Inclusive Framework BEPS Agreement

Initial resp-level agreement on Pillar 1 and Pillar 2

Policy Perspectives update – Extended Version

Asia Pacific View

KPMG Global Release: OECD/G20 Inclusive Framework Agreement on BEPS 2.0

On July 1, 2021, in a historic agreement, 130 countries approved a statement providing a framework for reform of the international tax rules. These countries are members of the OECD/G20 Inclusive Framework on BEPS (IF), comprising 139 countries. The statement sets forth the key terms for an agreement of a two-pillar approach to reforms and calls for a comprehensive agreement by the October 2021 G20 Finance Ministers and Central Bank Governors meeting, with changes coming into effect in 2023. Pillar One, of the agreement, is a significant departure from the standard international tax rules of the last 100 years, which largely require a physical presence in a country before that country has a right to tax. Pillar Two secures an unprecedented agreement on a global minimum level of taxation, which has the effect of stipulating a floor for tax competition amongst jurisdictions.

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The five-page statement reflects high-level agreement on key political questions and design features of Pillars One and Two following a two-day meeting of the IF. Of the 139 members of the IF, 130 had signed onto the statement as of its release. IF members that have not joined in the statement are: Barbados, Estonia, Hungary, Ireland, Kenya, Nigeria, Peru, St. Vincent and the Grenadines, and Sri Lanka. Several of these members (including Ireland and Hungary) had publicly expressed concerns in the weeks leading up to the IF meeting.

The statement diverges in important respects from the Pillar One and Pillar Two Blueprints, released by the IF in October 2020. However, in a number of respects the statement builds on the Blueprints and resolves some of the key open items from the Blueprints. For prior coverage of the Blueprints, refer to KPMG's reports for Pillar One [PDF 516 KB] and Pillar Two [PDF 1.1 MB].

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Pillar 1:

Reallocation of profits for large companies to market countries

Pillar One includes two components. Amount A would provide a new taxing right to market jurisdictions, allocating a portion of residual profit based on a formulary approach. Amount B is intended to streamline the application of the arm's length standard to routine marketing and distribution activities. The statement reflects important developments with respect to the scope and computation of Amount A, as well as a commitment to continued work on Amount B, although on a different schedule.

Scope

Thresholds

The statement notes agreement on several key elements of Amount A's scope. According to the statement, Pillar One will apply to multinational groups that have more than €20 billion of global turnover and profitability above 10% (measured as profits before tax divided by revenue on a book basis). Seven years after Pillar One enters into force, a review will be conducted to determine whether the Amount A process, including mandatory and binding dispute prevention and resolution mechanisms, has been successfully implemented. If the implementation is determined to be successful, the Amount A turnover threshold will decrease to €10 billion, significantly increasing the scope.

> **KPMG Observation:** The agreed scope is a dramatic departure from the Pillar One Blueprint, which had focused on businesses engaged in "automated digital services" and "consumer facing businesses." The agreed scope appears to be based on the U.S. proposal from April that had proposed limiting the scope of Amount A to the largest and most profitable businesses, generally without regard to the activities undertaken by the businesses. Based on the agreed scope and the exclusions described below, it appears that Amount A is likely to initially apply to approximately 100 businesses, although the potential scope expansion after seven years would significantly increase this number.

> **KPMG Observation:** The reduction in the revenue threshold after seven years may have been necessary to obtain the agreement of developing countries. For MNEs, however, the scheduled reduction in the threshold may raise concerns that Pillar One will be expanded over time into a generally applicable formulary apportionment regime.

Segmentation

The statement provides that segmentation would only be required in exceptional circumstances in which, based on the segments disclosed in the financial accounts, a segment meets the scope thresholds.

> **KPMG Observation:** Segmentation was a key open point in the Pillar One Blueprint. Some segmentation was necessary to achieve a politically viable scope, but raised complexity concerns. The current approach will apply in very few cases. Based on the language in the statement, segmentation would apply if an MNE did not meet the profitability threshold on a consolidated basis, and a segment of that MNE (as reported for financial statement purposes) exceeded both the turnover and profitability thresholds. It is not clear whether segmentation would also apply if an MNE did meet the profitability threshold on an overall basis and also had one or more disclosed segments that meet the thresholds.

Exclusions

> The statement provides that extractives and regulated financial services will be excluded from Amount A.

