KPMG Input on the Implementation Framework of the Global Minimum Tax

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From: KPMG International

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Re: Input on the Implementation Framework of the global minimum tax

Professionals in the member firms of KPMG International[1] ("KPMG") welcome the opportunity to comment on the Implementation Framework of the Global Minimum Tax, and observations are set out in the following pages. We hope the Inclusive Framework on BEPS will find our comments constructive.

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1. Safe Harbors

1.1 There are a number of broad principles that should be applied in the adoption of safe harbors.

(i) They should be simple and clear;

(ii) They should rely on available information that is currently prepared where possible or rely on information that is easily obtainable;

(iii) One year could be used as a proxy for future years where there is no material change in business;

(iv) Protections can be gained from the use of more than one test;

(v) Safe harbors should provide comfort where satisfied, such that a future review is focused on whether the test was satisfied. A computation under the full rules is only required if the safe harbor was not satisfied.

CBCR-based Safe Harbors

1.2 One of the simplest approaches to safe harbors involves leveraging Country-by-Country Reports (CBCR) and in particular "Accrued Tax – Current Year" divided by the Profit (Loss) for the year to give an Effective Tax Rate.

1.3 The clear advantage of CBCR-based Safe Harbors is that the compliance burden is relatively low and for most MNEs the information is readily available and would have been available for a number of years.

1.4 It is possible to link CBCR-based tests with other tests or to exclude the operation of the CBCR-based Safe Harbors in certain circumstances. For example, where the Tax Accounts and Financial Accounts are in a different currency.

Buffer Percentages

1.5 **Buffer Percentage based on analytical data for a range of MNEs.** A simple and basic methodology could be to compare the GloBE rate of 15% plus a Buffer Percentage to provide a strong likelihood that the GloBE threshold is met. That Buffer Percentage could be set by reference to an analysis of a selected range of MNEs based on a comfort threshold. This analysis could be undertaken by the OECD Secretariat.

1.6 **Buffer Percentage varies based on CBCR-based tests satisfied.** The Buffer Percentage could also be structured so as to depend on whether certain other tests (outlined below) are met. That is, it could be say 6% if no other tests are satisfied, 4% if one test is satisfied and 2% if two tests are satisfied. This may require different Buffer Percentages for this test as against the Buffer Percentages mentioned below.

1.7 **Buffer Percentage varies based on specific MNE Group ETR.** Another alternative is to determine the Buffer Percentage by reference to the specific MNE Group ETR. If the MNE Group ETR (based on the consolidated financial statements or the CBCR where they match the consolidated financial statements) is within certain bands, then the Buffer Percentage varies based on that band. The higher the MNE Group ETR is, the lower the Buffer Percentage.

Test based on Prior Years

1.8 **Multiple Prior Year CBCR ETR**. One test may involve taking the CBCR ETR or blended jurisdictional ETR for the past, say, 3 years. If the ETR, including its Buffer Percentage, is met for the 3 years, then this test would be satisfied.

1.9 **Past CBCR ETRs are above a threshold for multiple years.** An alternative is to look at the annual ETR calculations and if the test is met for all, say 3 years, then the test is satisfied.

1.10 **Average ETR for the past 3 years.** A second alternative would be to take the average ETR for the three-year period.

1.11 **Full calculation for 3 years gives a safe harbor exclusion unless material change.** This test could apply if a full ETR calculation has been conducted for three years, and for each of those years the 15% minimum tax rate has been met, with a Buffer Percentage where relevant. The test will have been met unless there is a material change to the tax environment as applicable to the commercial operations in that jurisdiction.

Adjusted CBCR Safe Harbor

1.12 **CBCR Safe Harbor ETR adjusted for limited factors**. This would take the CBCR-based "Accrued Tax – Current Year" divided by the Profit (Loss) for the year as a starting point and make adjustments for a limited number of items. These would include (a) non-portfolio dividends and withholding taxes on such dividends; (b) abnormal material losses on the sale of assets and equity interests; (c) CFC tax reassignment and (d) equity method adjustments.

