



Euro Tax Flash from KPMG's EU Tax Centre



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G20 Finance Ministers endorse key components of the two pillars. European Commission to act swiftly once global agreement is reached

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On July 10, 2021, the G20 Finance Ministers and Central Bank Governors issued a [communiqué](#) following their meeting on July 9 and 10, 2021 in Venice, endorsing the key components of the two Pillars on the reallocation of profits of multinational enterprises and an effective global minimum tax as set out in the statement released by the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) on July 1. The European Commission subsequently published a list of frequently asked questions on the global agreement, which the Commission sees as complementary to the EU's tax agenda.

Background

On July 1, 2021, 130 members of the OECD/G20 Inclusive Framework on BEPS ("IF"), countries approved a statement providing a framework for reform of the international tax rules. Peru and Saint Vincent and the Grenadines subsequently endorsed the statement as well, meaning that only seven (Ireland, Estonia, Hungary, Barbados, Kenya, Nigeria and Sri Lanka) of the 139 countries that are members of the IF have not yet approved the global agreement. Of the 27 EU Member States only Cyprus is not a member of the OECD Inclusive Framework and has therefore not expressed a formal opinion on the agreement.

The OECD IF statement set forth the key terms for the agreement on the two-pillar approach to reforms:

1. **Pillar One** (amount A) would provide a new taxing right to market jurisdictions, allocating between 20 and 30 percent of residual profit (defined as profit in excess of 10 percent of revenue) to market jurisdictions with nexus. For most jurisdictions, nexus will only exist if the in-scope MNE derives at least EUR 1 million in revenue from the jurisdiction. For smaller jurisdictions with gross domestic product (“GDP”) less than EUR 40 billion, the nexus threshold is reduced to EUR 250,000 in revenue. Pillar One will apply to multinational groups that have more than EUR 20 billion of global turnover and profitability above 10 percent (measured as profits before tax divided by revenue on a book basis).
2. **Pillar Two** secures agreement on a global minimum level of taxation through:
 - two interlocking domestic rules (Global anti-Base Erosion (GloBE) Rules): (i) an Income Inclusion Rule (IIR), which imposes top-up tax on a parent entity in respect of low taxed income of constituent entities within an MNE group, and (ii) a supporting Undertaxed Payment Rule (UTPR) which denies tax deductions, or requires an equivalent adjustment to the extent the low tax income of a constituent entity is not subject to tax under an IIR; and
 - a treaty-based Subject to Tax Rule (STTR), which allows limited source taxation at a rate of 7.5% to 9% on interest, royalties, and certain other related party payments that are subject to tax below a minimum rate. Any tax paid under the STTR is creditable under the GloBE Rules.

The minimum tax rate envisaged for purposes of the GloBE Rules envisaged will be at least 15%. The GloBE rules will apply to MNEs with revenues exceeding the EUR 750m threshold as determined under BEPS Action 13 (country by country reporting). Countries are, however, noted to be free to apply the IIR to MNEs headquartered in their countries whose revenue fall below this threshold.

For further details on the July 1 IF statement and the outstanding issues, please refer to Euro Tax Flash [issue 452](#).

G20 July 10 Statement

Following the third meeting of G20 Finance Ministers and Central Bank Governors on July 9 and 10, the group issued a statement endorsing the key components of the two-pillar solution as set out in the IF statement of July 1 and calling on the OECD IF to “swiftly address the remaining issues and finalize the design elements within the agreed framework together with a detailed plan for the implementation of the two pillars” by the next meeting at the end of October. The G20 statement also encourages members of the IF that have not yet endorsed the international agreement to do so.

The G20 members are: Argentina, Australia, Brazil, Canada, China, France, Germany, Japan, India, Indonesia, Italy, Mexico, Russia, South Africa, Saudi Arabia, South Korea, Turkey, the United Kingdom, the United States, and the European Union. The group represents 60 percent of the world population, 80 percent of global GDP and 75% of global exports. Spain is also invited as a permanent guest.

European Commission FAQ

The European Commission FAQ explains the basics of the two-pillar approach and how this fits with the EU's goals. According to the FAQ, the international tax reform is complementary to the EU's tax agenda, as set out in the Commission's Communication on Business Taxation for the 21st Century (see Euro Tax Flash [issue 449](#) for details).

The FAQ reiterates the implementation framework set out in the IF July 1 statement, noting that the application of Pillar One will be mandatory for participating countries and will be implemented via a multilateral convention, while the implementation of Pillar Two will be based on a "common approach", i.e. IF members will not be required to adopt the rules, but if they choose to do so, they will have to implement the rules in a way that is consistent with the global framework.

The Commission intends to propose that the global agreement is implemented consistently across the EU. For Pillar Two specifically, the Commission will table a Directive that will ensure its implementation is compatible with the EU Treaties and existing EU legislation. The Commission will also consider whether there is a need to table a Directive for the implementation of Pillar One.

EU Tax Centre Comment

The IF is set to settle the remaining issues of the two-pillar plan and to agree on the implementation plan by October. In its July 1 statement, the IF committed to opening the Pillar One multilateral instrument for signature in 2022, with Amount A anticipated to take effect beginning in 2023. Pillar Two would be brought into law in 2022 and made effective beginning in 2023. The Commission intends to follow up with the related EU proposal(s) swiftly once agreement has been reached at global level.

Unanimous agreement among EU Member States would be needed in order to adopt a Pillar Two Directive, meaning that a 2023 effective date for the Pillar Two rules in the EU may prove to be challenging considering that Estonia, Hungary and Ireland have not yet signed the IF statement and have expressed reservations on the level of minimum tax endorsed by the IF, while Cyprus is not part of the IF discussions and is yet to take a formal stance on the issue.

Should you have any queries, please do not hesitate to contact [KPMG's EU Tax Centre](#), or, as appropriate, your local KPMG tax advisor.



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