retail distribution activities where either activity may represent the last stage of the supply chain for the MNE Group. That would be the case of a wholesale distributor that transfers the title and physical goods to associated retail distribution enterprises or of a retail distributor that transfers goods to independent customers</i>”.</li> <li>As distribution here is being described as the last stage of the supply chain for the MNE group, we assume that the reference to associated retail distribution enterprises is a typo and that the second sentence should be updated to describe a wholesale distributor as transferring the title and physical goods to an independent retail distribution enterprise?</li> </ul>
Section 3.1, para 14	Scope	Wholesale versus retail distributors	<ul style="list-style-type: none"> <li>Based on the current wording of para 14, it appears that the scope of Amount B will only apply to the wholesale distribution of goods (either via buy-sell distribution arrangements or sales agency and commissionaire arrangements).</li> <li>However, the term “wholesale distribution” is not defined. It is therefore unclear if wholesale could be interpreted as meaning either sales which are (i) not to consumers (i.e., B2B sales only) or (ii) not to end users. For some businesses, this could be an important distinction.</li> <li>For example, for IT hardware businesses, many sales will be B2B but the acquiring entity will not sell on the IT hardware, as it will acquire the IT hardware for its own use or to create services which are then sold to customers (e.g., cloud services). We note that Section 3.1, para 18(h)(i) describes net sales of the distributor to end-customers as being retailing. This implies that where the sale is B2B but the acquiring business is the end-</li> </ul>

Para	Topic	Issue	Recommendation
			<p>user, the distributor may not be considered to be a “wholesale distributor” and may therefore fall outside the scope of Amount B.</p> <ul style="list-style-type: none"> <li>Based on the current Document, it is clearer that retail distributors that are engaged in B2C arrangements currently seem to fall outside the scope of Amount B.</li> <li>Where a distributor takes title to the goods, we believe that a wholesale distributor and a retail distributor can both perform similar functions and have similar assets and risk profiles. We therefore believe that the scope of Amount B could therefore be expanded to include retail distributors (or to at least make an allowance for an element of retail distribution). In line with our wider comments throughout this response, we believe that the scope of Amount B should be applied as broadly as possible and that retail distributors could be included as a result. If an adjustment is required for retail distribution, we believe that this should be supported by data from the pricing methodology analysis.</li> <li>In any event, we feel that a more detailed definition is required so that it is clear which types of distributors can qualify for Amount B.</li> </ul>
<p>Section 3.1, para 14</p> <p>Section 3.4.1,</p>	Scope	Inclusion of sales agents and commissionaires with the scope of Amount B	<ul style="list-style-type: none"> <li>We note the comment in Box 3.1 that <i>“many LCJs in particular have highlighted that including such arrangements within the scope of Amount B is essential to ensure its relevance in their jurisdictions, on the grounds that these business models are frequently the basis under which wholesale distribution occurs in their jurisdictions”</i>.</li> <li>We believe that it is important that Amount B can be broadly applied, particularly for LCJs where Amount B has the potential to provide significant benefits. We therefore believe that sales agency and commissionaire arrangements could be incorporated into the scope of Amount B for those industries within the scope of Amount B, if possible.</li> </ul>



Para	Topic	Issue	Recommendation
			<ul style="list-style-type: none"> <li>• With this being said, we do recognize that sales agents do not take title of goods, do not hold inventory and often do not issue invoices. As such, while sales agents and commissionaires exhibit similar profiles of functions performed, there are some differences to their FAR profiles.</li> <li>• While we therefore acknowledge the concerns of some jurisdictions (as noted in Box 3.1) that the application of Amount B could result in sales agents or commissionaires being overcompensated for their role in the transaction, in practice, a number of our members commented that they do not differentiate between buy-sell arrangements and sales agency and commissionaire arrangements from a pricing perspective.</li> <li>• We believe that applying Amount B as a safe harbor could strike an appropriate balance between (i) providing certainty and flexibility for taxpayers, (ii) ensuring that Amount B is effective for LCJs and (iii) alleviating some of the concerns raised by other jurisdictions during the initial design discussions.</li> <li>• If during the development of the pricing methodology, data supports a difference in pricing for sales agency and commissionaire arrangements for industries within the scope of Amount B, an adjustment could then be added. However, we re-emphasize that a core principle of Amount B pricing should be that levels of complexity should only be added if there is a demonstrable reason to do so.</li> </ul>
Section 3.1, para 17 and para 18	Quantitative and qualitative criteria		<ul style="list-style-type: none"> <li>• As an initial comment, the scoping section of the Document includes a significant number of quantitative and qualitative factors that need to be assessed to determine whether an entity is in-scope of Amount B. In this regard, it seems that approximately 20 factors need to be considered, including six financial ratios.</li> </ul>

Para	Topic	Issue	Recommendation
			<ul style="list-style-type: none"> <li>• We also note that the list of factors in para 18 of Section 3.1 has been framed as a ‘negative list’ (i.e., the majority of the factors included in this list operate to exclude an entity from the scope of Amount B).</li> <li>• Many distributors will therefore not come within the scope of Amount B as currently designed, due to: <ul style="list-style-type: none"> <li>○ Modern business models often include a combination of goods, services and software;</li> <li>○ Many distributors are required to provide after-sales, technical and warranty support;</li> <li>○ For reasons of legal entity simplification, different activities within a country may be consolidated within a single legal entity and</li> <li>○ Digital businesses potentially being out of scope by design.</li> </ul> </li> <li>• It also appears that quite a significant amount of subjectivity will need to be applied when determining whether an entity comes within the scope of Amount B. In particular, we note references throughout the Document (e.g., Section 3.1, para 32) that clarify that jurisdictions “<i>retain the ability to undertake a qualitative assessment of the tested party’s functions, assets and risks to assert that the transaction, as accurately delineated, actually conforms or does not conform with the scoping criteria</i>”.</li> </ul> <p>The fact that a tax authority can make its own assessment of whether an entity is within the scope of Amount B will, in our view, simply result in a shift in disputes from the application of the arm’s length principle to an assessment of whether the entity qualifies for Amount B.</p> <p>While we appreciate that tax authorities will have concerns that entities may incorrectly apply Amount B, we believe that it is important not to lose sight of the objective of Amount B: to reduce complexity and provide meaningful simplification for baseline distribution activities.</p>

Para	Topic	Issue	Recommendation
			<ul style="list-style-type: none"> <li>• Our view is that the current scoping proposals are unlikely to lead to an increase in tax certainty for taxpayers and are also unlikely to provide simplifications for low-capacity jurisdictions.</li> <li>• In light of the above, we would recommend that Amount B is reframed as follows: <ul style="list-style-type: none"> <li>i. The scoping criteria should be simplified, and greater flexibility should be introduced to allow a broader range of entities and sectors to qualify.</li> <li>ii. To achieve this aim, we would recommend that the list of scoping criteria in Section 3.1, para 18 is reframed as a ‘positive list’ of factors that demonstrate that an entity is engaged in baseline distribution activities (as opposed to a list of exclusions). As noted below, the list provided in Section 3.3.2, para 30 – 31 could potentially provide a useful starting point.</li> <li>iii. The revised scoping rules should be based on objective criteria to the greatest extent possible, as this will help to limit Amount B scoping disputes. The assessment of the scoping criteria should be based on facts and financial accounting data, not labels as suggested currently in the Document.</li> <li>iv. Amount B should apply on an elective basis for taxpayers (as noted in our comments above).</li> </ul> </li> <li>• We believe that reframing Amount B as an elective safe harbor would also allow tax authorities to focus resources on more complex transactions. In this regard, we note that this appears to have been the outcome following the introduction of the low value-adding intragroup services safe harbor which was introduced as an elective simplified approach.</li> <li>• Under the current scoping proposals, the number of quantitative criteria could also reasonably result in an entity coming within the scope of Amount B in one year but then falling outside the scope of Amount B in the next year</li> </ul>

Para	Topic	Issue	Recommendation
			<p>or vice versa. This would likely complicate matters further and is contrary to the simplification and tax certainty intentions of the Amount B proposal.</p> <ul style="list-style-type: none"> <li>• Complexity could also be increased where an MNE has a mixture of distributors that are in-scope and out-of-scope of Amount B, with entities potentially moving between these categories in different years.</li> <li>• We support having flexibility in the quantitative thresholds to ensure that the assessment is made on the core economic factors relevant to Amount B. In this regard, we would also recommend that quantitative criteria could be assessed using a multi-year average approach (e.g., three years) to reduce volatility and avoid “flip-flopping”.</li> <li>• Applying any quantitative assessments across a multi-year average approach could also help to address timing issues (i.e., current year results not being readily available to complete Amount B scoping assessments). This is important given potential interactions with Pillar Two and Amount A.</li> </ul>
Section 3.1, para 18(a)	Written contract	Requirement that taxpayers must / should document their qualifying transactions in a written contract	<ul style="list-style-type: none"> <li>• As a base case, we agree that taxpayers should have robust agreements in place to document their activities. This is best practice and can be a very helpful starting point for FAR analysis. However, it seems overly formalistic, to disqualify an entity from Amount B solely due to contracting formalities. A substance over form approach should be applied where there is no written contract in place.</li> <li>• We believe that it would be more appropriate to use the term “should” or “should wherever possible” rather than “must”. Wording could also be added which highlights that the existence of written contracts could assist taxpayers and tax authorities in determining whether the MNE is in scope or not. This approach would be consistent with Chapter 1 of the OECD TP Guidelines.</li> </ul>

Para	Topic	Issue	Recommendation
			<ul style="list-style-type: none"> <li>For example, it can be the case that a distributor has recurring flows where a contract has not always been concluded. It can also be the case that a distributor has non-recurring flows where a contract is not in place due to frequency / value of the transaction.</li> <li>If it is clear that the parties are engaged in the right activities and have an understanding that is consistent with the recommended contracting terms, we do not believe that these parties should be excluded from Amount B. It should also be possible for tax authorities to appropriately instruct the parties to comply with the implementation of an agreement, without disqualifying them from the protections of Amount B.</li> </ul>
Section 3.1, para 18(b)	Location of sales	[X%] of sales cannot be from customers located outside the distributors primary market	<ul style="list-style-type: none"> <li>MNEs often operate global and regional models ‘macro distributors’ that may meet the other scoping criteria of Amount B.</li> <li>The rationale for excluding distributors with cross-border sales from Amount B is not explained in the Document. We assume that the view being taken is that a distributor with sales in several countries assumes greater complexity or risks than those with domestic distribution.</li> <li>In our view, there should be some allowance (e.g., 20 – 30%) for multi-country distributors that operate outside their market of residence, where these distributors can be distinguished from more entrepreneurial regional hubs.</li> <li>We also note that it is common for distributors to market to nearby countries (e.g., East Africa, Baltic nations, Australia and New Zealand etc.). Distribution of this nature is not comparable to worldwide or regional distribution with a broad scope and entrepreneurial functions. We therefore believe that distribution to smaller adjacent markets should not be excluded.</li> </ul>

Para	Topic	Issue	Recommendation
Section 3.1, para 18(c)  Section 4.3.4, para 80	Disqualifying activities	<p>The distributor must not perform any economic activity for which it is, or should be, remunerated at arm's length other than its core distribution function. These disqualifying activities may include any one or a combination of the following:</p> <ol style="list-style-type: none"> <li>Manufacturing activities</li> <li>Research and development activities</li> <li>Procurement activities</li> <li>Financing activities</li> </ol>	<ul style="list-style-type: none"> <li>Based on the current wording of Section 3.1, para 18(c), it appears that the intention is to limit the application of Amount B to entities that are solely performing baseline distribution activities. This is particularly the case due to the fact that para 18(c) refers to <b>any</b> economic activity other than the distributor's core distribution function.</li> <li>However, it can often be the case in practice that a single legal entity could host several lines of business and/or corporate functions. A group may decide to limit its presence in a jurisdiction to a few legal entities for efficiency reasons. The group would often then segment the financial statements of the relevant entity, separating the distribution functions from these other functions.</li> <li>We believe that it is unnecessary and overly prohibitive to exclude companies from Amount B if they also engage in other activities, including manufacturing, research &amp; development, procurement and/or financing activities.</li> <li>For example, it is unclear to us why the presence of manufacturing or R&amp;D activities that are invoiced to entities on a cost-plus basis would prevent an entity being able to apply Amount B to its segmented distribution activities.</li> <li>Other activities (e.g., procurement and financing) may be related to ancillary transactions. For example, it is unclear how cash pool activities would be treated. If a distribution entity happens to be long in a cash pool and excess cash deposited in the cash pool is presented as a loan asset in the financial statements, could this exclude the entity from Amount B? We believe that more flexibility is required here.</li> <li>It can also be the case that a distributor in certain industries would be required to complete some finishing activity such as basic processing before a product can be supplied to the purchaser. For stainless steel, a distributor may need to, for example, cut a coil of stainless steel into pieces for the</li> </ul>



Para	Topic	Issue	Recommendation
			<p>purchaser. From a transfer pricing perspective, this type of activity would be common for distributors and would be a baseline activity. However, in the absence of clear guidance on what constitutes “manufacturing”, there is a concern that any amount of processing could result in an entity being out of scope for Amount B purposes.</p> <ul style="list-style-type: none"> <li>• The imposition of overly restrictive scoping conditions would result in taxpayers being required to restructure their group (e.g., to separate distribution functions into separate legal entities) which will ultimately create more administrative work and cost (including cashflow impacts) for taxpayers and tax authorities. Many taxpayers could choose not to do so, unnecessarily limiting the scope and impact of Amount B. Where distribution results can be appropriately segmented, this should, in our opinion, be sufficient to qualify for Amount B.</li> <li>• We also note the comment in Section 4.3.4, para 80 that Amount B is intended to exclude multi-function entities and that this could include purchases from multiple related party suppliers. We recognize that the Document does note that the use of multiple party suppliers could be permissible in certain scenarios, and we believe that this concept is important, as limiting Amount B to transactions involving a single related party would be overly restrictive in our opinion.</li> </ul>
Section 3.1, para 18(d)	Risk control functions	The distributor must not perform any risk control functions that lead, to the assumption of economically significant risks by the distributor based on an accurate delineation of the transaction, that are associated with the development, enhancement, maintenance, protection or exploitation of unique and valuable marketing intangibles	<ul style="list-style-type: none"> <li>• We believe that it is unrealistic to assume that distributors do not have “any” activities that are related to DEMPE functions.</li> <li>• In practice, it would be expected that a third-party in the same role would provide advice on market strategy and have key relationships with retailers and other key sales targets. These activities would be distinguishable from market intangibles and setting overall global sales strategies. In addition, customer goodwill generated by a distributor should not be included as a unique and valuable marketing intangible as this would then exclude distributors from Amount B.</li> </ul>

Para	Topic	Issue	Recommendation
			<ul style="list-style-type: none"> <li>While we agree that it is reasonable to have some limitations, we believe that the suggestion that a related party distributor would not have “any” DEMPE functions is not practical and does not reflect third-party / arm’s length relationships.</li> <li>We would therefore recommend that greater clarity is provided to avoid subjectivity and to limit disputes between taxpayers and tax authorities over the taxpayer’s ability to utilize Amount B.</li> <li>In relation to footnote 6 (and the reference to para 1.105), we would note that the fact that distributors perform risk control functions does not automatically lead to the assumption of economically significant risks. A streamlined process for allocating risk would be welcomed, such as: <ul style="list-style-type: none"> <li>i. Identify risks;</li> <li>ii. Check which entity contractually assumes the risk;</li> <li>iii. Check whether that entity has the capacity to control those risks;</li> <li>iv. If the answer to (iii) is yes, keep the contractual risk allocation;</li> <li>v. If the answer to (iii) is no, reallocate risks.</li> </ul> </li> <li>This would avoid challenges where both parties are capable of controlling risks but only one contractually assumes the risks.</li> </ul>
Section 3.1, para 18(e)  Section 3.4.2, Box 3.2, para 30 - 32	Regulatory activities and technical services	The distributor should not undertake activities that relate to creating or obtaining the rights to distribute in the market when the creation or obtaining of such rights would itself be remunerated at arm’s length, or perform technical or specialised services for third party customers that itself are valuable and	<ul style="list-style-type: none"> <li>Instead of an exclusion for entities with regulatory functions, there should be an appropriate adjustment for such entities if the data from the pricing methodology analysis ultimately supports the need for an adjustment to be made. Otherwise, significant industries could be entirely excluded from the application of Amount B.</li> <li>Similarly, it would be common in practice for third parties to engage in some level of technical services (e.g., installation, customer support) that support sales in a market. The exclusion in Section 3.1, para 18(e) is therefore overly</li> </ul>

Para	Topic	Issue	Recommendation
		remunerable or would play a significant role in maintaining the customer relationship in the market	<p>restrictive, and this type of activity should not, by itself, exclude a taxpayer from the application of Amount B.</p> <ul style="list-style-type: none"> <li>It does not seem appropriate that the existence of these activities would completely exclude an entity from the scope of Amount B, while greater flexibility in terms of thresholds is provided for other activities.</li> <li>It is also not clear whether a distributor would be excluded from Amount B in a scenario where it is only a pass-through entity for these services. We would recommend that it should be clarified that if retained in its current form the exclusion would only apply where the distributor is actively engaged in the provision of these services.</li> </ul>
Section 3.1, para 18(f)	Significant sales and marketing	The distributor must not perform strategic sales and marketing activities relevant to sales in the market if those activities would, under the accurate delineation of the transaction, themselves generate unique and valuable intangible assets relating to the exploitation of the products sold in the market	<ul style="list-style-type: none"> <li>Similar to our comments above on DEMPE functions, we believe that it is unrealistic to expect that distributors <b>must</b> not perform any strategic sales and marketing activities.</li> <li>We expect that Amount B scope disputes could arise where a jurisdiction seeks to assert that an entity has some local marketing related intangibles.</li> <li>We also believe that the term “strategic sales activities” is vague and could lead to disputes between taxpayers and tax administrations over the taxpayer’s ability to utilize Amount B.</li> <li>It is recognized in footnote 8 that an entity could be engaged in sales and marketing related activities which do not contribute to the control of economically significant risks. As the scoping criteria are further developed, we would recommend that a greater level of flexibility is provided to enable a larger number of entities to qualify for Amount B in practice.</li> <li>As in our comments on para. 18(d) above, customer goodwill generated by a distributor should not be included as a unique and valuable marketing intangible as this would then exclude distributors from Amount B.</li> </ul>

Para	Topic	Issue	Recommendation
			<ul style="list-style-type: none"> <li>Similar to our comments on para. 18(e) above, it is also not clear whether a distributor would be excluded from Amount B in a scenario where it is only a pass-through entity for strategic sales and marketing activities. We would recommend that it should be clarified that, if retained in its current form, the exclusion would only apply where the distributor is actively engaged in these activities.</li> </ul>
Section 3.1, para 18(g)	Significant customers	None of the customers of the distributor should represent over [X] % of its net sales	<ul style="list-style-type: none"> <li>We believe that there can be cases where baseline distribution activities are performed for the benefit of one / a few customers.</li> <li>The rationale for this exclusion is therefore unclear to us.</li> </ul>
Section 3.1, para 18 (h)	Ancillary thresholds	Certain ancillary activities are allowed to be undertaken within the following permissible thresholds	<ul style="list-style-type: none"> <li>While we support having flexibility in quantitative thresholds, it will be quite challenging, in our view to agree on permissible levels of expenses (expressed as a percentage of sales) that will be equally applicable across a range of sectors.</li> <li>In relation to footnote 9 and pass-through costs, we recommend that these costs are not included in the calculation of the thresholds as they do not add any functional/risk complexity to the baseline distribution activities.</li> <li>Specific comments on some of the ancillary thresholds are included below.</li> </ul>
Section 3.1, para 18 (h)(ii)	Ancillary thresholds	The annual marketing and advertising expenses incurred by the distributor do not exceed [X]% of its annual net sales	<ul style="list-style-type: none"> <li>If an MNE develops a new product line and this is launched in the jurisdiction of residence of a distributor, it is to be expected that significant advertising and marketing spend is incurred in the early years before sales volumes are maximized. This may cause the advertising spend ratio to be failed.</li> <li>However, it does not seem reasonable that the distributor would fail to qualify for Amount B in the early years when the product is launched but would then come within scope of Amount B in later years when the sales profile of the product has matured.</li> </ul>

Para	Topic	Issue	Recommendation
Section 3.1, para 18 (h)(iii)	Ancillary thresholds	Packaging and assembly expenses incurred directly by the distributor in relation to the products distributed do not exceed [X]% of costs.	<ul style="list-style-type: none"> <li>It is unclear to us why this ratio has been included as part of the ancillary thresholds. If the intent is to limit the scope of Amount B to pure resellers that do not alter the goods or packaging between purchase and distribution, this should be made clear in the objectives section of the Document.</li> </ul>
Section 3.1, para 18 (h)(iv)	After-sales support	Annual expenses related to after-sales product support (including product warranty), facilitating claims with customers, processing product return or similar support services provided by the distributor do not exceed [X]% of annual net [sales/costs]	<ul style="list-style-type: none"> <li>We do not believe that annual expenses related to after-sales support should be limited, as these are normal sales related expenses that are not strategic in nature.</li> <li>We would also welcome further clarity on whether after-sales activities could include any of the technical or specialized services mentioned in Section 3.1, para 18(e) and para 30 (where no thresholds currently appear to be allowed). In line with our comments above on para. 18(e), we recommend clarifying that after-sales activities can include certain technical and specialized services up to a certain threshold.</li> </ul>
Section 3.1, para 18(i)	Scope	The ratio of annual operating expenses over annual net sales of the distributor is in the range of [X]% to [X]%.	<ul style="list-style-type: none"> <li>We have a concern that this ratio could be skewed by economies of scale. For example, two entities with identical risks assumed and baseline marketing and distribution activities could have differing results depending on sales volumes. This could create different ratio outputs for otherwise comparable distributors, with one distributor potentially being in-scope and the other distributor being excluded.</li> <li>It could also be the case that, when applying the TNMM with a net profit indicator of return on sales, the actual result of the distributor could be negative, but a true-up adjustment could be made to achieve the necessary return. This true-up may not be booked in operating expenses or sales, causing the ratio to inadvertently be failed.</li> </ul>
Section 3.1, para 18(j)	Scope	The distributor would be expected to not assume economically significant	<ul style="list-style-type: none"> <li>Similar to our other scoping comments, it appears that Section 3.1, para 18(j) operates to significantly reduce the scope of entities that can qualify for Amount B.</li> </ul>

Para	Topic	Issue	Recommendation
		<p>risks above what may be defined to be a limited level, including:</p> <ul style="list-style-type: none"> <li>i. Limited market risk relevant to the market where the distributor distributes its products and arising from, for instance, changes in demand, market trends, or economic circumstances impacting the level of sales and revenues in the relevant market;</li> <li>ii. Limited or no credit risk relevant to the products sold by the distributor;</li> <li>iii. Limited or no inventory risk, including where excess inventory is due to product obsolescence;</li> <li>iv. Limited or no product liability risk for the goods distributed; and,</li> <li>v. Limited foreign exchange risk relevant to costs of purchases or performance of activities, where those are different to the functional currency in which revenues are generated by the distribution in its market.</li> </ul>	<ul style="list-style-type: none"> <li>• In relation to (i) and (ii), it appears that an entity could fall out of scope if certain risks are retained, even if these risks are covered by insurance purchased by the distributor and compensated for in the transfer pricing arrangement. Even for limited risk distributors, some risks could be retained and covered by local insurance (e.g., credit insurance, business interruption insurance etc.). In these cases, provided premiums were paid locally and included in the results being tested, we do not believe that these risks should disqualify an entity from Amount B, as the local insurance coverage and any proceeds would benefit the local entity and offset the risk.</li> <li>• Further guidance would be needed in the final scoping proposals to ensure it is clear what level of risk is considered to be economically significant. Ideally, this assessment would be performed on an objective basis.</li> </ul>
Section 3.1, para 18(k)	Scope	The distributor must not own any unique and valuable intangible	<ul style="list-style-type: none"> <li>• For certain sectors (e.g., pharmaceuticals), it is often necessary to obtain certain authorizations which allow products to be placed on the market. The</li> </ul>



Para	Topic	Issue	Recommendation
		<p>assets, including marketing intangibles (e.g., data centres, investment in infrastructure, trademark license).</p> <p>The distributor would be expected to have no or limited ownership of market access rights or regulatory licenses, that create barriers to entry</p>	<p>purpose of these authorizations is to ensure product safety and a distributor may hold these authorizations as a result.</p> <ul style="list-style-type: none"> <li>As these authorizations are related to product safety (as opposed to preventing competition), we would strongly recommend that they are not considered to represent a barrier to entry within the meaning of Section 3.1, para 18(k).</li> <li>More generally, we note that the distributor must not own marketing intangibles and a limited set of illustrative examples are provided. As this list is not exhaustive, we are concerned that this exclusion could be open to subjective interpretation, which could give rise to an increase in disputes between taxpayers and tax authorities. We would recommend that a list of specific examples is provided to avoid confusion.</li> </ul>
<p>Section 3.1, para 18 (l)</p> <p>Section 3.2, para 20</p>	APAs	Where associated enterprises have entered into a bilateral or multilateral APA covering controlled transactions involving baseline distribution activities, Amount B will not apply	<ul style="list-style-type: none"> <li>We would recommend that it is clarified that the existence of an APA will only exclude a distributor from relying on Amount B if the APA specifically covers the arm's length return that should be used for the distribution activities.</li> <li>Otherwise, we have a concern that an APA may only partially cover a transaction (e.g., apply to a portion of a transaction) between related parties and this would exclude the distributor from relying on Amount B for the wider transaction.</li> <li>We would also welcome further clarity on whether an enterprise that is in scope of Amount B should perform the quantitative measures and apply Amount B pricing when an APA is under negotiation?</li> <li>For completeness, we recommend that the rule should be extended to include forward agreements with tax authorities that are unilaterally agreed with multiple tax authorities for the tested transactions, if these provide an</li> </ul>

Para	Topic	Issue	Recommendation
			<p>equivalent result to having a bilateral or multilateral advance pricing agreement in place.</p> <ul style="list-style-type: none"> <li>We believe that it would also be useful to clarify how the ICAP process is intended to interact with Amount B.</li> </ul>
Section 3.3, para 23	Scope	Economically relevant characteristics of qualifying transactions	<ul style="list-style-type: none"> <li>While we agree that it makes sense that it is not possible to capture all baseline distribution activities in an “<i>exhaustive and comprehensive list of activities</i>”, it could be helpful to include a list of examples (illustrative, rather than exhaustive) that are common in comparable third-party companies.</li> </ul>
Section 3.3.2, para 30	Functional analysis	This would imply that the set of functions undertaken by the tested party would entail activities that contribute to sales generation (e.g., such as buying goods for resale, identification of new customers and managing customers’ relationships, support and after-sales services, implementing promotional advertising or marketing activities), as well as other ancillary administrative or supporting activities (e.g., warehousing goods, processing orders and performing logistics, invoicing and collection).	<ul style="list-style-type: none"> <li>In addition to our comments above on Section 3.3, para. 23, we refer to our comments above on the need to reframe the scoping criteria as a ‘positive list’ of the functions that an entity would perform if the entity was engaged in baseline distribution activities, and to test the entity against a range of objective criteria.</li> <li>In our view, the functions described in this paragraph could be used as qualitative scoping criteria and a basis for establishing the baseline marketing and distribution activities that would be subject to Amount B. Exclusion factors could then be added (although we would recommend that exclusions are limited wherever possible). The functions would include: <ul style="list-style-type: none"> <li>i. buying goods for resale</li> <li>ii. identification of new customers and managing customers’ relationships</li> <li>iii. support and after-sales services</li> <li>iv. implementing promotional advertising or marketing activities</li> <li>v. ancillary activities, including: <ul style="list-style-type: none"> <li>▪ warehousing goods</li> <li>▪ processing orders and performing logistics</li> <li>▪ invoicing and collection</li> </ul> </li> </ul> </li> </ul>

Para	Topic	Issue	Recommendation
Section 3.3.2, para 32	Qualitative assessments	Jurisdictions, however, retain the ability to undertake a qualitative assessment of the tested party's functions, assets and risks to assert that the transaction, as accurately delineated, actually conforms or does not conform with the scoping criteria.	<ul style="list-style-type: none"> <li>As noted in our comments above, we would recommend that the scoping criteria for Amount B are also reframed to be applied on a more objective basis and that Amount B should operate as a form of safe harbor.</li> <li>If the distributor meets the Amount B objective criteria, we believe that the tax authority should not be able to challenge the conclusion using qualitative criteria, as this will limit any benefit for taxpayers from a tax certainty perspective.</li> <li>We believe that, if it is clear that a distributor qualifies for Amount B based on observable facts and evidence, that assessment should be final.</li> <li>However, it currently seems that an entity-level assessment may need to be completed using the Amount B scoping criteria in Section 3.1, para 18, but in the paragraphs that follow (33 - 42), it appears that a functional analysis will also be required to accurately delineate the transaction. The functional analysis described appears to be aligned with the functional analysis that would be undertaken in normal circumstances. We are therefore unsure whether the Amount B will provide any simplification as currently designed.</li> <li>For example, it is not clear to us if an Amount B scoping exercise and an exercise to delineate the actual transaction both need to be performed before an entity can qualify for Amount B.</li> </ul>
Section 3.3.2, para 35	Functional analysis	Risks assumed by the distributor	<ul style="list-style-type: none"> <li>We agree that the non-contingent nature of a distributor in-scope of Amount B can be managed through TP adjustments to its results to ensure that it derives an annual profit within the Amount B benchmarked range.</li> </ul>
Section 3.3.2, para 36	Functional analysis	Assets owned by the distributor	<ul style="list-style-type: none"> <li>The Document states that a distributor could use assets which it owns or leases but that these assets are expected not to be unique or valuable. It is unclear if this would include any processing or manufacturing assets used by the distributor.</li> </ul>

Para	Topic	Issue	Recommendation
<p>Section 3.3.4, para 39 – 40</p> <p>Section 4.2.2, para 57(b)</p>	Economic circumstances	Industry sector differences	<ul style="list-style-type: none"> <li>We note that the Document suggests that industry sectors may impact whether distribution activities are qualifying. It would be useful to have more clarity on what is intended by Section 3.3.4, para. 40, as well as Section 3.3.5 which discusses business strategies.</li> <li>As noted throughout our response, we believe that Amount B should have a broad application across industries, save for products and industries specifically excluded (e.g., commodities). This appears to be supported by the transfer pricing studies included in Appendix III. It is understood that a routine distributor in an emerging market may not bear losses during early-stage market development, although distributors regularly employ different sales strategies which may evolve over time. We would not expect normal changes in sales strategies to disqualify controlled transactions.</li> <li>We do acknowledge that there can be certain cases where there may be differences across some industries. For example, it was noted that stainless steel is a low margin business. However, we still would recommend that these differences could be captured in the design of Amount B as a form of safe harbor mechanism.</li> </ul>
Section 3.4.2, para 4	Local market comparables		<ul style="list-style-type: none"> <li>Our experience is that ranges for comparable transactions do not differ meaningfully enough between jurisdictions to justify an exclusion for Amount B in any market that chooses to use local comparables. This is supported by the transfer pricing studies that have been shared as part of Appendix III.</li> <li>Depending on the jurisdiction and due to the availability of financial data, local market comparables can in fact be very challenging to identify (e.g., very few or no local market comparables). In these cases, regional benchmarking studies are currently undertaken in practice.</li> <li>As the application of local market comparables gives rise to transfer pricing disputes currently, we believe that allowing for a local market comparable</li> </ul>

Para	Topic	Issue	Recommendation
			<p>exclusion will import these disputes into Amount B. Our recommendation would therefore be to eliminate this exception.</p> <ul style="list-style-type: none"> <li>If jurisdictions have local market comparables available, we believe that a better course of action would be for these comparables to be provided to the OECD and incorporated into the global dataset for pricing purposes. In this regard, we note that this form of “additive approach” is referenced in the OECD TP Guidelines in paragraphs 3.40 – 3.46, where the concept of an additive approach and deductive approach are discussed. Paragraph 3.45 states that: <p><i>“The “additive” and “deductive” approaches are often not used exclusively. In a typical “deductive” approach, in addition to searching public databases it is common to include third parties, for instance known competitors (or third parties that are known to carry out transactions potentially comparable to those of the taxpayer), which may otherwise not be found following a purely deductive approach, e.g., because they are classified under a different industry code. In such cases, the “additive” approach operates as a tool to refine a search that is based on a “deductive” approach”</i></p> <p>As such, where it is considered necessary, some pre-determined local market comparables could be added (albeit we do not believe that this should be required).</p> </li> </ul> <ul style="list-style-type: none"> <li>If the inclusion of a local market comparables exclusion is ultimately considered to be necessary, the rules of Amount B should instead: <ol style="list-style-type: none"> <li>Require local comparables using the same filters as the Amount B comparables set;</li> <li>Require that the data be pulled from public / commercial databases that are available to the taxpayer as well as the tax authorities; and</li> </ol> </li> </ul>

Para	Topic	Issue	Recommendation
			<p>iii. There should be a sufficiently large dataset (otherwise, data from other markets should be included).</p> <p>In this regard, we note that the OECD TP Guidelines state at para 3.3.6 that “tax administrators may have information available to them from examinations of other taxpayers or from other sources of information that may not be that may not be disclosed to the taxpayer. However, it would be unfair to apply a transfer pricing method on the basis of such data unless the tax administration was able, within the limits of its domestic confidentiality requirements, to disclose such data to the taxpayer so that there would be an adequate opportunity for the taxpayer to defend its own position and to safeguard effective judicial control by the courts”.</p> <p>At a minimum, the use of local market comparables should be made transparent between jurisdictions. If local market comparables are not being shared with taxpayers, the key concern for taxpayers would be that the elimination of double taxation could become challenging. It would be helpful if the OECD could publish guidance on acceptable comparables for Amount B purposes, so that local comparables are clearly objective in nature and are pre-agreed by jurisdictions before being applied in practice.</p>
Section 3.4.2, Box 3.2, para 6 - 10	Most Appropriate Method	The principal considerations in assessing the appropriateness of this exemption are (i) the extent to which other recognised transfer pricing methods (in particular, the CUP) should in certain circumstances be preferred to be used over the TNMM for transactions within the scope of Amount B, in order to remain aligned with the arm’s length principle, and (ii) the extent to which	<ul style="list-style-type: none"> <li>As an initial comment, we refer to our introductory comments on the proposed design of Amount B. We believe that Amount B should be available for a wide range of taxpayers and should operate akin to a safe harbor (i.e., taxpayers that are in-scope of Amount B should be able to elect for their transaction to be priced using the Amount B methodology).</li> <li>We believe that allowing Amount B to operate as a safe harbor will bring administrative simplicity for taxpayers and tax authorities. We acknowledge that there might be a reduction in reliability (as also clarified in Chapter 4 of the OECD TP Guidelines – para 4.111) but we believe that this trade-off is worthwhile.</li> </ul>



Para	Topic	Issue	Recommendation
		the requirement that a MAM be chosen on a case-by-case basis for each in-scope transaction can be simplified and streamlined while remaining consistent with the arm's length principle.	<ul style="list-style-type: none"> <li>• If a reliable comparable uncontrolled price (CUP) exists for a transaction that would otherwise be subject to Amount B, then the taxpayer should, in our view, be allowed to use the CUP. In this scenario, the taxpayer would not elect to apply the Amount B safe harbor.</li> <li>• We do however recognize that the use of a CUP would need to be truly comparable and the taxpayer should be able to demonstrate why it is being preferred over the TNMM as proposed under Amount B.</li> </ul>
Section 3.4.2, para 17 – 19	Commodity based exclusion for Amount B	<p>The scope of Amount B includes a commodity product related exclusion. The rationale for including this specific exclusion can be summarized from the consultation document, as follows:</p> <ol style="list-style-type: none"> <li>1) The arm's length prices for the distribution of products in the commodity industry is commonly established by utilising the comparable uncontrolled price ('CUP') method. The document suggests therefore to remove commodities from the scope of Amount B in the context of achieving the administrative simplification goals and to be consistent with the arm's length principle.</li> <li>2) Distribution of commodities is often undertaken through a centralised commodity hub</li> </ol>	<ul style="list-style-type: none"> <li>• In respect to (1), we agree that the definition of commodity needs to be broader than the definition in paragraph 2.18 of the OECD TP Guidelines to ensure consistency with the policy intent of the product-based exclusion for commodities. We agree that while the CUP is often utilised for pricing commodity products, this is not always the case as articulated in the consultation document (e.g., when there are no publicly available quoted prices for commodity products, vertically integrated suppliers with minimal third-party sales of raw or intermediary commodity products, or transactions between third parties that do not publicly disclose pricing information). We provide separate comments to paragraphs 25-29 regarding commodity definitional issues below.</li> <li>• In respect to (2), we are inclined to agree that commodity industry participants can have centralised commodity marketing and trading hubs that distribute to multiple markets outside their country of incorporation. However, we would recommend that this observation is not included as part of the Amount B commodity exclusion criteria, as we cannot say how prevalent and consistent this type of business structure is across the commodity industry.</li> <li>• In respect to (3), the collective feedback of a number of members of the <i>Business at OECD</i> (BIAC) Tax Committee engaged in commodity related activities suggests that the commodity industry more broadly (i.e., not just for commodity hubs) do not have distributors that would fall within the</li> </ul>

Para	Topic	Issue	Recommendation
		<p>outside the jurisdiction of extraction and including them may not lead to the policy intent of simplifying in-country baseline marketing and distribution activities. Further, these commodity hubs often distribute to multiple markets outside their country of incorporation which is outside the proposed scope of distributors primarily distributing within country of residence.</p> <p>3) Centralised commodity marketing hubs may undertake non-baseline activities.</p>	<p>scope of Amount B as currently envisaged. This is primarily due to industry players either having risk bearing distributors (i.e., distributors with additional functionality and/or risk assumption than the baseline marketing criteria), having decentralized business models or having limited risk distributors that would fall outside of scope due to the Amount B quantitative and qualitative criteria.</p> <ul style="list-style-type: none"> <li>• In relation to expanding the scope of Amount B to sales agency and commissionaire arrangements, we believe that the exclusion for commodities as proposed for baseline buy-sell distributors should equally apply to sales agency and commissionaire arrangements due to the specific characteristics described in the proposal and our additional comments made above.</li> <li>• As such, we support a broad exclusion for the commodity industry, in the context of both the broader policy intent of Amount B (and link with Amount A) and the rules as currently drafted (e.g., prevalence of CUPs in the industry, functional profile of distributors not aligning with the scope requirements for baseline marketing and distribution (and after applying inclusion and exclusion criteria)).</li> </ul>
Section 3.4.2, para 25 – 29	Commodity based exclusion for Amount B	<p>Some key differences in the exclusion-based criteria used in the Amount B Public Consultation Document and the Progress Report on Amount A released on 11 July (“Amount A paper”) have been identified.</p>	<p>Paragraph 26(a):</p> <ul style="list-style-type: none"> <li>• This appears to be a broader version of the definition used for “Extractive Product” in the Amount A paper.</li> <li>• Notably, the Extractive Product definition for Amount A referred to a product being “...extracted from the earth’s crust”, whereas Amount B refers to a product being “...primarily derived from the earth’s crust, land or water...”.</li> </ul> <p>This appears necessary if the intention is to expand beyond extractive products (minerals / metals / oil / gas).</p> <p>Paragraph 26(b):</p>

