



Opinion statement

Dear Sir/Madam,

CFE Tax Advisers Europe has issued an [Opinion Statement](#) on the ongoing process that seeks to enact the Pillar 2 political agreement into the legal order of the EU and other states. CFE welcomes the historic agreement on the global tax reform with a key objective of stabilising the international corporate tax framework arising from the challenges of the digitalising economy. In this respect, CFE also welcomes EU's commitment to ensure that the global rules are enacted in the EU legal order through an EU-wide coherent framework. CFE is however concerned that this exercise, at both OECD and EU level, does not amount to meaningful engagement with stakeholders as Member states have proceeded with amendments to the Commission proposal while the public consultation at EU level is still ongoing.

CFE's reservations on the proposed EU Directive implementing Pillar 2 are principally focused on the complexity, the ambitious implementation timeline and lack of opportunity for meaningful engagement with stakeholders in developing the model rules, on which the EU directive is based.

This makes it difficult to conceivably provide input that would be considered and incorporated in the draft directive. CFE notes that this is one of the most significant reforms of international tax rules for many years and stresses that it therefore merits full and detailed discussion and consideration. The consultation process at OECD level is not sufficient to cover consultation with relevant stakeholders for the purposes of EU law.

In light of the above, CFE finds it problematic that subsequent iterations of the EU Compromise text as discussed by the Member states representatives refers to subsequent OECD commentary as regards rules of interpretation. As discussed in more detail in CFE's statement, recourse to OECD guidance to interpret provisions of EU law is extremely problematic for reasons of legal certainty. CFE strongly suggests the directive should establish a link with the entering into force and effective implementation of Pillar 2 by most of the jurisdictions participating to the Inclusive Framework. In the opinion of CFE Tax Advisers Europe, the proposed directive should come into force and be effectively applicable only as of the year following that in which at least 2/3 of the members of the Inclusive Framework have effectively introduced the necessary legislation so as to apply the OECD Pillar 2 rules.

The issue of the future of Member states CFC legislation is being raised with the introduction of the Income Inclusion Rule in the EU legal order. As noted by the OECD, the Income Inclusion Rule is drafted with reference to the modus operandi of CFC rules. CFE would welcome a dialogue on the interaction of the CFC rules with ATAD/ ATAD3/ Unshell proposal given the interconnection of these rules and the same underpinning objective – taxation of shareholders as if an entity did not exist. In light of the above, CFE suggests further postponement of entry into force due to the inherent complexity and ambiguity of the OECD Model Rules on Pillar 2 and the need of taxpayers, advisers and tax administrations to get acquainted with these rules before they become operational. Few countries of the Inclusive Framework have the resources to implement these rules, and certainly they could not put in place these measures in the desired timeframe.

We invite you to read the [Opinion Statement](#) and would welcome any feedback or queries concerning the position paper.

Kind regards,

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