

Inclusive Framework BEPS Agreement

Update on Pillar One and Pillar Two of BEPS 2.0 – July 2023
Policy Perspectives Update – the Hong Kong SAR



The OECD update on Pillar One and Pillar Two of BEPS 2.0

On 12 July 2023, the OECD published a [news update](#) on the progress of work on Pillar One and Pillar Two under BEPS 2.0. The news update includes an [Outcome Statement](#) approved by the 138 members of the Inclusive Framework (IF) on BEPS as of 11 July 2023.

We highlight below the key points mentioned in the Outcome Statement.

The Outcome Statement of the IF

The Outcome Statement summarises the package of deliverables developed by the IF so far, which comprises the following four parts:

1. Pillar One - Amount A

- The IF has delivered a text for the Multilateral Convention (MLC). A few jurisdictions have expressed concerns on a small number of specific items and efforts are underway to resolve these issues with a view to prepare the MLC for signature expeditiously.
- The MLC will be open for signature in the second half of 2023 with an objective for the MLC to enter into force in 2025.
- Subject to at least 30 jurisdictions accounting for at least 60% of the ultimate parent entities of in-scope MNE groups signing the MLC before the end of 2023, the IF members have agreed to refrain from imposing newly enacted digital services tax or relevant similar measures between 1 January 2024 and the earlier of 31 December 2024 or entry into force of the MLC.

2. Pillar One – Amount B

- Amount B is a critical component of the broader agreement on Pillar One. Further work will be performed on a number of aspects - e.g. an appropriate balance between a quantitative and qualitative approach to identifying baseline distribution activities, the appropriateness of the pricing framework and country uplifts within geographical markets, etc.
- A public consultation will be launched next week to seek inputs from stakeholders on these aspects through 1 September 2023, with an aim to complete the work on Amount B by the end of 2023.

3. Pillar Two - The Subject to Tax Rule (STTR)

- An STTR model provision and commentary will be released next week.
- The STTR is a treaty-based rule which applies to intra-group interest, royalties and a defined set of other intra-group payments (which includes all payments for intra-group services).
- The STTR minimum rate is set at 9% and is subject to certain exclusions, a materiality threshold and a mark-up threshold.
- The STTR will be administered through an ex-post annualised charge.
- A Multilateral Instrument together with an Explanatory Explanation will be released and open for signature from 2 October 2023.

4. Implementation support

The OECD will also prepare a comprehensive action plan to support the swift and coordinated implementation of the Two-Pillar Solution, with additional support and technical assistance to enhance capacity for implementation by developing countries.

Other developments related to Pillar Two

1. Pillar Two - GloBE Information Return and the second tranche of Administrative Guidance

The Outcome Statement did not mention about the release date for these items. We will closely monitor any further developments in this space and provide a timely update.

2. Amendments to IAS 12 – Income Taxes

On 23 May 2023, the International Accounting Standards Board (IASB) issued amendments to IAS 12 Income Taxes to:

- provide a temporary mandatory relief from deferred tax accounting for the top-up taxes under Pillar Two; and
- require new disclosures in relation to Pillar Two taxes.

The amendments are subject to endorsement of the local accounting standard board in each jurisdiction. The new disclosures, other than the disclosure about the relief, apply from 31 December 2023. No disclosures are required in interim periods ending on or before 31 December 2023.

For more details, please refer to the article prepared by KPMG Global IFRS Institute in this [link](#).

Hong Kong business considerations

The Outcome Statement signifies the IF's commitment to and continuous efforts in implementing the Two-Pillar Solution according to the target timeline. In the Hong Kong SAR (Hong Kong), the government has indicated that it plans to launch a public consultation on BEPS 2.0 implementation in the fourth quarter of 2023, with an aim to implement the global minimum tax and domestic minimum tax in Hong Kong starting from 2025.

In-scope MNE groups in Hong Kong should (1) closely monitor any future developments on BEPS 2.0 at both international and individual country levels, (2) assess or reassess the potential impacts of these new rules on the groups based on the latest OECD guidance and the HKSAR government's implementation plan and (3) be prepared for the new compliance obligations arising from BEPS 2.0.

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