Para	Topic	Issue	Recommendation
			<ul style="list-style-type: none"> <li>The Amount B paper refers to primary process to “procure a basic sellable commodity”, whereas the Amount A paper referred to “basic commodity”.</li> </ul> <p>Paragraph 26(c):</p> <ul style="list-style-type: none"> <li>The commodity definition contained in paragraph 2.18 of the OECD TPG is not included in the Amount A paper.</li> </ul> <p>Paragraph 27(e):</p> <ul style="list-style-type: none"> <li>The “Primary Processing” definition has been substantially narrowed compared to the Amount A paper.</li> <li>A literal interpretation of the definition will result in uncertainty. The specific aspects which give rise to uncertainty were submitted by <i>Business at OECD</i> (BIAC) as part of the consultation on the Amount A paper and are summarised below.</li> <li>The term “Primary Processing” is a relatively widely used term which implies the initial (aka “primary”) processing of a raw material. This is inconsistent with the understood intention in terms of the scope of permitted processing for the purposes of the exclusion - for example, aluminium, which is specifically mentioned as being eligible for the carve out in the Amount A paper, is the product of processing that occurs beyond the commonly used meaning of “primary processing”.</li> <li>The definition of “Primary Processing” refers to certain types of processing activities including to “liberate an Extractive Product from its natural state” – this could be taken to imply a limitation to the definition i.e. it only applies to the first stage of processing of resource products. Based on the consultations undertaken for the Amount A rules, we understand this is not the intention of the commodities exclusion.</li> <li>The current definition does not provide certainty in respect of alloys. Alloys are a metal made by combining two or more metallic elements, often to give</li> </ul>

Para	Topic	Issue	Recommendation
			<p>greater strength or resistance to corrosion. Aluminium, platinum and copper are all examples of commodities which are technically an alloy due to the addition of other metallic elements to the underlying base commodity to result in a marketable commodity.</p> <p>Notably, <i>Business at OECD</i> (BIAC)'s recommendations in the Amount A paper for expanding the Primary Processing definition to include eligible types of processing which go beyond the meaning of “primary” do not appear to have been reflected in the Amount B rules.</p> <ul style="list-style-type: none"> <li>• Our recommendation is that the carve out applicable to extractive businesses contained within the Amount B paper, should be consistent with Amount A. Reference should be made specifically to that definition – (i.e., products that are Extractive Products for the purposes of Amount A should also be excluded for Amount B). If it is intended to exclude a wider range of products from Amount B, then this can be added to the scope along the lines of including the reference to commodities per paragraph 2.18 of the OECD TP Guidelines.</li> <li>• Clarifying explicitly that Amount A extractive products are also excluded for Amount B purposes will reduce complexity, uncertainty and compliance burden for taxpayers.</li> <li>• If the Amount A definition of extractive products is inconsistent and drafted differently within the broader commodity definition in Amount B, then any differences in drafting will cause unnecessary complexity for taxpayers in understanding the Pillar 1 implications on the sale of a specific commodity and will introduce an additional compliance burden overall.</li> <li>• In this regard, the Amount A Primary Processing definition (contained within the definition of “Extractive Product”) of Amount A, should be used to better align the terminology to the policy scope of the exclusion. This is the most practical means for defining the scope of the exclusion and would</li> </ul>

Para	Topic	Issue	Recommendation
			<p>ensure that Amount B includes within the commodity exclusion, all products and processes that are within the scope of the Amount A extractive carve out.</p> <ul style="list-style-type: none"> <li>To the extent there are intended differences in the drafting of the commodities exclusions between Amount A and Amount B, the rationale for the differences must be clearly explained and further consultation with commodity and extractive industry participants would be warranted.</li> <li>We note that whichever products are excluded from Amount A must also be excluded from Amount B (recognising that the Amount B exclusion is most likely wider than current Amount A exclusions).</li> </ul>
Section 3.4.2, para 28 – 29	Scope	Inclusion of non-tangible goods and services	<ul style="list-style-type: none"> <li>Our members generally feel that it should be possible to expand the scope of Amount B to cover the distribution of non-tangible digital goods and services by companies in digital-related industries. However, these digital distribution activities will encounter many of the same problems as outlined above (i.e., that the various scoping exclusions will limit the utility of Amount B).</li> <li>While we appreciate that there may be some complexity in doing so, we believe that the functions performed by distributors of many of these digital goods and services are sufficiently similar to the distribution of tangible goods to warrant inclusion.</li> <li>In relation to software, we note that commercial business models can provide software as a physical good (on a CD or memory card), as a service (through a subscription model) or as a digital property sale (one-off software download). At present, it seems that only the distribution of physical goods would be captured with the scope of Amount B.</li> <li>There is also a linked point that many physical goods require some element of software to be distributed, either as an app or as updates to pre-installed software. This software may be distributed without earning incremental</li> </ul>

Para	Topic	Issue	Recommendation
			<p>customer revenue. The proposals would seem to treat this software distribution as disqualifying an entity from Amount B, regardless of whether the software is incidental or closely linked to the supply of hardware (either at that time or at some time in the past).</p> <ul style="list-style-type: none"> <li>• Inclusion in Amount B would be welcomed by many taxpayers in these digital industries which currently can often face challenging transfer pricing audits. As noted above, we believe that a position could be reached where the final Amount B pricing methodology could apply to a broader group of taxpayers than currently envisaged, while remaining consistent with the arm's length principle.</li> <li>• Where specific issues are identified, our preference would be for an industry-specific adjustment to be included for digital industries, rather than for the relevant industry to be excluded from the scope of Amount B as a first step. For example, distributors of non-tangible goods would not have any inventory risk, although if it were determined that this warrants an adjustment, this should be sufficiently straight-forward. However, based on our members' experience, any need for adjustments should be limited for distributors of non-tangible goods and services in digital-related industries, since the distribution functions are sufficiently similar.</li> </ul>
<b>Section 4 – Pricing</b>			
General	Pricing	General comments on proposed pricing methodology	<ul style="list-style-type: none"> <li>• As a general comment, we note that the pricing methodology for Amount B is still under development and that it will be challenging to finalize this analysis before conclusions are reached on the final intended scope for Amount B.</li> <li>• We would need more detail before concluding on a preferred pricing methodology for Amount B. We would however be happy to engage further as the pricing analysis continues to be developed.</li> </ul>

Para	Topic	Issue	Recommendation
Section 4.1	Pricing	Proposed approaches (mechanical pricing tool and pricing matrix)	<ul style="list-style-type: none"> <li>• Our overarching view is that the final output should be as simple as possible to administer, for both taxpayers and jurisdictions (particularly LCJs).</li> <li>• Based on the pricing information available so far, it is difficult to confirm whether a pricing matrix approach or a more detailed pricing tool would be preferable. However, we have concerns that a detailed pricing tool could add layers of complexity which would reduce the simplification benefits of Amount B.</li> <li>• In particular, as the regression analysis appears to still be at an early stage of design and it is uncertain whether factors will provide to have sufficient correlation to outcomes to provide a solid basis for Amount B implementation, it does not appear that there would be sufficient time for adequate testing and consultation on such a novel approach. If over time, an approach can be introduced with proper vetting and consultation, this could be added to acceptable methodologies at this stage. However, we still believe that it would be important that any tool designed would be manageable for taxpayers and LCJs.</li> <li>• In contrast, the use of a pricing matrix with broad ranges could reduce the level of tax certainty for taxpayers (disputes would potentially arise in respect of where an entity was positioned in the pricing matrix).</li> <li>• Ultimately, we believe that the transfer pricing studies provided demonstrate that there is a pathway that could lead to an Amount B pricing solution that would be workable for all parties, particularly as the outputs from the studies in Appendix III (and other practical experience) suggest that results do not show material variances based on geographic or other factors. To the extent that adjustments are deemed to be necessary to take account of industry-specific factors, geographic factors or different distribution models (e.g., buy-sell arrangements and sales agents and commissionaire arrangements), we believe that these adjustments should be supported by data. If the data modelling exercises do not support</li> </ul>



Para	Topic	Issue	Recommendation
			differences in returns, we believe that Amount B should be kept as simple as possible.
Section 4.1	Pricing	Amount B pricing methodology	<ul style="list-style-type: none"> <li>It is somewhat unclear in the Document whether Amount B will be stated as an actual number / range or whether it could be the case that Amount B will only prescribe a methodology to be followed, including search and screening criteria for comparables and necessary adjustments.</li> <li>If this is the case and the taxpayer is required to create the ranges and adjustments, we have a concern that this could have an impact from a certainty perspective as tax authorities could dispute the Amount B findings, either by challenging the adjustments and/or disqualifying the distributor from the scope of Amount B.</li> <li>In line with our broader comments, we also believe that it is important that the final pricing methodology can function appropriately as a form of safe harbor for taxpayers.</li> </ul>
Section 4.1, para 47	Pricing	Refresh of pricing methodology outcomes	<ul style="list-style-type: none"> <li>While we agree that circumstances could arise that would warrant / necessitate the Amount B pricing outputs being refreshed on a periodic basis, it is somewhat challenging to provide a suggested cadence for these updates while the pricing methodology is still being developed.</li> <li>Conceptually, where Amount B pricing produces a narrow set of results, it likely makes sense that the pricing analysis and outputs may need to be updated on a more regular basis.</li> <li>We also generally would agree with the concept of constructing benchmark sets over a period of years to deal with fluctuations in business cycles and external events.</li> </ul>

Para	Topic	Issue	Recommendation
Section 4.3, para 69 - 70	Pricing	Selection of the Net Profit Indicator	<ul style="list-style-type: none"> <li>• In terms of the more specific questions raised on pricing methodologies, our members showed broad support for the approach of using return on sales with a Berry Ratio cap and collar.</li> <li>• It is our experience that return on sales is the most commonly used net profit indicator for distribution functions and would therefore best align with commonly employed methodologies.</li> <li>• For sales agency and commissionaire arrangements (or flash title distributors), some of our members noted that the Berry Ratio could be an appropriate method to use as the net profit indicator for these types of arrangements.</li> <li>• We also tend to agree that the use of a Berry Ratio as a cap and collar would be appropriate to be applied to lower-margin companies, where a standard return on sales could allocate a disproportionately high and inappropriate percentage of system profits to the distribution function.</li> <li>• Our members generally were not in favor of the use of return on assets being used as a net profit indicator.</li> </ul>
Section 4.3.3, para 77 and 78	Pricing	Comparability adjustments	<ul style="list-style-type: none"> <li>• Our preference would be to limit the need for comparability adjustments to be made where possible. Numerous comparability adjustments would likely increase complexity and the risk of disputes arising.</li> <li>• Since the objective of Amount B is to simplify benchmarking and adjustments will add complexity, we believe that any adjustment mechanism introduced should be easy to implement, be clearly explained and should rely on data that is accessible to taxpayers and tax authorities.</li> <li>• We believe that the transfer pricing studies in Appendix III demonstrate that it will be possible to create a workable Amount B solution, without the need for significant levels of complexity.</li> </ul>

Para	Topic	Issue	Recommendation
Annex A	Pricing	Search criteria and benchmarks	<ul style="list-style-type: none"> <li>• We appreciate that the OECD has attempted to introduce commonly agreed search criteria. Where Amount B is not designed as a safe harbor, as much transparency as possible would be helpful. However, we believe it would also be helpful if the Secretariat could publish the final set of comparables.</li> <li>• In relation to Annex A, the database filtering and qualitative factors listed appear to be relatively standard. However, we note that the qualitative review is based on the business descriptions contained in the database, which is usually quite brief. In practice, our members have noted that it could be necessary to review websites or annual reports to get enough qualitative information.</li> <li>• In terms of other comments, the use of keywords to identify non-comparable activities, while helpful in screening a large volume of potential comparables, may lead to rejecting viable companies when the keyword may be used in a different context such as describing customers' industries.</li> <li>• The use of only the database business descriptions to identify companies with other activities may also not produce accurate results due to limited information in the database.</li> </ul>
<b>Section 5 – Documentation and Transitional Issues</b>			
Section 5.1, para 87	Documentation	Excessive documentation requirements	<ul style="list-style-type: none"> <li>• We are concerned that the level of detail required would discourage taxpayers from applying Amount B, thereby reducing the objectives of Amount B (i.e., simplification and increased tax certainty).</li> <li>• We note that the documentation requirements in para 87 also appear to conflict with the description of compliance relief provided by the OECD in relation to safe harbors (see para 4.107 of the OECD TP Guidelines): “<i>properly designed safe harbours may significantly ease compliance burdens by eliminating data collection and associated documentation requirements</i>”.</li> </ul>

Para	Topic	Issue	Recommendation
			<ul style="list-style-type: none"> <li>As mentioned throughout our response, we believe that it is important that Amount B finds an appropriate balance between reliability/high compliance burdens and simplicity/tax certainty. In particular, we note that para 5.28 of the OECD TP Guidelines states that “<i>taxpayers should not be expected to incur disproportionately high costs and burdens in producing documentation. Therefore, tax administrations should balance requests for documentation against the expected cost and administrative burden to the taxpayer of creating it.</i>” With this in mind, we would recommend limiting the envisaged documentation requirements to the factors needed to demonstrate the taxpayer’s eligibility to apply Amount B.</li> <li>Where Amount B applies as a safe harbor, it seems more appropriate to avoid significant compliance burdens where possible. In particular, we note that the OECD TP Guidelines (para 4.109) state that auditing a transaction covered by a safe harbor “<i>would not necessarily have to be performed by auditors with transfer pricing expertise</i>”. The fact that transfer pricing expertise would not be required further supports our recommendation that the scoping criteria should be reconfigured, with a greater focus placed on objective criteria that can be easily assessed by taxpayers and tax authorities.</li> <li>We have included comments on some of the specific Amount B documentation requirements in Section 5.1, para 87 below.</li> </ul>
Section 5.1, para 87(a)	Documentation	A statement declaring the information provided to support compliance with Amount B is true, accurate and complete to the best of the MNE’s knowledge.	<ul style="list-style-type: none"> <li>In our view, we would expect that MNEs are already required to undertake arm’s length pricing that is accurate, complete and true to the best of the MNE’s knowledge.</li> <li>It is therefore unclear whether this is a requirement that is specific to Amount B or if it has been included in para 87 for completeness.</li> </ul>

Para	Topic	Issue	Recommendation
Section 5.1, para 87 (b)	Documentation	Breakdown of (i) financial information by key customer type (e.g., government entities, government contractors, large customers); (ii) sales made to associated enterprises and third-party customers per product and jurisdiction; and, (iii) sales to end-customers and wholesalers/retailers	<ul style="list-style-type: none"> <li>• We would question why a breakdown of customer type is required as part of the specific Amount B information to be included in the Local File. Similarly, it is unclear why a breakdown of sales to associated enterprises is required.</li> <li>• In practice, this information may also be difficult to source and would only need to be produced if specifically requested (e.g., as part of a tax audit request).</li> </ul>
Section 5.1, para 87 (g)	Documentation	When the taxpayer is not the tested party, annual financial accounts of the tested party for the [three/five] fiscal years prior to the first fiscal year in which controlled transactions are in-scope of Amount B	<ul style="list-style-type: none"> <li>• We believe that multi-year financial data for non-taxpayer tested parties and detailed segmentation by customers should be able to be provided upon request.</li> <li>• The requirement to proactively prepare this data seems overly burdensome, particularly if the taxpayer transacts with multiple tested parties.</li> </ul>
Section 5.1, para 87 (k)	Documentation	<p>The written contract governing the qualifying controlled transaction. The written contract should include the following relevant information on the in-scope controlled transaction:</p> <ol style="list-style-type: none"> <li>Identification of the parties to the controlled transaction;</li> <li>Identification of the controlled transactions covered by the agreement;</li> <li>Identification of the products for which the baseline distribution activities are performed;</li> <li>The duration of the contractual arrangement;</li> </ol>	<ul style="list-style-type: none"> <li>• The list of information that is required to be included in intra-group agreements appears to be quite onerous. In this regard, we note at the bottom of para 87 (k) an acknowledgment that existing intra-group agreements may not currently contain this level of detail.</li> <li>• However, the Document states that “<i>when the taxpayer already has in place written contractual arrangements, those may be sufficient if the terms set out above are already contained therein. Otherwise, the taxpayer can supplement or modify the existing written contractual arrangements providing for those terms not covered by the original arrangement</i>”.</li> <li>• It would therefore appear that the documentation requirements of Amount B would require a taxpayer to revise / re-write its existing intra-group agreements.</li> </ul>

Para	Topic	Issue	Recommendation
		<p>v. The nature of the distribution agreement (e.g., exclusive, non-exclusive);</p> <p>vi. The geographical territory covered by the agreement;</p> <p>vii. The description of the responsibilities, obligations and rights of the supplier and the distributor, which should be consistent with the information provided in item (a). In particular, the written contract will be expected to recognise that the counterparty to the tested party:</p> <p>a) assumes the economically significant risks associated with the distribution of the products;</p> <p>b) owns any unique and valuable intangible property used by the tested party or arising from activities of the tested party during the term of the agreement;</p> <p>c) compensation in accordance with the Amount B pricing methodology outlines in Section 3 and currency in which the remuneration is determined and paid;</p>	<ul style="list-style-type: none"> <li>• In line with our comments above, we believe that it would be more appropriate for a written contractual agreement to be described as best practice and framed as guidance for taxpayers to follow which could help to simplify scoping assessments for Amount B.</li> <li>• Otherwise, we would have a concern that the detailed contractual requirements as set out in para 87 (k) could result in some taxpayers not applying Amount B for administrative reasons, which seems contrary to the intended objectives of Amount B.</li> </ul>

Para	Topic	Issue	Recommendation
		<p>viii. Information to be produced and maintained by the parties to the agreement for reporting, regulatory and any other purposes;</p> <p>ix. Performance metrics related to the distributor's activity; and</p> <p>x. Circumstances under which the agreement may be terminated.</p>	
Section 5.1, para 87 (l)	Documentation	A copy of existing unilateral and bilateral/multilateral APAs and other tax rulings to which the local tax jurisdiction is not a party and which are related to in-scope transactions	<ul style="list-style-type: none"> <li>• We would question whether the full copy of the existing APA would need to be provided. In our practical experience, it currently can be sufficient to provide an explanation of the agreement instead of a full copy.</li> <li>• While not a particular issue from a taxpayer perspective, we would also question whether the relevant Competent Authorities would be satisfied with the taxpayer delivering a copy of the relevant APA to its local tax jurisdiction (if that jurisdiction is not itself a party to the APA).</li> </ul>
Section 5.1, para 91	Documentation	Notification of the first time that Amount B is used	<ul style="list-style-type: none"> <li>• It is not clear to us why it is necessary for a taxpayer to notify tax authorities that Amount B is being claimed for the first time. If tax authorities choose to audit a group, it will be clear whether the group is relying on Amount B.</li> <li>• Requiring MNEs to notify that it is availing of Amount B would suggest that this could potentially trigger the commencement of a tax audit. This would seem to be contrary to the intention that Amount B would be used as a tool to reduce transfer pricing related disputes.</li> </ul>
Section 5.2	Restructuring		<ul style="list-style-type: none"> <li>• It is not clear why it is necessary to deny Amount B to an MNE that has restructured and qualifies for Amount B post-restructuring (either for commercial business reasons or to avail of the tax certainty and simplification benefits provided by Amount B).</li> </ul>



Para	Topic	Issue	Recommendation
			<ul style="list-style-type: none"> <li>Where two taxpayers are in the same position of qualifying for Amount B, both taxpayers should be treated in a similar manner. We do not believe that it should matter that one taxpayer would have qualified for Amount B before it was introduced, and the other taxpayer qualifies at a later date.</li> <li>As noted throughout our consultation response, based on the current scoping proposals, it appears that a significant number of MNEs would not qualify for Amount B and would need to restructure their operations in order to do so. In particular, our comments in respect of Section 3.1, para 18(c) highlight that many groups currently centralize functions into a limited number of entities in a jurisdiction for commercial reasons (e.g., administrative efficiency). While MNEs may choose not to restructure into Amount B due to cost considerations or other commercial issues, those MNEs that do restructure should not be adversely affected.</li> <li>In our view, restrictions on the availability of Amount B in the context of corporate restructurings should be limited to cases where abuse can be clearly demonstrated.</li> </ul>
<b>Section 6 – Tax Certainty</b>			
Section 6	Tax Certainty	Overall feedback on tax certainty section of the Document	<ul style="list-style-type: none"> <li>As an initial comment, we strongly believe that Amount B can improve levels of tax certainty if it is designed as a simple and easy to administer safe harbor mechanism that has the support of a wide consensus of IF members. We believe that a well-designed Amount B could provide tangible benefits from a dispute prevention perspective.</li> <li>We note that this concept has been recognized in the existing OECD TP Guidelines at para 4.108 where it states that “another advantage provided by a safe harbour is the certainty that the taxpayer’s transfer prices will be accepted by the tax administration providing the safe harbour, provided that they have met the eligibility conditions of, and complied with, the safe harbour</li> </ul>

Para	Topic	Issue	Recommendation
			<p><i>provisions</i>". In our view, this supports our feedback in this response that Amount B would most appropriately be applied as a safe harbor.</p> <ul style="list-style-type: none"> <li>• However, as noted above, the current proposals for Amount B appear to heavily rely on subjective and qualitative criteria which, by design, are likely to give rise to contrasting views and opinions. As noted elsewhere in this response, we expect a significant number of Amount B scoping related disputes based on the current proposals, which will reduce certainty for taxpayers.</li> <li>• We would therefore re-iterate our recommendation that the scoping criteria for Amount B are based mainly on objective/quantitative criteria, as this will help to limit scoping disputes between taxpayers and tax authorities. Such objective criteria should be derived from third-party data, made available to taxpayers, to ensure transparency and that the rules adhere to the arm's length principle as intended.</li> <li>• On pricing Amount B, a greater emphasis should be placed on identifying a value or range of values that approximate the remuneration of baseline distribution activities (similar to approach applied for low value adding services), rather than aiming to achieve technical pricing perfection. The final Amount B output should be clear and easy to administer for taxpayers.</li> <li>• In terms of achieving tax certainty for Amount B itself, we believe that it could be possible to expand the concept of using memoranda of understanding for Competent Authorities to establish bilateral safe harbors to cover Amount B scoping issues, as outlined currently in Annex I to Chapter IV of the OECD TP Guidelines.</li> <li>• If Amount B is not designed as a safe harbor, we believe that there will be a much greater need for tax certainty mechanisms to be available for Amount B related issues. In this regard, Amount B would be greatly complimented by the addition of an early certainty mechanism, to allow taxpayers to clarify if</li> </ul>

Para	Topic	Issue	Recommendation
			<p>they qualify for Amount B. If the scope of Amount B is re-configured to apply on a more objective basis, this would simplify any early certainty process.</p> <ul style="list-style-type: none"> <li>• In terms of delivery, Amount B could seek to leverage the Scope Certainty process being proposed for Amount A. This should be done on a globally consistent basis (i.e., where an MNE had largely the same loading of functions in each of their distributors, their Amount B qualification analysis should reach the same conclusion in each jurisdiction). Relatively short timelines for advance certainty scoping assessments would be welcomed.</li> <li>• The reference in Section 6.3 to introducing a form of streamlined APA process could also be useful (particularly if this could be performed on a globally consistent basis). However, we note that Section 6, para. 101 acknowledges that an APA is potentially available but then seems to negatively qualify this by stating that the APA mechanism “<i>may be more suitable for controlled transactions with a greater level of complexity</i>” and that “<i>nothing prevents a taxpayer from seeking</i>” an APA.</li> <li>• It would also be helpful to have more clarity on how the OECD ICAP process is intended to interact with Amount B.</li> </ul>

### **Appendix III**

#### **Relevant Transfer Pricing Studies**

“Transfer Pricing Analysis of Arm’s Length Returns to Sales, Marketing and Distribution Activities”, prepared by KPMG for Microsoft (February 2020) – included as separate attachment to the *Business at OECD* (BIAC) consultation response

“Global Distribution Benchmarking Analysis”, prepared by PWC for Proctor & Gamble (January 2023) – included as a separate attachment to the *Business at OECD* (BIAC) consultation response

## **Appendix IV**

### **OECD Questions – Cross-Reference**

Where possible, we have sought to cross-reference the specific questions included in the Document against our comments above.

#### **Section 3.5: Specific questions on scope for public commentators**

1. *Do you consider that any of the individual scoping criteria would be unlikely to be observed when reviewing the economically relevant characteristics of otherwise comparable independent enterprises on the basis that sufficiently detailed information is not available? Moreover, do you consider that such differences in observation could materially affect the ability to use those comparables in establishing arm's length prices?*
2. *Do you consider that any other financial indicators may be utilised to measure the performance of certain functions, ownership of certain assets, or assumption of certain risks relevant to the scoping criteria other than those already described above? Moreover, do you consider that any financial or non-financial quantitative metrics may be utilised in order to reliably and objectively determine if the scoping criteria are met, for example with reference to the limited assumption at arm's length of economically significant risks?*
3. *Do you consider that the Amount B scoping criteria could reliably incorporate retail distributors as well as wholesale distributors? If so, do you consider that any modifications might be necessary to the Amount B pricing methodology being developed, in order to appropriately establish arm's length prices for accurately delineated retail distribution transactions, compared with wholesale distribution transactions?*

**Response:** Please refer to our comments on page 13 of this response in respect of Section 3.1, para 14.

4. *In your practical experience in delineating baseline marketing and distribution transactions that you judge to be within the scoping criteria outlined in this consultation document:*
  - a) *Do you observe in practice that there exist transactions that meet the scoping criteria in both categories of in-scope transactional structures explained in paragraph 14, and which, based on an accurate delineation of the transaction, exhibit substantially the same economically relevant characteristics? This is excepting, for the second category, any scoping criteria directly related to the taking of title and the holding of inventory and assumption of credit risks, as well as ancillary administrative functions related to the same.*

**Response:** Please refer to our comments on page 14 of this response in respect of Section 3.1, para 14 and Section 3.4.1.

- b) *Do you observe in practice that there exist transactions that meet the scoping criteria in both categories of in-scope transactional structures explained in paragraph 14, and which, based on an accurate delineation of the transaction, exhibit substantially the same economically relevant characteristics? This is excepting, for the second category, any scoping criteria directly related to the taking of title and the holding of inventory and assumption of credit risks, as well as ancillary administrative functions related to the same.*

c) *In practice, to what extent do you use independent buy-sell distributors to price transactions involving sales agents or commissionaires? What are your reasons for doing so or not doing so?*

5. *Do you consider that distributors that otherwise meet the scoping criteria, but which also distribute tangible products to markets other than their market of residence exhibit materially different economically relevant characteristics than distributors that only distribute to their market of residence, such that arm's length pricing may be affected? If so, please demonstrate the reasons why you consider this to be the case.*

**Response:** Please refer to our comments on page 19 of this response in respect of Section 3.1, para 18(b).

6. *In any of the quantitative metrics outlined within the scoping criteria, do you perceive that the level of thresholds set should vary based on specific criteria, e.g., the industry of the distributor, the market of residence of the distributor or other criteria, in order to be aligned with the arm's length standard? If so, please demonstrate the reasons why you consider this to be the case.*

**Response:** Please refer to our comments on page 30 of this response in respect of Section 3.3.4, para 39 – 40.

7. *Do you consider that the derivation of the data or other information required to substantiate any of the scoping criteria outlined above would result in a meaningful simplification and streamlining of compliance activities based on what is currently required to be prepared and retained? Please demonstrate the reasons why you consider or do not consider this to be the case.*

**Response:** Please refer to our comments on page 5 of this response in respect of Appendix I and on page 15 in respect of Section 3.1, para 17 – 18.

8. *Do you consider that the product-based exclusions outlined achieve the intended goal of excluding certain transactions in the distribution of commodities from being within the scope of Amount B? Please outline the reasons why you consider or do not consider this to be the case. Moreover, do you consider that the scope should include the distribution of software? If yes, can you please outline why you think software should be included in the scope; your explanation would require an analysis that demonstrates that the economically-relevant characteristics of the distribution of software are broadly comparable to the economically-relevant characteristics of the distribution of tangible goods.*

**Response:** Please refer to our comments on page 33 of this response in respect of Section 3.4.2, para 17 – 19, and page 34 in respect of Section 3.4.2, para 25 – 29.

9. *Do you consider that a controlled distributor that (i) contributes to strategic marketing functions or to control of risk but does not, under the accurate delineation of the transaction, assume the associated risks, or (ii) contributes to the generation of marketing intangibles but does not, based on an accurate delineation of the transaction, assume the significant risks associated with those intangibles, should necessarily be out of scope for Amount B? Please outline the reasons why you consider or do not consider this to be the case. Moreover, do you consider that entities which do not assume economically significant risks related to development, enhancement, maintenance, protection or exploitation of marketing intangibles, but do make some contribution to risk control functions that may warrant compensation at arm's length per paragraph 1.105 of the OECD TPG, should be out of scope? If so, please outline the reasons why you consider this to be the case.*

**Response:** Please refer to our comments on the following pages:

- page 26 in respect of Section 3.1, para 18(k)
- page 28 in respect of Section 3.3.2, para 30,
- page 29 in respect of Section 3.3.2, para 35
- page 25 in respect of Section 3.1, para 18(j)
- page 29 in respect of Section 3.3.2, para 36

10. *General views are also sought from commentators regarding the exemptions from applying the Amount B pricing methodology related to the most appropriate method and the use of local market comparables.*

**Response:** Please refer to our comments on page 32 of this response in respect of Section 3.4.2, Box 3.2, para 6 – 10 and page 30 in respect of Section 3.4.2, para 4.

#### **Section 4.4: Specific question on the Amount B pricing methodology for public commentators**

1. *Do you have any comments on the proposed architecture of the Amount B pricing methodology for baseline marketing and distribution entities?*

**Response:** Please refer to our comments on page 38 of this response in respect of Section 4.

2. *Can you share your observations of arm's length results for independent baseline marketing and distribution entities and provide any available supporting analysis or market data evidencing such observations?*

**Response:** Please refer to Appendix III.

3. *Recognising that the initial search criteria in Annex A relies upon keyword searches based on database business descriptions, how would you develop the search criteria further to more accurately identify baseline marketing and distribution comparables – i.e., what quantitative screens should be applied to help take account of the functional, asset and risk profile described in section 3.1?*

**Response:** Please refer to our comments on page 41 of this response in respect of Annex A.

4. *What commercial databases do you use for performing transfer pricing analysis?*

**Response:** Please refer to the transfer pricing studies provided in Appendix III.

5. *A limitation of using any global database is the absence of uniformity in information collected because of divergent financial reporting standards across jurisdictions. This impacts the types and effectiveness of the quantitative screens used in data analysis. What are your suggestions to overcome this limitation?*

6. *In terms of giving further consideration on how and what to disseminate to tax administrations and taxpayers to facilitate the application of the Amount B pricing methodology, as well as to consider the impact of possible restrictions on publication of company data, what is the minimum level of comparable data or benchmarking audit trail information that is needed in order for taxpayers to administer and rely on the Amount B pricing methodology, explaining the implications of not having access to such information?*

**Response:** Please refer to our comments on page 38 of this response in respect of Section 4. We also refer to our introductory comments on pricing in Appendix I.



7. *In terms of giving further consideration on how and what to disseminate to tax administrations and taxpayers to facilitate the application of the Amount B pricing methodology, as well as to consider the impact of possible restrictions on publication of company data, what is the minimum level of comparable data or benchmarking audit trail information that is needed in order for taxpayers to administer and rely on the Amount B pricing methodology, explaining the implications of not having access to such information?*

**Response:** Please refer to our comments on page 41 of this response in respect of Section 4.3, para 69 – 70.

8. *Recognising the objective of achieving simplification and tax certainty while maintaining accuracy in outcomes, in what circumstances do you consider comparability adjustments (if any) are needed for Amount B?*

**Response:** Please refer to our comments on page 41 of this response in respect of Section 4.3.3, para 77 – 78.

9. *With reference to the discussion above in Section 4.3.4, what are your views on the proposal to use allocation keys in terms of the practical application of Amount B in cases where the baseline distributor is involved in in-scope controlled transactions with multiple related party suppliers?*

**Response:** Please refer to our comments on page 20 of this response in respect of Section 4.3.4, para 80 and Section 3.1, para 18(c).

### **Section 5.3: Specific question on documentation for public commentators**

- 1) *Do you think the proposed documentation approach for the application of Amount B strikes the right balance between the additional burden for taxpayers and the need to ensure that tax administrations obtain the necessary information to evaluate the taxpayer's application of Amount B?*

**Response:** Please refer to our comments on page 42 of this response in respect of Section 5.1, para 87.

- 2) *In relation to the specific items of information to support the application of Amount B listed in paragraph 87 please indicate if:*

- a) *There are items of information which are not relevant for purposes of evaluating the taxpayer's compliance with Amount B. If your answer is yes, please elaborate why such items of information would not be relevant.*

**Response:** Please refer to our comments on pages 43 - 46 of this response in respect of Section 5.1, para 87(a), (b), (g), (k) and (l) and page 46 in respect of Section 5.1, para 91.

- b) *There are items of information currently not listed in paragraph 87, which should be incorporated to the Amount B specific items of information in the local file. If your answer is yes, please elaborate why such items of information are relevant and should be part of the local file.*

### **Section 6.3: Specific questions on tax certainty for public commentators**

- 1) *Do you think the current tax certainty framework described in this section is sufficient to prevent or address potential disputes arising in relation to the applicability and/or operation of Amount B?*

**Response:** Please refer to our comments on page 47 of this response in respect of Section 6.

- 2) *Is there any other approach that could supplement this framework to enhance tax certainty and reduce the risk of double taxation and/or double non taxation arising from the application of Amount B, subject to a jurisdiction's availability of resources? For instance, should the work on Amount B include, for interested jurisdictions, the design of an elective early certainty program to provide a specific early (pre-audit) certainty (e.g., streamlined APA-type process) or an indication of the compliance risk inherent to controlled transactions regarding the application of Amount B and its pricing methodology?*

**Response:** Please refer to our comments on page 47 of this response in respect of Section 6.

# Global Distribution Benchmarking Analysis

Procter & Gamble

January 2023





Tim McDonald and Lindsey Falkingham  
Procter and Gamble U.S. Business Services Company  
One Procter & Gamble Plaza,  
Cincinnati,  
OH 45201  
USA

13 January 2023

## **OECD Pillar One - Amount B - Global Distribution Benchmarking Analysis**

Dear Tim and Lindsey,

PricewaterhouseCoopers LLP ("we" or "us") have been engaged by Procter and Gamble U.S. Business Services Company ("P&G") to prepare the below report which provides a summary of the global distribution benchmarking analysis which was prepared by us for P&G in order to attempt to respond to some of the questions posed by the OECD in the document entitled "Tax Challenges Arising from Digitalisation – Report on Pillar One Pillar 1 Blueprint: Inclusive Framework on BEPS" published in October 2020.

The results of our analysis are contained within a dynamic Tableau dashboard and the parameters can be changed in real-time in order to examine the impacts of changing various screening criteria on the range of results generated, including the ability to drill-down by geography (into regions and specific territories) and / or industry (into sub-NACE codes). Given the large number of potential permutations of the results, this report focuses on the headline results from the dashboard.

We understand that P&G would like to use the results of this analysis, as outlined in the below report, to support their input to responses to the Pillar One - Amount B public consultation document which was released by the OECD on 8th December 2022. P&G will use this report to support their input to the United States Council for International Business's ("USCIB") response on Amount B and their input to the OECD Business Advisory Group's ("BAG") response on Amount B.

Whilst the OECD Transfer Pricing Guidelines include a chapter on comparability, which includes commentary on the use of commercially available databases, there is no commonly accepted approach to benchmarking limited risk distributors. A global approach will require international consensus on the search criteria to be adopted. The dashboard was developed in order to provide a completely transparent and replicable search process, offering the facility to amend screening criteria in real-time. The objective was to facilitate a more focused, constructive conversation about the search steps and screens that have the most material impact, and to avoid the potential assertion that the approach adopted is outcome-oriented.

The attached report is, by contrast to the dashboard, a static document in which we have fixed the screening criteria at certain levels. This means that the benefit of live interrogation is inevitably lost, however we remain at your disposal should you wish to demonstrate the dashboard to interested parties.

It is important to note that in undertaking this search process, we did not perform any website reviews of the individual companies in the database at any stage. Undoubtedly on examination of this incremental data, there are companies that would probably be excluded were this a study aimed to benchmark the results of a specific tested-party, or even, as in this case, to test returns for a hypothetical tested-party. Inclusion and exclusion decisions based on website reviews involve a degree of subjectivity, and would make the exercise less transparent and replicable. One of the merits of a large and transparently-derived sample is that it eliminates the possibility to potentially skew results by 'cherry-picking'. Our expectation, based on experience, is that any further exclusion of companies based on website reviews would not materially impact the results derived from this search.

PricewaterhouseCoopers LLP, One Chamberlain Square, Birmingham, B3 3AX  
T: +44 (0) 20 7583 5000, F: +44 (0) 20 7822 4652, [www.pwc.co.uk](http://www.pwc.co.uk)

PricewaterhouseCoopers LLP is a limited liability partnership registered in England with registered number OC303525. The registered office of PricewaterhouseCoopers LLP is 1 Embankment Place, London WC2N 6RH. PricewaterhouseCoopers LLP is authorised and regulated by the Financial Conduct Authority for designated investment business.



We trust this report provides you with a useful summary of the work undertaken and can give you sufficient narrative to support your inputs to the USCIB and BAG responses to the Pillar One - Amount B public consultation document.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian Dykes', with a horizontal line drawn underneath the name.

