



BRUSSELS | OCTOBER 2020

OECD Digital Tax Pillar 1 & 2 Blueprints Published

The OECD has launched a [consultation](#) concerning blueprints for [Pillar 1](#) (review of profit allocation and nexus rules to reflect digital business models) and [Pillar 2](#) (global anti-base erosion rules for a minimum effective taxation rate). Details of the consultation and progress in the negotiations of the Inclusive Framework to agree a solution to challenges posed by the digitalisation of the economy were presented in an [OECD Tax Talks Webcast](#) earlier this month.

The [OECD G20 Report](#) and [Inclusive Framework Cover Statement](#) presented to Finance Ministers in advance of the G20 meeting scheduled for 14 October sets out that the blueprints “reflects convergent views on a number of key policy features, principles and parameters of both Pillars, and identifies remaining political and technical issues where differences of views remain to be bridged”.

As concerns Pillar 1, the Inclusive Framework note that progress has been made on developing technical and policy solutions to the working blocks for agreeing tax allocations rights, and that the solution will:

- *Allocate a portion of residual profit of in-scope businesses to market/user jurisdictions;*
- *Be computed using consolidated financial accounts as the starting point, contain a limited number of book-to-tax adjustments and ensure that losses are appropriately taken into account;*
- *Contain broad safe-harbour or exemption rules from segmentation to reduce complexity;*
- *Contain effective means to eliminate double taxation in a multilateral setting, including a new multilateral tax certainty process with respect to Amount A, and a new multilateral convention would be developed to implement the solution.*

Issues of scope, quantum, safe harbour implementation and tax certainty matters for Amount A will be progressed in further work of the Inclusive Framework following the public consultation.

The Inclusive Framework Cover Statement additionally details that as regards Pillar 2, although no agreement has been reached, the Blueprint provides a solid basis for future agreement on:

- *Design of the four rules as set out in the Programme of Work: a) the income inclusion rule (IRR); b) the switch-over rule; c) the undertaxed payment rule (UTPR); and d) the subject to tax rule (STTR);*
- *The right of all members of the Inclusive Framework to implement the income inclusion rule and subject to tax rule as part of an agreed Pillar Two regime;*

- *That there may be members that are not in a position to implement these rules but those implementing them would apply them consistently with the agreed Pillar Two vis-à-vis all other jurisdictions (including groups headquartered therein) that also join this consensus;*
- *That a subject to tax rule will be an integral part of a consensus solution on Pillar Two;*
- *The basis on which the United States' Global Intangible Low Taxed Income Regime (GILTI) would be treated as a Pillar Two compliant income inclusion rule as set out in the Report on the Blueprint on Pillar Two.*

OECD Secretary General Angel Gurría stated of the developments, “It is clear that new rules are urgently needed to ensure fairness and equity in our tax systems, and to adapt the international tax architecture to new and changing business models. Without a global, consensus-based solution, the risk of further uncoordinated, unilateral measures is real, and growing by the day. It is imperative that we take this work across the finish line. Failure would risk tax wars turning into trade wars at a time when the global economy is already suffering enormously.”

Input is invited by Monday 14 December 2020 at the latest. The input sought concerns technical questions concerning aspects of the Blueprints for Pillar 1 and 2. Parties can submit input by way of comments in Word format to the e-mail address cfa@oecd.org, addressed to the “OECD Centre for Tax Policy and Administration”.

A virtual public consultation will follow the consultation in January 2021, with a view to an agreement being concluded and model draft legislation and guidelines for implementation being published by the Inclusive Framework by mid-2021.

Council of the EU Updates Tax Blacklist

The EU's list of non-cooperative jurisdictions for taxation purposes was [updated](#) by the Council of the EU on 6 October 2020.

Anguilla and Barbados were added to the Blacklist following on from the OECD's Global Forum peer review reports on transparency and exchange of information, in which the jurisdictions had their compliance ratings downgraded from partially compliant to non-compliant.