Low-risk jurisdictions where no designated concession income, deductions or credits

1.13 **High headline rate countries excluded but protection for listed designated concessions.** An alternative safe-harbor methodology may be based on a list of countries that have a headline rate above a certain threshold (say 20%). This would be accompanied by a list of tax concessions associated with that country. If the MNE has entities located in that jurisdiction, and it does not derive material designated concession income, deductions or credits, then the safe harbor test is satisfied. The designated concessions could be based on an agreed list, which is updated by the OECD Secretariat periodically.

Qualifying Domestic Minimum Top-up Tax (QDMTT) leads to no IIR

1.14 **QDMTT leads to no IIR.** There may be circumstances where a QDMTT operates in a jurisdiction, but there is still the potential for the IIR rule to operate. This might give rise to very small additional Top-up Tax (TUT). Such minor differences should be able to be ignored under a safe harbor rule if they fall below a certain threshold. That threshold could be set at a Euro amount or a percentage of profit.

Substance-Based Income Exclusion (SBIE) Safe Harbors – Payroll and Assets

1.15 **Staff and asset allocations across jurisdictions treated as stable for SBIE.** There are two main possibilities. The first is for MNEs to do a calculation based on the Model Rules for Year 1 to give a reallocation percentage based on (i) mobility of employees and contractors for payroll and (ii) the use of qualifying assets in particular jurisdictions. These percentages reflecting mobility could be applied for a period of 3-5 years to determine the jurisdictional payroll and assets for the purposes of calculating the SBIE, unless there is a major change in the nature of the businesses. There would need to be a rule that the amount of payroll and carrying value of assets referable to a jurisdiction would not be double counted.

1.16 **SBIE safe harbor reallocation de minimis.** In addition to the above a safe harbor exclusion could be available, where a specific amount which was potentially subject to a reallocation fell below a certain threshold.

Other potential safe harbors - general

1.17 **Safe harbor for immaterial adjustments.** Traditionally, materiality has not played a role in the preparation of tax information, unlike information related to financial statements. Given that the starting point under the GloBE rules is the accounting information, this delineation has broken down, at least in part. There are a number of areas that would require a considerable amount of work for only minor adjustments. Examples include jurisdictional blending for Minority Owned Constituent Entities (CEs), the allocation of CFC taxes to a CFC from its shareholder and the potential operation of the arm's length principle. Consideration should be given to the adoption of a materiality threshold for these items. This could take the form of a percentage of income or a Euro-based threshold.

2. Administrative Guidance

2.1 **Guidance should be issued in draft to allow for comment.** We would encourage the IF to issue any proposed administrative guidance and other documents (e.g., reporting forms, tax certainty mechanism designs) in draft, to allow for comment. Ideally, the various components would be released in tranches to allow for public input at the earliest opportunity.

We note that the Commentary flags various (as yet) unaddressed matters, which are intended to be dealt with through agreed administrative guidance issued under GloBE rules Article 8.3.1. We set out below our suggestions on administrative guidance for some of the flagged items, as well as several other matters of high importance. Our suggestions primarily relate to Chapter 1 on Scope and Chapter 9 on Transition rules, as we focus on ensuring that MNEs and tax authorities are in a position to apply the rules appropriately on entry into the regime.

Scope

2.2 **Deemed MNE Rule.** The definition of consolidated financial statements in Chapter 10 indicates that collections of entities under common control could be obliged to prepare consolidated financial statements, where they do not already do so, and (in consequence of Art 1.2.2) be subject to GloBE taxation as a group. However, the circumstances in which this rule might apply are unclear. At the same time, given the reference to the preparation of consolidated financial statements in accordance with an Authorized Financial Accounting Standard, some have asked whether this rule might not have application for an Ultimate Parent Entity (UPE) tax resident in a jurisdiction which has no recognized Authorized Accounting Body. The Commentary did not go further in explaining the circumstances of application of the rule, and administrative guidance on this matter would be of value. Practical considerations would also include the manner in which the four-year look back rule in Art 1.1.1 might be applied for a deemed MNE, and the relevance of Art 3.1.3 on the CE financial account information that could be used for a deemed MNE.