Ian Dykes

[ian.dykes@pwc.com](mailto:ian.dykes@pwc.com)

T: +44 (0) 7803 149718

# Contents

<b>Glossary</b>	<b>5</b>
<b>1. Executive Summary</b>	<b>6</b>
1.1. Overview and background	6
1.2. Search process	6
1.3. Search results	6
1.4. System profit analysis	8
1.5. Conclusion	8
<b>2. Introduction</b>	<b>10</b>
2.1. Purpose and scope	10
2.2. Limitations	10
<b>3. Search Process</b>	<b>12</b>
3.1. Overview of the search process	12
3.2. Choice of databases	12
3.3. Phase 1 search strategy	12
3.4. Phase 2 search strategy	15
3.5. Coverage	18
3.6. Initial results	19
3.7. Other potential search strategies	19
<b>4. Search Results</b>	<b>21</b>
4.1. Overview of search results	21
4.2. Analysis by geography	22
4.3. Analysis by Industry	22
4.4. Comparability adjustments	24
<b>5. System Profit Analysis</b>	<b>27</b>
5.1. Overview of the system profit analysis	27
5.2. System profit analysis	28
<b>6. Conclusion</b>	<b>29</b>
<b>Appendix A - Database definitions</b>	<b>30</b>
<b>Appendix B - Phase 1 search strategy</b>	<b>32</b>
<b>Appendix C - Search strategy for Group companies</b>	<b>34</b>
<b>Appendix D - NACE codes utilised</b>	<b>35</b>
<b>Appendix E - Rejection phrases utilised</b>	<b>36</b>
<b>Appendix F - Dashboard functionality</b>	<b>38</b>

# Glossary

Abbreviation	Term
BAG	OECD Business Advisory Group
BEPS	Base Erosion and Profit Shifting
BvD	Bureau van Dijk
EBIT	Earning before Interest and Tax
EU JTPF	EU Joint Transfer Pricing Forum
ICT	Information Communication Technology
IP	Intellectual Property
IQR	Interquartile Range
MNE	Multinational Enterprise
NACE	The Statistical Classification of Economic Activities in the European Community
OECD	Organisation for Economic Co-operation and Development
OPM	Operating Profit Margin
P&G	Procter and Gamble U.S. Business Services Company
PLI	Profit Level Indicator
R&D	Research & Development
Pillar One Blueprint	Tax Challenges Arising from Digitalisation – Report on Pillar One Pillar 1 Blueprint: Inclusive Framework on BEPS
ROS	Return on Sales
SIC	Standard Industrial Classification
System Profit	MNE's group wide operating profit
TPC	TP Catalyst
UO	Ultimate owner
USCIB	United States Council for International Business



# 1. Executive Summary

## 1.1. Overview and background

In response to the release of the document entitled “Tax Challenges Arising from Digitalisation – Report on Pillar One Pillar 1 Blueprint: Inclusive Framework on BEPS” (“the Pillar One Blueprint”) by the OECD / Inclusive Framework on Base Erosion and Profit Shifting (“BEPS”) in October 2020, Procter and Gamble U.S. Business Services Company (“P&G”) engaged PricewaterhouseCoopers LLP (“we” or “us”) to perform a global distribution benchmarking analysis. The purpose of this analysis was to consider some of the questions posed in the Pillar One Blueprint in relation to Amount B, including for example whether returns should be differentiated by certain defined geographic regions<sup>1</sup>, whether returns should be differentiated by industry<sup>2</sup> and the appropriate profit level indicator (“PLI”) to be used.<sup>3</sup>

This report sets out the search process undertaken to develop this benchmarking analysis and also provides an overview of the results of the benchmarking analysis. These results can be broken down by geographic scope and grouped into specific industries.

## 1.2. Search process

The search was conducted using the TP Catalyst (“TPC”), Capital IQ, Compustat and Refinitiv Fundamentals Global databases<sup>4</sup>. The search strategy applied a number of qualitative (e.g. using inclusion and exclusion words) and quantitative (e.g. independence, and screening out companies that recognise intangible assets or undertake significant research and development (“R&D”) activities) in order to derive a set of 11,160 independent wholesale distributors and marketing companies.

## 1.3. Search results

The companies in this sample carry inventory and bear the general risks expected of full-fledged distributors. Based on the Pillar 1 Blueprint, and on the OECD Transfer Pricing Guidelines, the general expectation would be that the returns earned by companies with “limited or no inventory” or “limited or no risk” would, by definition, be less variable, and therefore on average, be lower than the results reflected in the sample. The headline results have not been adjusted for any potential differences in risk profile between a hypothetical limited risk distributor and the companies in the sample. We touch on comparability adjustments in 1.3.4 below.

The results of our analysis are contained within a dynamic Tableau dashboard<sup>5</sup> which can be changed in real-time in order to examine the impacts of changing various screening criteria on the range of results generated.

Developing a fully transparent set, in which screening criteria could be adjusted in this way was one of the main objectives of the exercise. This report is a static document in which we have fixed the screening criteria at certain levels, however the live Tableau dashboard can be presented to interested parties as required.

---

<sup>1</sup> OECD, Pillar One Blueprint, para. 689

<sup>2</sup> Id. para 691

<sup>3</sup> Id. para 702

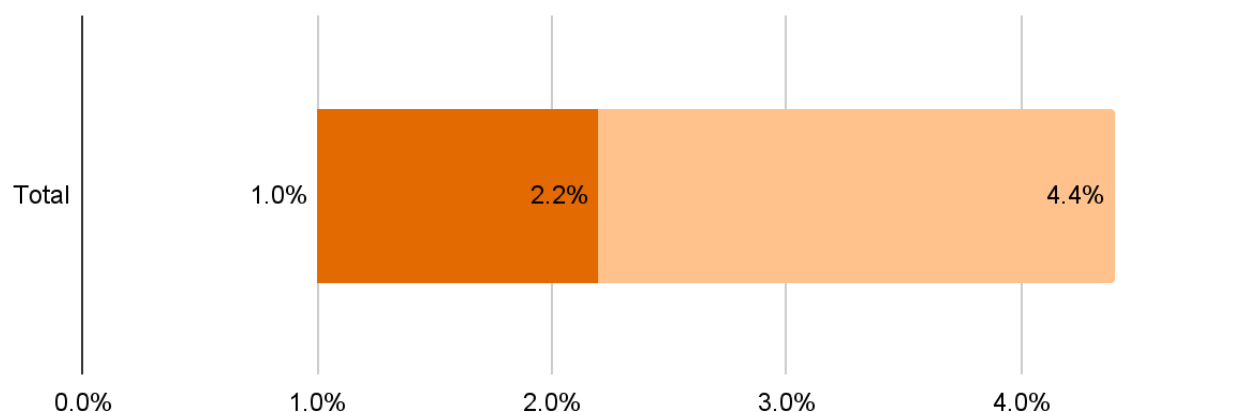
<sup>4</sup> See [Appendix A](#) for further details on the databases utilised

<sup>5</sup> See [Appendix F](#) for a selection of screenshots from the dashboard

### 1.3.1. Global returns

The consolidated global (i.e. all geographies and all industries) interquartile return on sales results for the nine years spanning 2011 - 2019 are set out below and are similar to those attained in the analysis performed for the EU JTPF for EU distributions in 2004, as updated in 2016.<sup>6</sup>

**Figure 1.1 - Return on sales interquartile range**



### 1.3.2. Returns by geography

In order to segment the data in terms of geographical region, we leveraged the “Global North” and “Global South”<sup>7</sup> concept to group territories with similar / homogeneous economic features. The returns for distribution and marketing functions are similar between the two regions and the median result is essentially undifferentiated, i.e. 2.1% for Global South and 2.4% for Global North.

### 1.3.3. Returns by industry

Based on our analysis, the results can also be broken down into industry categories. We adopted the industry categories outlined in the Pillar 1 Blueprint<sup>8</sup>, namely consumer products, information communication technology (“ICT”) and automotive, along with a category of “other” industries which includes the pharmaceutical industry due to its small sample size and other industries that did not fit into the categories specified in the Blueprint. We have categorised the companies into these industry groups based on the NACE and SICs codes of the companies that were captured in the final sample of 11,160.

The results across these different industries, when using a return on sales profit level indicator, are relatively undifferentiated. The Berry ratio results are also relatively undifferentiated across the industries.

### 1.3.4. Comparability adjustments

Many companies expected to fall within Amount B would have limited or no inventory and none of the risks associated with working capital. As such, we considered the results of companies with relatively lower levels of working capital to form a view of the impact that the absence of working capital ownership and associated risks might have on companies meeting the baseline definition of Amount B.

<sup>6</sup> The EU JTPF studies comprehensively break down the EU result by territory and by NACE code. While the EU JTPF supports the use of pan-regional searches, it is not intended to suggest that they support pan-industry searches. The 2004 interquartile ROS result for distribution in Europe across all industries for the period 1999-2001 is 1% to 4% with a median of 2.3%.

<sup>7</sup> Defined according to the UN M49, <https://unstats.un.org/unsd/methodology/m49/>, (accessed 3 January 2023). The M49 is a standard for area codes used by the United Nations for statistical purposes, developed and maintained by the United Nations Statistics Division. Based on the M49, countries are classified according to macro geographical regions and sub-regions, and selected economic and other groupings.

<sup>8</sup> OECD, Pillar One Blueprint, para. 691

The median return on sales result for the quartile of companies in the sample with the lowest working capital levels is 1.4%.

We tested a range of variables to determine the extent to which they influenced the profitability of the companies in the sample. By comparison to impact of working capital levels, the other variables were observed to have negligible impact.

We did not undertake any other forms of working capital adjustment.

## 1.4. System profit analysis

Amount A explicitly departs from the arm's length principle, but an unresolved question relates to whether there is expected to be any overarching justification for the percentages of system profit (i.e. the MNE's group-wide operating profit) selected in that calculation, and whether and how a ceiling will be derived for allocation to market jurisdictions. The OECD work on aspects of the Amount A framework which limit reallocation to market jurisdictions, such as the marketing and distribution safe harbour, continues to develop and we have included here the results of a high level analysis that we undertook as part of this exercise to consider the proportion of the system profit for companies potentially in-scope for Amount A that would represent the return to distribution and marketing functions.

In order to achieve this, we performed a search to identify corporate entities classified as 'ultimate owners' and which meet the potential turnover and ROS thresholds for Amount A (i.e. above \$20bn and above 10% ROS).

This application of this search strategy resulted in a set of 150 companies with an interquartile range of results of 12.5% to 24.8% with a median of 15.8%. We then compare these results to the results of the independent distributors derived in section 4.

When reviewing the results in aggregate, the profit earned by independent distributors represents between 8% - 18% of the system profit of companies potentially in-scope for Amount A. The automotive proportion is slightly higher given the generally lower system profit results observed in the automotive segment.

It is important to stress that these results are indicative views based on averages. The distribution returns earned by independent distributors are broadly consistent, whereas the results of the companies in scope for Amount A will, in practice, vary widely depending on a range of economic factors, including market position, intangible landscape and so on. Generally speaking, as system profit increases, the proportion of system profit represented by routine distribution activities will decrease.

## 1.5. Conclusion

The key observations from these results are as follows:

- The inter-quartile global range of ROS results lies between 1.0 and 4.4%, with a median of 2.2%. As a broad generalisation, the median ROS observed, whether analysed by industry or geography, lies between 2% and 3%.
- The inter-quartile global range of Berry ratio results lies between 108.5% and 141.4% with a median of 119.8%. The median Berry ratio result, whether analysed by industry or geography, lies between 116.1% and 124.0%.
- We looked at a number of measurable variables which could potentially have an impact on the profitability of the companies in the sample. Of these, working capital as a percentage of turnover had the highest correlation coefficient. Other working-capital-derived measures, for example inventory as a percentage of turnover or working capital as a percentage of cost of goods showed slightly lower levels of correlation. Most other tested measures showed negligible explanatory value. The interquartile ROS results for the sub-set of companies with the lowest working capital values

was 0.6% to 2.8% with a median of 1.4%.

- When comparing third party distribution returns to the average system profit results for companies potentially in scope for Amount A, the distribution returns represent between **8%** and **18%** of system profit. This is an indicative result in which the averaging has a material impact, and it should be noted that this will vary substantially based on the system profit of a given taxpayer.

## 2. Introduction

### 2.1. Purpose and scope

In October 2020, the OECD / Inclusive Framework on Base Erosion and Profit Shifting (“BEPS”) released the document entitled “Tax Challenges Arising from Digitalisation – Report on Pillar One Pillar 1 Blueprint: Inclusive Framework on BEPS” (“the Pillar One Blueprint”). This set out a package of measures including the proposed introduction of the so-called “Amount B”, intended to streamline the process for pricing baseline marketing and distribution activities in accordance with the arm’s length principle, thereby aiming at enhancing tax certainty and reducing resource-intensive disputes between taxpayers and tax administration.

As noted in the Pillar One Blueprint<sup>9</sup>, establishing the specific fixed return for the baseline marketing and distribution activities will require the preparation of reference benchmarking sets. In response to this, PwC was engaged by P&G to run a global benchmarking search using the TP Catalyst (“TPC”), Capital IQ, Compustat and Refinitiv Fundamentals Global databases<sup>10</sup> in order to capture independent wholesale distributors and marketing companies that do not recognise intangible assets or undertake significant research and development (“R&D”) activities.

The purpose of the report is to document the analysis outlined above, presenting the search process (which has been developed to be fully replicable) used to derive insights with regards to Amount B, as well as providing a detailed rationale behind each of the search steps, and outlining some of the challenges associated with establishing these differentiated returns.

### 2.2. Limitations

This report has been prepared for the use of P&G only, in accordance with our agreement dated 20 December 2022 and for no other purpose. With the exception of the circumstances outlined in our agreement dated 20 December 2022, this report should not be copied to third parties without the prior written consent of PwC. To the extent permitted by law, PwC does not accept any liability, responsibility or duty of care for any use of or reliance on this document by any third party in connection to this slide deck.

This analysis relies on the TPC database (a subset of the Bureau van Dijk (“BvD”) Orbis database) and the Capital IQ, Compustat and Refinitiv Fundamentals Global databases for underlying data. Only limited work has been undertaken to verify the accuracy and validity of this underlying data.

Whilst every effort has been undertaken to remain objective throughout the process, certain judgements were made to be able to present the results (e.g. reject / accept words, SIC, NACE code classifications etc.). An appropriate audit trail has been maintained for these decisions, such that the entire process is replicable.

No database or website review of the individual companies has been undertaken as part of the search process. As such, the validity of the companies resulting from the search strategy are purely based on key metric screening criteria, and without reference to a specific tested party.

The search criteria used is based on prior experience of performing distribution benchmarking, with the aim of providing the broadest coverage of territories. However, it may not be standard practice to use certain criteria across all of the jurisdictions / industries analysed.

Changes in legislation or other business circumstances that may affect the analysis set out here can occur at short notice. Such changes might invalidate some or all of the conclusions reached. We will not monitor or be

---

<sup>9</sup> Pillar 1 Blueprint, para 689

<sup>10</sup> See [Appendix A](#) for further details on the databases utilised

responsible for the effects of any subsequent changes in law, regulations or guidance.

The conclusions set out in this report are not binding on any tax authority and may be reviewed, and potentially changed, by a tax authority.

# 3. Search Process

## 3.1. Overview of the search process

Our search process was conducted in two stages. Phase 1 was undertaken within the TPC, Capital IQ, Compustat and Refinitiv Fundamentals Global databases<sup>11</sup> respectively, which allowed us to export a manageable number of companies (see Phase 2 for further details).

## 3.2. Choice of databases

An initial decision had to be made on the choice of database to use to perform a global search for distribution companies. In this regard, “Orbis is the largest cross-country firm-level database that is available and accessible for economic and financial research”<sup>12</sup>.

We chose the TPC database which is provided by Bureau van Dijk (“BvD”) and is a tailored subset of the Orbis database specifically for transfer pricing and has the ‘Release’ functionality (unlike Orbis) and therefore can be replicated in the future. Based on experience, we consider it provides the best global coverage and is generally accepted / recognised / used by tax authorities globally as well as being used by the EU Joint Transfer Pricing Forum.<sup>13</sup>

Overall TPC provides the most robust replicable sample as well as providing key additional BvD calculated data points (specifically for Transfer Pricing assessments) such as the BvD independence indicator.

As would be the case when choosing any individual database, there are certain drawbacks of using TPC such as coverage for certain key territories (e.g. US) and certain oddities in the underlying data (e.g. a large number of listed companies in Korea). In order to overcome some of these challenges, the search in TPC was augmented using additional databases (Capital IQ, Compustat and Refinitiv Fundamentals Global) to produce a more robust sample and with broader coverage. These three databases were specifically chosen to augment the TPC data predominantly due to their improved coverage of the North American region (USA and Canada).

## 3.3. Phase 1 search strategy

An outline of the Phase 1 search process is set out below, with the rationale for each step further explained in the following sections<sup>14</sup>.

**Table 3.1 - Phase 1 search strategy**

Step(s)	Search criteria	# companies remaining	Explanation of the step
1	All companies	31,536,710	This is the number of companies in TPC at the date of the search (release 122 - May 2020).
2	Size classification - Large, Medium or Very large <sup>15</sup>	5,707,008	We excluded companies which are classified smaller than ‘Medium’ sized (i.e. ‘Small’ and below). These companies often report limited / inconsistent data due to their small size

<sup>11</sup> See [Appendix A](#) for further details

<sup>12</sup> <https://www.oecd-ilibrary.org/docserver/c7bdaa03-en.pdf?expires=1603384517&id=id&accname=quest&checksum=191360AB99EF6F0D918C7B5F94B2211D> (accessed 21 December 2022)

<sup>13</sup> [https://taxation-customs.ec.europa.eu/system/files/2017-10/2017\\_10\\_16\\_jtpf\\_003\\_2017\\_en\\_final\\_en.pdf](https://taxation-customs.ec.europa.eu/system/files/2017-10/2017_10_16_jtpf_003_2017_en_final_en.pdf) (accessed 21 December 2022)

<sup>14</sup> See [Appendix B](#) for further details

Step(s)	Search criteria	# companies remaining	Explanation of the step
			and there is also a significant number of these smaller companies. These companies were therefore excluded to maintain data integrity while also providing a manageable sample size for data manipulation (step 15 onwards).
3	<b>BvD independence indicator</b> - A+, A, A-, B+, B, B-, C+, C and D <sup>16</sup>	<b>3,603,534</b>	<p>We excluded companies with a BvD Independence Indicator of U (Unknown) as we did not undertake a review of the individual companies where, in a standard benchmarking process, the independence can typically be ascertained by this review process (e.g. by reviewing database descriptions and websites).</p> <p>The BvD independence indicator is further considered in step 15.</p>
4 - 5	<b>Consolidation / control</b> - No unconsolidated accounts and shareholders with subsidiaries owned between 50% and 100%	<b>3,055,893</b>	We excluded companies which are part of a group (i.e. subsidiaries owned between 50% and 100%) and that only reported unconsolidated accounts as these accounts may include related party transactions.
6	<b>Data sufficiency</b> - Must report EBIT margin % for at least 3 years of the 2011 - 2018 period	<b>1,773,908</b>	Companies which reported less than 3 years of data were rejected to maintain a manageable sample size which can be downloaded from TPC. A stricter data sufficiency test was performed in the workflow analysis (see step 14).
7	<b>Turnover</b> - Minimum average turnover of USD 2m value for 2011 - 2018 period	<b>1,019,563</b>	<p>Similar to the size classification step (step 2), this step excludes companies that often report limited / inconsistent data due to their small size with the aim of maintaining data integrity while also providing a manageable sample size for data manipulation (step 15 onwards).</p> <p>This step considers this criteria over the period under analysis, while the size classification step considers it at a point in time. 2019 was not included in this criteria as the vast majority of companies had not reported data yet for 2019.</p>
8 - 10	<b>Distribution activities</b> - Companies with distribution as a main activity using key word searches and industry codes	<b>258,805</b>	<p>This step searches for companies that show the word 'wholesale' in their main activity as well as searching across 49 NACE codes and 2 US SIC codes, all of which contain 'wholesale' or 'agent involved in the sale'<sup>17</sup>. The categorisation of 'wholesale' has been made by BvD as part of their data augmentation.</p> <p>Key word searches are used in benchmarking in the majority jurisdictions, however, this is one of the areas more regularly challenged by tax authorities, primarily due to the number of companies it brings into the search strategy which</p>

<sup>15</sup> See [Appendix A](#) for further details

<sup>16</sup> See [Appendix A](#) for further details

<sup>17</sup> See [Appendix B](#) for further details



Step(s)	Search criteria	# companies remaining	Explanation of the step
			<p>necessitates the use of screening criteria. Overall we consider it produces the most robust sample, particularly in this scenario where we do not undertake a review of the individual companies (i.e. where screening criteria are already required).</p> <p>Overall, this step should constitute a substantially complete search for 'distribution' companies.</p>
11 - 13	<p><b>Manufacturing activities</b> - Removed companies performing manufacturing activities using key word searches<sup>18</sup></p>	102,112	<p>This step excludes companies that say 'Manufacturing' in their main or secondary activity as well as rejected companies that show any of 1,452 key phrases in their broader database descriptions.</p> <p>The manufacturing activity categorisation has been made by BvD as part of their data augmentation hence, we can place some reliance on this categorisation. However, it only rejected c. 38k companies without using key word searches. Therefore, while it required a certain level of judgement / subjectivity to produce these key rejection phrases, we believe this approach produces a more robust sample compared to other approaches. For example if 'manufactur*' was used as a standalone rejection word, this significantly reduces the sample size however this approach would also reject comparable distributors (e.g. companies that distribute manufactured products).</p>
14	<p><b>Data sufficiency</b> - Must report EBIT margin % for at least 5 years of the 2011-2018 period</p>	78,713	<p>This step was performed outside of TPC as it considers the data sufficiency screen for both EBIT margin % and the 'measure' being considered (e.g. a company would have to report Revenue, EBIT and Working Capital for 5 out of 8 years when considering the relationship between EBIT Margin and Working Capital / Turnover).</p> <p>Companies which report less than 5 out of 8 years of data were rejected as:</p> <ul style="list-style-type: none"> <li>• Where data is not reported consistently, the data supplied may be unreliable;</li> <li>• To exclude start-up companies from the sample which are not operating on a stable basis; and</li> <li>• It enables the use of multiple year data thereby taking into account the cyclical nature of businesses.</li> </ul> <p>A judgement call was taken to determine 5 out of 8 years of data as the criteria, however, this broadly aligns to standard benchmarking practice for the majority of jurisdictions where 3 out of 5 years of data is required. 2019 was not included in this criteria as the vast majority of companies had not reported data yet for 2019.</p>

<sup>18</sup> See [Appendix B](#) for further details

Step(s)	Search criteria	# companies remaining	Explanation of the step
15	<b>US companies -</b> Additional search for US companies using alternate databases, and using the same search strategy above (to the extent possible <sup>19</sup> )	<b>79,508</b>	<p>As would be the case when choosing any individual database, there are certain drawbacks of using TPC such as coverage for certain key territories (e.g. US) and certain oddities in the underlying data (e.g. the number of listed companies in Korea). In order to overcome this, the search in TPC was augmented using additional databases (Capital IQ, Compustat and Refinitiv Fundamentals Global) to produce a more robust sample and with broader coverage.</p> <p>Our aim when performing the searches performed in the additional databases was to align the search strategies as much as possible with the search parameters included within the TPC deductive search. However, this was not possible for certain search steps, most notably in relation to the BvD Independence Indicator which is specific to BvD. In these instances, these search steps were not applied to the additional databases.</p>

### 3.4. Phase 2 search strategy

Once the Phase 1 search strategy is applied, we are left with a sample of 79,508 independent and dependent distributors. We then performed additional screening in a Tableau dashboard, such that we could analyse the effect of each of the screening criteria. The rationale behind each of the screening criteria is presented below.

**Table 3.2 - Phase 2 search strategy**

Step(s)	Search criteria	# companies remaining	Comments
16	<b>Independence indicator</b> - A+, A, A-, B+, B and B-	<b>26,919</b>	<p>This step excluded companies with an independence indicator of C or D (over 50% owned by a company or individual). This approach broadly aligns with the approach taken when performing benchmarking in the majority of jurisdictions. Some countries however require stricter independence criteria (e.g. less than 25% owned).</p> <p>To note that the additional US companies (795 companies) provided by step 15 did not report independence indicator, as this field is specific to BvD. As such, this step was not applied to the additional US companies.</p>
17	<b>Minimum revenue</b> - USD 0	<b>26,902</b>	<p>This step rejected companies with less than zero revenue in any individual year of the 2011 - 2019 period, which may indicate that the company was not a trading entity / operating under normal circumstances for part of the period under analysis.</p>

<sup>19</sup> There are key differences between TPC and the underlying data in the alternate databases (Capital IQ, Compustat and Refinitiv Fundamentals Global databases). These include the lack of certain data TPC points such as the 'BvD Independence indicator' which is proprietary to BvD tools or the date of incorporation along with a focus on public/listed companies in the alternative databases. To the extent that the strategies could be aligned i.e. using the same industry codes this was performed within the search engine of the alternate databases, thereafter the quantitative screens were performed outside the alternative databases to ensure consistency with the TPC search.

18	<b>Individual year Return on Sales ('ROS')</b> - must be between -100% and +100% over the 2011-2019 period	<b>26,229</b>	<p>This step excluded companies with greater than 100% ROS or less than -100% ROS in any individual year over the 2011-2019 period. If a company reports greater than 100% ROS or less than -100% ROS, it suggests that the company is either carrying out activities outside of normal 'distribution' activities or that the financial data is not reliable / representative of stable financials (e.g. including significant restructuring costs).</p>
19	<b>R&amp;D to turnover</b> - less than 1% <sup>20</sup>	<b>26,013</b>	<p>We rejected companies that reported more than a 1% R&amp;D to Turnover ratio in any individual year over the 2011 - 2019 period as this may suggest that the company is involved in a material level of R&amp;D and therefore would not be classified as a 'routine distributor'.</p> <p>Out of 79,508 companies, 5,004 reported an R&amp;D to Turnover ratio for at least a year and this ratio ranges from 0% - c. 8k% across the sample. We chose a 1% R&amp;D to Turnover ratio based on past experiences and also based on the distribution curve of R&amp;D to Turnover. On a standalone basis (i.e. applying the screen after step 15), using a 1% R&amp;D to Turnover screen rejects 357 companies with no effect on the interquartile range of ROS of the set of 79,508 companies.</p> <p>In the context of the wider search strategy, using a 1% R&amp;D to Turnover screen rejects 216 companies, bringing the total count of companies from <b>26,229</b> to <b>26,013</b>.</p>
20	<b>IP to fixed assets</b> - less than 5%	<b>16,511</b>	<p>We rejected companies that reported more than a 5% IP to Fixed Assets ratio in any individual year over the 2011 - 2019 period as this may suggest that the company has a material level of IP which they may utilise in their distribution operations.</p> <p>Out of 79,508 companies, 78,473 reported an IP to Fixed Assets ratio for at least a year and this ratio ranges from -79% - c. 8k% across the sample. We chose a 5% IP to Fixed Assets ratio based on past experiences and also based on the distribution curve of IP to Fixed Assets. On a standalone basis (i.e. applying the screen after step 15), using a 5% IP to Fixed Assets screen rejects 32,329 companies with no effect on the interquartile range of ROS of the set of 79,508 companies.</p> <p>In the context of the wider search strategy, using a 5% IP to Fixed Asset screen rejects 9,502 companies, bringing the total count of companies from <b>26,013</b> to <b>16,511</b>.</p>
21	<b>Fixed assets to turnover</b> - less than 10%	<b>11,272</b>	<p>We rejected companies that reported more than a 25% Fixed Assets to Turnover ratio in any individual year over the 2011 - 2019 period. This ratio is considered as a good indicator to assess the utilisation / contribution of fixed assets in the revenue generation process (e.g. significant store ownership). Companies with high investment in fixed assets may expect a return on that investment and assume additional risk which is not in line with what we would consider a 'routine distributor'.</p> <p>Out of 79,508 companies, 79,468 reported an Fixed Assets to</p>

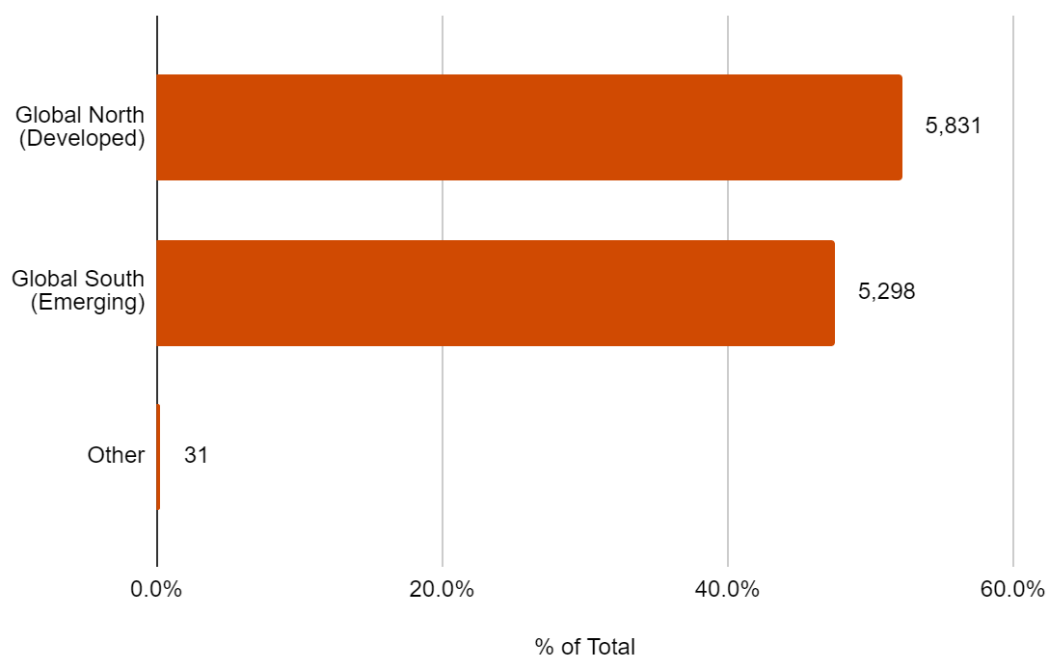
<sup>20</sup> See section 3.7. for an indication of what would happen to the number of companies and the range if we were to apply the 3% R&D to turnover threshold applied in the Pillar One - Amount B public consultation document

			<p>Turnover ratio for at least a year and this ratio ranges from 0% - c. 398m% across the sample. We chose a 25% Fixed Assets to Turnover ratio based on past experiences and also based on the distribution curve of Fixed Assets to Turnover. On a standalone basis (i.e. applying the screen after step 15), using a 25% to Fixed Assets to Turnover screen rejects 19,983 companies and reduces the IQR from 1.1% - 5.5% with a median of 2.7% to 1.1% - 4.9% with a median of 2.5% for the set of 79,508 companies.</p> <p>In the context of the wider search strategy, using a 25% Fixed Asset to Turnover screen rejects 5,239 companies, bringing the total count of companies from <b>16,511</b> to <b>11,272</b>.</p>
			<p>We performed a key word search on the wider business database description of companies and analysed which company's descriptions contained the words 'wholesale*' and 'retail*'</p> <p>We then rejected companies that contained only 'retail*', i.e. those which might be considered to perform standalone retail activities. This is on the basis that, in the majority of intragroup scenarios, a 'routine distributor' will primarily perform B2B transactions with little to no B2C transactions.</p> <p>On a standalone basis, this screen rejected 1,189 companies with no effect on the interquartile range of ROS of the set of 79,508 companies.</p> <p>In the context of the wider search strategy, using this screen rejected 112 companies, bringing the total count of companies from <b>11,272</b> to <b>11,160</b>.</p>
22	Wholesale vs retail	11,160	

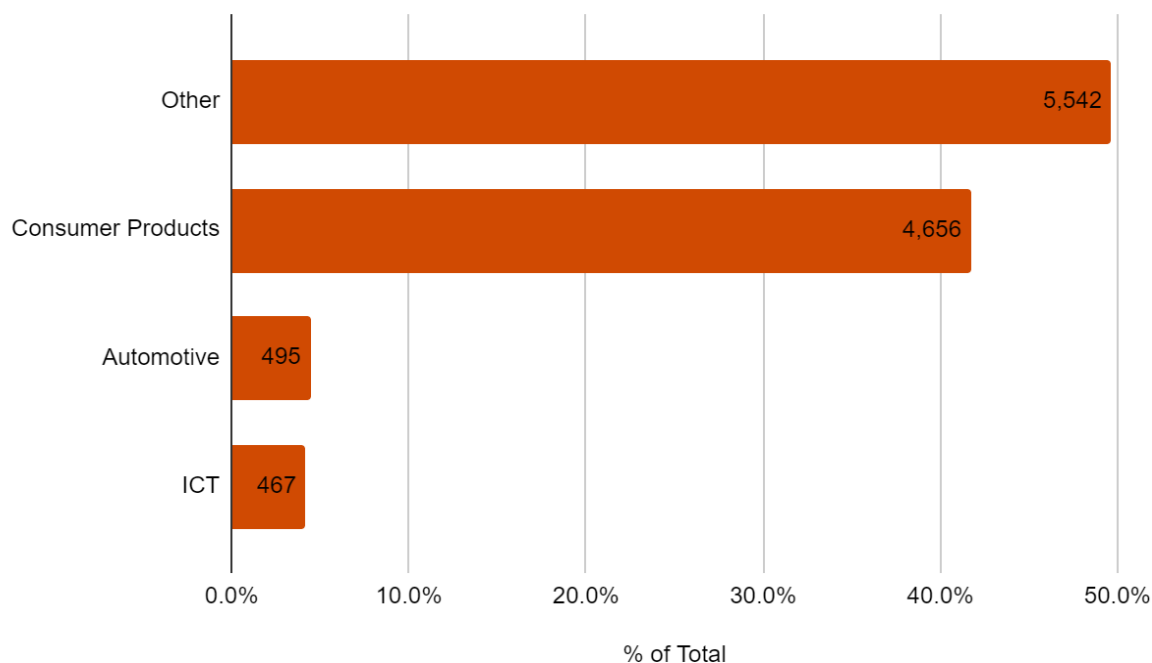
### 3.5. Coverage

The search process set out above results in the following coverage, by geography and by industry grouping.

**Figure 3.1 - Number of companies by geographic region<sup>21,22</sup>**



**Figure 3.2 - Number of companies by industry grouping<sup>23</sup>**



<sup>21</sup> Defined according to the UN M49, <https://unstats.un.org/unsd/methodology/m49/>, (accessed 3 January 2023). See section 4.1. for further details.

<sup>22</sup> The 'Other' classification includes a number of small island economies (Canary Islands, Ceuta, French Guiana, Martinique, Melilla and Reunion) which were not listed in the source for the classification of Global North and Global South

<sup>23</sup> The industry groupings have been formed at a high level based on NACE-4 code descriptions. See section 4.2. for further details.

Overall the search strategy provides a good level of coverage, although with some potential deficiencies (e.g. dominance of Consumer Products companies, as this industry group has significantly more NACE codes that were attributed to it).

### 3.6. Initial results

The table below presents the impact of the ROS IQR for each screen / step of the Phase 2 search strategy described above. These results are further analysed in section 4 below.

**Table 3.3 - Initial results**

Step	Description	# of companies remaining	2011-2019 ROS		
			Lower Quartile	Median	Upper Quartile
Phase 1 search strategy		79,508	1.1%	2.7%	5.4%
16	Independence indicator = A or B	26,919	1.2%	2.6%	5.2%
17	Minimum revenue ≥ 0	26,902	1.2%	2.6%	5.2%
18	Individual year ROS between -100% and 100%	26,229	1.2%	2.7%	5.2%
19	R&D to Turnover ≤ 1%	26,013	1.2%	2.7%	5.2%
20	IP to Fixed Assets ≤ 5%	16,511	1.2%	2.6%	5.2%
21	Fixed Assets to Turnover ≤ 25%	11,272	1.0%	2.3%	4.4%
22	Reject standalone retail	11,160	1.0%	2.2%	4.4%

### 3.7. Other potential search strategies

#### Amount B public consultation document search criteria

The Amount B public consultation document outlines the broad steps that were considered for the initial research of defining common benchmarking search criteria<sup>24</sup>. While it is not possible to exactly replicate these steps, most notably as we have not performed website reviews, the below adjustments to the Phase 2 search strategy aim to replicate as closely as possible the search criteria considered in the consultation document.

<sup>24</sup> OECD, Pillar One - Amount B Public Consultation Document, Annex A, Section 1

**Table 3.4 - Initial results (adjusted for Amount B consultation document search criteria)**

Step	Description	# of companies remaining	2011-2019 ROS		
			Lower Quartile	Median	Upper Quartile
Phase 1 search strategy		79,508	1.1%	2.7%	5.4%
16	Independence indicator = A or B	26,919	1.2%	2.6%	5.2%
17	Minimum revenue ≥ 0	26,902	1.2%	2.6%	5.2%
18	Individual year ROS between -100% and 100%	26,229	1.2%	2.7%	5.2%
19	R&D to Turnover ≤ 3% (changed from 1%)	26,069	1.2%	2.7%	5.2%
20	IP to Fixed Assets (not applied)	25,571	1.2%	2.7%	5.2%
21	Fixed Assets to Turnover (not applied)	25,571	1.2%	2.7%	5.2%
22	Reject standalone retail	25,571	1.2%	2.7%	5.2%

### Exclusion of loss making companies

Another area which is referenced in the Amount B public consultation document is around the exclusion of loss makers, which 'may be applied in later stages as the work develops'<sup>25</sup>. To show what the impact of such an adjustment would be, the table below summarises the impact of excluded loss making (on a weighted average basis) companies.

Step	Description	# of companies remaining	2011-2019 ROS		
			Lower Quartile	Median	Upper Quartile
Phase 1 search strategy		79,508	1.1%	2.7%	5.4%
16	Independence indicator = A or B	26,919	1.2%	2.6%	5.2%
17	Minimum revenue ≥ 0	26,902	1.2%	2.6%	5.2%
18	Individual year ROS between -100% and 100%	26,229	1.2%	2.7%	5.2%
19	R&D to Turnover ≤ 1%	26,013	1.2%	2.7%	5.2%
20	IP to Fixed Assets ≤ 5%	16,511	1.2%	2.6%	5.2%
21	Fixed Assets to Turnover ≤ 25%	11,272	1.0%	2.3%	4.4%
22	Reject standalone retail	11,160	1.0%	2.2%	4.4%
23	Reject weighted average loss makers (new)	10,456	1.2%	2.4%	4.6%

<sup>25</sup> OECD, Pillar One - Amount B Public Consultation Document, Annex A, Section 1

# 4. Search Results

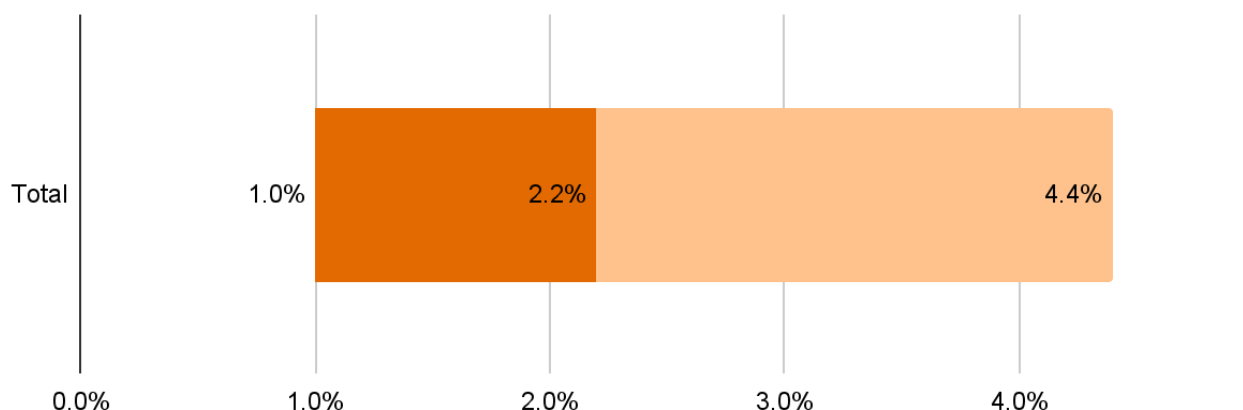
## 4.1. Overview of search results

As noted above, the overall rationale for the search was to capture a sample of wholesale distributors and marketing companies that do not recognise intangible assets or undertake significant research and development (R&D) expenditure. The final sample contains 11,160 companies.