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> **KPMG Observation:** The Pillar One Blueprint included several exceptions to Amount A, including extractives and financial services. The April U.S. proposal sought to limit exclusions to a minimum. While the statement allows for exclusions for extractives and regulated financial services, it does not mention several exclusions originally contemplated in the Pillar One Blueprint, namely for infrastructure and construction or international airline and shipping businesses. Moreover, it is unclear whether the scope of the exclusions for extractives and regulated financial services will be the same as that described in the Pillar One Blueprint. Depending on how regulated financial services are defined, disparate treatment issues may arise with respect to entities (e.g., stand-alone payment processors) if they are not considered regulated but compete with regulated banks providing the same services.

Calculation of New Taxing Right

Quantum of Amount A

The statement provides that for in-scope MNEs, between 20% and 30% of residual profit (defined as profit in excess of 10% of revenue) will be allocated to market jurisdictions with nexus using a revenue-based allocation key. The statement also provides that revenue will be sourced to market jurisdictions where goods or services are used or consumed, based on detailed source rules to be developed and that an in-scope group must use a "reliable method" to apply the sourcing rules, based on the group's specific facts and circumstances.

> **KPMG Observation:** While the Pillar One Blueprint included relatively detailed sourcing rules, they were focused solely on automated digital services and consumer facing businesses. The statement contemplates that additional work will be needed to provide sourcing rules for all types of transactions. Notably, the statement provides that groups must use a reliable method to apply the sourcing rules based on the group's specific facts and circumstances. That language may signal that the IF is moving away from the detailed hierarchy of methods contained in the Pillar One Blueprint, given that the need for sourcing rules for additional industries may make the final sourcing rules more complex than those proposed in the Blueprint.

> **KPMG Observation:** The statement's allocation of "between 20-30%" of residual profit is different than the "at least 20%" language from the G7 Finance Ministers and Central Bank Governors communiqué of June 5, 2021 (G7 Communiqué). The language of the IF statement puts a cap on Amount A, but also indicates that the portion of residual profits subject to Amount A may well be greater than 20%.

For Amount A purposes, profit or loss will be determined by reference to an MNE's financial accounting income, with a small number of adjustments. Losses will be carried forward. For MNEs that already have residual profits taxed in a market jurisdiction, a marketing and distribution safe harbor (MDSH) will cap the Amount A residual profits allocated to that jurisdiction.

> **KPMG Observation:** While the statement reflects high-level conceptual agreement on these issues, key issues such as the number and nature of adjustments that will be required to financial accounting income and the extent of loss carry-forwards apparently remain undecided.

> **KPMG Observation:** The statement notes that further work will be undertaken with respect to the MDSH, including to account for the comprehensive scope of Amount A. The statement also refers to the "residual profits" of an MNE already taxed in a market jurisdiction, rather than the residual profits from marketing and distribution activities. Together, this suggests that the MDSH may take into account residual profits for activities beyond marketing and distribution, and that the MDSH may serve as a broader rule to combat double counting.

Nexus

As described in the statement, nexus for Amount A will be based solely on an MNE's sales in a market jurisdiction. For this purpose, a bifurcated threshold applies. For most jurisdictions, nexus will only exist if the in-scope MNE derives at least €1 million in revenue from the jurisdiction. For smaller jurisdictions with gross domestic product (GDP) less than €40 billion, the nexus threshold is reduced to €250,000 in revenue. The statement notes that compliance costs, such as those associated with tracing small amounts of sales, will be "limited to a minimum."

> **KPMG Observation:** The lower threshold for small jurisdictions would only cover a small portion of overall economic activity. Based on data from the World Bank, it appears that jurisdictions that fall below the €40 billion GDP threshold comprise less than 2% of total global GDP.

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KPMG Observation: The Pillar One Blueprint proposed using "plus factors" along with revenue to determine nexus for consumer facing businesses. The absence of plus factors in the statement reflects the new comprehensive scope of Amount A, which no longer relies on the consumer facing business concept.

Elimination of Double Taxation

The statement provides that double taxation with respect to profits allocated under Amount A will be relieved using either the exemption method or the credit method. It states that the entity or entities relieving double taxation "will be drawn from those that earn residual profit."

KPMG Observation: The Blueprint proposed a four-step process for identifying relieving entities. It is unclear whether the statement's language is intended to indicate a shift toward a simpler process.