2.3 **Application of the EUR750m threshold**: Administrative guidance clarification would be useful for the application of the EUR750m threshold in respect of MNEs, which consolidate certain CEs on the basis of control by conduct or contract, but in respect of which a 'controlling interest' (within the meaning of Chapter 10) is not present. It is also recommended that there are formal accepted bases for adjusting the Pillar 2 thresholds, both for currency and for growth and inflation, including the EUR 750m scope threshold and the EUR 10m and EUR 1m thresholds for the de minimis exclusions. This is key to prevent jurisdictions disputing whether an MNE group is in scope or not.

Transition rules

2.4 **Treatment of opening balances.** A matter of great importance for MNEs and tax authorities, on entry into the rules, is the treatment of opening balances. The Chapter 9 Commentary (paragraph 6) recognizes this, noting that administrative guidance will address the transition year deferred tax balances. With this in mind, we have several points to raise.

2.5 **Transition year Deferred Tax Assets (DTAs) – Recasting and valuation adjustments**: Art 9.1.1 provides for several adjustments to transition year DTAs. It is provided that DTAs, recorded at a tax rate lower than 15%, may be recast at the 15% rate if the taxpayer can demonstrate that the DTA is attributable to a GloBE loss.[2] As the GloBE income will be taxed at 15%, the permitted recasting of the pre-regime GloBE loss DTA at 15% does appear sensible, on the grounds that this provides EUR1 of GloBE income offset for each EUR1 of pre-regime GloBE loss incurred. This is consistent with the (in-regime) recasting rule at Art 4.4.3., which further provides that the Total Deferred Tax Adjustment Amount (TDTAA) is correspondingly reduced by the recasting uplift made to the DTA. The latter makes symmetrical sense and follows the logic of deferred tax accounting. To the extent that the Covered Taxes (and ETR) of future years will be raised by the reversal of this (larger) recast DTA, it is proportionate that the upward recasting of the DTA results in a reduction to the Covered Taxes number in that DTA recognition year (through the reduction of TDTAA in that year).

The same holds for the disregard of valuation adjustments on DTAs. Reversal of valuation adjustments means lower Covered Taxes in the year of the valuation adjustment, compensated by a more substantial boost to covered taxes in future years when the tax loss is applied (due to the reversal of the non-value adjusted DTA being larger in amount).

In view of these mechanics, it would be useful for the administrative guidance to confirm that where opening balance DTAs are recognized for the start of the transition year (and recast upwards to 15% or adjusted for the disregard of valuation adjustments), this does not result in any reduction to the Covered Taxes number in the transition year. As we understand it, the logic of the transition rules is as follows: where

[2] Incidentally, there appears to be a typo in para 6 of the Commentary. Here, it states, *"For example, if a Constituent Entity incurred a tax loss of (100) in a year before the GloBE applied, a deferred tax expense of (15) (i.e., deferred tax benefit) will be included in the Total Deferred Tax Adjustment Amount under Article 4.4 when the associated tax loss is used in a Fiscal Year in which the GloBE applies."* This might be expected to be a DTE rather than a DTB. It might be best to amend this to avoid confusion.

a loss was incurred by an MNE (as calculated under the GloBE rules) before they came under the scope of the rules, then there should be an offset for this against in-regime GloBE income. Clearly, reducing Covered Taxes in the transition year would run against this logic. We assume this is not the intent, but it would be useful to confirm this in administrative guidance for avoidance of doubt.

2.6 **Carving the "GloBE loss" out of loss DTAs.** As Art 9.1.1 (and indeed Art 4.4.3) only allow for the 15% recasting of DTAs relating to GloBE losses, further illustrative examples in the administrative guidance would be very helpful. These could cover scenarios where the local tax loss is both greater and less than the GloBE loss. This links to the question of how 'mixed' loss DTAs (i.e., part stepped up to 15% and part not so stepped up) are reversed in future years, as local tax losses are used. For example, would there be pro rata usage of each type of DTA or priority usage of the recast or non-recast DTAs? Examples would help to clarify.

2.7 **Calculation of (non-recast) transition year DTAs:** The Commentary to Art 9.1.1 (paragraph 5) notes an intention to limit the complexity, for MNEs, of calculating deferred tax balances in the transition year. While the article does allow MNEs to recast GloBE losses at 15%, where recorded at a lower rate, if this is not done, then the "applicable domestic rate" used is noted to be the rate at which the deferred tax item is recorded in the financial accounts. Administrative guidance on what is meant by this would be helpful. For example, it could be that, several years before the transition year, a DTA in respect of a tax loss was booked at a 10% rate. With a subsequent change in the statutory tax rate the DTA was recalculated at 12%. Presumably the 12% rate should be applied for the GloBE DTA determination (despite the directive in 4.4.1 (d) to ignore such changes occurring in-regime), but administrative guidance to confirm this would be helpful.