The consolidated global (i.e. all geographies and all industries) interquartile return on sales result for the nine years spanning 2011 - 2019 is set out in figure 4.1 below. The results of our analysis are contained within a dynamic Tableau dashboard<sup>26</sup> which can be manipulated in real-time in order to examine the impacts of changing various screening criteria on the range of results generated.

Developing a fully transparent set, in which screening criteria could be adjusted in this way was one of the main objectives of the exercise. This report is a static document in which we have fixed the screening criteria at certain levels, however the live Tableau dashboard can be presented to interested parties as required.

**Figure 4.1 - Return on sales interquartile range**



These results are similar to those attained in the analysis performed for the EU JTPF for EU distributions in 2004, as updated in 2016.<sup>27</sup>

It should be emphasised that, while any taxpayer or tax authority might take a different view on the screening criteria applied<sup>28</sup>, there is nothing exceptional about this process. The companies in this sample carry inventory and bear the general risks expected of full-fledged distributors. Based on the Pillar 1 Blueprint, and on the OECD Transfer Pricing Guidelines, the general expectation would be that the returns earned by companies with “limited or no inventory” or “limited or no risk” would, on average, be lower than this. The headline results have not been adjusted for any potential differences in risk profile between a hypothetical

<sup>26</sup> See Appendix F for a selection of screenshots from the dashboard

<sup>27</sup> The EU JTPF studies comprehensively break down the EU result by territory and by NACE code. While the EUJTPF supports the use of pan-regional searches, it is not intended to suggest that they support pan-industry searches. The 2004 interquartile ROS result for distribution in Europe across all industries for the period 1999-2001 is 1% to 4% with a median of 2.3%.

<sup>28</sup> In particular, this set has not screened out companies that make a weighted-average loss over the period. The effect of screening out such companies is to uniformly move the range upwards by 0.2 %, such that the interquartile ROS result becomes 1.2% to 4.6% with a median of 2.4%. It should be noted that in general, there is no prohibition on the inclusion or exclusion of loss making comparables in the OECD Transfer Pricing Guidelines and indeed at arm's length distributors do make losses (as outlined in para 3.64 of the OECD Transfer Pricing Guidelines) The recently released guidance on the transfer pricing impact of the COVID-19 pandemic emphasises the fact that “even simple or low-risk functions may incur losses in the short run” (OECD, Guidance on the transfer pricing implications of the COVID-19 pandemic, para. 33)



limited risk distributor and the companies in the sample. We consider the appropriateness of comparability adjustments in section 4.4 below.

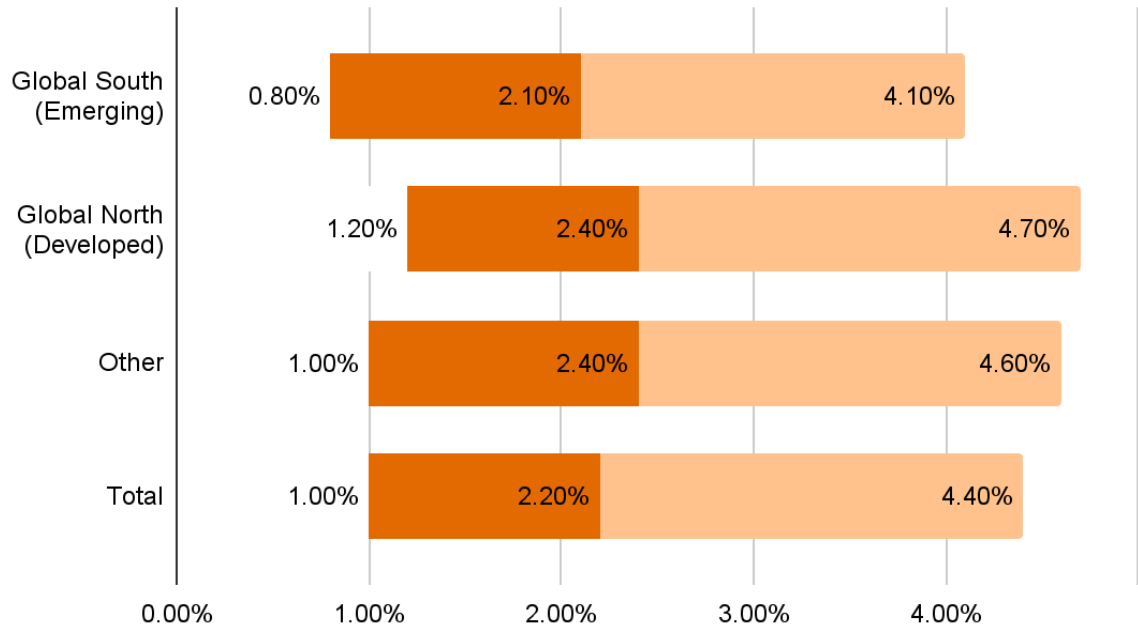
The sample can be interrogated in various ways, meaning that some of the questions posed by the Pillar 1 Blueprint can be addressed at a high level.

## 4.2. Analysis by geography

There is no commonly accepted way of breaking a global sample into meaningful geographic sub-segments. Some territories accept multi-territory samples where the economic characteristics of the territories in the sample are similar. Sometimes this might equate to grouping territories that are geographically adjacent. One way to segment the data is to follow the classification of territories with similar economic features into “Global North” and “Global South”.<sup>29</sup> These classifications take into account a number of factors including life expectancy, education indices and gross national income per capita, all of which are relevant when considering the economic circumstances of the jurisdictions (and thus the comparables) at hand<sup>30</sup>.

The returns for distribution and marketing functions are similar between the two regions as outlined in figure 4.2 below.

**Figure 4.2 - Return on sales interquartile range, breakdown by Global North and Global South**



It should be noted that the median result is essentially undifferentiated across the two regions, i.e. 2.1% for Global South and 2.4% for Global North.

## 4.3. Analysis by Industry

Based on our analysis, the results can also be broken down into industry categories. We chose to leverage the industry categories outlined in the Pillar 1 Blueprint<sup>31</sup>, namely consumer products, information

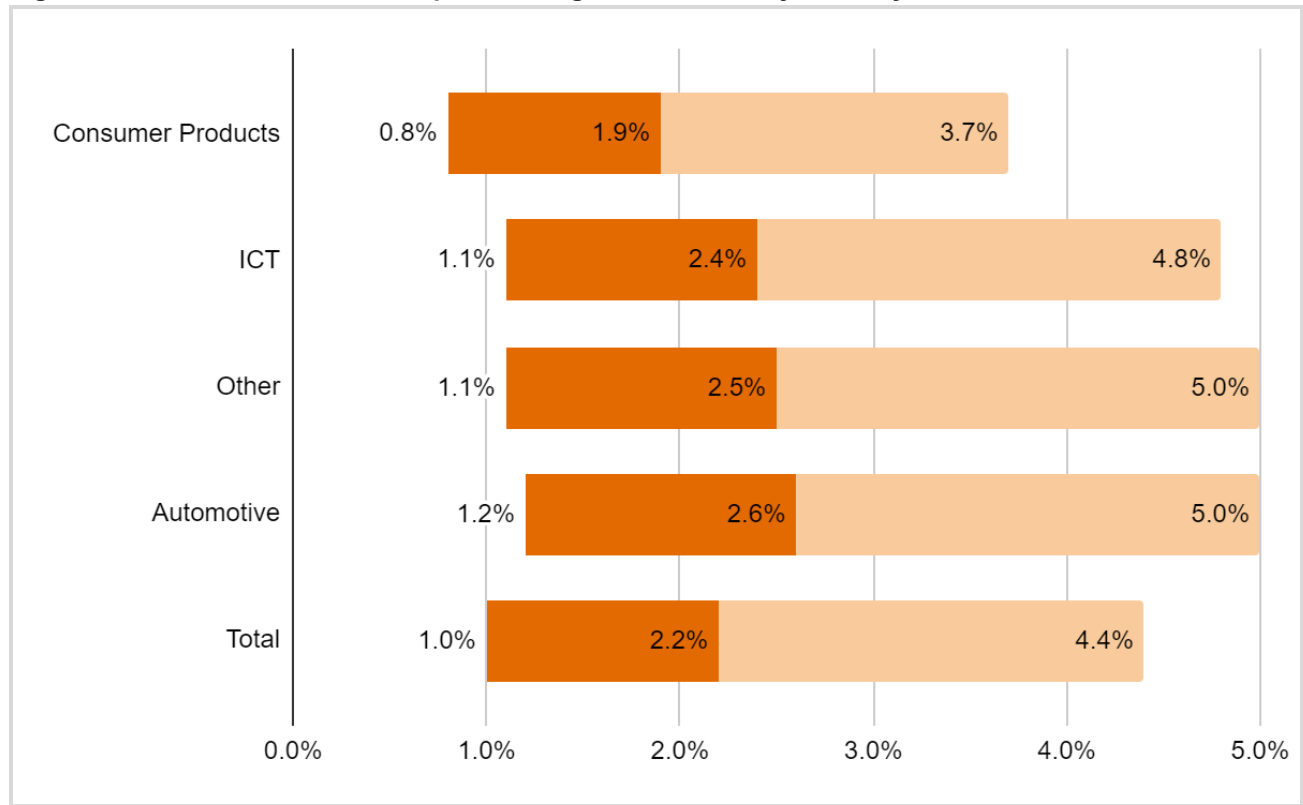
<sup>29</sup> Defined according to the UN M49, <https://unstats.un.org/unsd/methodology/m49/>, (accessed 3 January 2023). The M49 is a standard for area codes used by the United Nations for statistical purposes, developed and maintained by the United Nations Statistics Division. Based on the M49, countries are classified according to macro geographical regions and sub-regions, and selected economic and other groupings. For instance, Australia would be classified as Global North.

<sup>30</sup> OECD 2022 Transfer Pricing Guidelines, para. 1.130

<sup>31</sup> OECD, Pillar One Blueprint, para 691

communication technology (“ICT”) and automotive, along with a category of “other” industries which includes the pharmaceutical industry due to its relatively small sample size and other industries that did not fit into the categories outlined in the Blueprint. This result in the following outcomes:

**Figure 4.3 - Return on sales interquartile range, breakdown by industry**



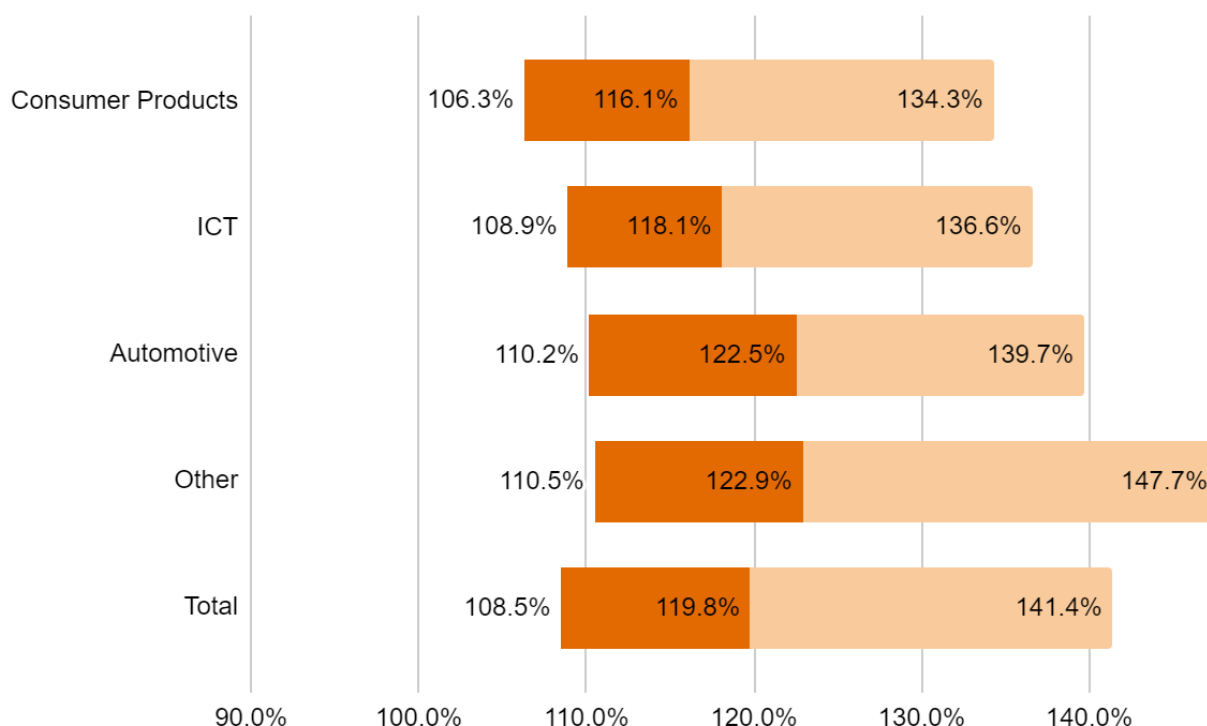
As outlined in section 3.5, the sample sizes for “consumer products” and “other” are substantially larger than for ICT and, in particular, for the automotive industry. The median results for the sectors analysed here are generally consistent. It should be emphasised that the industry groupings have been derived by a simple grouping of NACE and SIC codes, and that the more limited availability of comparables in the automotive industry often leads to alternative approaches being adopted to derive a reliable sample composition.

The Berry ratio results are also relatively undifferentiated across the industries, as shown below in figure 4.4, and while the ranges vary, at a high level these results suggest that it would be unusual for a marketing and distribution company without ‘unique and valuable’ characteristics to earn a profit result that is disproportionate to its operating expenditure.

This is in keeping with the commentary in the OECD Transfer Pricing Guidelines on situations where the Berry ratio might be appropriate. Amongst other things, these include situations in which “the value of the functions performed in the controlled transaction is proportional to operating expenses” and it is “not proportional to sales”.<sup>32</sup>

<sup>32</sup> OECD Transfer Pricing Guidelines (2022), para. 2.107

**Figure 4.4 - Berry ratio interquartile range, breakdown by industry**



In applying the Berry ratio, there are technical challenges in accurately isolating the costs, which should form the denominator both in the tested party and in the comparables. However, there are powerful arguments in favour of considering the Berry ratio as part of the solution to determine Amount B. The main argument in favour of the Berry ratio is that it accommodates variations in functional intensity in a way that the return on sales ratio does not. This position is particularly relevant in instances where a distribution or marketing company, which is the tested party, has not made any investment in inventory, and does not bear any associated risk. In such cases, the annual cost of performing the distribution or marketing function is often the only meaningful outlay for the tested party. In the situation where the cost base is low relative to the value of the products being sold, the application of a return on sales ratio can lead to a return on cost outcome that is disproportionately high.

In applying the Berry ratio, it is particularly important that the value of the functions being tested is proportional to the operating expenses which form the denominator<sup>33</sup>. Specifically, and most materially for a distributor meeting the baseline criteria for Amount B, any marketing expenditures incurred “for the account” of another business<sup>34</sup>, which are reimbursed as envisaged in the OECD Transfer Pricing Guidelines<sup>35</sup> would be excluded from the calculation of value added costs for the purpose of applying the Berry ratio<sup>36</sup>. This includes marketing expenses incurred by a distributor on behalf of another entity.

#### 4.4. Comparability adjustments

The global sample has been screened to exclude distribution and marketing companies with material levels of fixed assets, intangible assets and R&D expenditure. However, no inventory or working capital screens have been applied, and no working capital adjustments have been performed.

<sup>33</sup> Id.

<sup>34</sup> OECD, Pillar 1 Blueprint, para 677

<sup>35</sup> OECD Transfer Pricing Guidelines (2022), para. 6.77

<sup>36</sup> Id., para 6.76-6.78 and at Annex to Chapter 6, example 8-13 for a comprehensive analysis of the role of reimbursement

Many companies expected to fall within Amount B would have limited or no inventory and would have none of the risks associated with working capital. Relatively few independent distributors meet these criteria, and any meaningful screening would have resulted in significantly fewer territories and individual NACE codes being represented in the overall results.

Nevertheless, it is possible to consider the results of the companies with relatively lower levels of working capital to form a view of the impact that the absence of working capital ownership and associated risks might have on companies meeting the baseline definition of Amount B. Table 4.1 stratifies the global sample into quartiles, from lowest working capital levels to highest, shows the median value of working capital to turnover for each quartile and the impact on the range of results<sup>37</sup>.

**Table 4.1 - Stratification of return on sales results by working capital/turnover (%)**

Working capital / turnover percentile	ROS Lower Quartile	ROS Median	ROS Upper Quartile	Working capital / turnover median
0th - 25th	0.6%	1.4%	2.8%	1.2%
26th - 50th	1.0%	2.0%	3.7%	8.8%
51st - 75th	1.6%	2.9%	4.9%	17.5%
76th - 100th	2.1%	3.8%	6.7%	34.1%
<b>Total</b>	<b>1.2%</b>	<b>2.4%</b>	<b>4.6%</b>	<b>12.7%</b>

The median return on sales result for the lowest quartile, which owns negligible working capital, is 1.4%. Higher working capital levels are associated with a higher profitability of the distributor .

Most other variables show little or no association with the ROS, for instance, the absolute size of a distribution and marketing affiliate of an MNE relative to potential comparables is often cited as a reason for comparables to be rejected, or for the return on sales result to be positioned higher in the range, but, in fact, absolute size, measured by turnover shows little association with the return on sales.

**Table 4.2 - Stratification of return on sales results by turnover**

Turnover percentile	ROS Lower Quartile	ROS Median	ROS Upper Quartile	Turnover median
0th - 25th	1.0%	2.4%	4.8%	\$17.2 m
26th - 50th	1.1%	2.5%	4.9%	\$25.8 m
51st - 75th	1.1%	2.2%	4.2%	\$42.9 m
76th - 100th	0.9%	2.0%	3.8%	\$125.2 m
<b>Total</b>	<b>1.0%</b>	<b>2.2%</b>	<b>4.4%</b>	<b>\$32.6 m</b>

Stratifying samples in this way is straightforward. Nonetheless, stratification of smaller samples often leads to sub-groups with an insufficient number of observations when working with geographically limited or industry limited samples .

In practice, working capital adjustments represent the most common approach to adjusting the results of fully fledged entities in a typical comparables set so that they are more appropriate for application to a limited risk tested party. The rationale for making working capital adjustments is elaborated upon in the Annex to

<sup>37</sup> Similar analyses were also performed in respect of Inventory and/or Turnover and Inventory and/or Cost of Goods Sold (COGS), which showed similar results, i.e. had a similar impact on distributor profitability.

Chapter 3 of the OECD Transfer Pricing Guidelines, along with a worked example. At a basic level, these adjustments reflect the fact that there is an opportunity cost associated with holding working capital, and that entities that choose to hold more of it will only do so if they get a return at least equal to what they would earn by investing elsewhere. It is important to emphasise that, despite the ubiquity of adjustments of this nature, they do not really adjust for the entire risk of holding working capital, and, therefore, are likely to overstate the return to limited risk entities in many cases. The main argument in their favour is that they are directionally consistent with the idea that a limited risk entity should earn a lower return, and that, in most cases, reliable data is readily available to perform such adjustments.

# 5. System Profit Analysis

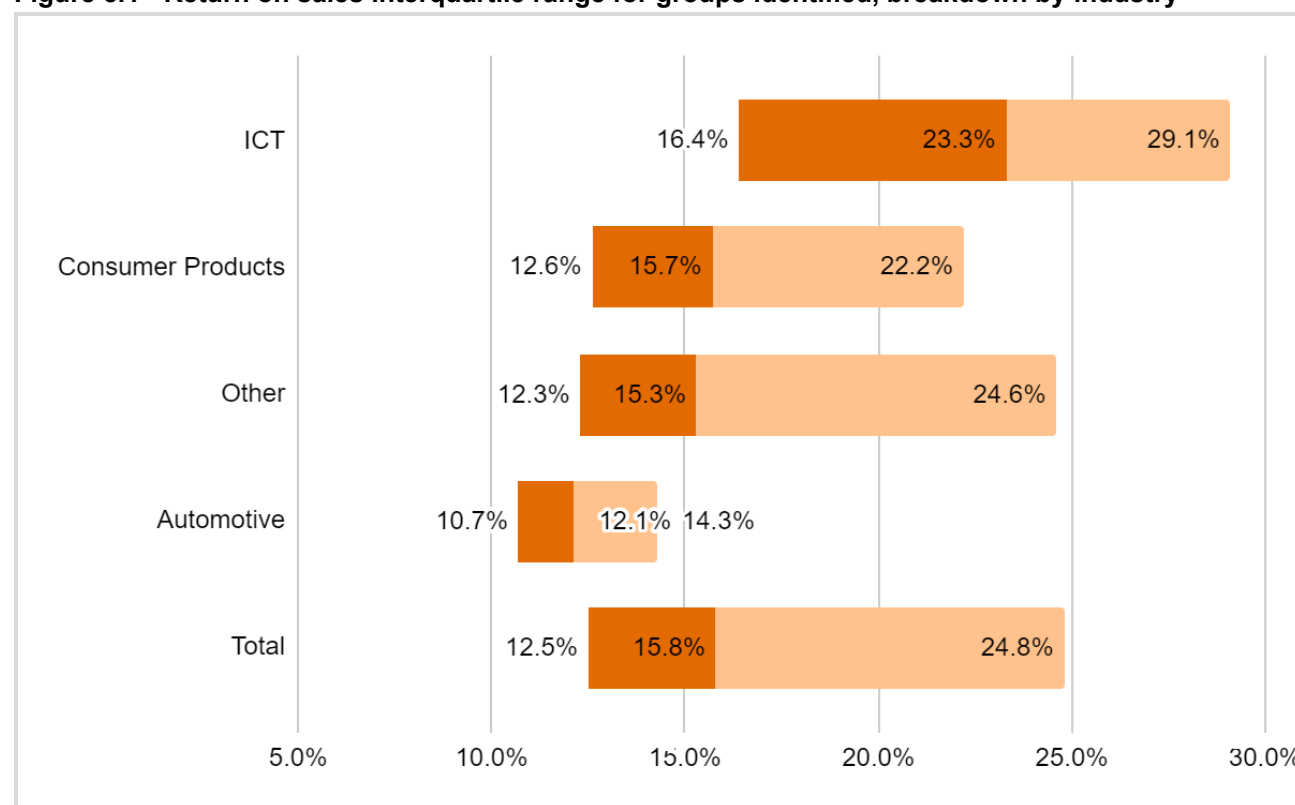
## 5.1. Overview of the system profit analysis

Amount A explicitly departs from the arm's length principle, but an unresolved question relates to whether there is expected to be any overarching justification for the percentages of system profit selected in that calculation, and whether and how a ceiling will be derived for allocation to market jurisdictions. The OECD work has moved on in this area, but the question still remains valid and for completeness we include here the results of the analysis which we undertook as part of the wider exercise.

Our objective was to provide an indication of the proportion of the system profit for companies potentially in-scope for Amount A that would represent the return to distribution and marketing functions. In this regard, a detailed search strategy is set out in [Appendix C](#) which looks to identify corporate entities classified as 'ultimate owners' and which meet the potential turnover and ROS thresholds for Amount A (i.e. above \$20bn and above 10% ROS respectively).

This search strategy resulted in a sample of 150 companies<sup>38</sup>, with the following consolidated ROS broken down by industry using the same NACE and SIC code categorization that was used for the industry categorisation in section 4.

**Figure 5.1 - Return on sales interquartile range for groups identified, breakdown by industry**

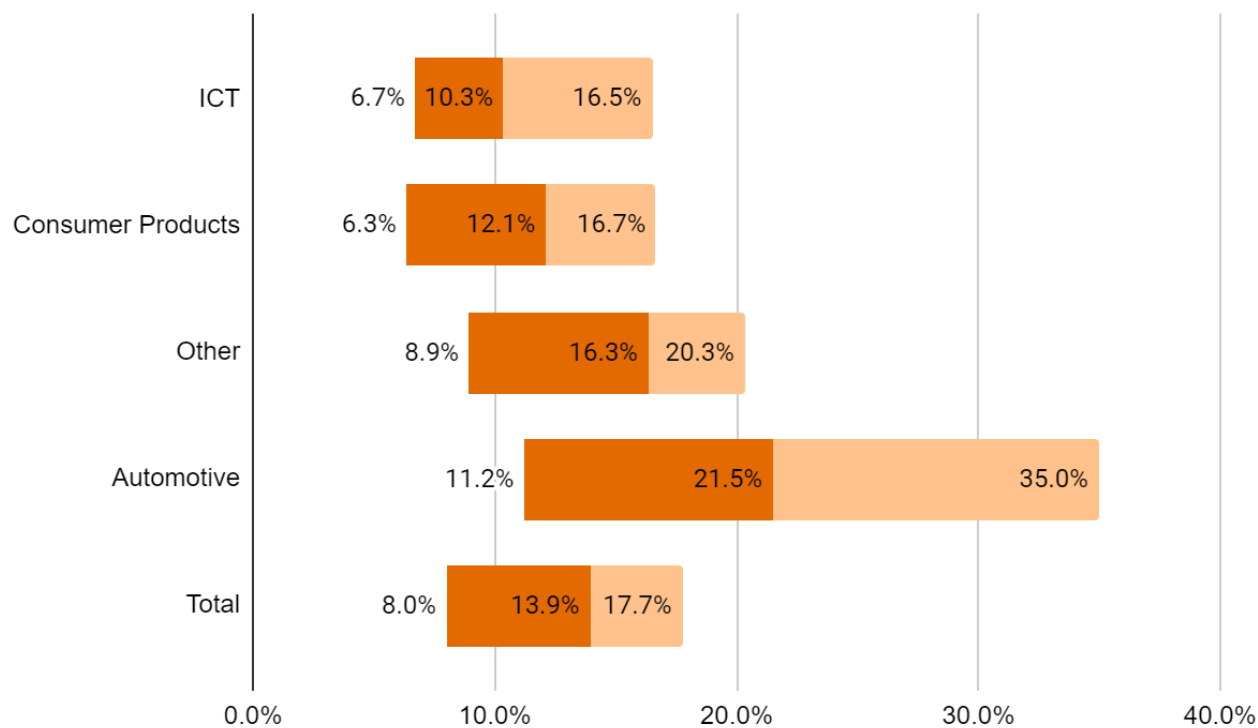


<sup>38</sup> The analysis does not exclude financial services or energy companies, which are included in 'Other', as the analysis was undertaken before these exclusions were confirmed following the release of the Pillar 1 Blueprint.

## 5.2. System profit analysis

When comparing<sup>39</sup> the ROS IQRs for the 150 companies in scope for Amount A (Figure 5.1) to the ROS IQRs for distributors (Figure 4.3), this results in the following proportion of system profit by industry.

**Figure 5.2 - Distribution ROS as a percentage of total system ROS, breakdown by industry**



When reviewing the results in aggregate, the profit earned by independent distributors represents between 8% - 18% of the system profit of companies potentially in-scope for Amount A. The automotive proportion is slightly higher given the generally lower system profit results observed in the automotive segment.

It is important to stress that these results are indicative views based on averages. The distribution returns earned by independent distributors are broadly consistent, whereas the results of the companies in scope for Amount A will, in practice, vary widely depending on a range of economic factors, including market position, intangible landscape and so on. Generally speaking, as system profit increases, the proportion of system profit represented by routine distribution activities will decrease.

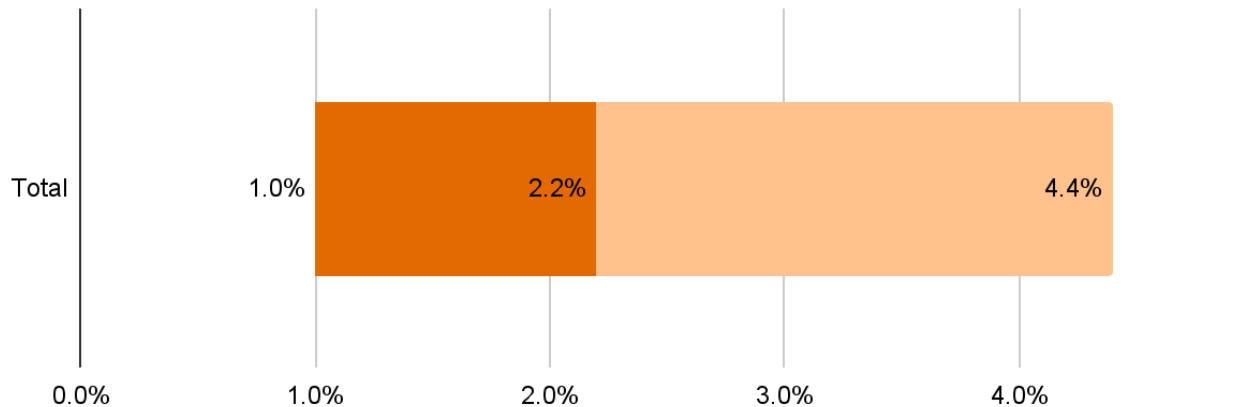
<sup>39</sup> Dividing the distribution ROS lower quartile by the group companies ROS lower quartile, and similar for the median and upper quartile

# 6. Conclusion

The global distribution search undertaken in the TPC, Capital IQ, Compustat and Refinitiv Fundamentals Global databases results in a set of 11,160 independent wholesale distributors and marketing companies.

The following graph represents the overall OPM IQR for the 11,160 distribution companies identified:

**Figure 6.1 - Return on sales interquartile range**



The key observations from these results are as follows:

- The interquartile global range of ROS results lies between 1.0 and 4.4%, with a median of 2.2%. As a broad generalisation, the median ROS observed, whether analysed by industry or geography, lies between 2% and 3%.
- The inter-quartile global range of Berry ratio results lies between 108.5% and 141.4% with a median of 119.8%. The median Berry ratio result, whether analysed by industry or geography, lies between 116.1% and 124.0%.
- We looked at a number of measurable variables which could potentially have an impact on the profitability of the companies in the sample. Of these, working capital as a percentage of turnover had the highest correlation coefficient. Other working-capital-derived measures, for example inventory as a percentage of turnover or working capital as a percentage of cost of goods showed slightly lower levels of correlation. Most other tested measures showed negligible explanatory value. The interquartile ROS results for the sub-set of companies with the lowest working capital values was 0.6% to 2.8% with a median of 1.4%.
- When comparing third party distribution returns to the average system profit results for companies potentially in scope for Amount A, the distribution returns represent between 8% and 18% of system profit. This is an indicative result in which the averaging has a material impact, and it should be noted that this will vary substantially based on the system profit of a given taxpayer.



# Appendix A - Database definitions

## Databases utilised

TPC is a global web-based database for arm's length benchmarking analysis, which is provided by Bureau van Dijk (BvD) and is a tailored subset of the Orbis Database specifically for transfer pricing. It contains information derived from annual returns on approximately 31.5 million public and private companies globally (Release 122 - May 2020).

The North American data has been supplemented using a combination of the Capital IQ, Compustat and Refinitiv databases. We used the September releases of these alternate databases to align with the latest information at the time the North American data was pulled.

The Capital IQ data-set within Xpressfeed contains more than 10 million public and private companies. More than 64,000 global public companies are covered, including 49,000 active and 15,000 inactive companies. CIQ collects data from publicly available sources, company contacts and other sources such as global prices, dividends, and shares-traded.

Compustat covers more than 99,000 standardised data global companies, including 52,000 active and 49,000 inactive companies.

Reuters Fundamentals database (Refinitiv) consists of financial and non-financial information on over 102,100 companies worldwide, being 68,800 active and 33,300 inactive companies, from 174 exchange markets in 160 countries, including 16,300 private companies.

## TPC size classification

Companies are categorised in the TPC database based on the following size criteria:

### Very Large Companies (VL)

Companies on TP Catalyst are considered to be "Very Large" when they have:

- operating revenue equal to at least €100 million;
- total assets equal to at least €200 million;
- number of employees equal to at least 1000 people; or
- listed.

### Large Companies (L)

Companies on TP Catalyst are considered to be "Large" when they have:

- operating revenue equal to at least €10 million;
- total assets equal to at least €20 million;
- number of employees equal to at least 150 people; or
- are not Very Large.

### Medium sized Companies (M)

Companies on TP Catalyst are considered to be "Medium" when they have:

- operating revenue equal to at least €1 million;
- total assets equal to at least €2 million;
- number of employees equal to at least 15 people; or
- are not Very Large or large.

Companies with ratios operating revenue per employee or total assets per employee below 100 EUR are excluded from VL, L and M categories.

## BvD Independence indicator

A company allocated an independence indicator “A” has no recorded shareholder with an ownership over 25%.

A company allocated an independence indicator “B” has no recorded shareholder with an ownership over 50%, but has one or more recorded shareholders with an ownership percentage over 25%.

A company allocated an independence indicator “C” has a recorded shareholder with a total or calculated total ownership over 50% (indirectly majority owned). A “C” company allocated an independence indicator “C+” has no recorded shareholder with a direct ownership over 50%.

A company allocated an independence indicator “D” has a recorded shareholder with a direct ownership over 50% (directly majority owned).

A company allocated an independence indicator “U” has an unknown degree of independence.

# Appendix B - Phase 1 search strategy

Step	Search criteria			Companies remaining after step
Performed in TP Catalyst (release 122 - May 2020)				
1	All companies in the scope of analysis		STEP 1	31,536,710
2	Size classification	Large, Medium, Very large	AND Step 2	5,707,008
3	BvD Independence indicator	A+, A, A-, B+, B, B-, C+, C, D	AND Step 3	3,603,534
4	Consolidation code	U1 (unconsolidated accounts with no consolidated companion)	AND NOT Step 4 and 5	3,055,893
5	Shareholders with subsidiaries by profile	owned between 50% and 100% or with an unknown %		
6	EBIT margin (%)	All companies with a known value, 2018, 2017, 2016, 2015, 2014, 2013, 2012, 2011, for at least 3 of the 8 selected periods, exclusion of companies with no recent financial data	AND Step 6	1,773,908
7	Operating revenue (Turnover) (m USD)	min=2, 2018, 2017, 2016, 2015, 2014, 2013, 2012, 2011, for at least Average of the 8 selected periods, exclusion of companies with no recent financial data	AND Step 7	1,019,563
8	Activity text search	Must have 'wholesale' using exact match (in Main activity)	AND STEP 8 or Step 9 or Step 10	258,805
9	NACE Rev. 2 (Primary codes only)	Various (see <a href="#">Appendix D</a> )		
10	US SIC (Primary codes only)	50 - Wholesale trade, durable goods, 51 - Wholesale trade, nondurable goods		
11	Activity text search	Must have 'Manufacturing' using exact match (in Main activity)	AND NOT Step 11 or Step 12	220,786
12	Activity text search	Must have 'Manufacturing' using exact match (in Secondary activity)		
13	Activity text search	Various (see <a href="#">Appendix E</a> )	AND NOT Step 13	102,112
Boolean search: 1 and 2 and 3 and not (4 and 5) and 6 and 7 and (8 or 9 or 10) and not (11 or 12) and not 13				

Performed in workflow analysis		
14	EBIT margin (%)	All companies with a known value over the 2011-2018 period for at least 5 of the 8 selected periods
		78,713
Performed in workflow analysis		
15	US companies	Additional search for US companies using alternate databases (Compustat), and using the same search strategy above (to the extent possible)
		79,508
Total Number of Records selected		79,508

# Appendix C - Search strategy for Group companies

Step	Search criteria	Companies remaining after step
<b>Performed in TP Catalyst (release 125 - August 2020)</b>		
1	All companies in the scope of analysis	32,387,251
2	<b>Status</b> - Active of Unknown situation	24,905,658
3	<b>Turnover</b> - Greater than or equal to EUR 750m for last available year	24,227
4	<b>Ultimate Owner</b> ('UO') - Company is a UO and not an individual	9,022
<b>Performed in workflow analysis</b>		
5	<b>Subsidiaries (individuals)</b> - Where Global Ultimate Owner ('GUO') is an individual, must not be a subsidiary of another UO	8,982
6	<b>Subsidiaries (non-individuals)</b> - Where GUO is not an individual, then GUO must equal OU	7,031
7	<b>Legal form</b> - Reject not for profit organisations, public authorities and companies with an unknown legal form	6,887
8	<b>Consolidation</b> - Reject companies only reporting unconsolidated accounts	6,359
9	<b>Status</b> - Active companies	6,358
10	<b>BvD Independence Indicator</b> - Reject companies with an unknown ('U') BvD independence criteria	6,121
11	<b>Data sufficiency</b> - Must report EBIT Margin % for at least 1 year of the 2011 - 2019 period	6,013
12	<b>Turnover</b> - Greater than or equal to EUR 750m for last available year when EBIT is also reported	6,008
<b>Performed in dashboard</b>		
13	<b>Turnover</b> - Greater than or equal to \$20bn for last available year where EBIT is also reported	434
14	<b>ROS</b> - Greater than or equal to 10% weighted average ROS over the 2011 - 2019 period	<b>150</b>

# Appendix D - NACE codes utilised

NACE codes	
4531 - Wholesale trade of motor vehicle parts and accessories	4643 - Wholesale of electrical household appliances
4540 - Sale, maintenance and repair of motorcycles and related parts and accessories	4644 - Wholesale of china and glassware and cleaning materials
4611 - Agents involved in the sale of agricultural raw materials, live animals, textile raw materials and semi-finished goods	4645 - Wholesale of perfume and cosmetics
4612 - Agents involved in the sale of fuels, ores, metals and industrial chemicals	4646 - Wholesale of pharmaceutical goods
4613 - Agents involved in the sale of timber and building materials	4647 - Wholesale of furniture, carpets and lighting equipment
4614 - Agents involved in the sale of machinery, industrial equipment, ships and aircraft	4648 - Wholesale of watches and jewellery
4615 - Agents involved in the sale of furniture, household goods, hardware and ironmongery	4649 - Wholesale of other household goods
4616 - Agents involved in the sale of textiles, clothing, fur, footwear and leather goods	4651 - Wholesale of computers, computer peripheral equipment and software
4617 - Agents involved in the sale of food, beverages and tobacco	4652 - Wholesale of electronic and telecommunications equipment and parts
4618 - Agents specialised in the sale of other particular products	4661 - Wholesale of agricultural machinery, equipment and supplies
4619 - Agents involved in the sale of a variety of goods	4662 - Wholesale of machine tools
4621 - Wholesale of grain, unmanufactured tobacco, seeds and animal feeds	4663 - Wholesale of mining, construction and civil engineering machinery
4622 - Wholesale of flowers and plants	4664 - Wholesale of machinery for the textile industry and of sewing and knitting machines
4623 - Wholesale of live animals	4665 - Wholesale of office furniture
4624 - Wholesale of hides, skins and leather	4666 - Wholesale of other office machinery and equipment
4631 - Wholesale of fruit and vegetables	4669 - Wholesale of other machinery and equipment
4632 - Wholesale of meat and meat products	4671 - Wholesale of solid, liquid and gaseous fuels and related products
4633 - Wholesale of dairy products, eggs and edible oils and fats	4672 - Wholesale of metals and metal ores
4634 - Wholesale of beverages, 4635 - Wholesale of tobacco products	4673 - Wholesale of wood, construction materials and sanitary equipment
4636 - Wholesale of sugar and chocolate and sugar confectionery	4674 - Wholesale of hardware, plumbing and heating equipment and supplies
4637 - Wholesale of coffee, tea, cocoa and spices	4675 - Wholesale of chemical products
4638 - Wholesale of other food, including fish, crustaceans and molluscs	4676 - Wholesale of other intermediate products
4639 - Non-specialised wholesale of food, beverages and tobacco	4677 - Wholesale of waste and scrap
4641 - Wholesale of textiles	5913 - Motion picture, video and television programme distribution activities
4642 - Wholesale of clothing and footwear	

# Appendix E - Rejection phrases utilised

Throughout the search strategy our rationale was designed to ensure that the search could be replicated by another independent party using the same search strategy. Whilst aiming for a set of comparable companies, where practicable, we wanted to limit subjectivity and enable replication and reperformance.

