KPMG

Euro Tax Flash from KPMG's EU Tax Centre

G20 Finance Ministers endorse key components of the two pillars

International tax system – Minimum tax – Allocation of taxing rights – Taxation of the digitalized economy – OECD BEPS Inclusive Framework – G20

On October 13, 2021, the G20 Finance Ministers and Central Bank Governors issued a communique following their meeting in Washington, 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 October 8, 2021.

Background

On October 8, 2021, 136 members of the OECD/G20 Inclusive Framework on BEPS ("IF"), approved an eight-page statement on key aspects of a framework to address challenges in relation to the taxation of the digital economy, which include the following two-pillar solution:

- Pillar 1 deals with the reallocation of certain profits from very large Multinational Enterprises (MNEs) to market jurisdictions.
- Pillar 2 deals with a Global Minimum Tax

Estonia, Hungary and Ireland - the three IF members that are also EU Member States and that had not initially signed up to the agreement - have now joined the October 8, 2021 agreement. There remain four countries (Kenya, Nigeria, Pakistan, and Sri Lanka) that have not yet approved the statement.

The October 8, 2021 agreement updates a previous statement from July 1, 2021 (covered in ETF 452) and finalizes several previously unsettled quantitative parameters of the two-pillar approach.

For details and a comparison with the prior statement and outstanding issues, please refer to Euro Tax Flash issue 458 as well as the KPMG's initial analysis of the October 2021 statement.

G20 Statement – October 13, 2021

Following the meeting of G20 Finance Ministers and Central Bank Governors on October 13, 2021, the group issued a statement endorsing the key components of the two-pillar solution as set out in the IF statement of October 8. It also calls on the OECD IF to "swiftly develop the model rules and multilateral instruments as indicated in and according to the timetable provided in the Detailed Implementation Plan, with a view to ensure that the new rules will come into effect at global level in 2023".

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.

Next steps

It is expected the G20 Heads of State will also endorse the IF agreement when they meet in Rome at the end of October 2021.

The IF has set out key milestones for the finalization of the detailed rules, as well as the target timelines for legislation/treaties to be implemented/ratified and for the rules to be in effect, as follows:

- the GloBE model rules and commentary and the STTR model treaty provision and commentary will be developed by the end of November 2021;
- the multilateral convention (MLC) containing the Amount A rules and its explanatory statement, as well as model domestic legislation and commentary, are to be concluded by early 2022;
- the MLC signing ceremony is to be organized by mid-2022;
- the STTR multilateral instrument (MLI) is to be developed by mid-2022;
- the GloBE rules implementation framework will be developed at the latest by the end of 2022 (possibly including a multilateral convention for GloBE);
- the Amount B deliverables are to be released by end of 2022.

For Amount A it is noted that implementation through the MLC is with a view to allowing it to come into effect in 2023. This is noted to occur once a critical mass of jurisdictions has ratified it, and IF jurisdictions signing the MLC will be expected to ratify it as soon as possible. The critical mass threshold is not yet defined and is to be set out in the MLC in early 2022, so it remains to be seen whether Amount A allocations will start from 2023.

The Pillar Two rules are, per the IF statement, to be brought into law in 2022 to be effective in 2023 (i.e. IIR and STTR) with the UTPR coming into effect in 2024. As noted, it is recognized that countries face limitations in speed of their legislative processes, so it remains to be seen by what stage a significant number of IF members have the rules in place. The timelines for the implementation of Amount B and the rollback of DSTs and other relevant similar measures are not yet clarified.

EU Tax Centre Comment

According to a statement made by the EU Commissioner for Economy – Paolo Gentiloni, in response to the G20's endorsement, the European Commission will "swiftly" put forward a directive for the implementation of Pillar 2 in the EU, once the OECD has finalized the model rules (to be developed by the end of November 2021 – see above timeline).

For Pillar 1, the Commission will "carefully examine whether a directive is needed to ensure its consistent and effective implementation at EU level".

There should be more clarity on the EU timeline once the European Commission issue their 2022 work program, on October 19, 2021.

All 26 EU Member States that are IF member have now joined the October 8 agreement which, in particular, provides for compromise solutions to address the concerns of Hungary (substance-based carve-out), Ireland (minimum rate) and Estonia (distribution-based corporate tax). In addition, Cyprus – not an OECD IF member – released an official statement on October 9, 2021 confirming to be in line with the October 8 agreement and the principles governing the two-pillar solution. Unanimous agreement among EU Member States is required for the new global rules to be adopted in the form of EU Directives.

In terms of EU initiatives that go beyond the OECD framework, EU officials noted during an October 12, 2021 event that the European Commission intends to present in December a proposal for a Directive to tackle the misuse of shell companies in the EU and issue a proposal alongside the Pillar 2 directive, requiring companies that meet the Pillar 2 size criteria to disclose their effective tax rates, jurisdiction by jurisdiction in the EU. For more details on the Commission's action plan, please refer to KPMG's Overview of the European Commission agenda for business taxation in the EU - BEPS 2.0 and beyond.

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

Raluca Enache
Director, KPMG's EU Tax Centre

Robert van der Jagt
Chairman, KPMG's EU Tax Centre and Partner, KPMG in the Netherlands

Vinod Kalloe
KPMG Regional Tax Policy Leader for EMA

kpmg.com/socialmedia

Privacy | Legal

You have received this message from KPMG's EU Tax Centre. If you wish to unsubscribe, please send an Email to eutax@kpmg.com.

If you have any questions, please send an email to eutax@kpmg.com

KPMG's EU Tax Centre, Laan van Langerhuize 9, 1186 DS Amstelveen, Netherlands