2.8 **Adjusting transition year DTAs for excluded items:** While the Commentary on Art 9.1.2 does set out an illustration of how transition year DTAs can be limited, further examples would be very welcome. These could explain more fully how Art 9.1.2 applies in the presence of permanent differences (going both ways) and timing differences (going both ways).

2.12 **Accounting data sources for transition year DTAs:** Art 9.1.1 instructs the MNE to take account of the DTAs and Deferred Tax Liabilities (DTLs) reflected or disclosed in the financial accounts of all the CEs in a jurisdiction for the transition year. This begs the question – which financial accounts? For context, we note that (per Art 3.1.2) Financial Accounting Net Income or Loss, as the starting point for calculating the ETR denominator, is the net income or loss determined for a CE in preparing the consolidated financial statements of the UPE. In obtaining this number it is clear (per the Commentary) that the rules have in mind drawing on a set of CE financial statements that have been conformed to UPE GAAP, with only limited allowance for non-conformance in certain situations (Chapter 3 Commentary para 12-16). The current taxes component is also clearly (per 4.1.1) the tax number per these 'conformed' financial statements. However, somewhat unclearly, 4.4.1 calls for the deferred tax expense number to be drawn from the "financial accounts" of the CE. Practitioners are somewhat unclear as to whether the "financial accounts" referred to here are the local GAAP financial statements or the "conformed" financial statements. This is a matter on which the administrative guidance could provide very helpful clarity.

There are certainly many points on which these two sets of financial statements could differ. Beyond difference in currency of account, the UPE and subsidiary local GAAPs could differ in terms of the recognized value of assets and liabilities – consequently recognized deferred tax items may differ between 'conformed' accounts and local GAAP accounts. Taking covered taxes from 'conformed' accounts and deferred tax from local GAAP accounts would mean that the ETR numerator would be a mixture of "apples and oranges" (while the ETR denominator is apples). As such, this would suggest that the rules have the 'conformed' financial statements of the subsidiary in mind as the source of the deferred tax numbers in 4.4.1.

However, this throws up questions on the application of Art 9.1.1. Similarly to 4.4.1, this provision also includes reference to the "financial accounts" of the CE. It refers to DTAs and DTLs "reflected or disclosed" in those financial accounts. In reality, the "conformed" financial accounts may consist of a spreadsheet maintained at MNE headquarters level, setting out various GAAP conforming adjustments. They may not constitute a full set of financial statements with complete notes to the accounts which could "disclose" DTAs and DTLs. As such, this leads one to think that the financial accounts being referred to in this instance are the local GAAP financial statements, or even the consolidated financial statements. Clarity in the administrative guidance on this point, and indeed on the meaning of "reflected or disclosed", would be greatly appreciated.

2.9 **GAAP permitting the offsetting of DTAs and DTLs.** There are instances in which GAAP permits the offsetting of DTAs and DTLs. Administrative guidance on how to deal with this, particularly in the context of recasting GloBE losses, would be greatly appreciated.

2.10 **Transition rules and asset carrying values**: Art 9.1.3 provides that (in the case of an intragroup asset transfer after 30 November 2021) the basis used for assets, on commencement of the transition year, will be the transferring entity's carrying value of the asset. However, it is not clearly stated whether the accounting standard used to determine this historic carrying value of the asset will be the local GAAP accounts of the local entity, or the accounting standards of the UPE (with reference to Article 3.1.2). This would be worth clarifying in agreed administrative guidance, along with the equivalent treatment of transferred liabilities (not mentioned in this provision). Illustrative examples might also help to clarify the range of uses of the asset basis set under 9.1.3 (e.g., whether or not also relevant for the SBIE).