In the databases we used even where the deductive search steps are focussed on the scale and scope of comparables that are desired for the purposes of a transfer pricing assessment, companies with non comparable features, characteristics and financial positions will often remain.

This is predominantly due to imperfect information being presented by companies to their relevant company registrar in their local jurisdiction, which is then replicated in the relevant proprietary databases.

In a standard search, using TPC or the alternate databases, the next stage after the deductive search within the database would involve significant resource reviewing the data points from the relevant database, reviewing the published financial information and/or the publicly available information for the relevant companies (i.e. websites, public announcements etc.) to ascertain if the relevant company was comparable to the tested party. This is a time consuming and ultimately subjective exercise which goes firmly against the rationale and objective of our search strategy which was aimed at enabling replication and reperformance.

To continue to enable replication and reperformance and at the same time remove the distortions caused by non comparable companies, we sought to remove companies that had phrases (rather than words, an important distinction because phrases are more targeted) that if reviewed in isolation by a TP professional would lead the person to objectively consider that the company was likely to be non comparable to a distributor.

The selection of these phrases required a certain level of judgement / subjectivity to produce the rejection phrases, however the objective was that it maintained transparency and enabled replication and reperformance whilst removing the distortions caused by companies that pass the other deductive steps but are non comparable.

As an example of the types of phrases used and our rationale, please see a selection of rejection phrases used in this search with the rationale for their inclusion:

Rejection phrase	Rationale for inclusion in deductive search
A full-service printing firm	A printing firm is not a distributor
A group engaged in animal feed manufacturers	Manufacturers are non comparable to distributors
A group engaged in manufacturing services and sales of dies and roll shells for the compound feed industry and bio mass pelleting industry	Manufacturers are non comparable to distributors
A group engaged in the manufacture and sale of agricultural and fine chemicals	Manufacturers are non comparable to distributors
A group engaged in the manufacture of	Manufacturers are non comparable to distributors

As explained above, these phrases were present in the set after our deductive steps as we were producing the deductive search despite the fact that we set our parameters to capture distributors and not

manufacturing companies or printing firms. As such, by incorporating them we aimed to remove companies that based upon the evidence in the database appeared to be non comparable.

We note it would be preferable to review every potential company and their relevant financial, publicly available data etc. in detail. This approach suffers from the key issue that it will always involve a significant amount of effort and / or results in significant subjectivity built into the process which prevents replication by independent parties. As such, whilst using rejection phrases is not an approach we would advocate for in every search, given our use of objective rejection phrases this led to a set which included companies that, on the balance of the information included in the databases, appeared to be distributors.

The rejection phrases included within the search are included within the attached document entitled 'Appendix E - Rejection phrases utilised'.



# Appendix F - Dashboard functionality

In order to demonstrate some of the functionality within the Tableau dashboard, a selection of screenshots from the dashboard are included within the attached document entitled 'Appendix F - Dashboard functionality'.

This document has been prepared only for Procter and Gamble U.S. Business Services Company and solely for the purpose and on the terms agreed with Procter and Gamble U.S. Business Services Company. We accept no liability (including for negligence) to anyone else in connection with this document, and it may not be provided to anyone else.

© 2022 PricewaterhouseCoopers LLP. All rights reserved. 'PwC' refers to the UK member firm, and may sometimes refer to the PwC network. Each member firm is a separate legal entity. Please see [www.pwc.com/structure](http://www.pwc.com/structure) for further details.



# Transfer Pricing Analysis of Arm's Length Returns to Sales, Marketing & Distribution Activities

February 2020



# Table of Contents

Topic	Page Number
Introduction and Background	3
Executive Summary of Findings	4
Selected Companies by Industry	5
Selected Companies by Region	6
Limited Risk Sales, Marketing & Distribution Comparables	7-12
Value-Added Sales, Marketing & Distribution Comparables	13-19
Appendix A	20-22
Appendix B	23-31
Appendix C	32-48
Appendix D	49-61

# Introduction and Background

- KPMG was commissioned by Microsoft to prepare a fact-based economic analysis using comparables data of the arm's length returns to sales, marketing and distribution.
- Our analysis has two main data inputs:
  1. **Comparables.** KPMG used actual financial results reported by independent sales, marketing and distribution businesses sourced from the database it uses to develop comparable sets to establish and test transfer prices by region and industry. From this data, we identified 4,285 independent comparable sets used to benchmark routine distributors and 1,583 comparable sets used to benchmark value-added distributors (defined below).
  2. **Public Company Data.** KPMG also pulled public company financial data for large multinational companies in a variety of geographies and industries.
- Our analysis shows that arm's length returns to sales, marketing and distribution functions are very consistent across geographies and industries and do not increase as industry profitability increases.

1) Value-added distributors perform additional services beyond basic distribution functions. These services can include services such as installation, integration, marketing, customer support, etc.

2) Routine distributors or low-risk distributors perform routine sales, marketing and distribution functions.

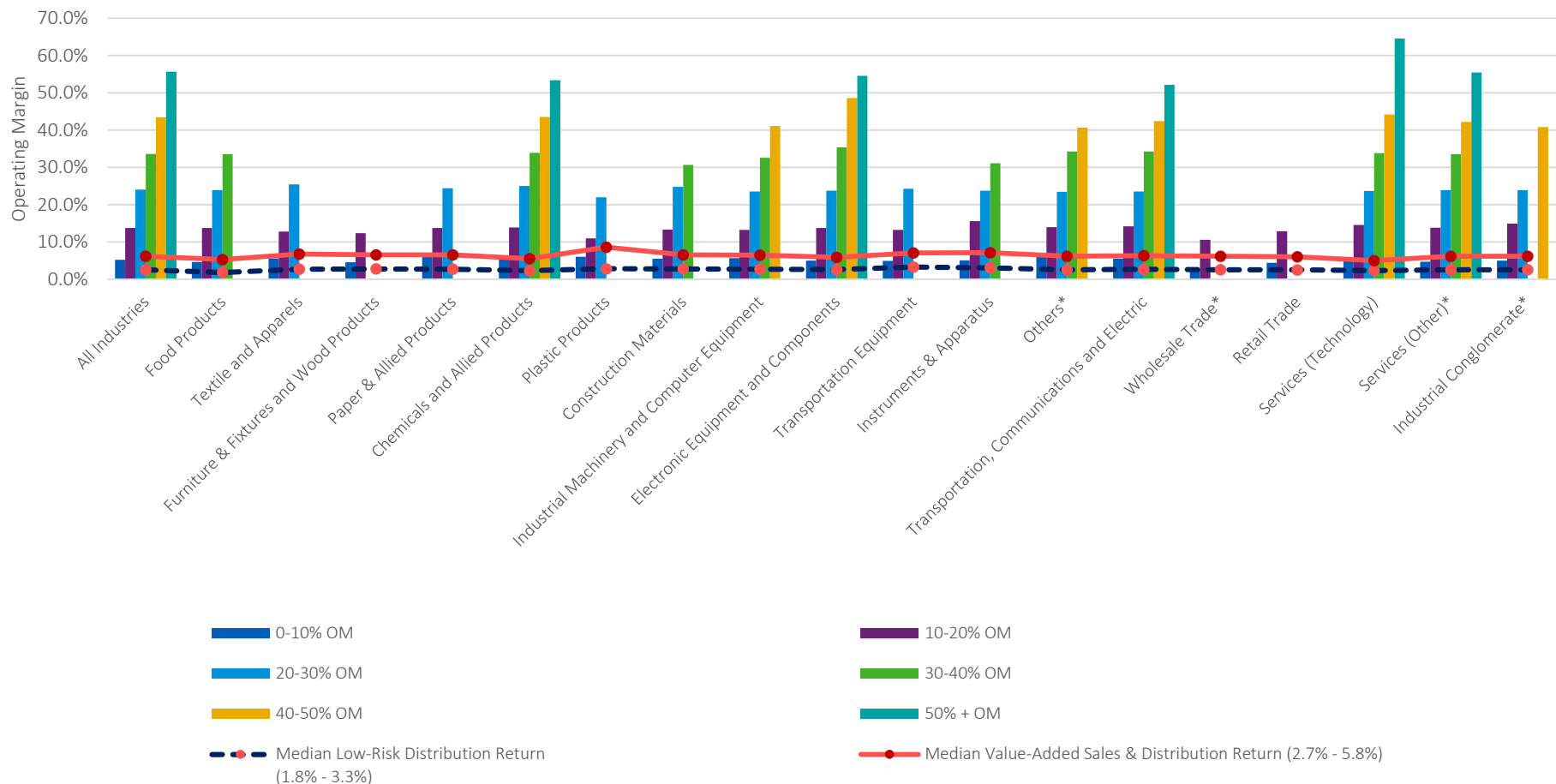
3) Limited risk distributors are low-risk distributors that are insulated from some of the typical risks an independent distributor would face, such as inventory or receivables risk. LRD risk is managed by implementing transfer pricing policy that explicitly limits the risks of these entities.

# Executive Summary of Findings

- There is a fairly narrow range in the median return to independent sales, marketing and distribution businesses across industries and geographies as indicated by the comparables for both value-added and limited risk distributors.
- The difference of the median return to sales, marketing and distribution between value-added and routine distributors is approximately 0.4%. Applying the standard transfer pricing adjustment to remove the return to working capital risk results in an additional difference of 0.6% (for a total of ~1%) in median return to value-added and limited risk distributors.
- There is considerably more variability in the average operating margin of the public companies across industries than variability in the independent sales, marketing and distribution comparables across industries.
- Since the returns to sales, marketing and distribution are relatively stable, they decrease as a share of system profits in highly profitable companies.
- Median returns to sales, marketing and distribution do not increase as the average profitability of the industry segment increases.

# Comparison of Operating Margins by Industry

Operating Margin By Industry Summary\*\*



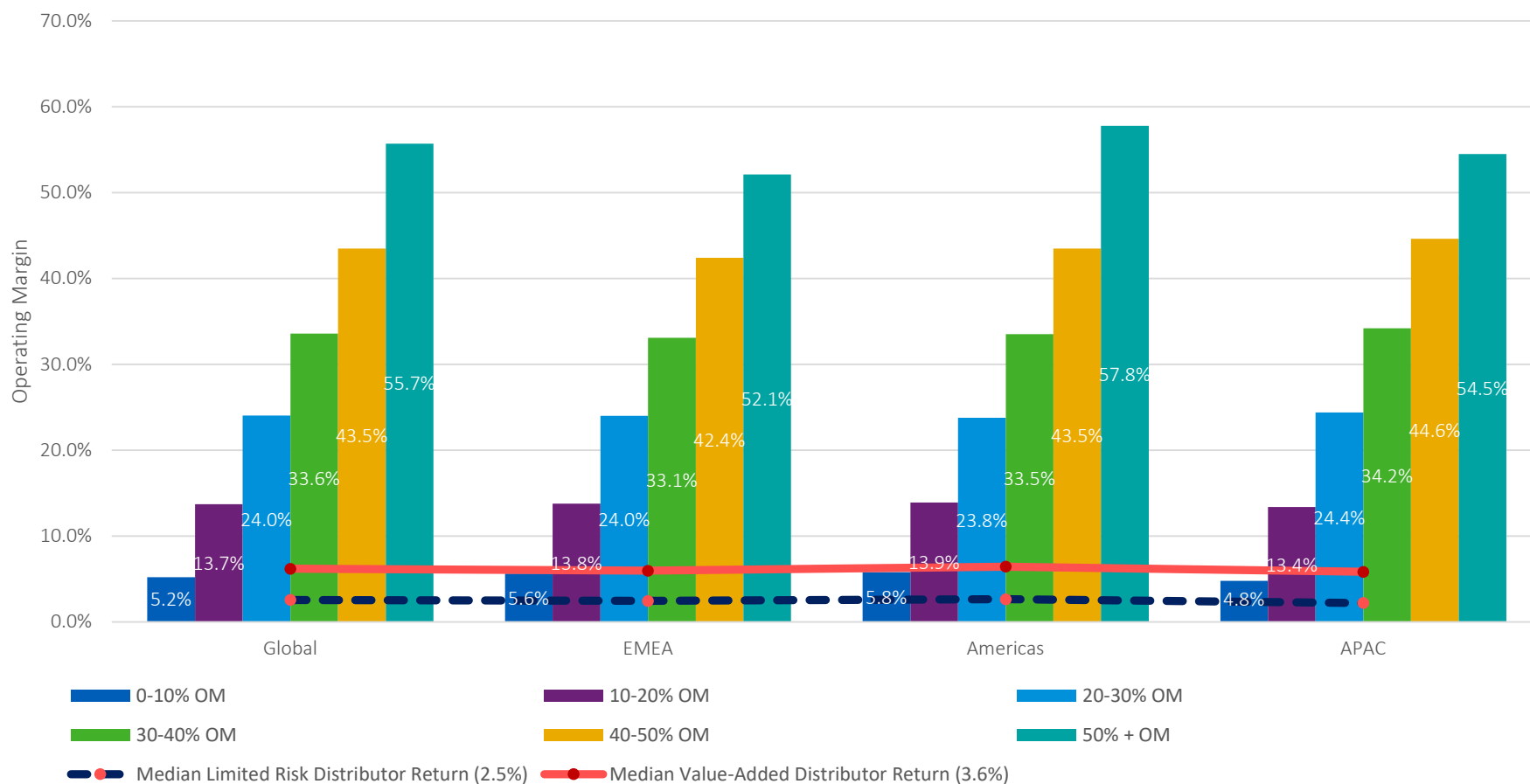
\* KPMG used the overall comparable set data for these industries since it was not possible to identify comparable sets specific to these industries.

\*\* Percentages relate to the average OM for companies in each tranche of profitability and do not reflect the number of companies in each tranche.



# Comparison of Operating Margins by Region

Operating Margin By Region







# Limited Risk Sales, Marketing & Distribution Comparables

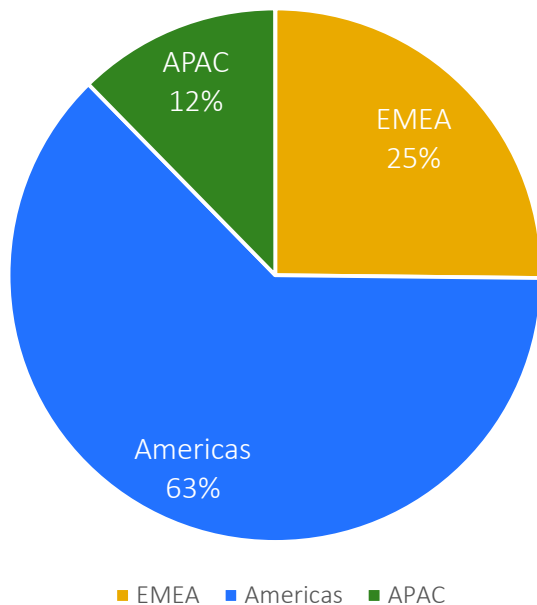
# Limited Risk Sales, Marketing & Distribution Comparable Sets

- KPMG relied on KLTP, KPMG’s internal use web-based transfer pricing software, to perform the comparable company analyses used in this analysis. KLTP, in turn, use data from a variety of 3<sup>rd</sup> party databases, including Compustat, Amadeus, and Orbis. From KLTP we extracted comparable searches for ‘low-risk sales, marketing & distribution companies’ used by KPMG to benchmark the arm’s length return to sales, marketing, and distribution in a variety of geographies and industries over the past two years. We used the following criteria to further screen the comparables data:
  1. Number of accepted comps is between 5 and 50
  2. The median result of the set was between 0 and 10 percent
  3. The comparable set function tag indicates low risk sales, marketing & distribution functions
- This returned data for 4,285 comparable searches.
- Additionally, KPMG evaluated it’s internal North America distribution set<sup>1</sup> and the impact of adjusting working capital to cash in order to make the returns more in line with a ‘limited risk sales, marketing & distribution company’. The resulting adjustment of 0.6 percent was applied uniformly across all sets.

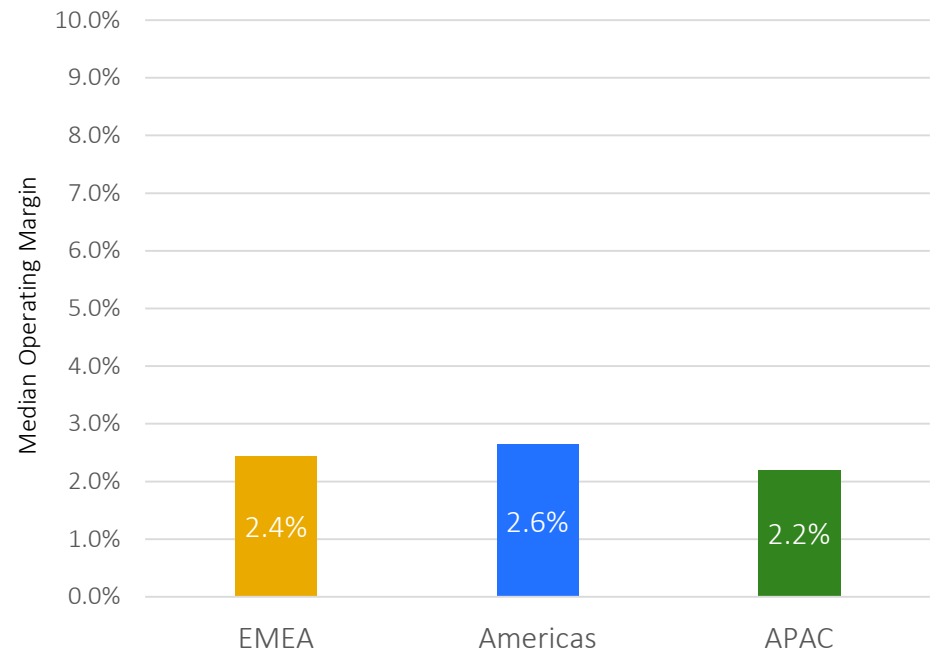
1 This is a standard “master set” prepared by KPMG for NA distribution benchmarking.

# Operating Margin of Limited Risk Sales, Marketing & Distribution Comparable Sets by Region

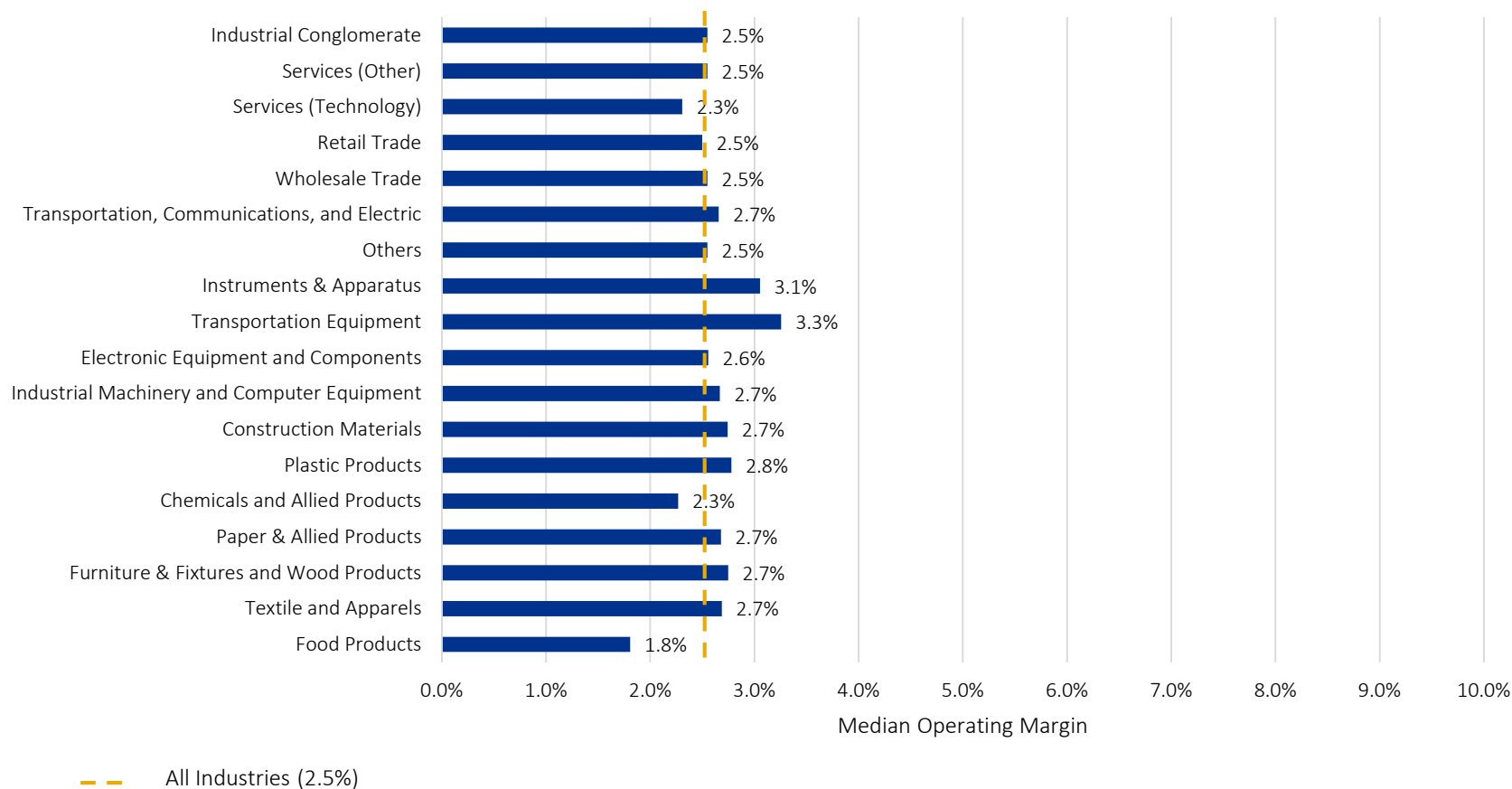
Classification of Limited Risk Sales, Marketing & Distribution Comparable Sets by Region



Operating Margin of Limited Risk Sales, Marketing & Distribution Comparables by Region



# Operating Margin of Limited Risk Sales, Marketing & Distribution Comparable Sets by Industry



# Limited Risk Industry and Region Data

Indication Percentile by Industry						
Industry	Minimum <sup>1</sup>	25th Percentile <sup>1</sup>	50th Percentile <sup>1</sup>	75th Percentile <sup>1</sup>	Maximum <sup>1</sup>	Count of Comp Sets <sup>2</sup>
All Industries	0.1%	1.3%	2.5%	4.3%	8.0%	4,285
Food Products	0.2%	1.1%	1.8%	3.5%	6.8%	446
Textile and Apparels	-0.2%	1.4%	2.7%	4.7%	9.2%	267
Furniture & Fixtures and Wood Products	-0.1%	1.2%	2.7%	4.7%	7.9%	315
Paper & Allied Products	0.2%	1.2%	2.7%	4.4%	7.4%	151
Chemicals and Allied Products	0.2%	1.2%	2.3%	4.6%	8.4%	888
Plastic Products	0.4%	1.3%	2.8%	4.6%	7.2%	80
Construction Materials	-0.1%	1.2%	2.7%	4.6%	8.0%	242
Industrial Machinery and Computer Equipment	0.1%	1.4%	2.7%	4.3%	7.5%	1,370
Electronic Equipment and Components	0.0%	1.3%	2.6%	4.0%	7.4%	1,164
Transportation Equipment	0.3%	1.5%	3.3%	5.0%	8.2%	448
Instruments & Apparatus	0.3%	1.4%	3.1%	5.1%	9.8%	662
Others <sup>4</sup>	0.1%	1.3%	2.5%	4.3%	8.0%	4,285
Transportation, Communications and Electric	0.1%	1.4%	2.7%	4.2%	7.4%	808
Wholesale Trade <sup>4</sup>	0.1%	1.3%	2.5%	4.3%	8.0%	4,285
Retail Trade	0.1%	1.2%	2.5%	4.2%	7.7%	3,970
Services (Technology)	0.4%	1.3%	2.3%	3.4%	5.7%	259
Services (Other) <sup>4</sup>	0.1%	1.3%	2.5%	4.3%	8.0%	4,285
Industrial Conglomerate <sup>4</sup>	0.1%	1.3%	2.5%	4.3%	8.0%	4,285

Indication Percentile by Geography						
Geography	Minimum <sup>1</sup>	25th Percentile <sup>1</sup>	50th Percentile <sup>1</sup>	75th Percentile <sup>1</sup>	Maximum <sup>1</sup>	Count of Comp Sets <sup>2</sup>
Global <sup>3</sup>	0.1%	1.3%	2.5%	4.3%	8.0%	4,285
EMEA	-0.2%	1.2%	2.4%	4.4%	9.6%	1,280
Americas	0.3%	1.3%	2.6%	4.2%	7.5%	3,180
APAC	0.0%	0.9%	2.2%	3.9%	8.1%	627

<sup>1</sup> Represents the median observations of the minimum, 25<sup>th</sup> percentile, 50<sup>th</sup> percentile, 75<sup>th</sup> percentile and maximum for the comp sets.

<sup>2</sup> Represents the number of comparable sets applicable for each industry.

<sup>3</sup> The global total is less than the sum of the regions because some sets are included in more than one region.

<sup>4</sup> KPMG used the overall comparable set data for these industries since it was not possible to identify comparable sets specific to these industries.



# Limited Risk Company Data Summary

Industry	Total Number of Sets	Compustat Company Counts				Amadeus Company Counts			
		Total Companies	Unique Companies	# Appeared More than 20 Times	# Appeared Less than 5 Times	Total Companies	Unique Companies	# Appeared More than 20 Times	# Appeared Less than 5 Times
All Industries	4,285	39,828	2,682	239	1,884	30,646	14,782	88	13,617
Food Products	446	2,973	366	21	262	1,639	1,049	-	1,015
Textile and Apparels	267	2,101	331	36	237	1,868	685	1	566
Furniture & Fixtures and Wood Products	315	2,724	400	34	309	713	372	-	348
Paper & Allied Products	151	1,112	224	6	154	458	250	-	240
Chemicals and Allied Products	888	5,773	625	60	446	6,428	1,598	38	1,204
Plastic Products	80	668	136	-	87	188	115	-	115
Construction Materials	242	2,123	295	28	218	599	275	-	252
Industrial Machinery and Computer Equipment	1,370	12,175	1,179	98	827	12,151	5,280	16	4,847
Electronic Equipment and Components	1,164	10,730	1,111	84	809	10,341	3,959	14	3,552
Transportation Equipment	448	4,209	920	35	770	1,524	601	-	499
Instruments & Apparatus	662	4,559	546	54	361	5,442	3,486	4	3,344
Others	4,285	39,828	2,682	239	1,884	30,646	14,782	88	13,617
Transportation, Communications and Electric	808	6,377	931	52	742	9,489	3,726	8	3,369
Wholesale Trade	4,285	39,828	2,682	239	1,884	30,646	14,782	88	13,617
Retail Trade	3,970	37,167	2,591	232	1,823	23,253	8,401	84	7,310
Services (Technology)	259	2,331	202	19	125	663	341	-	320
Services (Other)	4,285	39,828	2,682	239	1,884	30,646	14,782	88	13,617
Industrial Conglomerate	4,285	39,828	2,682	239	1,884	30,646	14,782	88	13,617



# Value-Added Sales, Marketing & Distribution Comparables

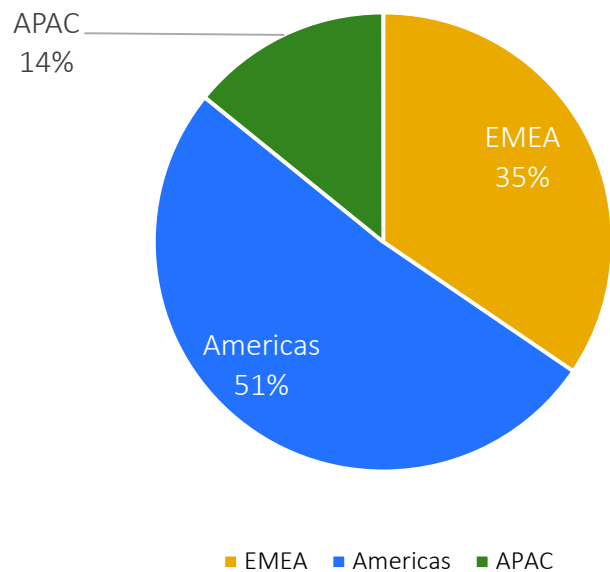
# Value-added Sales, Marketing & Distribution Comparable Sets

- KPMG relied on KLTP, KPMG's internal use web-based transfer pricing software, to perform the comparable company analyses used in this analysis. KLTP, in turn, use data from a variety of 3<sup>rd</sup> party databases, including Compustat, Amadeus, and Orbis. From KLTP we extracted comparable searches for value-added Sales, Marketing & Distribution companies used by KPMG to benchmark the arm's length return to sales, marketing, and distribution in a variety of geographies and industries over the past two years. We used the following criteria to further screen the comparables data:
  1. Number of accepted comps is between 5 and 50
  2. The median result of the set was between 0 and 10 percent
  3. The comparable set function tag indicates value-added functions
- This returned data for 1,583 comparable searches.

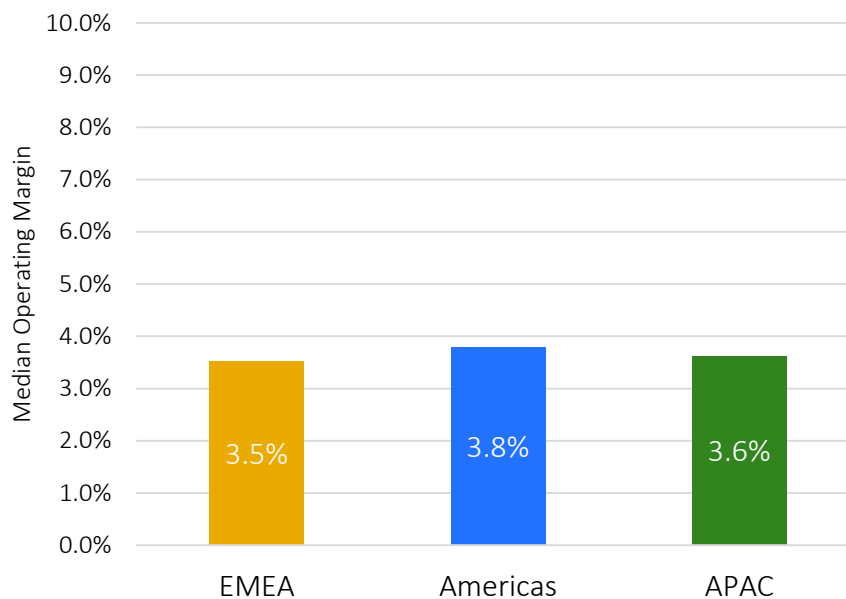


# Operating Margin of Value-added Sales, Marketing & Distribution Comparable Sets by Region

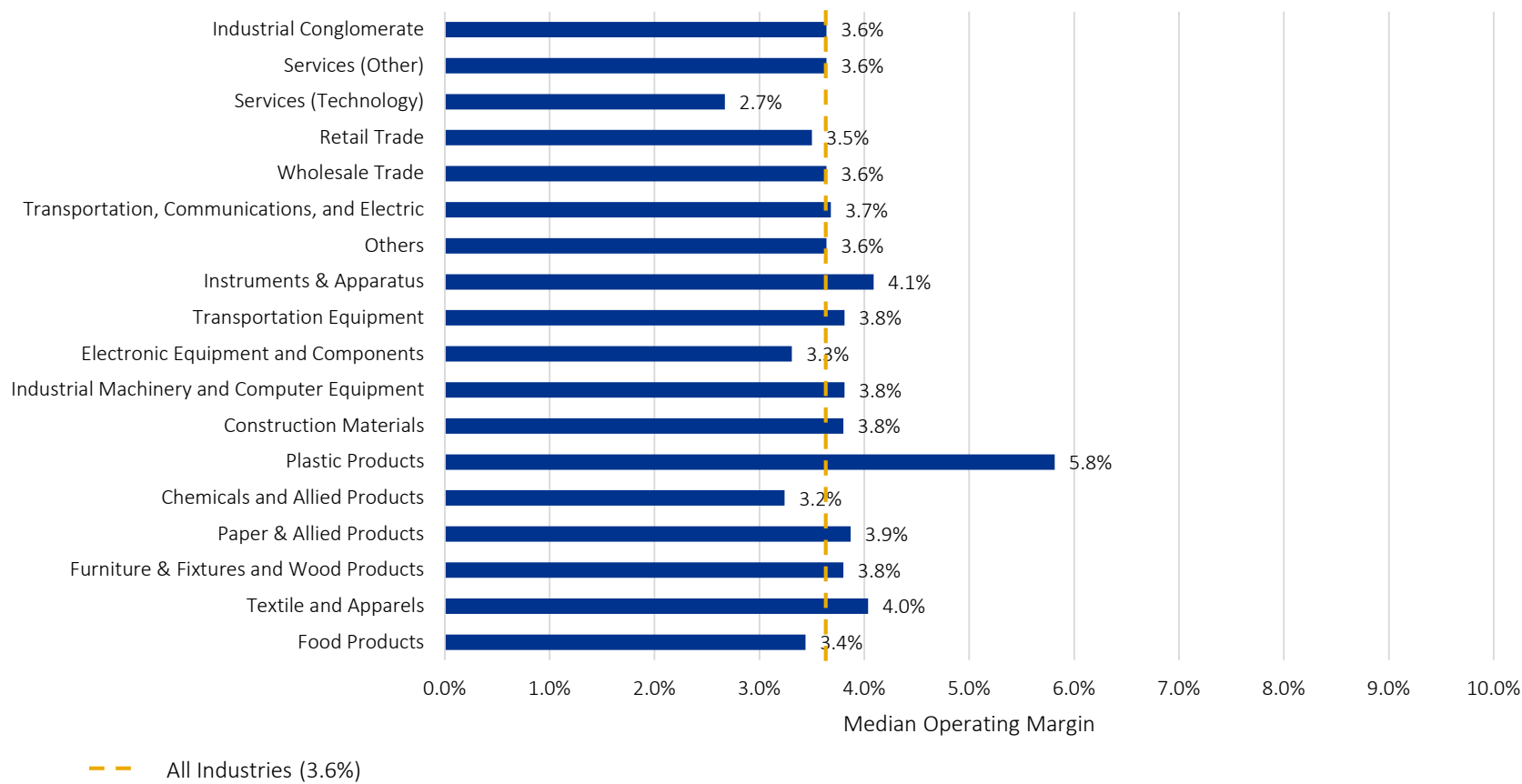
Classification of Value-added Sales, Marketing & Distribution Comparable Sets by Region



Operating Margin of Value-added Sales, Marketing & Distribution Comparables by Region



# Operating Margin of Value-added Sales, Marketing & Distribution Comparable Sets by Industry



# Value-added Industry and Region Data

Indication Percentile by Industry						
Industry	Minimum <sup>1</sup>	25th Percentile <sup>1</sup>	50th Percentile <sup>1</sup>	75th Percentile <sup>1</sup>	Maximum <sup>1</sup>	Count of Comp Sets <sup>2</sup>
All Industries	0.7%	2.1%	3.6%	5.7%	10.5%	1,583
Food Products	0.8%	1.9%	3.4%	5.8%	10.6%	141
Textile and Apparels	0.8%	2.6%	4.0%	6.1%	9.8%	150
Furniture & Fixtures and Wood Products	0.7%	2.4%	3.8%	6.3%	10.6%	81
Paper & Allied Products	0.4%	2.0%	3.9%	8.8%	12.6%	28
Chemicals and Allied Products	0.7%	1.9%	3.2%	5.8%	12.4%	344
Plastic Products	1.0%	3.1%	5.8%	9.0%	27.6%	4
Construction Materials	0.7%	2.4%	3.8%	6.4%	10.6%	73
Industrial Machinery and Computer Equipment	0.7%	2.3%	3.8%	6.0%	10.9%	348
Electronic Equipment and Components	0.6%	1.9%	3.3%	4.9%	9.4%	230
Transportation Equipment	0.5%	2.2%	3.8%	6.0%	11.3%	111
Instruments & Apparatus	1.1%	2.6%	4.1%	6.9%	11.6%	277
Others <sup>4</sup>	0.7%	2.1%	3.6%	5.7%	10.5%	1,583
Transportation, Communications and Electric	0.9%	2.0%	3.7%	5.7%	11.5%	125
Wholesale Trade <sup>4</sup>	0.7%	2.1%	3.6%	5.7%	10.5%	1,583
Retail Trade	0.7%	2.0%	3.5%	5.6%	10.2%	1,328
Services (Technology)	0.4%	1.6%	2.7%	3.8%	7.5%	112
Services (Other) <sup>4</sup>	0.7%	2.1%	3.6%	5.7%	10.5%	1,583
Industrial Conglomerate <sup>4</sup>	0.7%	2.1%	3.6%	5.7%	10.5%	1,583

Indication Percentile by Geography						
Geography	Minimum <sup>1</sup>	25th Percentile <sup>1</sup>	50th Percentile <sup>1</sup>	75th Percentile <sup>1</sup>	Maximum <sup>1</sup>	Count of Comp Sets <sup>2</sup>
Global <sup>3</sup>	0.7%	2.1%	3.6%	5.7%	10.5%	1,583
EMEA	0.5%	2.1%	3.5%	5.8%	11.4%	721
Americas	0.9%	2.2%	3.8%	5.7%	9.8%	1,072
APAC	0.8%	2.3%	3.6%	5.5%	9.7%	296

<sup>1</sup> Represents the median observations of the minimum, 25<sup>th</sup> percentile, 50<sup>th</sup> percentile, 75<sup>th</sup> percentile and maximum for the comp sets.