Additionally, the Council of the EU endorsed the removal from the EU black and/or greylist of a number of other jurisdictions, including Oman, the Cayman Islands, Mongolia and Bosnia and Herzegovina, establishing that those countries have implemented reforms to comply with EU tax good governance standards.

Twelve jurisdictions now remain on the EU blacklist: American Samoa, Anguilla, Barbados, Fiji, Guam, Palau, Panama, Samoa, Seychelles, Trinidad and Tobago, the US Virgin Islands and Vanuatu.

[OECD Tax Dispute Resolution Peer Reviews Published](#)

In the framework of the work undertaken under BEPS Action 14 and the improvement of the tax dispute resolution mechanisms, the OECD has [issued](#) the third batch of Stage 2 peer review reports, assessing the efforts by countries to implement the Action 14 minimum standard as agreed to under the OECD/G20 BEPS Project and recommendations contained in the Stage 1 peer review reports.

Reports were published for the Czech Republic, Denmark, Finland, Korea, Norway, Poland, Singapore and Spain, and in general revealed positive

developments in all jurisdictions, to varying degrees. All countries had signed the BEPS Action 15 MLI, with it having been ratified by 5 of the jurisdictions, and all countries had increased personnel or made positive changes for the competent authority dealing with MAP cases, with five of the jurisdictions decreasing MAP case time duration.

BEPS Action 14 seeks to improve the tax-dispute resolution mechanisms via the Inclusive Framework peer-review process, which looks into the compliance with the minimum standard reviewed and monitored by peer countries.

Save the Date: CFE Professional Affairs Webinar Conference on Taxpayers Rights - 30 November 2020

Save the date for the 13th European Webinar Conference on Tax Advisers' Professional Affairs, to be held virtually on Monday, 30 November 2020 from 3:30pm to 5pm CET, on the topic of "Taxpayer Rights and Legal Certainty in the Digital Era".

The virtual conference will welcome tax experts and academics, including Dr Philip Baker QC, Prof. Nataša Žunić Kovačević and Paul Kraan, as well as Albert Raedler from the European Commission, who is leading the current Commission project on taxpayers rights. The panel will examine European and global developments in the protection of taxpayers' rights and the impact and implications of technology on taxpayers' rights. The conference will also review the recently published IBFD [2019 Yearbook on Taxpayers' Rights](#), the most recent compilation of information by the Observatory on the Protection of Taxpayers' Rights.

Register [here](#) to secure your place for the webinar.

European Virtual Anti-Money Laundering Conference

The EU Commission held an [online conference](#) on the topic of “Closing the Door on Dirty Money”, as a follow-up from the consultation phase concerning its [Anti-Money Laundering Plan](#) published in May. Speakers included Commission Executive Vice President Valdis Dombrovski, Nicola Gratteri, Chief Prosecutor of Catanzaro, and François Molins, General Prosecutor at the French Court of Cassation.

During the conference, Mr Dombrovski discussed the Commission plans for an EU oversight authority and harmonisation of anti-money laundering rules within the EU, noting that there was minimal negative feedback received during the consultation carried out concerning the Action Plan earlier this year. The panellists were also largely in favour of an oversight body with sufficient powers to not only investigate but also penalise wrongdoing, as well as a bloc-wide single rule book that would align AML regulation across the EU.

A comprehensive package on the proposals will be presented by the Commission in early 2021.

Botswana, Eswatini, Jordan & Namibia Sign Multilateral Convention on Mutual Assistance in Tax Matters

Botswana, Eswatini, Jordan and Namibia became signatories to the [Multilateral Convention on Mutual Administrative Assistance in Tax Matters \(the Convention\)](#) at the OECD Headquarters. There are now 141 jurisdictions that are signatories to the Convention.

The Convention is the key instrument for swift implementation of the Standard for Automatic Exchange of Financial Account Information in Tax Matters (CRS). The Standard – developed by the OECD and G20 countries – enables more than 100 jurisdictions to automatically exchange offshore financial account information since September. It is also a powerful tool in the fight against illicit financial flows.