2.11 **Transitional impact of different GloBE rule start dates and MNE fiscal years**. Further administrative guidance on the application of the rules in the face of different jurisdiction GloBE rule start dates and MNE fiscal years would be helpful. For example, say Country A decides to adopt GloBE for income years commencing on or after 1 April 2023. MNE A, headquartered in Country A, has a December accounting year end (i.e., fiscal year for GloBE purposes). As such, its first fiscal year subject to IIR in Country A, would be Jan-Dec 2024. However, MNE A has an intermediate parent entity, Company B, in Country B. Country B will apply GloBE to all entities with fiscal years starting on or after 1 Jan 2023. As such, it would appear that MNE A will be subject to the Country B IIR for its operations under Company B. It appears increasingly likely that different countries will bring in the GloBE rules at different dates, with some potentially making a 2023 start and some later. As such, further guidance in this space is of increased importance.

Other matters

2.12 **Treatment of U.S. GILTI.** The Implementation Framework should provide guidance on the many technical and administrative interactions between the U.S. GILTI rules and the Pillar 2 GloBE rules. Most notably, if the U.S. GILTI rules are not determined to be equivalent to an IIR, guidance would be needed to allocate any residual U.S. GILTI taxes down to the CEs whose income is being taxed, including for purposes of QDMTTs.

2.13 **Hedge accounting on consolidation**: An issue arises in Chapter 3, specifically for Art 3.2.1(c) on excluded equity gain/loss, where hedge accounting is applied by an MNE in respect of FX retranslation gains/losses. This issue could arise often in practice, such as where one MNE group entity, in order to finance a subsidiary that uses a different functional currency, borrows in that currency to finance the subsidiary. Administrative guidance clarifications on the tracing of consolidation level adjustments to individual CEs could help to address this issue.

The GloBE rules require a taxpayer to identify the Financial Accounting Net Income or Loss based on the standalone accounts (before making any consolidation adjustments) for CEs and then adjust for a number of items to arrive at the GloBE income or loss. Only limited consolidation adjustments may be included (per the Commentary, such adjustments may only be made "*to the extent they can be reliably and consistently traced to the relevant entity")*.

Where an MNE has arrangements that are designated hedges, for accounting purposes of foreign currency retranslation risk in respect of Net Investments in Foreign Operations ("NIFO"), a scenario may arise whereby the FX retranslation gains/losses of the NIFO hedges are included in the profit and loss of the standalone accounts of the CE, but on consolidation these NIFO hedge gains/losses are instead taken to a foreign currency retranslation reserve ("FCTR"). For some jurisdictions, the local tax treatment may provide (possibly on an elective basis) that the NIFO hedging gain/loss is treated as an exempt gain/loss so there is no tax impact (either on a current or deferred basis) associated with the FX P&L arising in the standalone accounts. Consequently, if the calculation of the GloBE income or loss amount for the parent CE does not allow for the consolidation adjustment to be considered relating to the NIFO hedge accounting, it will give rise to anomalous outcomes when calculating the ETR.

The OECD commentary indicates that this scenario is being considered in paragraph 57, where it states, "*MNE Groups commonly hedge foreign currency movements in Ownership Interest in CEs. The GloBE Implementation Framework will consider providing Agreed Administrative Guidance on the extent to which such gains and losses may be treated as Excluded Equity Gains or Losses."*

We support such an exclusion and, further, submit that the GloBE Implementation Framework should also provide guidance in respect of consolidation adjustments that are considered as being "*reliably and consistently traced to the relevant entity".* This should be clarified to include NIFO hedging consolidation adjustments in respect of Ownership Interests in CEs and in non-Portfolio Shareholding Entities.

2.14 **Tax Transparency Election**. Investment Funds, which are CEs, can only be subject to the Insurance Investment Entity Election if the owner is subject to Fair Value taxation. This could lead to double taxation if the Investment Fund is then subject to Pillar 2 Tax, but the owner is still ultimately taxed on distributions and realizations of the Fund. Paragraph 79 on page 172 of the Commentary indicates that further consideration will be given to this matter, and we support clarification on this issue.