KPMG Observation: The elimination of double taxation rule, the MDSH, and the quantum definition all refer to concepts of routine returns and residual profits, as do Amount B and Pillar Two's GloBE formulaic substance carve-out. Based on the Blueprints, the threshold for calculating residual profits would be different in each of those contexts. The statement does not indicate whether there will be any attempt to coordinate those thresholds.

Tax Certainty and Administration

The statement commits to making mandatory binding dispute prevention and resolution mechanisms available for in-scope MNEs. These mechanisms would cover all issues related to Amount A, including transfer pricing and business profits (e.g., permanent establishment) disputes. Whether an issue is related to Amount A and thus within the scope of these processes would be decided in a mandatory and binding manner that would not delay the overall dispute process.

KPMG Observation: The statement helpfully recognizes that many tax disputes relate to and would affect Amount A, and so the scope of tax certainty for in-scope MNEs may be quite broad. However, the statement contains no reference to dispute resolution outside of Amount A, suggesting that agreement has not been reached in that area. Unlike the Pillar One Blueprint, the statement does not describe the mechanism for tax certainty, indicating that this may remain under discussion.

While the dispute prevention and resolution mechanisms would generally be mandatory, the statement notes that consideration will be given to making them elective for certain developing countries (i.e., those that have few or no mutual agreement procedure cases and are eligible for deferral of their BEPS Action 14 peer reviews).

KPMG Observation: It is unclear how a process that is binding on most countries, but not all, would function. This process could result in double taxation, and there does not seem to be any cap on the potential for double taxation, although the fact that only certain countries could opt out of binding tax certainty may mitigate this.

Amount A would be administered in a streamlined manner, permitting an MNE to manage the process through a single entity.

KPMG Observation: The statement does not specify whether the simplified administration procedure would allow a single entity to pay all Amount A taxes for the MNE. If centralized payment is permitted, it is not clear whether the entities that would otherwise have been obliged to pay the Amount A tax would be deemed to make payments to the managing entity, and whether any secondary adjustments would be needed.

Amount B

The statement commits to simplifying and streamlining the application of the arm's length standard to baseline marketing and distribution activities, but does not substantively address Amount B. According to the statement, this simplification work would be completed by the end of 2022.

KPMG Observation: The statement effectively acknowledges that Amount B is now on a separate track from the rest of Pillars One and Two. The 2022 deadline for Amount B appears to relate to the ongoing technical work; implementation would take additional time. It remains to be seen whether effective consensus on Amount B will be possible outside the scope of the broader agreement on Pillars One and Two.

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Implementation and Unilateral Measures

The statement provides that Amount A will be implemented through a multilateral instrument, which will be opened for signature in 2022. Amount A is anticipated to take effect beginning in 2023. The final agreement on Amount A will provide for the removal of all digital service taxes and “other relevant similar measures” for “all companies.”

> **KPMG Observation:** The implementation timeline is extremely ambitious. There are significant technical and political issues that remain to be resolved before a multilateral instrument can be developed. Moreover, jurisdictions often take a year or more to ratify treaties, so even if an instrument is released in 2022, an effective date of 2023 will be challenging.

> **KPMG Observation:** The language of the statement suggests that digital service taxes and other unilateral measures will be eliminated for all companies, not just for MNEs within the scope of Amount A. The statement does not provide detail on how relevant measures will be identified, or on the timing for their removal.

> **KPMG Observation:** As noted in KPMG’s report [PDF 1.4 MB] on the Biden Administration’s revenue proposals, the Biden Administration proposed to coordinate two of its significant international proposals with Pillar Two, but did not include a proposal to implement Pillar One, likely because Pillar One was not yet sufficiently developed. The legislative vehicle for implementation of Pillar One in the United States thus is yet to be determined.

> **KPMG Observation:** The scope of unilateral measures to be removed in connection with the implementation of Pillar One is yet to be defined, but several countries have objected to the U.S. base erosion and anti-abuse tax (BEAT), and the BEAT might be seen as a unilateral measure that should be removed. The Biden Administration has proposed to repeal the BEAT and replace it with a provision known as SHIELD, effective for tax years beginning after December 31, 2022. If the proposal is adopted, the BEAT would be repealed at about the same time that Pillar One is proposed to be effective. This interaction and timing may increase the incentive to adopt the SHIELD proposal.