Tax Inspectors Without Borders Annual Report

The [annual report](#) of the Tax Inspectors Without Borders, a joint OECD and UN initiative launched in 2015 to assist developing countries with their auditing capacity and in increasing compliance of MNEs worldwide, was presented by OECD Secretary-General, Angel Gurría, and United Nations Development Programme Administrator, Achim Steiner, at a ministerial panel discussion at the 75th session of the United Nations General Assembly.

The initiative has over 80 programmes in more than 45 jurisdictions, with 19 more projects in development and is assisting developing countries in effectively collecting tax from multinational entities, which is vital in light of the coronavirus crisis. The report indicates that over US 500 million in additional revenue was collected as a result of the initiative.

OECD Secretary-General stated of the programme, "Despite the constraints that the COVID-19 crisis has imposed, the TIWB initiative remains fully 'open for business' thanks to measures instituted to support experts in continuing to deliver assistance remotely. Not only are we open, but we are extending the TIWB focus to provide support in other areas of taxation to fight against corruption and promote integrity."

UN Committee of Experts Publish Digital Tax Report

The UN Committee of Experts on International Cooperation on Tax Matters has published a [paper](#) on the tax consequences of the digitalized economy focusing on issues of relevance for developing countries ahead of their 21th Session meeting, to be held virtually between 20 October and 6 November 2020.

At the upcoming meeting, the Committee of Experts will consider a [draft treaty provision](#) concerning tax on digital services, intended to be inserted into the UN Model Tax Convention. The session will also address progress on updating the Model Double Taxation Convention Between Developed and Developing Countries, as well as environmental taxation and taxation of the extractive industries. The report also summarises the submissions received on the draft treaty provision concerning tax on digital services.

OECD Digital Tax Economic Impact Assessment Webinar

The OECD held a [webinar](#) on 20 October 2020 examining the economic analysis and impact assessment of the recently published blueprints for [Pillar 1](#) (review of profit allocation and nexus rules to reflect digital business models) and [Pillar 2](#) (global anti-base erosion rules for a minimum effective taxation rate), concerning proposals for taxation of the digital economy being negotiated by the Inclusive Framework on BEPS.

Though the OECD during the seminar conceded that the COVID-19 crisis could reduce the revenue expected to be collected under the economic analysis, the analysis shows that Pillar 1 and 2 measures could increase global corporate income tax by 50 – 80 million USD per year, with around 100 million USD expected to be reallocated to market jurisdictions, representing an increase in

tax revenue for all economies, apart from those where “investment hubs” are located.

The current Pillar 2 blueprint would reduce profit shifting incentives, and generate revenue gains across all jurisdictions. In addition, the webinar highlighted that although the measures would involve increased compliance costs for MNEs, the cost would be far higher without a global solution, given the numerous unilateral digital tax measures being implemented across the globe. A [blogpost](#) was also published further summarising the analysis.

European Commission Prolongs Temporary State Aid Framework

The European Commission has [prolonged](#) the application of the Temporary State Aid Framework adopted in March to assist Member States in dealing with the economic impact of the COVID-19 outbreak. The application of the Framework will be extended for a further six months, until 30 June 2021.

To minimise the economic impact of the COVID-19 outbreak, the Framework allows Member States to provide aid by: providing grants, selective tax advantages, and advance payments of up to 800,000 Euro; providing State guarantees for loans taken by businesses; subsidising public loans to companies, putting in place safeguards for banks providing State aid to the economy; and providing short-term export credit insurance.

Executive Vice-President Margrethe Vestager, commented of the decision *“The Temporary Framework has supported Member States in their efforts to deal with the effects of the crisis. Today, we prolong the Temporary Framework to cater for the continued needs of businesses, while protecting the EU's Single Market.*

We also introduce a new measure to enable Member States to support companies facing significant turnover losses by contributing to part of their uncovered fixed costs. Finally, we introduce new possibilities for the State to exit from recapitalised companies while maintaining its previous stake in those companies and limiting distortions to competition."

The selection of the remitted material has been prepared by:
Piergiorgio Valente/ Aleksandar Ivanovski/ Brodie McIntosh/ Filipa Correia