3. Dispute Resolution and Consistency

3.1 **Dispute resolution.** We note that the Model Rules do not include specific provisions on double taxation dispute resolution. Whilst we acknowledge that the rules are generally designed in a such a way as to address potential instances of double taxation, disputes may nevertheless arise where the rules and related Commentary leave room for interpretation. In terms of possible solutions, we note that the Pillar Two Blueprint from October 2020 suggests that a multilateral convention would be the only means to enshrine rule co-ordination in a legally binding form. In the absence of a multilateral convention, Section 10.6.2 of the October Blueprint notes that there are a number of existing tools which could be used to mitigate the risks of double taxation. In particular, paragraph 714 of the Blueprint notes that mutual agreement procedures could be initiated under existing treaties, allowing competent authorities to consult together for the elimination of double taxation. However, as these procedures would require that the jurisdictions affected by the double taxation have already entered into a tax treaty with each other, we would recommend that a similar mutual agreement procedures clause is added as part of the OECD GloBE Implementation Framework. This would provide a framework against which competent authorities could work to resolve disputes. An alternative approach would be for the mutual agreement procedures clause to be added to the multilateral convention being developed for Pillar One, with its application expanded across the entire two-pillar solution.

3.2 **Interpretation where UPE is in non-GloBE jurisdiction.** It is our understanding that when the UPE jurisdiction applies GloBE, the determination, allocation and charging of TUT will be based on the rules as applied by that jurisdiction. However, it is not clear to us how these will be determined in instances where the UPE is in a non-GloBE jurisdiction. Although the UPE's consolidated financial statements will be relevant, in practice, there may be instances where various terms or elections are interpreted differently by the other relevant jurisdictions. It should therefore be clear which jurisdiction's interpretation has primacy. Furthermore, it is not clear to us whether, in a case where none of the parent entities applies GloBE, the interpretation of the jurisdiction of the designated filing entity will prevail or whether each CE will be tasked with determining their own TUT. We find this to be particularly problematic for the determination of UTPR TUT, which needs to be apportioned to the relevant UTPR jurisdictions.

3.3 **Consistency – Binding lists annexed to Commentary.** We believe that the OECD should consider adding additional binding lists to the Annex to the Commentary/ Implementation Framework in respect of terms and provisions where a common interpretation and application might still be at risk despite any guidance offered in the Commentary, such as:

a. List of tax credits granted by IF members and that are considered as qualified refundable tax credits;

b. List of taxes imposed by IF members that are considered as covered taxes;

c. List of jurisdictions that that are nearly certain to have jurisdictional ETRs above the minimum rate and that would be eligible for a safe harbor election (i.e. whitelist);

d. List of jurisdictions that apply a qualified domestic TUT, qualified IIR and qualified UTPR;

e. List of jurisdictions that have extended the scope (e.g. lower revenue threshold, extension to domestic groups);

f. List of jurisdictions that apply the IIR also to domestic situations;

g. List of eligible distribution tax systems and qualified refundable imputation taxes applied by IF members.

3.4 **Interpretation of rules.** The OECD should prescribe a clear approach in terms of the relevance of OECD materials as sources of interpretation, as well as whether IF members should rely on a static interpretation (i.e., by reference to a specific version of the relevant documents), or dynamic interpretation (i.e., by reference to updated versions of the relevant documents). We note in this regard that the Commentary on 8.3.1 accepts that the domestic law of some IF members would not permit them to simply refer to the agreed administrative guidance for interpretation, but rather that it would need to be incorporated into domestic administrative guidance and/or need parliamentary endorsement. More generally, a review clause could require the OECD to collect input from IF members and public stakeholders on areas of the GloBE Model Rules that remain unclear or that emerge once the rules become applicable, with a view to clarify these issues in an update to the Commentary/Implementation Framework.

3.5 **Qualified Domestic Minimum Top-up Taxes (QDMTT) clarification.** More detailed clarification on the operation of QDMTT:

a. It should be clarified whether the deduction should be the amount as brought into charge by the CEs in the QDMTT jurisdictions, or if the domestic TUT should be restated under the financial accounting standard used in the consolidated financial statements of the UPE;

b. Where the QDMTT is computed in accordance with the UPE's accounting standard, a safe harbor should be applicable in respect of the requirement to calculate the ETR, TUT and to file GloBE returns in respect of the QMDTT-applying jurisdiction;