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Pillar 2:

Global Minimum Tax

The statement describes Pillar Two as:

- Two interlocking domestic rules (the 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 on certain related party payments subject to tax below a minimum rate. Any tax paid under the STTR is creditable under the GloBE Rules.

> **KPMG Observation:** The statement maintains the same rule priority as the Pillar Two Blueprint: (1) STTR, (2) IIR and (3) the UTPR. Therefore, assuming the IIR is widely adopted by IF member jurisdictions, the UTPR would apply infrequently. The STTR, on the other hand, would apply regardless of the presence of an IIR, though any taxes that are paid pursuant to the STTR would be creditable as covered taxes for purposes of the IIR.

> **KPMG Observation:** The statement does not mention the "switch-over rule", which was included in the Pillar Two Blueprint as a way to remove potential treaty obstacles to applying the IIR to exempt foreign branches. The reasons for this omission are unclear.

Rule Status

The statement describes the GloBE Rules as a "common approach," meaning that IF member jurisdictions are not required to adopt the GloBE Rules, but they must accept their application by other IF members (including the specified rule order and the application of any agreed safe harbors). IF members that adopt the GloBE Rules will implement and administer the rules consistently with the agreement reached on Pillar Two.

> **KPMG Observation:** Structuring the GloBE Rules as a common approach is in line with the Pillar Two Blueprint. It is unclear what is meant by the reference to accepting the application of agreed "safe harbors." A "safe harbor" related to simplification is mentioned later in the statement but no detail is provided.

Scope

The statement provides that the GloBE Rules will apply to MNEs with revenues exceeding the €750 million threshold as determined under BEPS Action 13 (country by country reporting). Countries are, however, free to apply the IIR to MNEs headquartered in their countries whose revenue fall below this threshold.

Exclusions are provided from the GloBE Rules for government entities, international organizations, non-profit organizations, pension funds or investment funds that are ultimate parent entities (UPE) of an MNE group or any holding vehicles used by such entities, organizations or funds.

> **KPMG Observation:** While the statement allows countries to apply the IIR to MNEs headquartered in their jurisdiction whose revenue falls below €750 million, the UTPR would still be limited in application to MNEs above the €750 million revenue threshold. While not explicit, it appears that the threshold would still apply to the application of the IIR to MNE subgroups (i.e. where a jurisdiction other than the residence of the UPE applies the IIR).

> **KPMG Observation:** The U.S. GILTI regime (the U.S. analogue to the IIR) applies without regard to any revenue threshold, which is consistent with the Pillar Two design, at least in respect of U.S. headquartered groups. However, the SHIELD proposal (the Biden Administration's proposed analogue to the UTPR) uses a revenue threshold of $500 million, which is significantly less than €750 million and could be problematic.

> **KPMG Observation:** The exclusions provided for government entities, international organizations, non-profit organizations, pension funds or investment funds that are the UPE are in line with the Pillar Two Blueprint. However, the Blueprint also provided an exclusion for certain UPEs subject to tax

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neutrality regimes. It is unclear whether this is an oversight or a deliberate decision to bring these entities within the scope of Pillar Two.

Rule design

As per the statement, the IIR allocates top-up tax based on a top-down approach, subject to a split-ownership rule for shareholdings below 80%. It further states that the UTPR allocates top-up tax from low-tax constituent entities including those located in the UPE jurisdiction under a methodology to be agreed.

KPMG Observation: The reference to "top down approach" is consistent with the Pillar Two Blueprint and refers to the application of the IIR in the jurisdiction of the Constituent Entity that is at or near the top of the ownership chain in the MNE Group, starting with the UPE.

KPMG Observation: Split-ownership rules were provided in the Pillar Two Blueprint and generally require an intermediate parent entity to apply the IIR to the controlled subsidiaries of the sub-group if the intermediate entity is partially owned by a minority holder outside the group.

KPMG Observation: Significantly, the UTPR design in the Pillar Two Blueprint had a special capping mechanism that limited the application of the UTPR to the UPE. The language in the statement - "including those located in the UPE jurisdiction" - seems to suggest that the approach of the Blueprint may be modified. The reference to a "methodology to be agreed" suggests that the design of the UTPR generally is still being considered and may deviate from the multi-step allocation provided for in the Blueprint.