<sup>2</sup> Represents the number of comp sets applicable for each industry.

<sup>3</sup> The global total is less than the sum of the regions because some sets are included in more than one region.

<sup>4</sup> KPMG used the overall comp set data for these industries since it was not possible to identify comp sets specific to these industries.

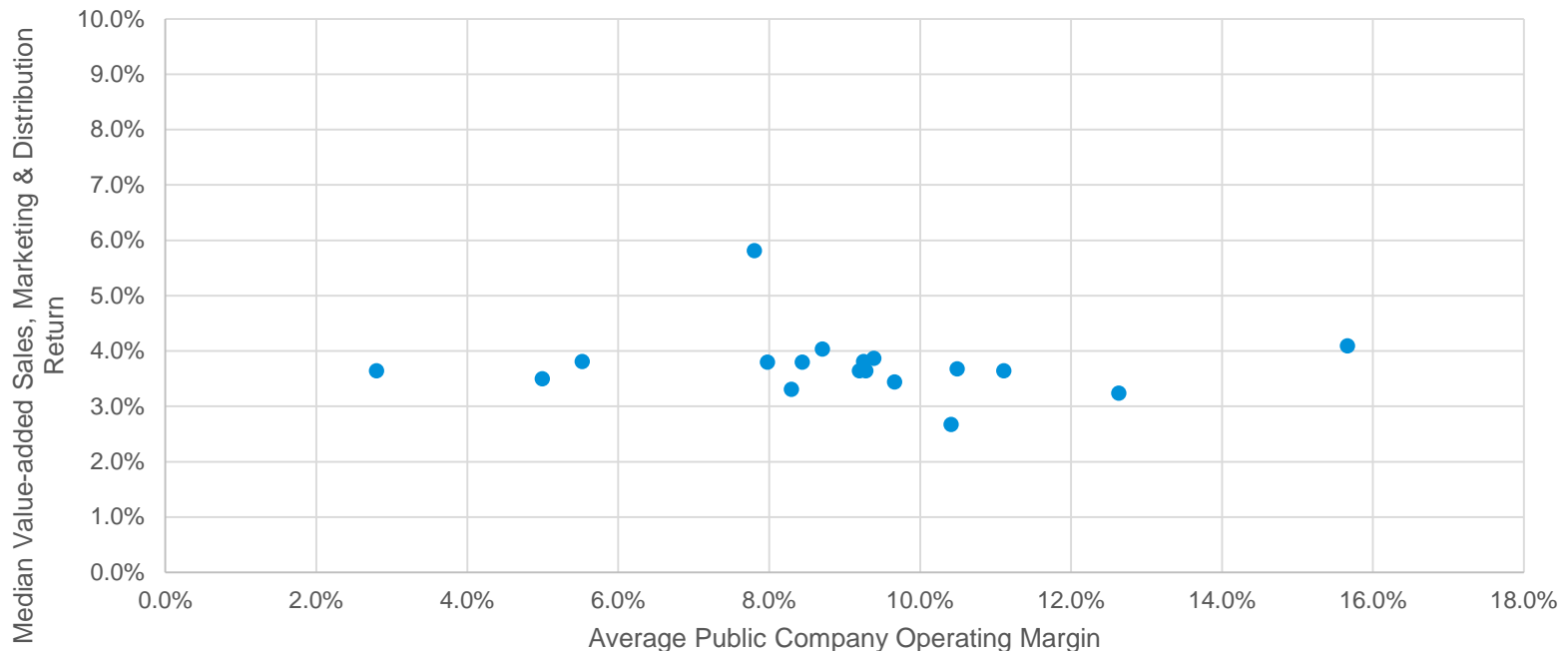


# Value-added Company Data Summary

Industry	Total Number of Sets	Compustat Company Counts				Amadeus Company Counts			
		Total Companies	Unique Companies	# Appeared More than 20 Times	# Appeared Less than 5 Times	Total Companies	Unique Companies	# Appeared More than 20 Times	# Appeared Less than 5 Times
All Industries	1,583	12,233	2,682	111	2,229	21,961	15,892	66	15,535
Food Products	141	1,577	562	10	492	192	161	-	161
Textile and Apparels	150	1,572	776	2	713	1,369	1,282	-	1,282
Furniture & Fixtures and Wood Products	81	792	273	1	228	142	95	-	95
Paper & Allied Products	28	180	59	-	43	406	379	-	379
Chemicals and Allied Products	344	1,894	489	12	378	4,049	867	51	657
Plastic Products	4	5	5	-	5	384	364	-	364
Construction Materials	73	692	236	-	194	159	112	-	112
Industrial Machinery and Computer Equipment	348	2,888	598	29	480	1,131	642	-	607
Electronic Equipment and Components	230	2,149	516	21	421	662	361	-	331
Transportation Equipment	111	888	287	2	241	12,501	11,845	-	11,811
Instruments & Apparatus	277	2,128	405	29	308	939	504	-	498
Others	1,583	12,233	2,682	111	2,229	21,961	15,892	66	15,535
Transportation, Communications and Electric	125	914	307	1	264	503	311	-	293
Wholesale Trade	1,583	12,233	2,682	111	2,229	21,961	15,892	66	15,535
Retail Trade	1,328	10,306	2,490	92	2,095	20,798	15,260	66	14,930
Services (Technology)	112	470	114	2	88	938	189	15	147
Services (Other)	1,583	12,233	2,682	111	2,229	21,961	15,892	66	15,535
Industrial Conglomerate	1,583	12,233	2,682	111	2,229	21,961	15,892	66	15,535

# Industry and Sales, Marketing & Distribution Margins

Public Company Median Operating Margin vs. Value-added Sales, Marketing & Distribution Median Returns by Industry





# Appendix A

# Operating Margin by Industry Data

Comparable Set Returns				Average Operating Margin by Industry* *					
	Median Value-Added Sales, Marketing & Distribution Return	Median Limited Risk Sales, Marketing & Distribution Return							
Industry			50% + OM	40-50% OM	30-40% OM	20-30% OM	10-20% OM	0-10% OM	
All Industries	3.6%	2.5%	55.7%	43.5%	33.6%	24.0%	13.7%	5.2%	
Food Products	3.4%	1.8%	N/A	N/A	33.5%	23.9%	13.7%	4.6%	
Textile and Apparels	4.0%	2.7%	N/A	N/A	N/A	25.4%	12.8%	5.5%	
Furniture & Fixtures and Wood Products	3.8%	2.7%	N/A	N/A	N/A	N/A	12.3%	4.5%	
Paper & Allied Products	3.9%	2.7%	N/A	N/A	N/A	24.4%	13.7%	6.1%	
Chemicals and Allied Products	3.2%	2.3%	53.4%	43.6%	33.9%	25.0%	13.9%	6.2%	
Plastic Products	5.8%	2.8%	N/A	N/A	N/A	22.0%	10.9%	6.0%	
Construction Materials	3.8%	2.7%	N/A	N/A	30.7%	24.8%	13.3%	5.5%	
Industrial Machinery and Computer Equipment	3.8%	2.7%	N/A	41.1%	32.6%	23.5%	13.2%	5.6%	
Electronic Equipment and Components	3.3%	2.6%	54.6%	48.6%	35.4%	23.7%	13.8%	5.0%	
Transportation Equipment	3.8%	3.3%	N/A	N/A	N/A	24.2%	13.2%	4.9%	
Instruments & Apparatus	4.1%	3.1%	N/A	N/A	31.1%	23.7%	15.5%	5.1%	
Others*	3.6%	2.5%	N/A	40.7%	34.3%	23.4%	13.9%	6.5%	
Transportation, Communications and Electric	3.7%	2.7%	52.1%	42.4%	34.3%	23.5%	14.1%	5.5%	
Wholesale Trade*	3.6%	2.5%	N/A	N/A	N/A	N/A	10.6%	2.6%	
Retail Trade	3.5%	2.5%	N/A	N/A	N/A	N/A	12.8%	4.4%	
Services (Technology)	2.7%	2.3%	64.6%	44.2%	33.8%	23.7%	14.5%	5.7%	
Services (Other)*	3.6%	2.5%	55.5%	42.2%	33.6%	23.9%	13.8%	4.7%	
Industrial Conglomerate*	3.6%	2.5%	N/A	40.8%	N/A	23.9%	14.9%	5.0%	

\* KPMG used the overall comparable set data for these industries since it was not possible to identify comparable sets specific to these industries.

\*\* Percentages relate to the average OM for companies in each tranche of profitability and do not reflect the number of companies in each tranche.

# Operating Margin by Region Data

Operating Margin by Region*								
Region	Median Value-Added Sales, Marketing & Distribution Return	Median Limited Risk Sales, Marketing & Distribution Return						
			50% + OM	40-50% OM	30-40% OM	20-30% OM	10-20% OM	0-10% OM
Global	3.6%	2.5%	55.7%	43.5%	33.6%	24.0%	13.7%	5.2%
EMEA	3.5%	2.4%	52.1%	42.4%	33.1%	24.0%	13.8%	5.6%
Americas	3.8%	2.6%	57.8%	43.5%	33.5%	23.8%	13.9%	5.8%
APAC	3.6%	2.2%	54.5%	44.6%	34.2%	24.4%	13.4%	4.8%

\* Percentages relate to the average OM for companies in each tranche of profitability and do not reflect the number of companies in each tranche.



© 2019 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in the U.S.A.





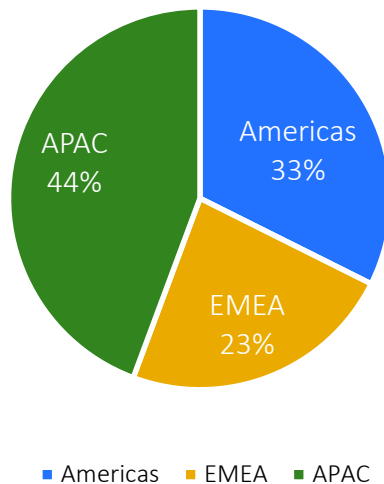
# Appendix B

# Public Company Financial Data

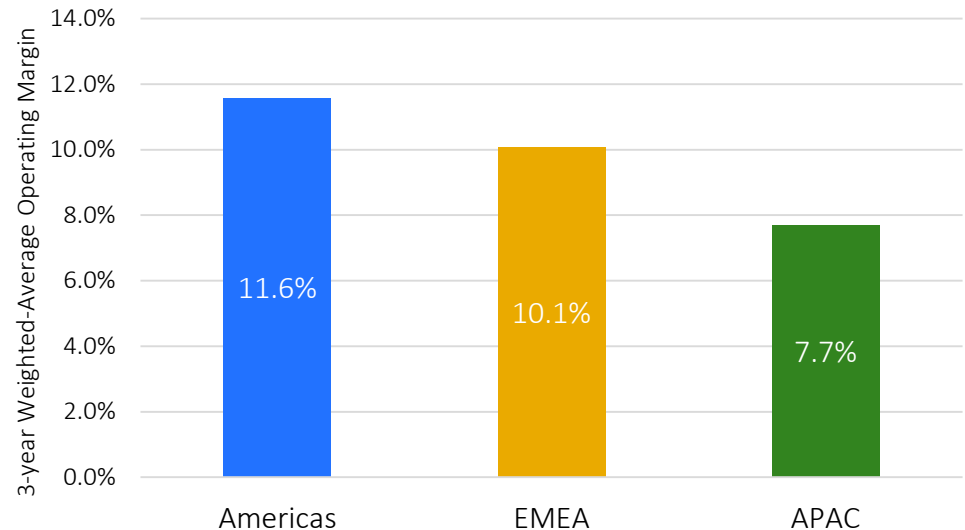
- KPMG relied on Capital IQ to obtain the public company financial data used in this analysis. We used the following screening criteria to pull financial data:
  1. Exchanges (All Listings): All Major Exchanges OR Major US Exchanges
  2. Total Revenue [Last Twelve Months] is greater than \$1B
  3. Excluding SIC Codes and Industry Classifications for:
    - a) Agriculture, Forestry and Fishing
    - b) Mining
    - c) Construction
    - d) Finance, Insurance and Real Estate
  4. State % Owned  $\leq$  20%
  5. Number of Geographic Segments is greater than 1
  6. Company Status is Operating
- This returned data for 2,644 companies.

# Operating Margin of Selected Companies by Region

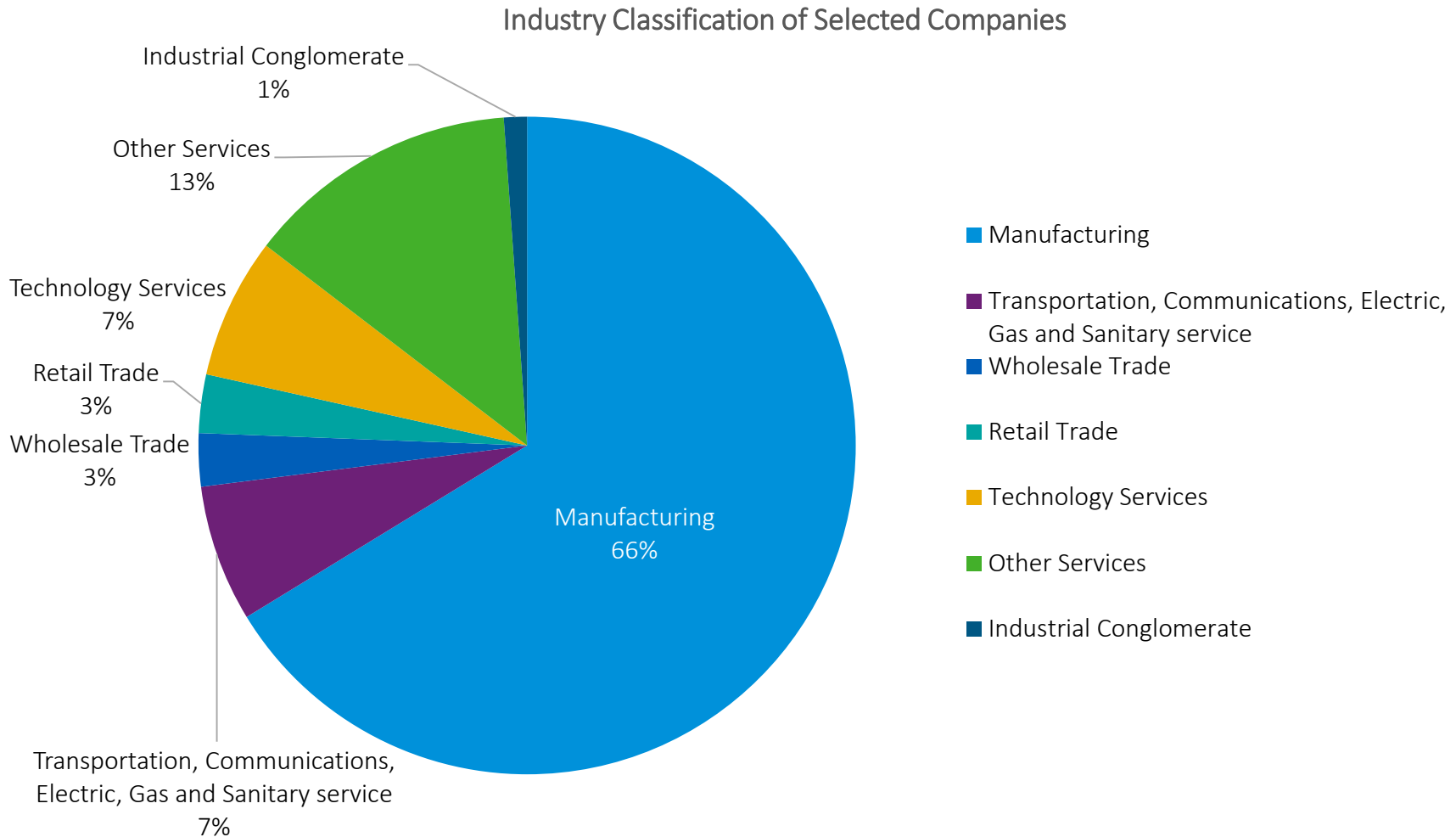
Classification of Selected Companies by Region



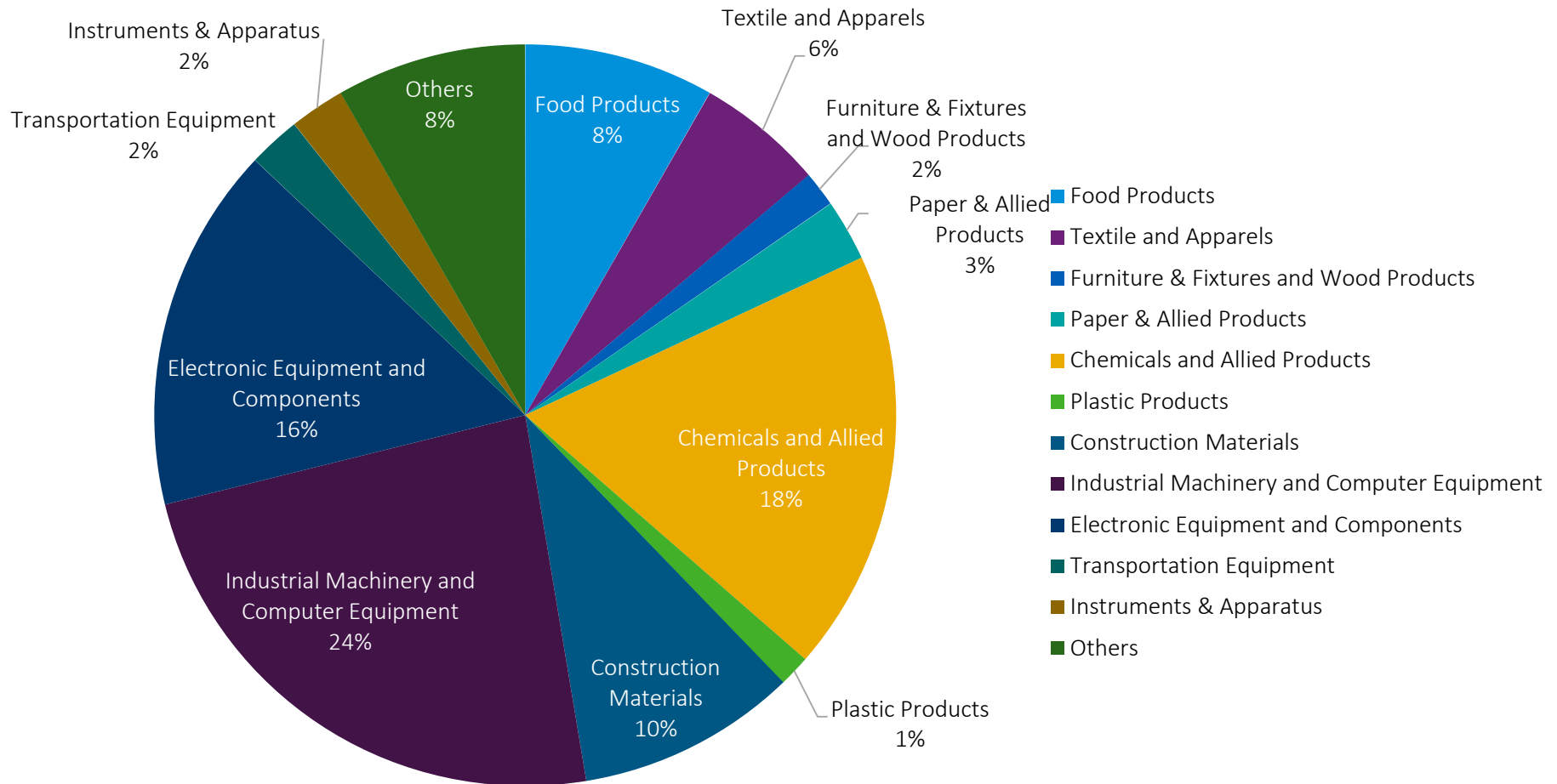
Average Operating Margin of Selected Companies by Region



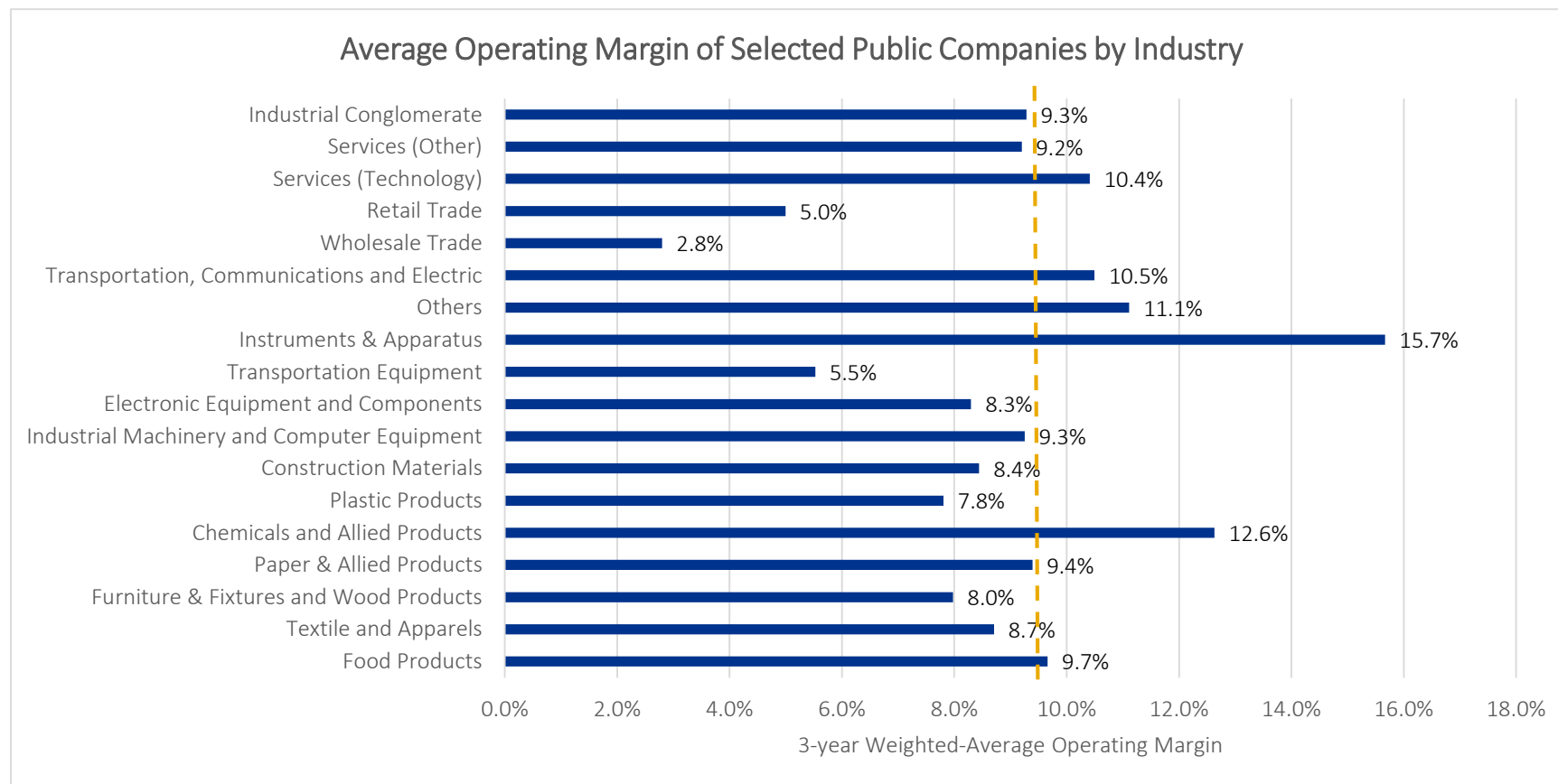
# Industry of Selected Companies



# Industry of Manufacturing Companies



# Operating Margin of Selected Public Companies by Industry

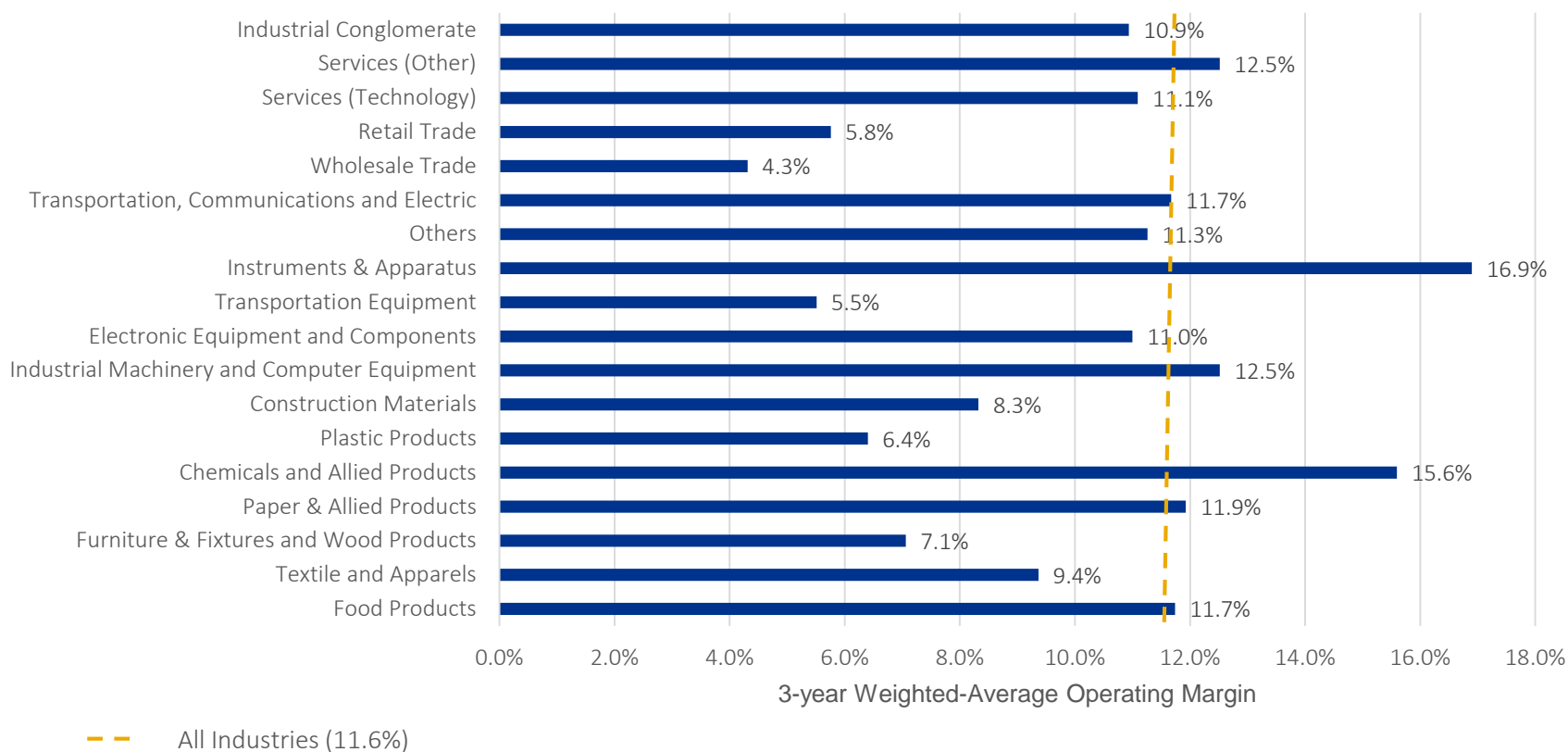


-- All Industries (9.5%)



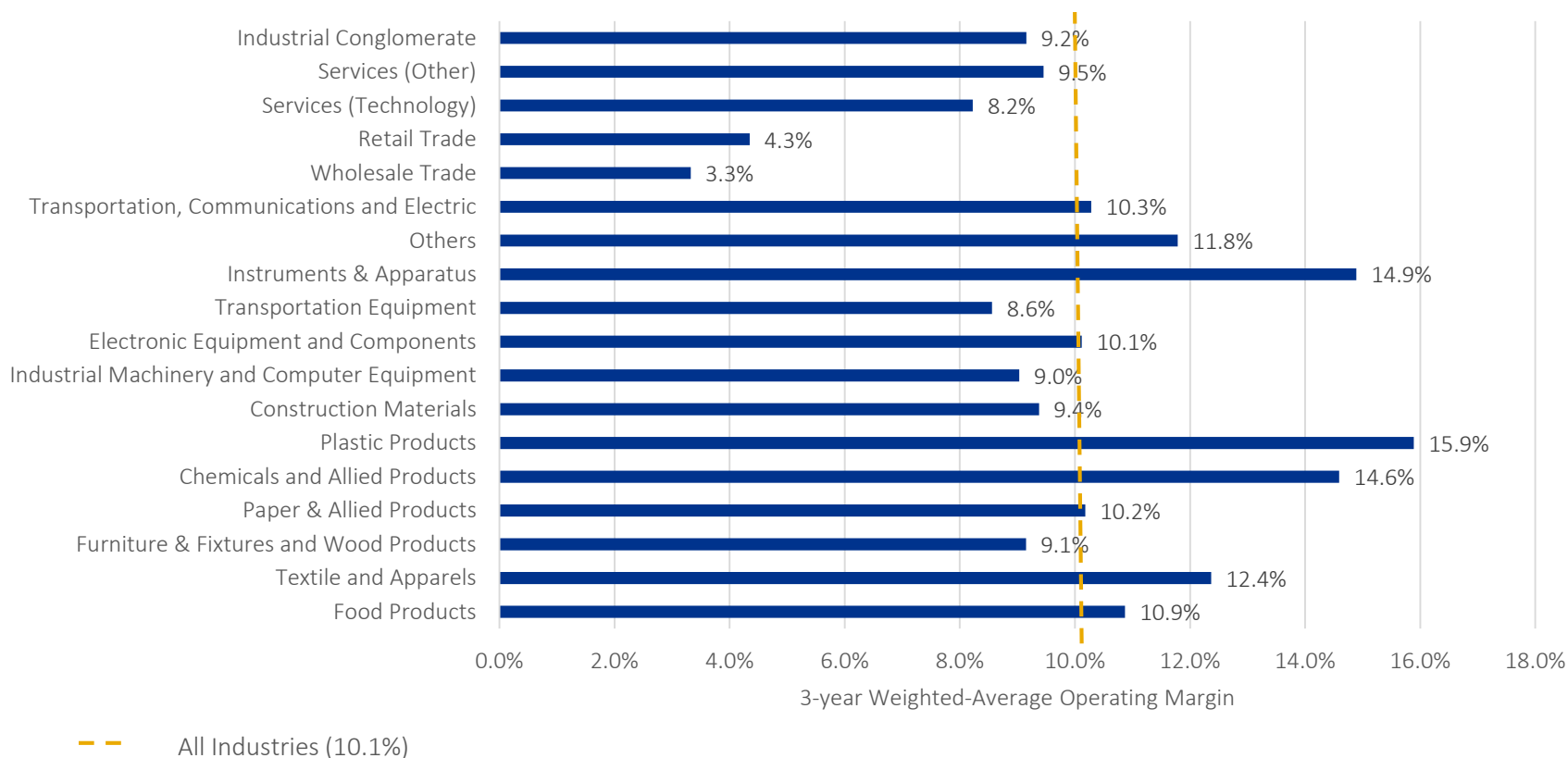
# Operating Margin of Selected Companies by Industry and Region

Average Operating Margin of Americas Companies by Industry



# Operating Margin of Selected Companies by Industry and Region

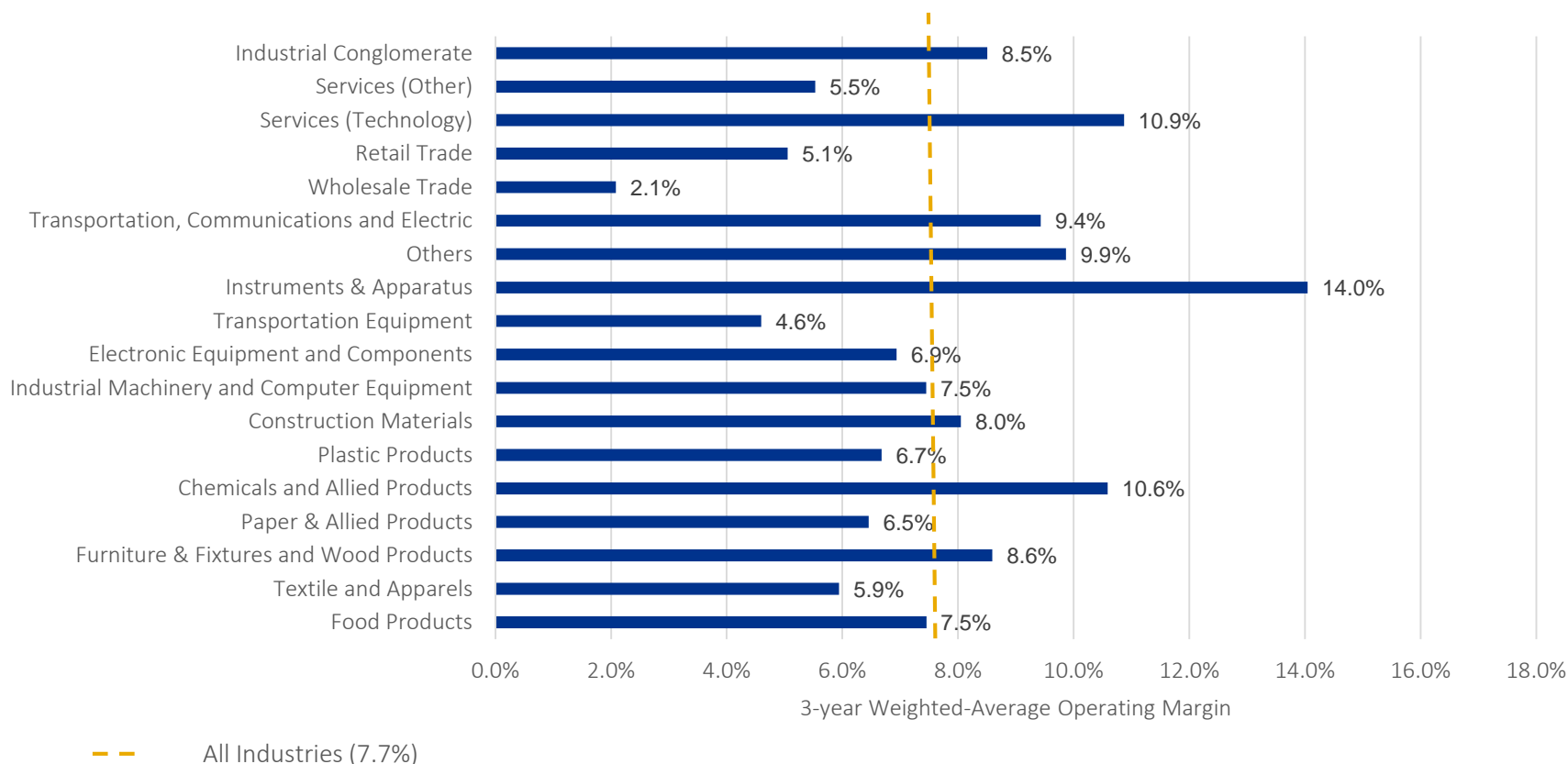
Average Operating Margin of EMEA Companies by Industry





# Operating Margin of Selected Companies by Industry and Region

Average Operating Margin of APAC Companies by Industry

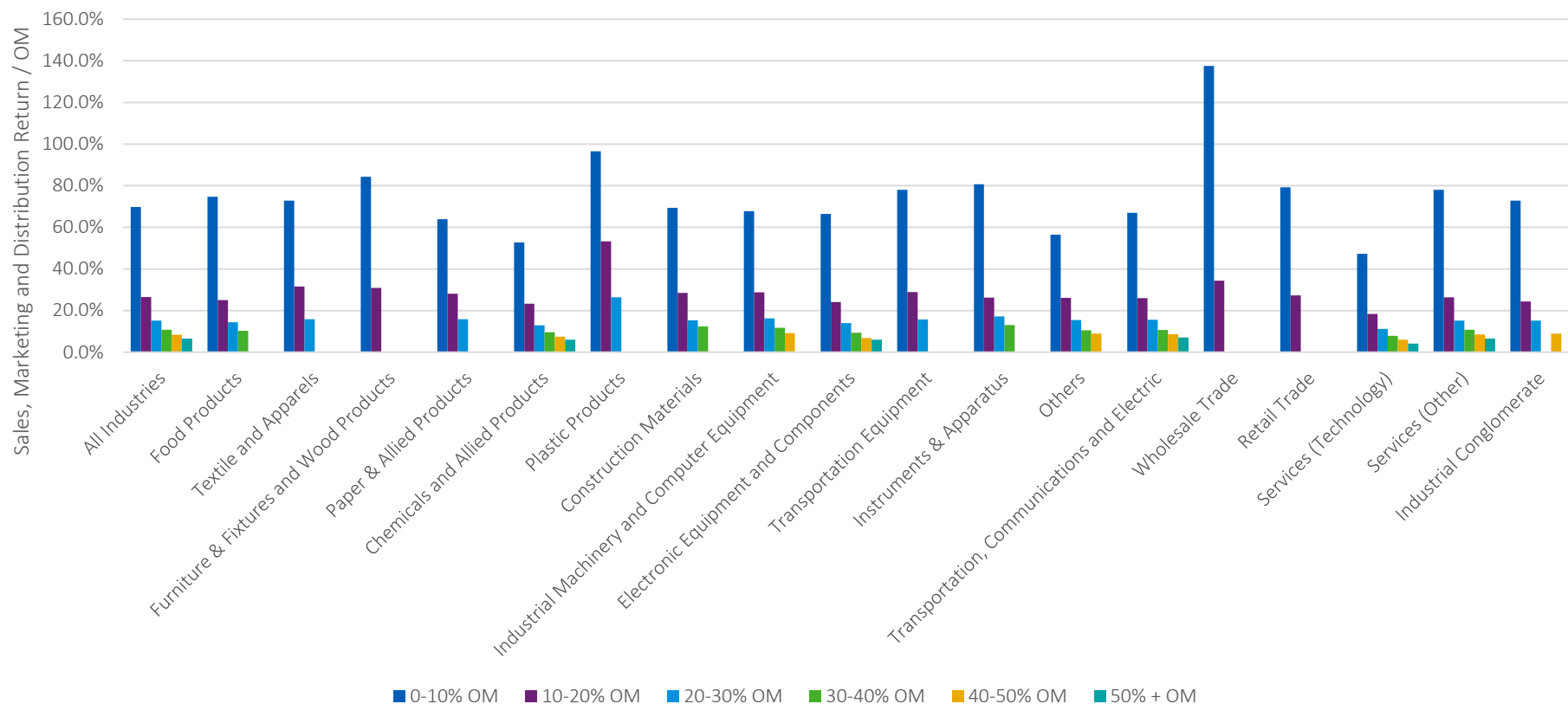




# Appendix C

# Value-added Sales, Marketing & Distribution Return to Operating Margin by Industry

Ratio of Value-Added Distributor Return to Operating Margin by Industry



# Value-added Sales, Marketing & Distribution Return to Operating Margin by Industry Data

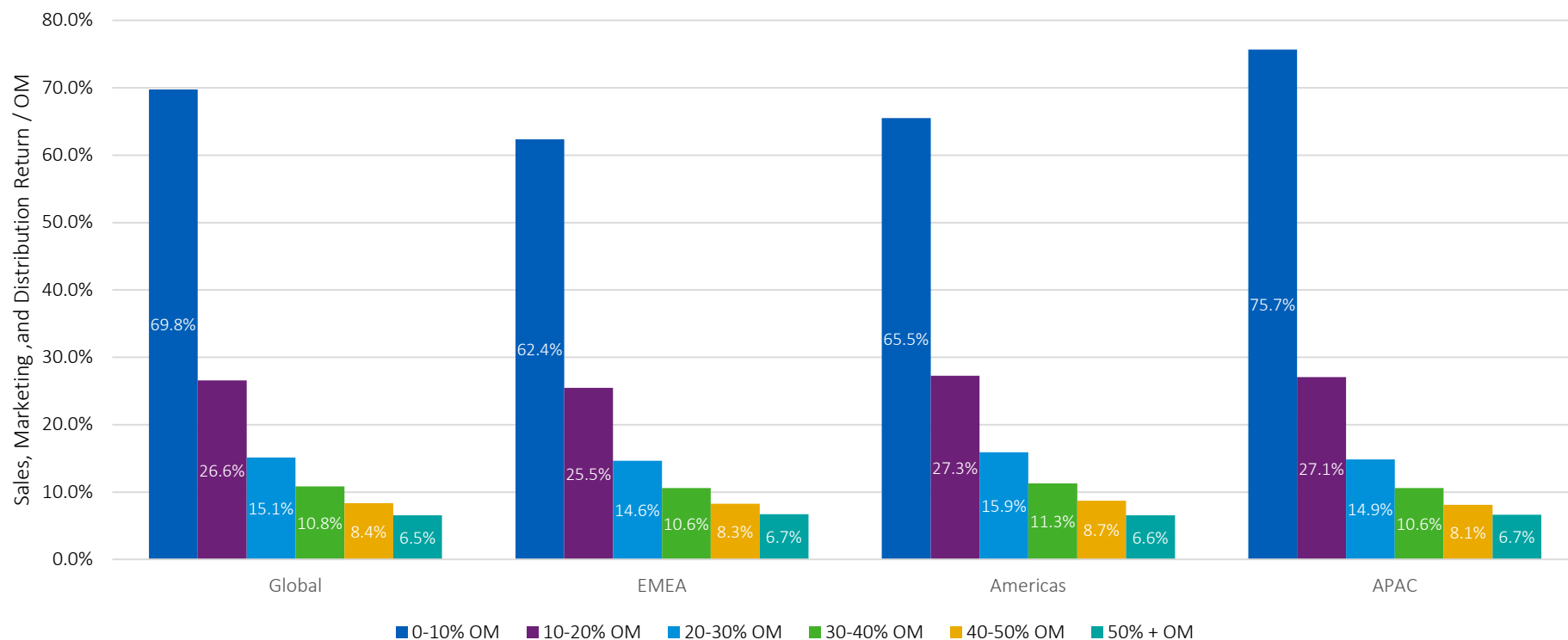
Value-added Sales, Marketing & Distribution Return to Operating Margin by Industry Data*						
Industry	50% + OM	40-50% OM	30-40% OM	20-30% OM	10-20% OM	0-10% OM
All Industries	6.5%	8.4%	10.8%	15.1%	26.6%	69.8%
Food Products	N/A	N/A	10.3%	14.4%	25.0%	74.7%
Textile and Apparels	N/A	N/A	N/A	15.9%	31.5%	72.8%
Furniture & Fixtures and Wood Products	N/A	N/A	N/A	N/A	30.9%	84.3%
Paper & Allied Products	N/A	N/A	N/A	15.9%	28.2%	63.9%
Chemicals and Allied Products	6.1%	7.4%	9.6%	13.0%	23.4%	52.7%
Plastic Products	N/A	N/A	N/A	26.4%	53.2%	96.6%
Construction Materials	N/A	N/A	12.4%	15.4%	28.6%	69.4%
Industrial Machinery and Computer Equipment	N/A	9.3%	11.7%	16.2%	28.8%	67.7%
Electronic Equipment and Components	6.1%	6.8%	9.4%	13.9%	24.1%	66.4%
Transportation Equipment	N/A	N/A	N/A	15.7%	28.9%	78.0%
Instruments & Apparatus	N/A	N/A	13.1%	17.2%	26.3%	80.7%
Others	N/A	8.9%	10.6%	15.5%	26.1%	56.4%
Transportation, Communications and Electric	7.1%	8.7%	10.7%	15.7%	26.0%	66.9%
Wholesale Trade	N/A	N/A	N/A	N/A	34.4%	137.4%
Retail Trade	N/A	N/A	N/A	N/A	27.3%	79.3%
Services (Technology)	4.1%	6.0%	7.9%	11.3%	18.4%	47.2%
Services (Other)	6.6%	8.6%	10.8%	15.2%	26.4%	78.0%
Industrial Conglomerate	N/A	8.9%	N/A	15.3%	24.4%	72.9%

\* Percentages relate to the average OM for companies in each tranche of profitability and do not reflect the number of companies in each tranche.