c. We note that the EU has introduced an expiry mechanism for unpaid QDMTT as follows: Where the amount of QDMTT for a fiscal year has not been paid within the four fiscal years following the fiscal year in which it was due, the amount of domestic TUT that was not paid shall be added to the jurisdictional TUT and cannot be collected anymore by the Member State which made the election to apply a QDMTT. The Implementation Framework Commentary should include coordination mechanisms to address instances where participating jurisdictions opt for an expiry period;

d. It should be clarified whether, where the filing CE makes an election that has an impact on the TUT amount due, this will automatically apply with respect to the QDMTT as well. We assume this to be the case, but not clear from the rules;

e. Consideration might be given to the intended interface of QDMTT with other cross-border tax rules. For example, is it intended that existing CFC regimes would provide credit for GloBE QDMTT imposed on a group subsidiary? As allocated CFC taxes form an element of the GloBE ETR denominator this could lead to circularity and a need for iterative calculations. Clarity on this point in administrative guidance would be helpful, e.g., modified inclusion of CFC tax in ETR calculation, or guidance to countries to limit CFC rule application where GloBE QDMTTs in place.

3.6 **Covered Taxes.** Clarification on how to deal with taxes imposed on CEs of an MNE group as part of a tax regime of a jurisdiction that has not implemented the GloBE rules or has not implemented IIR and UTPR in line with OECD requirements (we recommend treating those as covered taxes, without cap, to avoid double taxation). Going further, it may be beneficial for there to be OECD approved list, that is non-exhaustive, of taxes that are Covered Taxes, including in certain cases whether those taxes are Covered Tax of the payor or the payee. This could include taxes that form part of a composite Corporate Tax, where such tax is levied at e.g., Church, City, Regional and Federal level, plus taxes in lieu of profits, e.g., US Federal Excise Tax, plus relevant withholding taxes.

4. Filings and Record-keeping

1.1 **Compliance will be a significant cost requiring regular review of compliance burden over time**. Many MNEs will not incur additional TUT and some will incur relatively minor amounts of additional tax. This is the case based on their current structures. Some will adapt their structures to ensure that they do not incur TUT. For these MNEs compliance presents a significant cost with minimal impact on the global revenue take. This should be kept in mind over the long term. The IF should adopt regular reviews, at least every 3 years, of the compliance burden with input from business and revenue authorities focused on minimizing this cost.

1.2 **Peer reviews on administration and whether information required is reasonably necessary**. Members of the IF should agree on a process of peer reviews focused on how particular countries have introduced and applied GloBE. A primary focus of such reviews should be on the administrative burden and whether any simplifying mechanisms could be adopted. The question of whether information required by specific jurisdictions is 'reasonably necessary' to determine a TUT liability would be paramount in this evaluation.

1.3 **Simplified reporting procedures.** Consideration should be given to how safe harbor rules could be used to minimize the reporting procedures. This could involve a gateway or layered approach, such that the information required for some jurisdictions which clearly satisfy a safe harbor are minimized compared to other jurisdictions.

1.4 **Use of bandings and approximations where there is no impact.** Practically most applications of the GloBE rules will not be to determine a TUT liability, but to provide comfort that there is no TUT liability. In this context if it is clear from the general facts and circumstances that there is no TUT liability in a jurisdiction, no matter the level of payroll, then for a revenue authority to request details of the level of payroll including contractor information is not appropriate. Guidance for revenue administrations requesting information should acknowledge this. In these circumstances, MNEs should be able to demonstrate that the provision of information will have no impact on a TUT calculation given the ETR and other information no matter what conclusions could be drawn from the information provided.

1.5 **Information should not be used for another purpose.** Following from the above, a request for payroll tax information relating to contractors pursuant to the SBIE should not be used to 'fish' for information pertaining to the contractors' liabilities. If a revenue administration wishes to pursue a course of action on contractors, they should use normal domestic rules to achieve this objective and not GloBE based information requests.

1.6 **Organization structures - diagrams or lists.** MNEs should be able to provide their standard organizational structures to satisfy this requirement. It is likely that such a structure would have been internally developed to provide the greatest clarity to readers. Requiring this to be restructured into a list or a specific organizational structure is likely to obfuscate rather than clarify the organization of the MNE.

1.7 **Consultation on standard forms.** Significant effort should be given to consultation on standard forms with sufficient timeframes for wide input from different MNEs and parts of MNEs. This will be critical for the long-term success of the GloBE project.