ETR Calculation

The GloBE Rules are described as operating to impose a top-up tax using an effective tax rate test that is calculated on a jurisdictional basis using a common definition of covered taxes and a tax base determined by reference to financial accounting income, with agreed adjustments consistent with the tax policy objectives of Pillar Two and mechanisms to address timing differences.

The statement provides that in respect of existing distribution tax systems, there will be no top-up tax liability if earnings are distributed within three to four years and taxed at or above the minimum level.

KPMG Observation: The language included in the statement makes no reference to the specific approach for managing timing differences. While the Pillar Two Blueprint included a detailed carry-forward approach, that approach was widely criticized during the OECD public consultation process as overly complicated and insufficient to adequately address timing issues. The imprecise text in the statement seems to leave open the possibility of alternative approaches, such as deferred tax accounting.

Minimum tax rate

The statement provides for a minimum tax rate of at least 15% for purposes of the GloBE Rules, i.e., the IIR and UTPR.

KPMG Observation: The language "at least 15%" is consistent with the G7 Communiqué, and a press release from the U.S. Department of the Treasury on May 20, 2021. The fact that the statement does not specify the rate indicates that further negotiation will be required.

Carve-out

A formulaic substance carve-out is provided that would exclude an amount of income from the GloBE Rules, determined as a mark-up on the carrying value of tangible assets and payroll. The mark-ups are set at "at least" 7.5% for the first 5 years in which the rules are in effect and "at least 5%" after that.

The statement also provides for a de minimis exclusion.

KPMG Observation: While the exclusion of a return on tangible assets and payroll is consistent with the Pillar Two Blueprint, the statement provides that the relevant base for the tangible asset portion of the carve-out is "carrying value" whereas the Pillar Two Blueprint used depreciation expense.

KPMG Observation: As noted in KPMG's report [PDF 1.4 MB] on the Biden Administration's revenue proposals, the Biden Administration proposed to eliminate the deemed return on tangible assets under the U.S. GILTI regime. If that proposal is adopted, the formulaic substance carve-out would create a significant difference between GILTI and the GloBE Rules.

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> **KPMG Observation:** A “de minimis exclusion” was included as a potential simplification measure in the Pillar Two Blueprint, rather than as a carve-out. It appears likely, however, that the “de minimis exclusion” referred to in the statement refers to the proposal in the Blueprint to exclude jurisdictions with de minimis profits from the scope of the GloBE Rules. No definition of “de minimis” was provided in the statement.

> **KPMG Observation:** Interestingly, the “next steps” portion of the statement notes the ambition of IF members “for a robust global minimum tax with limited impact on MNEs carrying out real economic activities with substance,” and goes on to say the agreement “acknowledges that there is a direct link between the global minimum effective tax rate and the carve-outs and includes a commitment to continue discussions in order to take a final decision on these design elements within the agreed framework for October”. These sentences seem to indicate that there is still ongoing discussion within the IF regarding carve-outs beyond just the formulaic substance carve-out.

Other exclusions

International shipping income is excluded from the GloBE Rules using the definition of such income under the OECD Model Tax Convention.

While not directly positioned as an “exclusion,” the statement also notes that the IF is exploring excluding MNEs in the initial phase of their international activity.

> **KPMG Observation:** Excluding MNEs that are just beginning to expand internationally was not previously contemplated by the Pillar Two Blueprint. The statement notes that this exclusion is still being “explored,” suggesting that such an exclusion is not yet fully developed or agreed.

Simplifications

The statement notes that in order to ensure that the administration of the GloBE Rules is targeted and avoids disproportionate compliance and administration costs, the implementation framework will include safe harbors and/or other mechanisms.

> **KPMG Observation:** It is unclear whether the reference to “safe harbors and/or other mechanisms” refers to the four simplification options presented in the Pillar Two Blueprint, or whether any new simplification options are being considered.

GILTI Co-existence

The statement notes that Pillar Two will apply a minimum rate on a jurisdictional basis and indicates that consideration will be given to the conditions under which the U.S. GILTI regime will co-exist with the GloBE Rules, to ensure a level playing field.

> **KPMG Observation:** The reference to Pillar Two applying a minimum rate “on a jurisdictional basis” raises questions as to whether the global blending currently used in calculating GILTI could be problematic. The Biden Administration has proposed reforming the GILTI regime to adopt a jurisdictional approach and raise the rate to 21%.