# Value-added Sales, Marketing & Distribution Return to Operating Margin by Region

Ratio of Value-added Sales, Marketing & Distribution Return to Operating Margin By Region

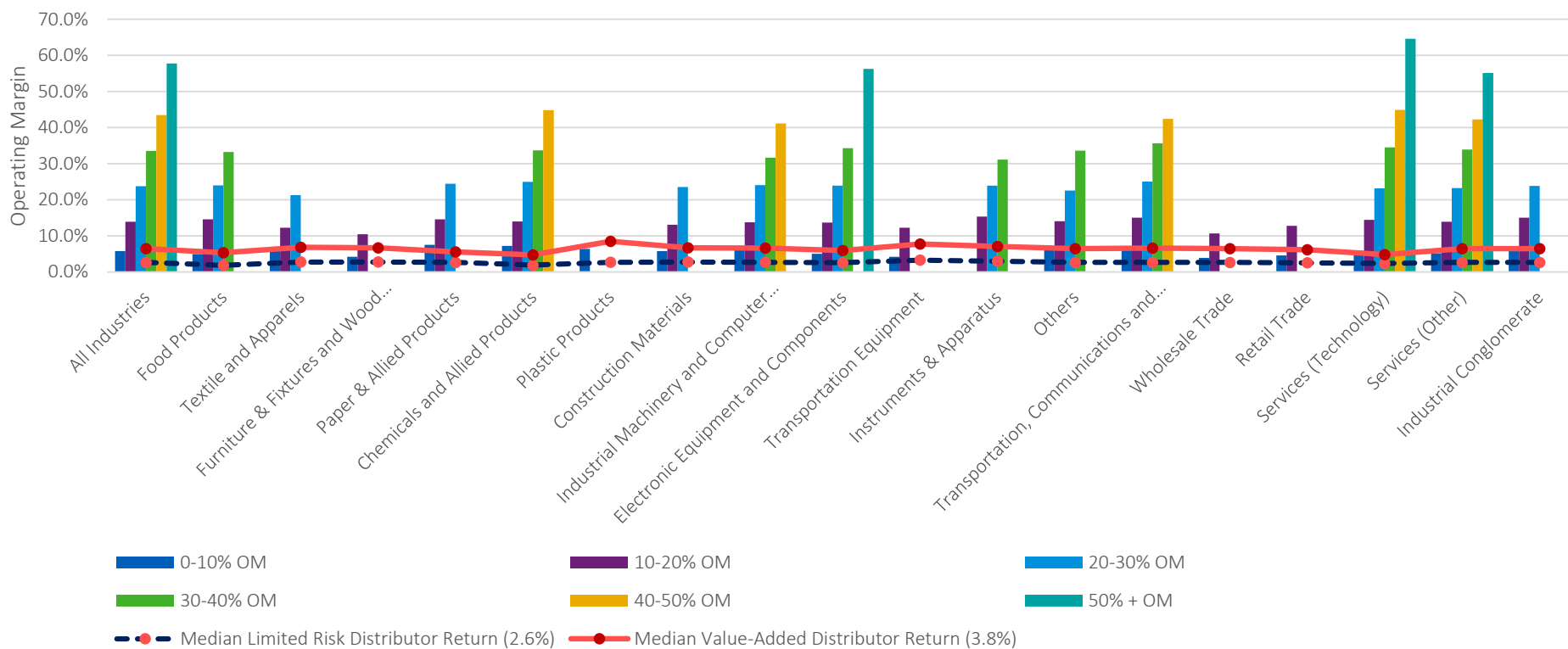


# Value-added Sales, Marketing & Distribution Return to Operating Margin by Region Data

Value-added Sales, Marketing & Distribution Return to Operating Margin by Region Data						
Region	50% + OM	40-50% OM	30-40% OM	20-30% OM	10-20% OM	0-10% OM
Global	6.5%	8.4%	10.8%	15.1%	26.6%	69.8%
EMEA	6.7%	8.3%	10.6%	14.6%	25.5%	62.4%
Americas	6.6%	8.7%	11.3%	15.9%	27.3%	65.5%
APAC	6.7%	8.1%	10.6%	14.9%	27.1%	75.7%

# Selected Companies in Americas Operating Margin by Industry

Operating Margin By Industry in Americas



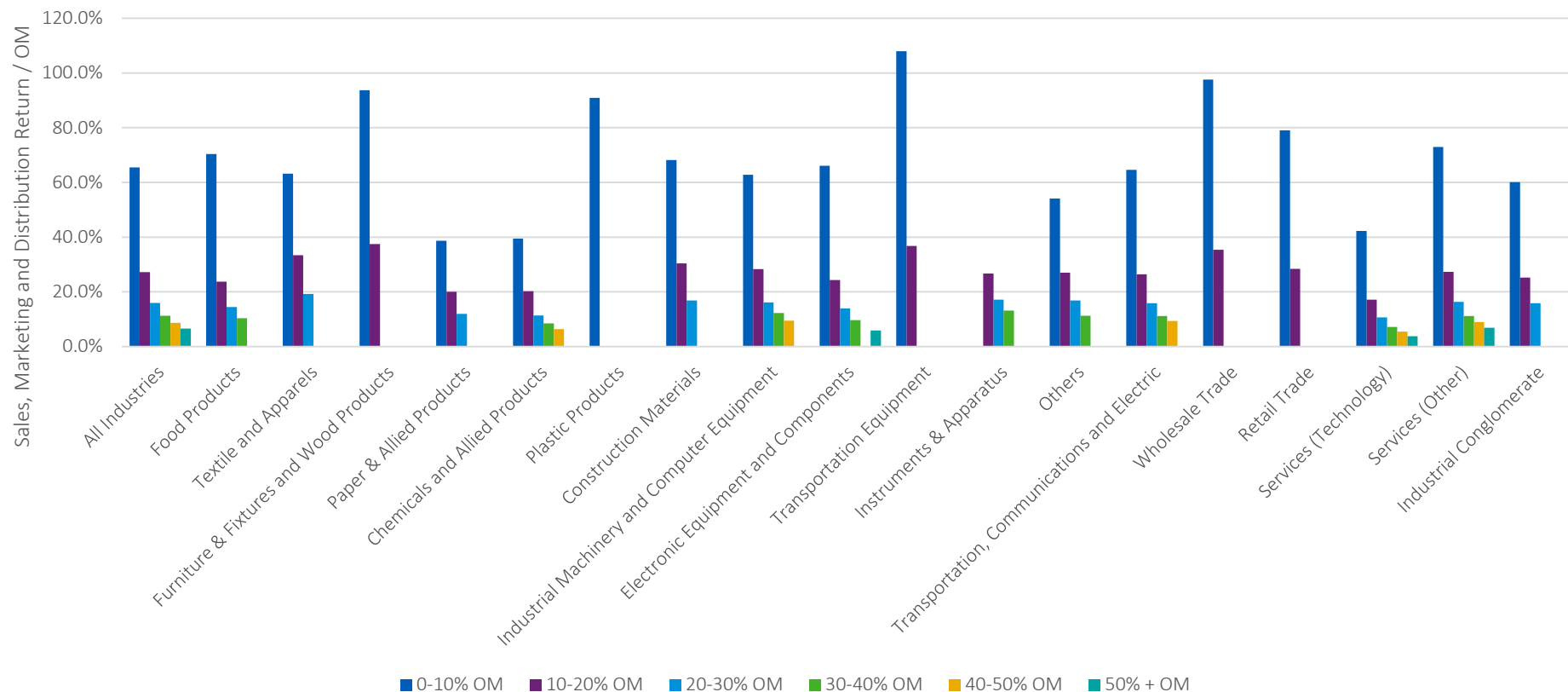
# Selected Companies in Americas Operating Margin by Industry Data

Selected Companies Operating Margin in Americas								
Industry	Median Value-Added Sales, Marketing & Distribution Return	Median Limited Risk Sales, Marketing and Distribution Return	50% + OM	40-50% OM	30-40% OM	20-30% OM	10-20% OM	0-10% OM
All Industries	3.8%	2.6%	57.8%	43.5%	33.5%	23.8%	13.9%	5.8%
Food Products	3.5%	1.8%	N/A	N/A	33.2%	24.0%	14.6%	4.9%
Textile and Apparels	4.1%	2.8%	N/A	N/A	N/A	21.3%	12.2%	6.5%
Furniture & Fixtures and Wood Products	3.9%	2.8%	N/A	N/A	N/A	N/A	10.4%	4.2%
Paper & Allied Products	2.9%	2.6%	N/A	N/A	N/A	24.4%	14.5%	7.5%
Chemicals and Allied Products	2.8%	1.9%	N/A	44.9%	33.7%	25.0%	14.0%	7.2%
Plastic Products	5.8%	2.7%	N/A	N/A	N/A	N/A	N/A	6.4%
Construction Materials	4.0%	2.7%	N/A	N/A	N/A	23.5%	13.0%	5.8%
Industrial Machinery and Computer Equipment	3.9%	2.7%	N/A	41.1%	31.7%	24.1%	13.8%	6.2%
Electronic Equipment and Components	3.3%	2.6%	56.2%	N/A	34.3%	23.9%	13.7%	5.0%
Transportation Equipment	4.5%	3.3%	N/A	N/A	N/A	N/A	12.2%	4.2%
Instruments & Apparatus	4.1%	3.0%	N/A	N/A	31.1%	23.9%	15.3%	N/A
Others	3.8%	2.6%	N/A	N/A	33.6%	22.6%	14.1%	7.0%
Transportation, Communications and Electric	4.0%	2.6%	N/A	42.4%	35.6%	25.1%	15.0%	6.1%
Wholesale Trade	3.8%	2.6%	N/A	N/A	N/A	N/A	10.7%	3.9%
Retail Trade	3.6%	2.5%	N/A	N/A	N/A	N/A	12.8%	4.6%
Services (Technology)	2.5%	2.3%	64.6%	44.9%	34.5%	23.2%	14.4%	5.8%
Services (Other)	3.8%	2.6%	55.1%	42.2%	33.9%	23.2%	13.9%	5.2%
Industrial Conglomerate	3.8%	2.6%	N/A	N/A	N/A	23.9%	15.0%	6.3%



# Value-added Sales, Marketing & Distribution Return to Operating Margin by Industry in Americas

Ratio of Value-Added Distributor Return to Operating Margin in Americas

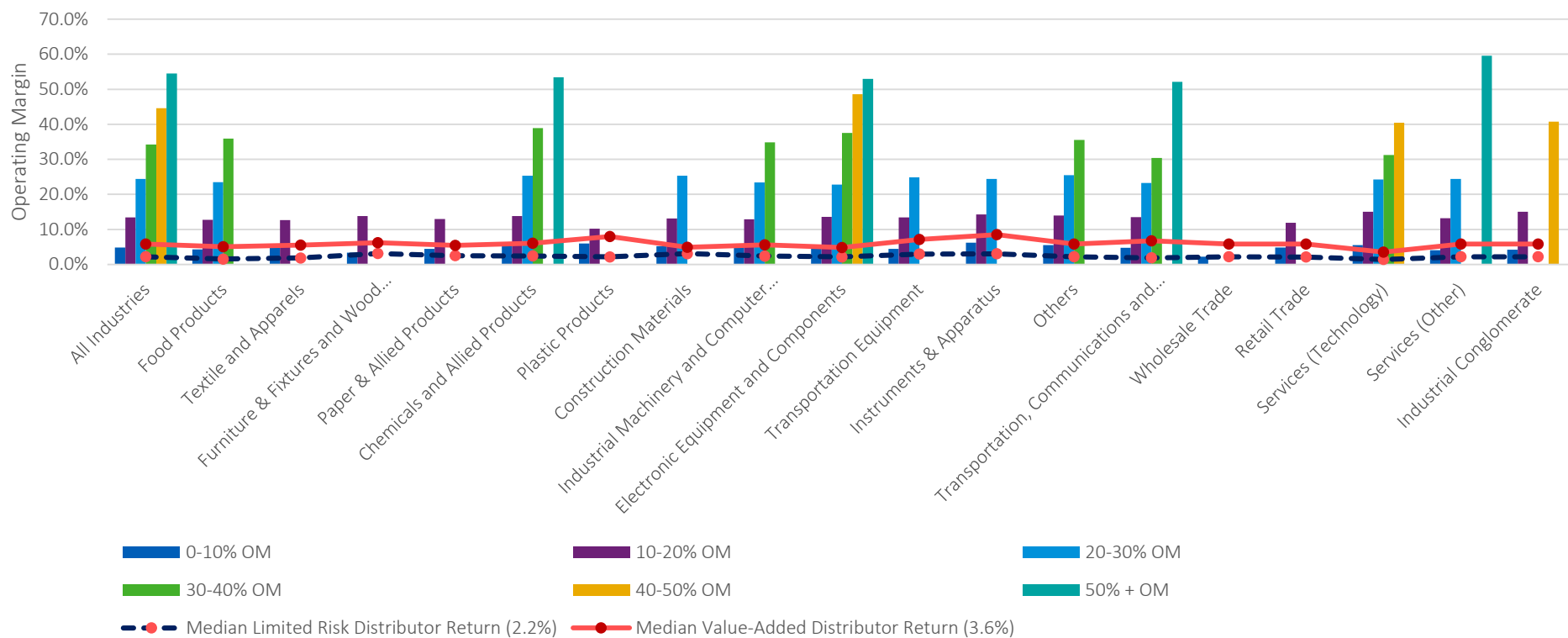


# Value-added Sales, Marketing & Distribution Return to Operating Margin by Industry in Americas Data

Value-added Sales, Marketing & Distribution Return to Operating Margin by Industry in Americas							
Industry	50% + OM	40-50% OM	30-40% OM	20-30% OM	10-20% OM	0-10% OM	
All Industries	6.6%	8.7%	11.3%	15.9%	27.3%	65.5%	
Food Products	N/A	N/A	10.4%	14.4%	23.7%	70.4%	
Textile and Apparels	N/A	N/A	N/A	19.2%	33.4%	63.2%	
Furniture & Fixtures and Wood Products	N/A	N/A	N/A	N/A	37.5%	93.7%	
Paper & Allied Products	N/A	N/A	N/A	11.9%	20.0%	38.7%	
Chemicals and Allied Products	N/A	6.3%	8.4%	11.4%	20.3%	39.5%	
Plastic Products	N/A	N/A	N/A	N/A	N/A	90.9%	
Construction Materials	N/A	N/A	N/A	16.8%	30.4%	68.2%	
Industrial Machinery and Computer Equipment	N/A	9.5%	12.3%	16.2%	28.3%	62.8%	
Electronic Equipment and Components	5.9%	N/A	9.7%	13.9%	24.4%	66.1%	
Transportation Equipment	N/A	N/A	N/A	N/A	36.8%	108.0%	
Instruments & Apparatus	N/A	N/A	13.1%	17.1%	26.7%	N/A	
Others	N/A	N/A	11.3%	16.8%	27.0%	54.1%	
Transportation, Communications and Electric	N/A	9.4%	11.1%	15.8%	26.4%	64.6%	
Wholesale Trade	N/A	N/A	N/A	N/A	35.4%	97.5%	
Retail Trade	N/A	N/A	N/A	N/A	28.4%	79.0%	
Services (Technology)	3.8%	5.5%	7.2%	10.7%	17.1%	42.2%	
Services (Other)	6.9%	9.0%	11.2%	16.3%	27.3%	73.0%	
Industrial Conglomerate	N/A	N/A	N/A	15.9%	25.3%	60.1%	

# Selected Companies in APAC Operating Margin by Industry

Operating Margin By Industry in APAC

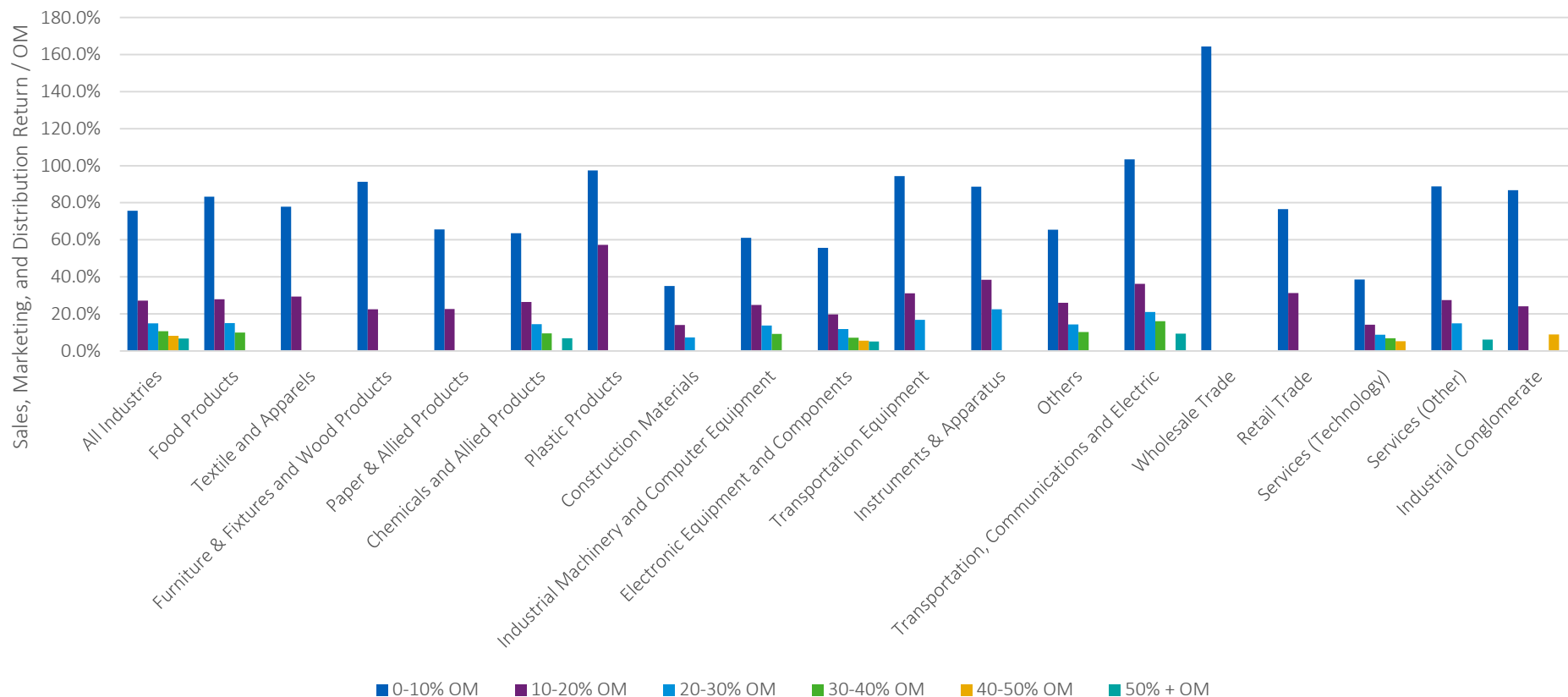


# Selected Companies in APAC Operating Margin by Industry Data

Selected Companies Operating Margin in APAC									
Industry	Median Value-Added Sales, Marketing & Distribution Return	Median Limited Risk Sales, Marketing & Distribution Return	50% + OM	40-50% OM	30-40% OM	20-30% OM	10-20% OM	0-10% OM	
All Industries	3.6%	2.2%	54.5%	44.6%	34.2%	24.4%	13.4%	4.8%	
Food Products	3.5%	1.5%	N/A	N/A	35.9%	23.5%	12.7%	4.3%	
Textile and Apparels	3.7%	1.8%	N/A	N/A	N/A	N/A	12.7%	4.8%	
Furniture & Fixtures and Wood Products	3.1%	3.1%	N/A	N/A	N/A	N/A	13.8%	3.4%	
Paper & Allied Products	2.9%	2.5%	N/A	N/A	N/A	N/A	13.0%	4.5%	
Chemicals and Allied Products	3.7%	2.4%	53.4%	N/A	38.9%	25.3%	13.8%	5.8%	
Plastic Products	5.8%	2.2%	N/A	N/A	N/A	N/A	10.2%	6.0%	
Construction Materials	1.8%	3.1%	N/A	N/A	N/A	25.3%	13.1%	5.2%	
Industrial Machinery and Computer Equipment	3.2%	2.4%	N/A	N/A	34.8%	23.4%	12.9%	5.2%	
Electronic Equipment and Components	2.7%	2.2%	52.9%	48.6%	37.5%	22.8%	13.6%	4.8%	
Transportation Equipment	4.2%	2.9%	N/A	N/A	N/A	24.9%	13.4%	4.4%	
Instruments & Apparatus	5.5%	3.0%	N/A	N/A	N/A	24.4%	14.2%	6.2%	
Others	3.6%	2.2%	N/A	N/A	35.6%	25.4%	14.0%	5.5%	
Transportation, Communications and Electric	4.9%	1.9%	52.1%	N/A	30.4%	23.3%	13.5%	4.7%	
Wholesale Trade	3.6%	2.2%	N/A	N/A	N/A	N/A	N/A	2.2%	
Retail Trade	3.7%	2.1%	N/A	N/A	N/A	N/A	11.9%	4.8%	
Services (Technology)	2.1%	1.4%	N/A	40.5%	31.2%	24.3%	15.0%	5.5%	
Services (Other)	3.6%	2.2%	59.5%	N/A	N/A	24.4%	13.2%	4.1%	
Industrial Conglomerate	3.6%	2.2%	N/A	40.8%	N/A	N/A	15.1%	4.2%	

# Value-added Sales, Marketing & Distribution Return to Operating Margin by Industry in APAC

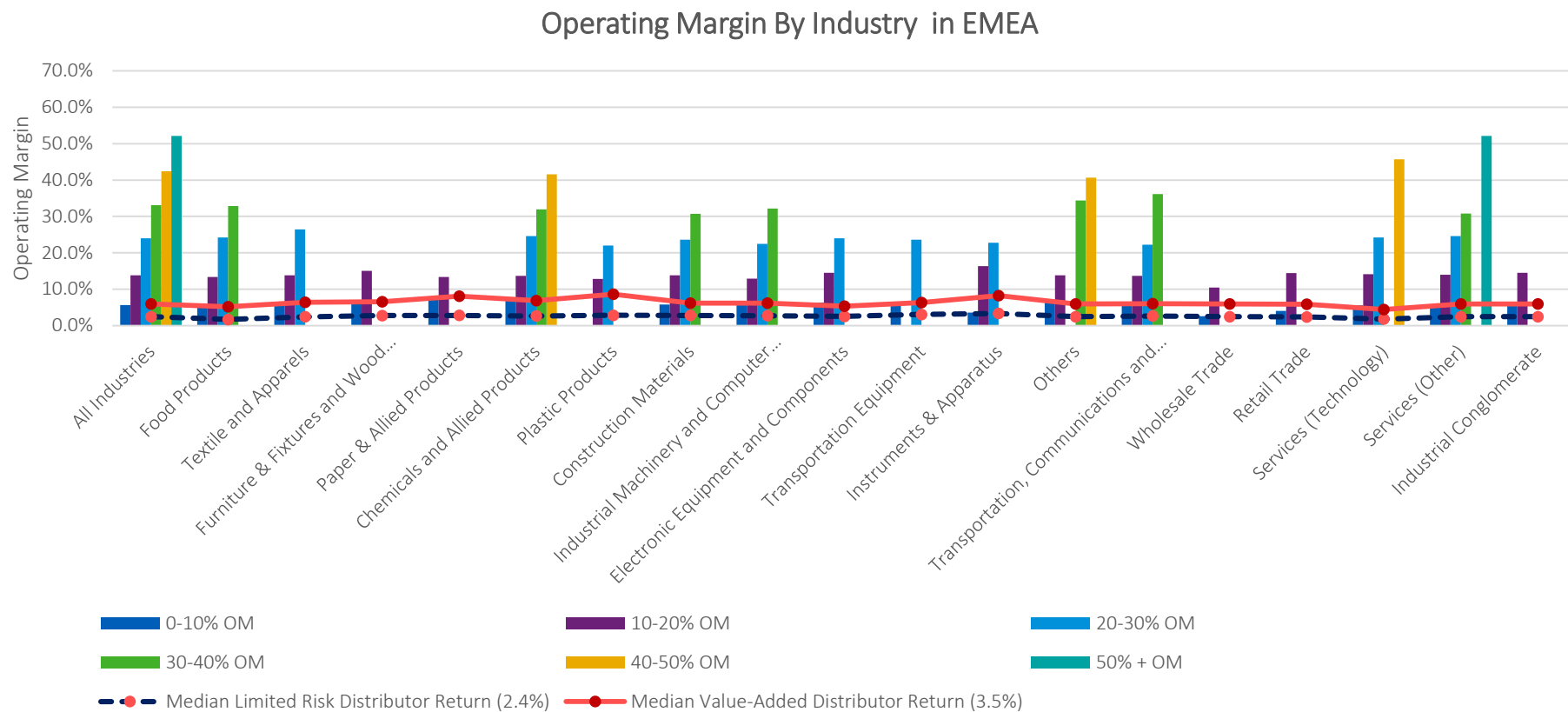
Ratio of Value-Added Distributor Return to Operating Margin in APAC



# Value-added Sales, Marketing & Distribution Return to Operating Margin by Industry in APAC Data

Value-added Sales, Marketing & Distribution Return to Operating Margin by Industry in APAC						
Industry	50% + OM	40-50% OM	30-40% OM	20-30% OM	10-20% OM	0-10% OM
All Industries	6.7%	8.1%	10.6%	14.9%	27.1%	75.7%
Food Products	N/A	N/A	9.9%	15.1%	27.9%	83.3%
Textile and Apparels	N/A	N/A	N/A	N/A	29.2%	77.8%
Furniture & Fixtures and Wood Products	N/A	N/A	N/A	N/A	22.4%	91.3%
Paper & Allied Products	N/A	N/A	N/A	N/A	22.6%	65.6%
Chemicals and Allied Products	6.8%	N/A	9.4%	14.5%	26.4%	63.5%
Plastic Products	N/A	N/A	N/A	N/A	57.2%	97.5%
Construction Materials	N/A	N/A	N/A	7.2%	13.9%	35.1%
Industrial Machinery and Computer Equipment	N/A	N/A	9.2%	13.6%	24.7%	61.0%
Electronic Equipment and Components	5.0%	5.5%	7.1%	11.7%	19.7%	55.6%
Transportation Equipment	N/A	N/A	N/A	16.7%	31.1%	94.4%
Instruments & Apparatus	N/A	N/A	N/A	22.4%	38.4%	88.6%
Others	N/A	N/A	10.2%	14.2%	26.0%	65.5%
Transportation, Communications and Electric	9.3%	N/A	16.0%	20.9%	36.2%	103.5%
Wholesale Trade	N/A	N/A	N/A	N/A	N/A	164.4%
Retail Trade	N/A	N/A	N/A	N/A	31.2%	76.6%
Services (Technology)	N/A	5.2%	6.8%	8.7%	14.1%	38.6%
Services (Other)	6.1%	N/A	N/A	14.9%	27.5%	88.8%
Industrial Conglomerate	N/A	8.9%	N/A	N/A	24.1%	86.8%

# Selected Companies in EMEA Operating Margin by Industry



# Selected Companies in EMEA Operating Margin by Industry Data

Selected Companies Operating Margin in EMEA*								
Industry	Median Value-Added Sales, Marketing & Distribution Return	Median Limited Risk Sales, Marketing & Distribution Return	50% + OM	40-50% OM	30-40% OM	20-30% OM	10-20% OM	0-10% OM
All Industries	3.5%	2.4%	52.1%	42.4%	33.1%	24.0%	13.8%	5.6%
Food Products	3.5%	1.7%	N/A	N/A	32.8%	24.2%	13.4%	5.2%
Textile and Apparels	4.0%	2.4%	N/A	N/A	N/A	26.5%	13.8%	6.3%
Furniture & Fixtures and Wood Products	3.8%	2.7%	N/A	N/A	N/A	N/A	15.0%	6.2%
Paper & Allied Products	5.3%	2.8%	N/A	N/A	N/A	N/A	13.4%	7.4%
Chemicals and Allied Products	4.2%	2.7%	N/A	41.6%	31.9%	24.6%	13.7%	6.8%
Plastic Products	5.8%	2.8%	N/A	N/A	N/A	22.0%	12.8%	N/A
Construction Materials	3.4%	2.8%	N/A	N/A	30.7%	23.6%	13.8%	5.8%
Industrial Machinery and Computer Equipment	3.4%	2.7%	N/A	N/A	32.2%	22.5%	12.9%	6.2%
Electronic Equipment and Components	2.8%	2.5%	N/A	N/A	N/A	24.0%	14.5%	6.4%
Transportation Equipment	3.2%	3.1%	N/A	N/A	N/A	23.6%	N/A	6.4%
Instruments & Apparatus	4.9%	3.3%	N/A	N/A	N/A	22.8%	16.4%	3.6%
Others	3.5%	2.4%	N/A	40.7%	34.4%	N/A	13.8%	6.3%
Transportation, Communications and Electric	3.3%	2.7%	N/A	N/A	36.2%	22.2%	13.7%	5.9%
Wholesale Trade	3.5%	2.4%	N/A	N/A	N/A	N/A	10.5%	2.6%
Retail Trade	3.5%	2.4%	N/A	N/A	N/A	N/A	14.4%	4.0%
Services (Technology)	2.7%	1.8%	N/A	45.7%	N/A	24.2%	14.2%	5.5%
Services (Other)	3.5%	2.4%	52.1%	N/A	30.8%	24.6%	14.0%	5.1%
Industrial Conglomerate	3.5%	2.4%	N/A	N/A	N/A	N/A	14.5%	6.5%

\* Percentages relate to the average OM for companies in each tranche of profitability and do not reflect the number of companies in each tranche.

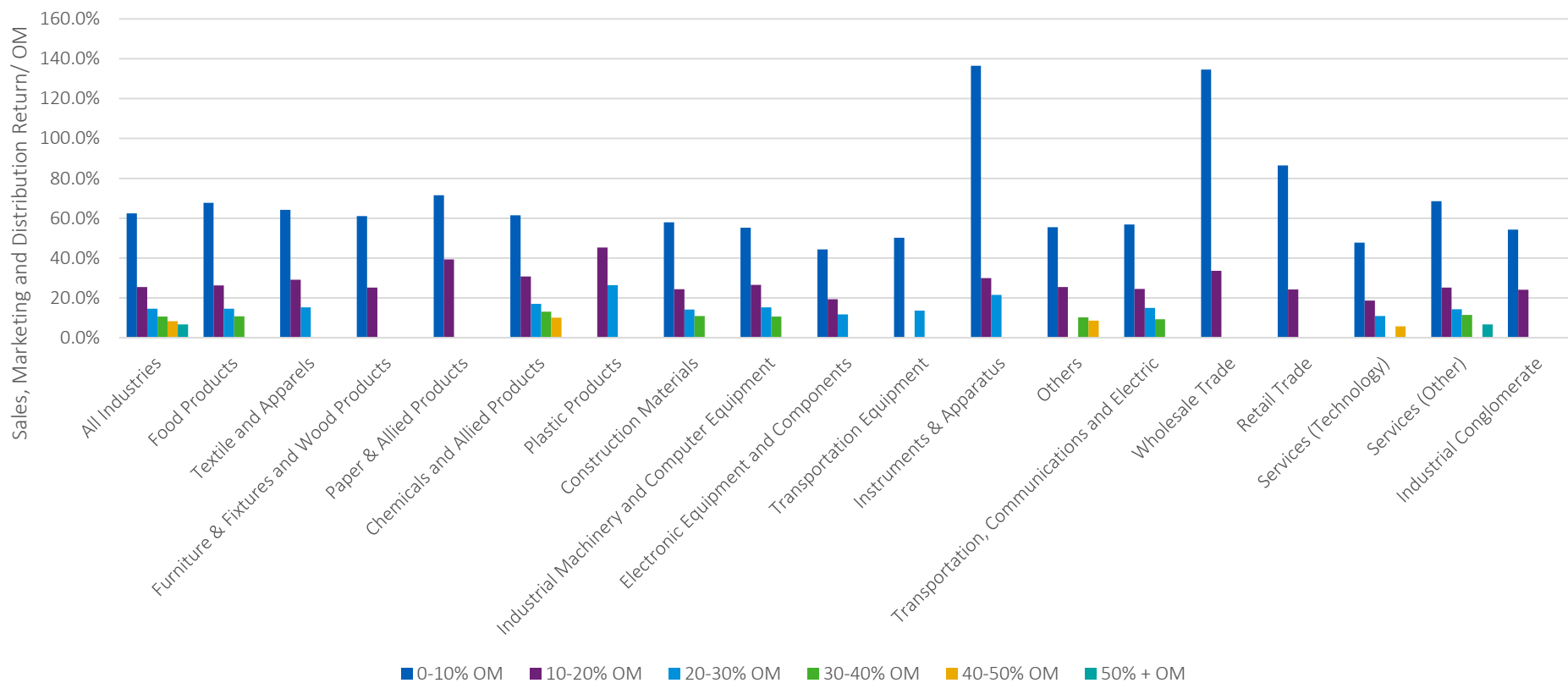


© 2019 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in the U.S.A.



# Value-added Sales, Marketing & Distribution Return to Operating Margin by Industry in EMEA

Ratio of Value-Added Distributor Return to Operating Margin in EMEA



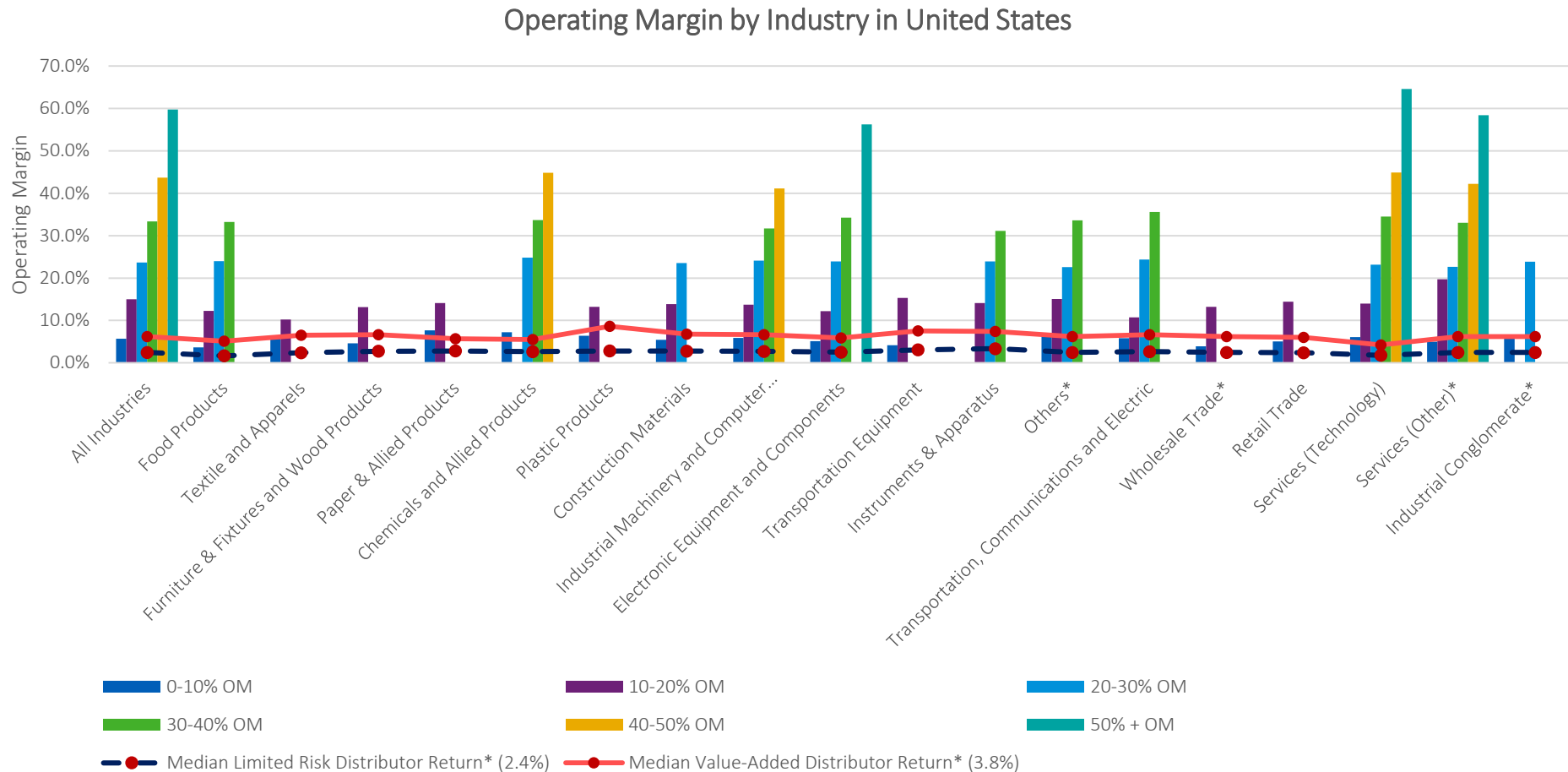
# Value-added Sales, Marketing & Distribution Return to Operating Margin by Industry in EMEA Data

Value-added Sales, Marketing & Distribution Return to Operating Margin by Industry in EMEA						
Industry	50% + OM	40-50% OM	30-40% OM	20-30% OM	10-20% OM	0-10% OM
All Industries	6.7%	8.3%	10.6%	14.6%	25.5%	62.4%
Food Products	N/A	N/A	10.7%	14.5%	26.3%	67.7%
Textile and Apparels	N/A	N/A	N/A	15.2%	29.1%	64.2%
Furniture & Fixtures and Wood Products	N/A	N/A	N/A	N/A	25.2%	61.0%
Paper & Allied Products	N/A	N/A	N/A	N/A	39.4%	71.5%
Chemicals and Allied Products	N/A	10.1%	13.1%	17.0%	30.7%	61.4%
Plastic Products	N/A	N/A	N/A	26.4%	45.3%	N/A
Construction Materials	N/A	N/A	11.0%	14.2%	24.3%	57.9%
Industrial Machinery and Computer Equipment	N/A	N/A	10.6%	15.2%	26.5%	55.2%
Electronic Equipment and Components	N/A	N/A	N/A	11.7%	19.4%	44.3%
Transportation Equipment	N/A	N/A	N/A	13.7%	N/A	50.2%
Instruments & Apparatus	N/A	N/A	N/A	21.5%	29.9%	136.5%
Others	N/A	8.6%	10.2%	N/A	25.4%	55.6%
Transportation, Communications and Electric	N/A	N/A	9.2%	15.0%	24.4%	56.9%
Wholesale Trade	N/A	N/A	N/A	N/A	33.5%	134.5%
Retail Trade	N/A	N/A	N/A	N/A	24.2%	86.5%
Services (Technology)	N/A	5.8%	N/A	10.9%	18.7%	47.8%
Services (Other)	6.7%	N/A	11.4%	14.3%	25.1%	68.5%
Industrial Conglomerate	N/A	N/A	N/A	N/A	24.2%	54.3%



# Appendix D

# Operating Margin by Industry in United States



\* Using Americas Comparable Sets

# Operating Margin by Industry in United States Data

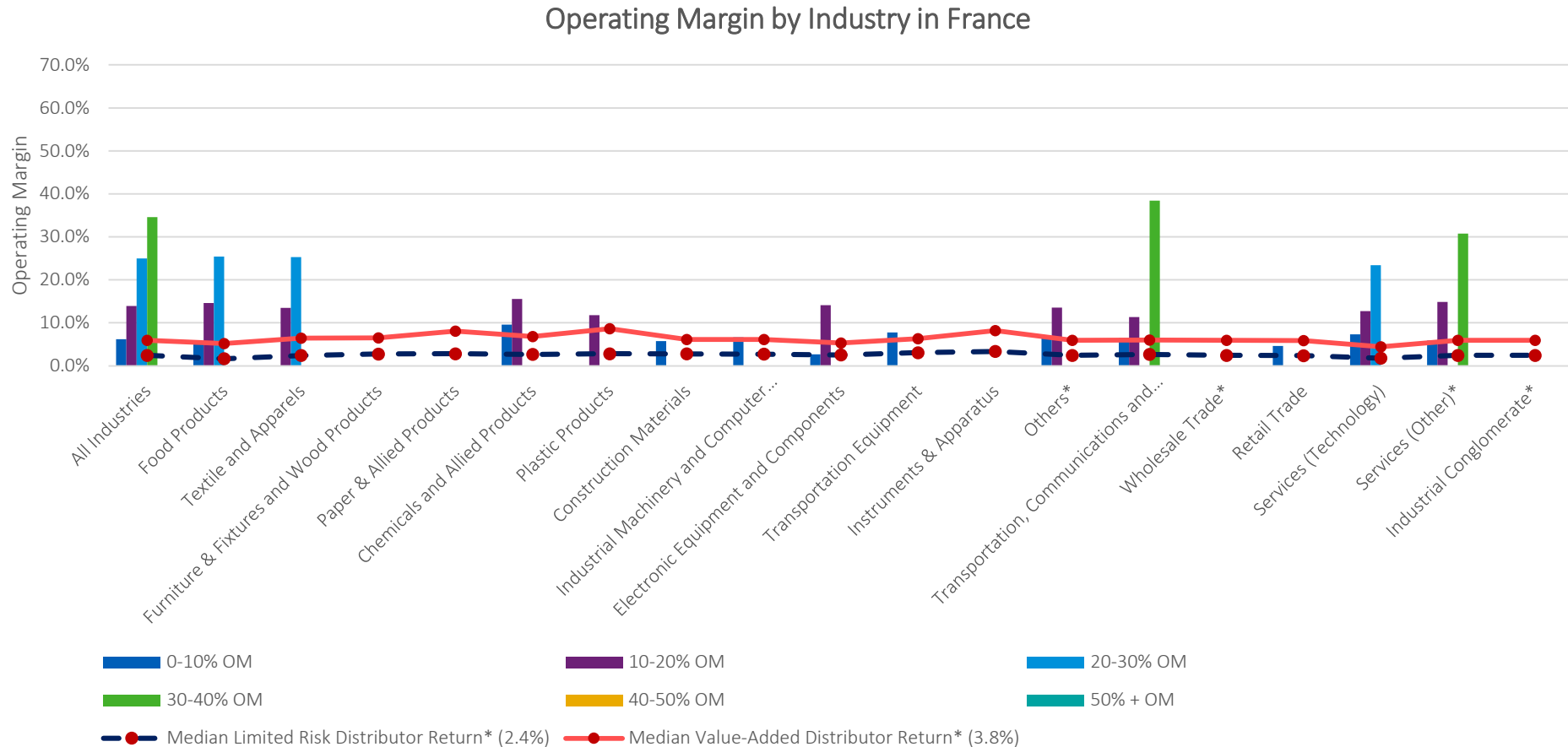
Operating Margin in United States*								
Industry	Median Value-Added Sales, Marketing & Distribution Return	Median Limited Risk Sales, Marketing & Distribution Return	50% + OM	40-50% OM	30-40% OM	20-30% OM	10-20% OM	0-10% OM
All Industries	3.8%	2.6%	59.7%	43.7%	33.4%	23.6%	14.0%	5.7%
Food Products	3.5%	1.8%	N/A	N/A	33.2%	24.0%	15.0%	3.6%
Textile and Apparels	4.1%	2.8%	N/A	N/A	N/A	N/A	12.2%	6.5%
Furniture & Fixtures and Wood Products	3.9%	2.8%	N/A	N/A	N/A	N/A	10.2%	4.6%
Paper & Allied Products	2.9%	2.6%	N/A	N/A	N/A	N/A	13.2%	7.7%
Chemicals and Allied Products	2.8%	1.9%	N/A	44.9%	33.7%	24.8%	14.1%	7.2%
Plastic Products	5.8%	2.7%	N/A	N/A	N/A	N/A	N/A	6.4%
Construction Materials	4.0%	2.7%	N/A	N/A	N/A	23.5%	13.2%	5.4%
Industrial Machinery and Computer Equipment	3.9%	2.7%	N/A	41.1%	31.7%	24.1%	13.8%	5.9%
Electronic Equipment and Components	3.3%	2.6%	56.2%	N/A	34.3%	23.9%	13.7%	5.1%
Transportation Equipment	4.5%	3.3%	N/A	N/A	N/A	N/A	12.2%	4.2%
Instruments & Apparatus	4.1%	3.0%	N/A	N/A	31.1%	23.9%	15.3%	N/A
Others	3.8%	2.6%	N/A	N/A	33.6%	22.6%	14.1%	7.0%
Transportation, Communications and Electric	4.0%	2.6%	N/A	N/A	35.6%	24.3%	15.1%	5.8%
Wholesale Trade	3.8%	2.6%	N/A	N/A	N/A	N/A	10.7%	3.9%
Retail Trade	3.6%	2.5%	N/A	N/A	N/A	N/A	13.2%	5.0%
Services (Technology)	2.5%	2.3%	64.6%	44.9%	34.5%	23.1%	14.4%	6.1%
Services (Other)	3.8%	2.6%	58.4%	42.2%	33.1%	22.6%	14.0%	5.0%
Industrial Conglomerate	3.8%	2.6%	N/A	N/A	N/A	23.9%	19.7%	6.1%

\* Percentages relate to the average OM for companies in each tranche of profitability and do not reflect the number of companies in each tranche.



© 2019 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in the U.S.A.

# Operating Margin by Industry in France



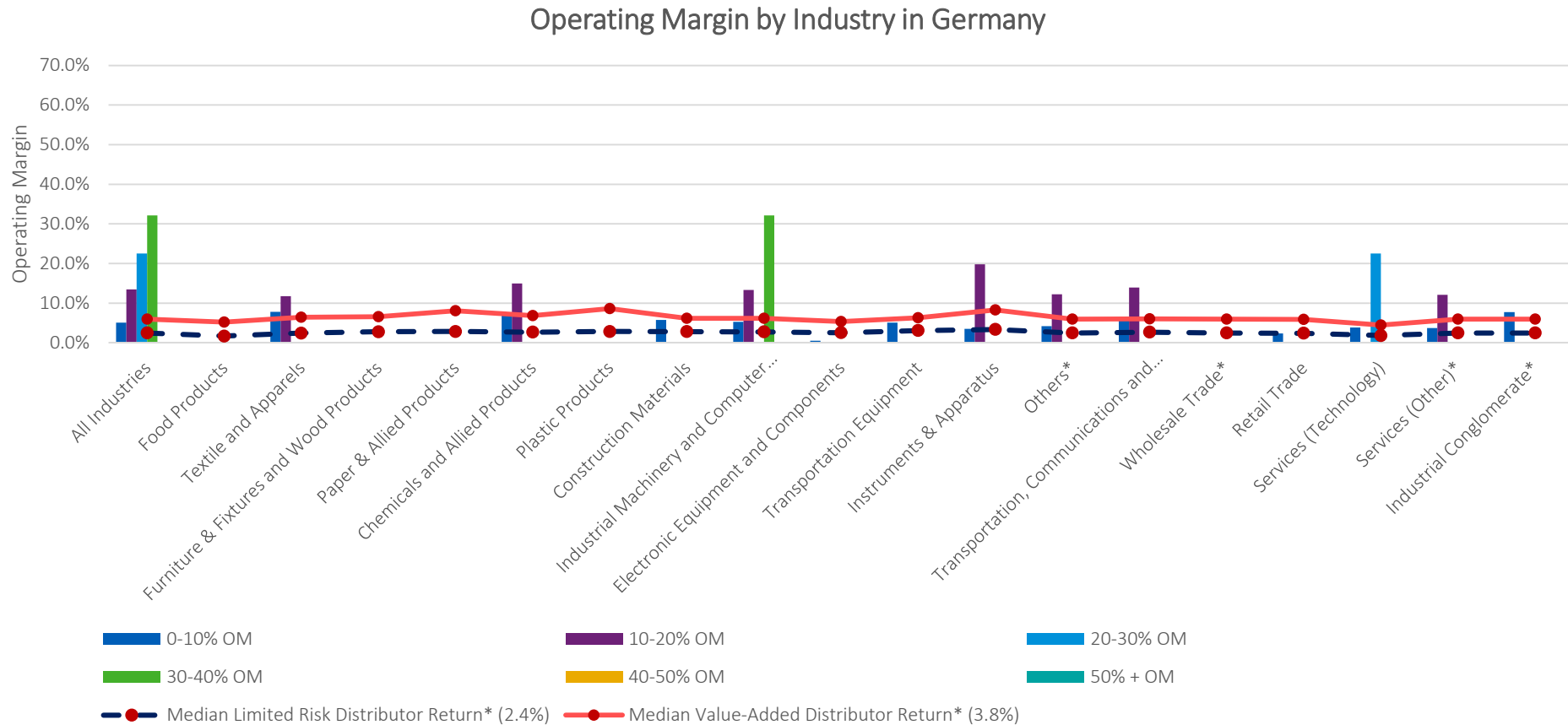
\* Using EMEA Comparable Sets

# Operating Margin by Industry in France Data

Operating Margin in France*									
Industry	Median Value-Added Sales, Marketing & Distribution Return	Median Limited Risk Sales, Marketing & Distribution Return	50% + OM	40-50% OM	30-40% OM	20-30% OM	10-20% OM	0-10% OM	
All Industries	3.5%	2.4%	N/A	N/A	34.6%	25.0%	13.9%	6.2%	
Food Products	3.5%	1.7%	N/A	N/A	N/A	25.4%	14.6%	5.1%	
Textile and Apparels	4.0%	2.4%	N/A	N/A	N/A	25.3%	13.5%	N/A	
Furniture & Fixtures and Wood Products	3.8%	2.7%	N/A	N/A	N/A	N/A	N/A	N/A	
Paper & Allied Products	5.3%	2.8%	N/A	N/A	N/A	N/A	N/A	N/A	
Chemicals and Allied Products	4.2%	2.7%	N/A	N/A	N/A	N/A	15.6%	9.6%	
Plastic Products	5.8%	2.8%	N/A	N/A	N/A	N/A	11.8%	N/A	
Construction Materials	3.4%	2.8%	N/A	N/A	N/A	N/A	N/A	5.8%	
Industrial Machinery and Computer Equipment	3.4%	2.7%	N/A	N/A	N/A	N/A	N/A	6.7%	
Electronic Equipment and Components	2.8%	2.5%	N/A	N/A	N/A	N/A	14.1%	2.7%	
Transportation Equipment	3.2%	3.1%	N/A	N/A	N/A	N/A	N/A	7.8%	
Instruments & Apparatus	4.9%	3.3%	N/A	N/A	N/A	N/A	N/A	N/A	
Others	3.5%	2.4%	N/A	N/A	N/A	N/A	13.5%	6.5%	
Transportation, Communications and Electric	3.3%	2.7%	N/A	N/A	38.4%	N/A	11.3%	6.5%	
Wholesale Trade	3.5%	2.4%	N/A	N/A	N/A	N/A	N/A	N/A	
Retail Trade	3.5%	2.4%	N/A	N/A	N/A	N/A	N/A	4.6%	
Services (Technology)	2.7%	1.8%	N/A	N/A	N/A	23.4%	12.7%	7.3%	
Services (Other)	3.5%	2.4%	N/A	N/A	30.8%	N/A	14.9%	5.9%	
Industrial Conglomerate	3.5%	2.4%	N/A	N/A	N/A	N/A	N/A	N/A	

\* Percentages relate to the average OM for companies in each tranche of profitability and do not reflect the number of companies in each tranche.

# Operating Margin by Industry in Germany



\* Using EMEA Comparable Sets



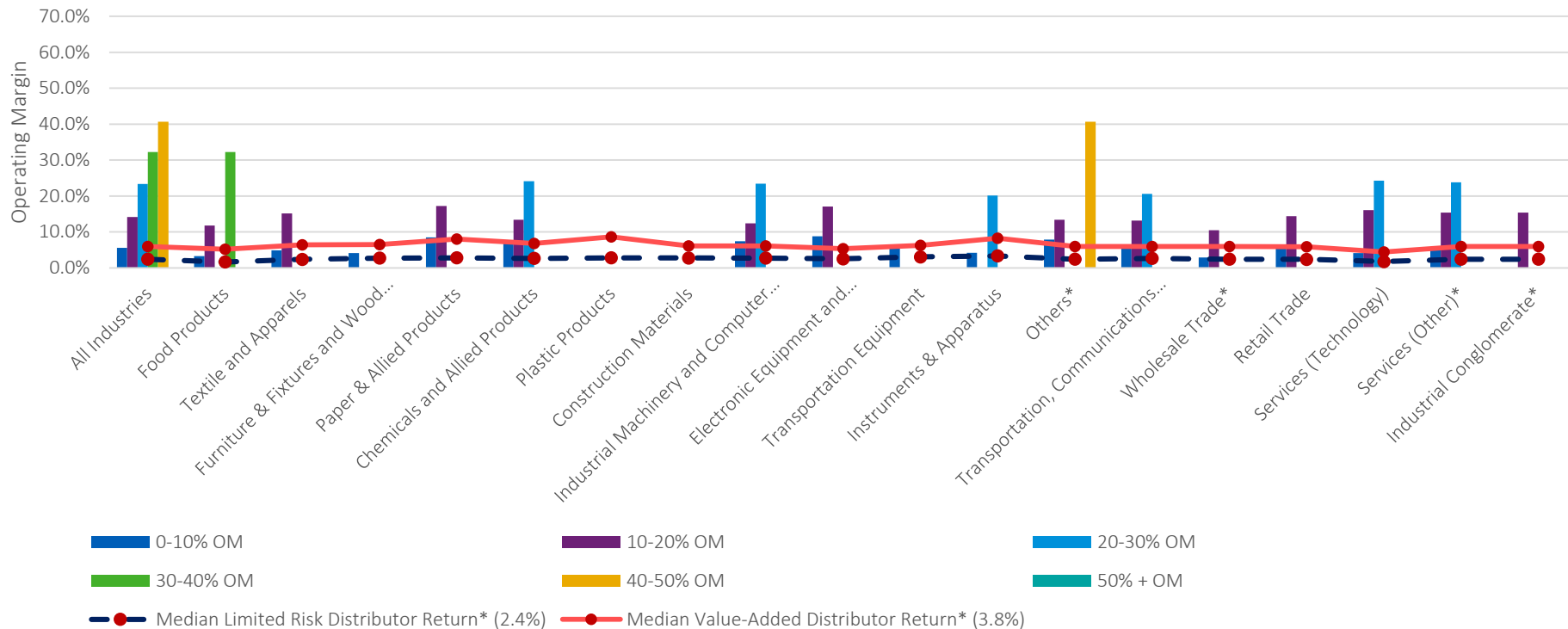
# Operating Margin by Industry in Germany Data

Operating Margin in Germany*								
Industry	Median Value-Added Sales, Marketing & Distribution Return	Median Limited Risk Sales, Marketing & Distribution Return	50% + OM	40-50% OM	30-40% OM	20-30% OM	10-20% OM	0-10% OM
All Industries	3.5%	2.4%	N/A	N/A	32.2%	22.5%	13.5%	5.1%
Food Products	3.5%	1.7%	N/A	N/A	N/A	N/A	N/A	N/A
Textile and Apparels	4.0%	2.4%	N/A	N/A	N/A	N/A	11.7%	7.8%
Furniture & Fixtures and Wood Products	3.8%	2.7%	N/A	N/A	N/A	N/A	N/A	N/A
Paper & Allied Products	5.3%	2.8%	N/A	N/A	N/A	N/A	N/A	N/A
Chemicals and Allied Products	4.2%	2.7%	N/A	N/A	N/A	N/A	15.0%	7.2%
Plastic Products	5.8%	2.8%	N/A	N/A	N/A	N/A	N/A	N/A
Construction Materials	3.4%	2.8%	N/A	N/A	N/A	N/A	N/A	5.8%
Industrial Machinery and Computer Equipment	3.4%	2.7%	N/A	N/A	32.2%	N/A	13.3%	5.2%
Electronic Equipment and Components	2.8%	2.5%	N/A	N/A	N/A	N/A	N/A	0.5%
Transportation Equipment	3.2%	3.1%	N/A	N/A	N/A	N/A	N/A	5.1%
Instruments & Apparatus	4.9%	3.3%	N/A	N/A	N/A	N/A	19.8%	3.5%
Others	3.5%	2.4%	N/A	N/A	N/A	N/A	12.2%	4.2%
Transportation, Communications and Electric	3.3%	2.7%	N/A	N/A	N/A	N/A	13.9%	6.4%
Wholesale Trade	3.5%	2.4%	N/A	N/A	N/A	N/A	N/A	N/A
Retail Trade	3.5%	2.4%	N/A	N/A	N/A	N/A	N/A	2.3%
Services (Technology)	2.7%	1.8%	N/A	N/A	N/A	22.5%	N/A	3.8%
Services (Other)	3.5%	2.4%	N/A	N/A	N/A	N/A	12.1%	3.7%
Industrial Conglomerate	3.5%	2.4%	N/A	N/A	N/A	N/A	N/A	7.7%

\* Percentages relate to the average OM for companies in each tranche of profitability and do not reflect the number of companies in each tranche.

# Operating Margin by Industry in United Kingdom

Operating Margin by Industry in United Kingdom



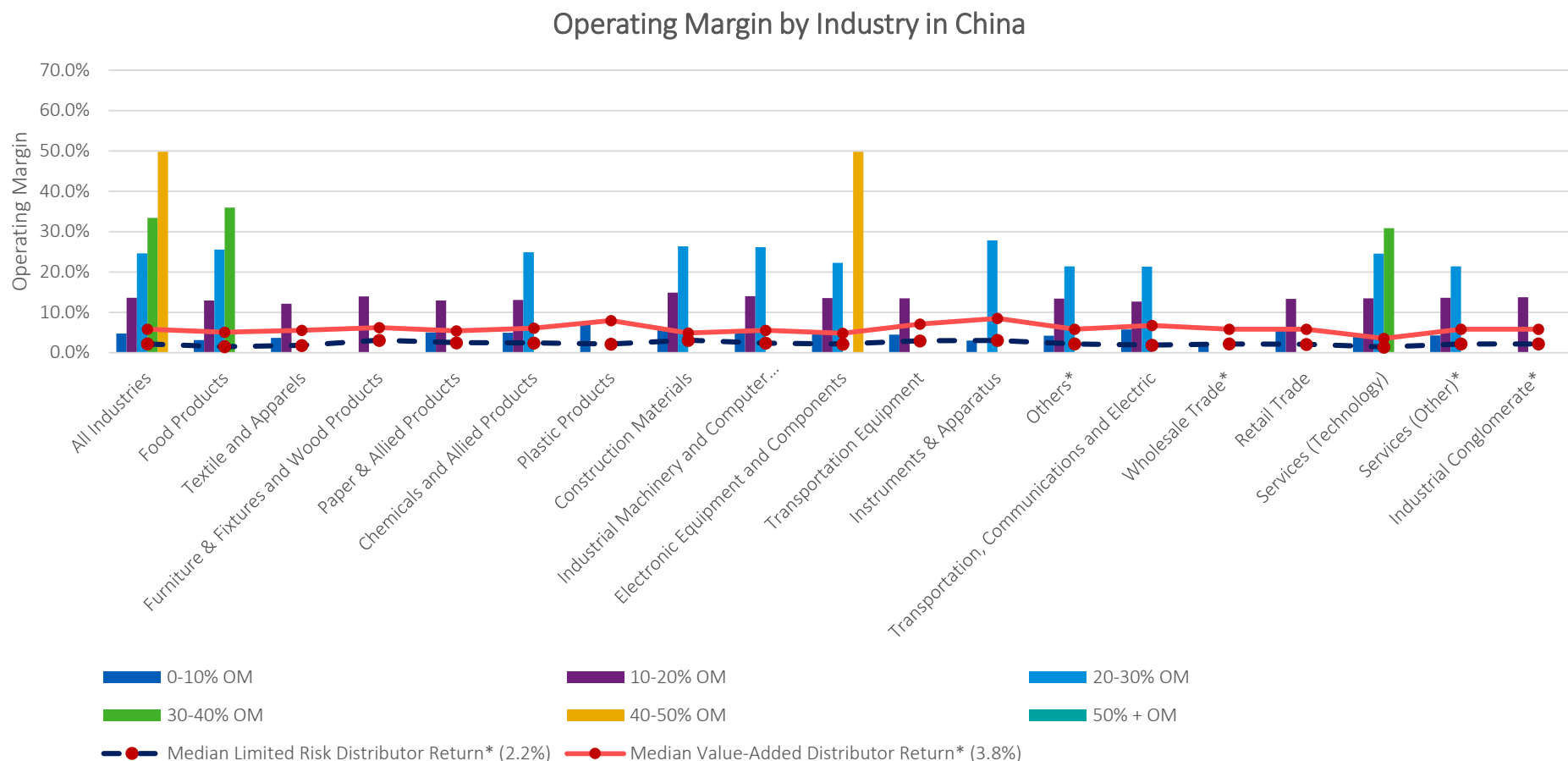
\* Using EMEA Comparable Sets

# Operating Margin by Industry in United Kingdom Data

Industry	Operating Margin in United Kingdom*							
	Median Value-Added Sales, Marketing & Distribution Return	Median Limited Risk Sales, Marketing & Distribution Return	50% + OM	40-50% OM	30-40% OM	20-30% OM	10-20% OM	0-10% OM
All Industries	3.5%	2.4%	N/A	40.7%	32.3%	23.4%	14.2%	5.6%
Food Products	3.5%	1.7%	N/A	N/A	32.3%	N/A	11.8%	3.3%
Textile and Apparels	4.0%	2.4%	N/A	N/A	N/A	N/A	15.2%	4.9%
Furniture & Fixtures and Wood Products	3.8%	2.7%	N/A	N/A	N/A	N/A	N/A	4.1%
Paper & Allied Products	5.3%	2.8%	N/A	N/A	N/A	N/A	17.2%	8.5%
Chemicals and Allied Products	4.2%	2.7%	N/A	N/A	N/A	24.1%	13.4%	7.6%
Plastic Products	5.8%	2.8%	N/A	N/A	N/A	N/A	N/A	N/A
Construction Materials	3.4%	2.8%	N/A	N/A	N/A	N/A	N/A	N/A
Industrial Machinery and Computer Equipment	3.4%	2.7%	N/A	N/A	N/A	23.4%	12.4%	7.4%
Electronic Equipment and Components	2.8%	2.5%	N/A	N/A	N/A	N/A	17.1%	8.8%
Transportation Equipment	3.2%	3.1%	N/A	N/A	N/A	N/A	N/A	5.7%
Instruments & Apparatus	4.9%	3.3%	N/A	N/A	N/A	20.1%	N/A	4.2%
Others	3.5%	2.4%	N/A	40.7%	N/A	N/A	13.4%	7.9%
Transportation, Communications and Electric	3.3%	2.7%	N/A	N/A	N/A	20.6%	13.2%	5.5%
Wholesale Trade	3.5%	2.4%	N/A	N/A	N/A	N/A	10.5%	2.9%
Retail Trade	3.5%	2.4%	N/A	N/A	N/A	N/A	14.4%	5.4%
Services (Technology)	2.7%	1.8%	N/A	N/A	N/A	24.3%	16.1%	4.1%
Services (Other)	3.5%	2.4%	N/A	N/A	N/A	23.9%	15.4%	4.9%
Industrial Conglomerate	3.5%	2.4%	N/A	N/A	N/A	N/A	15.4%	N/A

\* Percentages relate to the average OM for companies in each tranche of profitability and do not reflect the number of companies in each tranche.

# Operating Margin by Industry in China



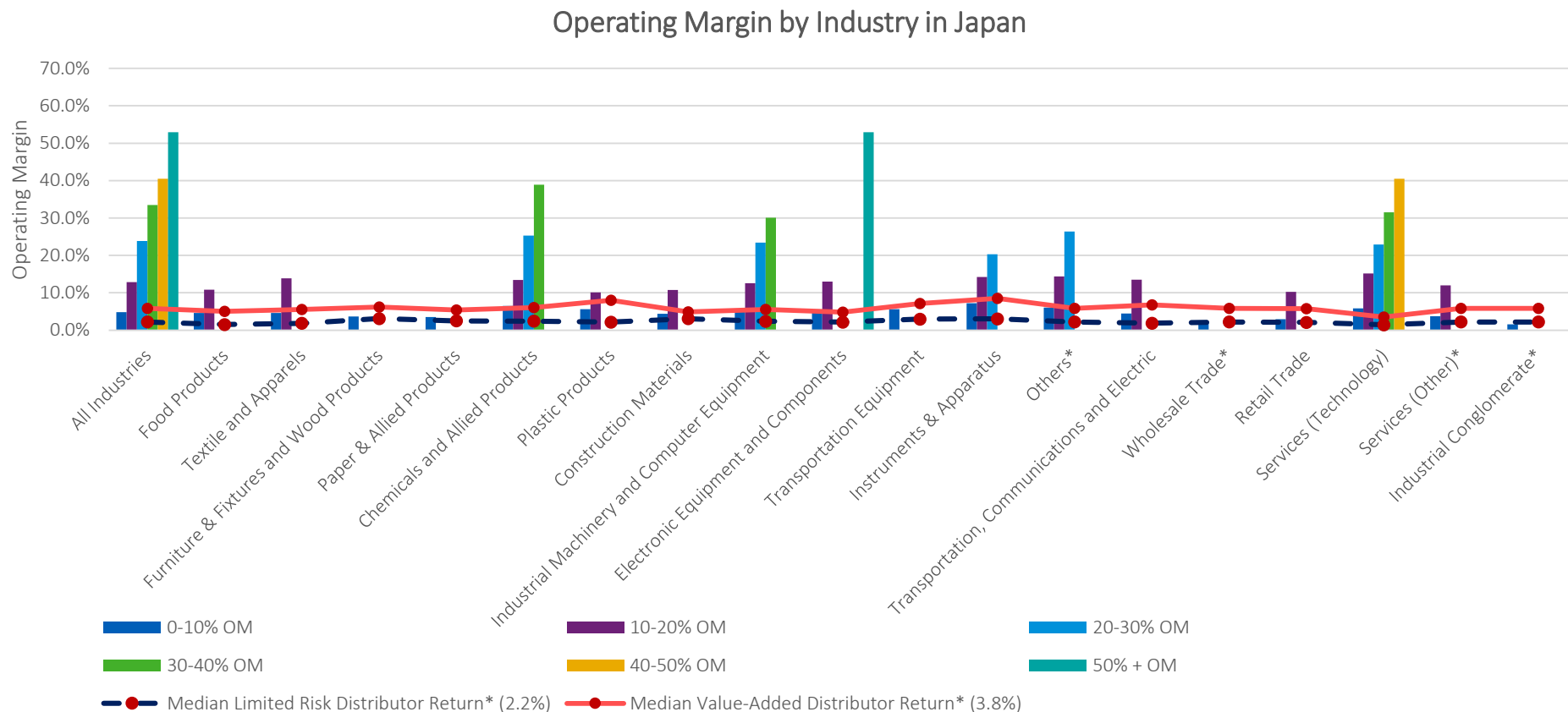
\* Using APAC Comparable Sets

# Operating Margin by Industry in China Data

Operating Margin in China*								
Industry	Median Value-Added Sales, Marketing & Distribution Return	Median Limited Risk Sales, Marketing & Distribution Return	50% + OM	40-50% OM	30-40% OM	20-30% OM	10-20% OM	0-10% OM
All Industries	3.6%	2.2%	N/A	49.7%	33.4%	24.6%	13.6%	4.7%
Food Products	3.5%	1.5%	N/A	N/A	35.9%	25.6%	12.9%	3.2%
Textile and Apparels	3.7%	1.8%	N/A	N/A	N/A	N/A	12.1%	3.7%
Furniture & Fixtures and Wood Products	3.1%	3.1%	N/A	N/A	N/A	N/A	14.0%	N/A
Paper & Allied Products	2.9%	2.5%	N/A	N/A	N/A	N/A	13.0%	5.0%
Chemicals and Allied Products	3.7%	2.4%	N/A	N/A	N/A	24.9%	13.1%	5.0%
Plastic Products	5.8%	2.2%	N/A	N/A	N/A	N/A	N/A	7.1%
Construction Materials	1.8%	3.1%	N/A	N/A	N/A	26.4%	14.9%	6.1%
Industrial Machinery and Computer Equipment	3.2%	2.4%	N/A	N/A	N/A	26.2%	14.0%	4.9%
Electronic Equipment and Components	2.7%	2.2%	N/A	49.7%	N/A	22.3%	13.6%	4.6%
Transportation Equipment	4.2%	2.9%	N/A	N/A	N/A	N/A	13.5%	4.5%
Instruments & Apparatus	5.5%	3.0%	N/A	N/A	N/A	27.8%	N/A	3.0%
Others	3.6%	2.2%	N/A	N/A	N/A	21.4%	13.4%	4.2%
Transportation, Communications and Electric	4.9%	1.9%	N/A	N/A	N/A	21.3%	12.7%	5.8%
Wholesale Trade	3.6%	2.2%	N/A	N/A	N/A	N/A	N/A	2.6%
Retail Trade	3.7%	2.1%	N/A	N/A	N/A	N/A	13.4%	6.1%
Services (Technology)	2.1%	1.4%	N/A	N/A	30.9%	24.5%	13.5%	4.4%
Services (Other)	3.6%	2.2%	N/A	N/A	N/A	21.4%	13.6%	4.3%
Industrial Conglomerate	3.6%	2.2%	N/A	N/A	N/A	N/A	13.7%	N/A

\* Percentages relate to the average OM for companies in each tranche of profitability and do not reflect the number of companies in each tranche.

# Operating Margin by Industry in Japan



\* Using APAC Comparable Sets

# Operating Margin by Industry in Japan Data

Operating Margin in Japan*									
Industry	Median Value-Added Sales, Marketing & Distribution Return	Median Limited Risk Sales, Marketing & Distribution Return	50% + OM	40-50% OM	30-40% OM	20-30% OM	10-20% OM	0-10% OM	
All Industries	3.6%	2.2%	52.9%	40.5%	33.5%	23.8%	12.9%	4.8%	
Food Products	3.5%	1.5%	N/A	N/A	N/A	N/A	10.8%	4.6%	
Textile and Apparels	3.7%	1.8%	N/A	N/A	N/A	N/A	13.8%	4.6%	
Furniture & Fixtures and Wood Products	3.1%	3.1%	N/A	N/A	N/A	N/A	N/A	3.7%	
Paper & Allied Products	2.9%	2.5%	N/A	N/A	N/A	N/A	N/A	3.5%	
Chemicals and Allied Products	3.7%	2.4%	N/A	N/A	38.9%	25.3%	13.4%	6.5%	
Plastic Products	5.8%	2.2%	N/A	N/A	N/A	N/A	10.1%	5.6%	
Construction Materials	1.8%	3.1%	N/A	N/A	N/A	N/A	10.8%	4.4%	
Industrial Machinery and Computer Equipment	3.2%	2.4%	N/A	N/A	30.1%	23.4%	12.6%	5.3%	
Electronic Equipment and Components	2.7%	2.2%	52.9%	N/A	N/A	N/A	13.0%	5.6%	
Transportation Equipment	4.2%	2.9%	N/A	N/A	N/A	N/A	N/A	5.6%	
Instruments & Apparatus	5.5%	3.0%	N/A	N/A	N/A	20.3%	14.2%	7.2%	
Others	3.6%	2.2%	N/A	N/A	N/A	26.4%	14.4%	6.1%	
Transportation, Communications and Electric	4.9%	1.9%	N/A	N/A	N/A	N/A	13.5%	4.4%	
Wholesale Trade	3.6%	2.2%	N/A	N/A	N/A	N/A	N/A	2.2%	
Retail Trade	3.7%	2.1%	N/A	N/A	N/A	N/A	10.3%	3.0%	
Services (Technology)	2.1%	1.4%	N/A	40.5%	31.5%	22.9%	15.2%	5.8%	
Services (Other)	3.6%	2.2%	N/A	N/A	N/A	N/A	12.0%	3.7%	
Industrial Conglomerate	3.6%	2.2%	N/A	N/A	N/A	N/A	N/A	1.6%	

\* Percentages relate to the average OM for companies in each tranche of profitability and do not reflect the number of companies in each tranche.

# KPMG Contacts

## **Steve Blough**

Principal, Washington National Tax – Transfer Pricing  
KPMG, Washington DC  
sblough@kpmg.com  
202 533 3108

## **Jack O'Meara**

Principal, Washington National Tax – Transfer Pricing  
KPMG, San Francisco  
jomeara@kpmg.com  
415 963 5191



# Notice

The information herein is not intended to be “written advice concerning one or more Federal tax matters” subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230.

The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.



Some or all of the services described herein may not be permissible for KPMG audit clients and their affiliates.



**[kpmg.com/socialmedia](https://kpmg.com/socialmedia)**

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2020 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity.  
All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.