Subject to tax rule (STTR)

The statement notes the importance of the STTR to developing countries and provides that IF member jurisdictions that apply nominal corporate income tax rates below the STTR minimum rate to interest, royalties and a defined set of other payments would incorporate the STTR into their bilateral treaties with developing IF members when requested to do so.

Developing countries are defined as those with GNI per capital, as per the World Bank Atlas method, of $12,535 or less in 2019.

The taxing right under the STTR will be limited to the difference between the minimum rate and the tax rate on the payment, with the minimum rate for the STTR being from 7.5% to 9%.

> **KPMG Observation:** The statement strongly suggests that at least as it relates to developing countries, the STTR would be a minimum standard, rather than a common approach.

> **KPMG Observation:** As it is defined in the statement, a developing country would include a large number of countries, including Argentina, Brazil, China, India, Mexico, and Russia.

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KPMG Observation: The language in the statement implies that the U.S. would not be required to include the STTR in its treaties because it does not apply “nominal corporate income tax rates” below 7.5% to 9% to interest, royalties or any other payment that is likely to be within the scope of the STTR.

KPMG Observation: While some developing countries have publicly suggested that services and capital gains should be included within the scope of the STTR, the failure to define the category of “other payments” to which the rules would apply suggests that the scope has not yet been agreed.

KPMG Observation: Setting the minimum rate for the STTR below the minimum rate that is applicable for the GloBE Rules likely reflects that the STTR applies to gross payments, making a lower rate necessary to mitigate the risk of over-taxation in the event the payee incurs expenses associated with the payment.

KPMG Observation: A number of design elements that were provided in the Pillar Two Blueprint are not mentioned in the statement, including a potential materiality threshold. There is also no reference to excluded entities in respect of the STTR. It is not clear if these items are still being developed or if they have been eliminated from the design of the STTR.

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Implementation & Timelines

Implementation

The statement provides that the Pillar Two rules are anticipated to be brought into law in IF member jurisdictions in 2022 and made effective beginning in 2023.

IF member jurisdictions will finalize remaining issues and release a detailed implementation plan by October 2021. The implementation plan will include (i) GloBE model rules with proper mechanisms to facilitate over time the coordination of the GloBE Rules that have been implemented by IF members, including the possible development of a multilateral instrument, (ii) an STTR model provision together with a multilateral instrument to facilitate its adoption, and (iii) transitional rules, including the possibility of a deferred implementation of the UTPR.

> **KPMG Observation:** A 2023 effective date for the Pillar Two rules seems to assume prompt resolution of all remaining open issues, and swift implementation. It seems particularly challenging for the STTR to be effective by 2023 since its widespread adoption would require a multilateral instrument.
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> **KPMG Observation:** Regarding the GloBE Rules, the reference to a “possible development” of a multilateral instrument suggests that IF members do not necessarily view such an instrument as a necessary part of the implementation of the GloBE Rules, which as per the introductory section of the statement are “domestic rules”. While the IIR is generally accepted to be consistent with tax treaties, many observers have called into question whether the UTPR, as it is described in the Blueprint, is consistent with treaty obligations.
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> **KPMG Observation:** A potential delay in the UTPR is consistent with suggestions by many observers during the OECD public consultation process, recognizing the complexity of the rule, but also the novel financial information exchange that would be required.

Open issues

While the statement represents very significant progress, many key political and technical issues remain open, including:

GloBE rules:

- Precise minimum rate to be applied
- Mechanism for managing timing differences for the ETR calculation
- Precise mark-up percentages on the carrying value of tangible assets and payroll as relevant for the carve-out
- Design of the “de minimis exclusion” carve-out
- Design of the exclusion for MNEs in the “initial phase of their international activity”
- Design of the elements to ensure “limited impact on MNEs carrying out real economic activities with substance”
- Transitional related issues including the treatment of pre-existing losses
- Design of the UTPR generally
- The scope of simplification measures, including “safe harbors and/or other mechanisms”

STTR:

- Precise minimum rate to be applied
- Scope of “other payments”
- Steps for determining “tax rate on the payment”

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Timeline

Agreement	Adoption into Law	Implementation	Review
1 July 2021 – Agreement by 130 countries in the IF to a new international tax framework **October 2021 –** Detailed implementation plan for both pillars and resolution of remaining issues including the detailed mechanics for the operation of both pillars. **2022 –** Additional details on Amount B in Pillar One	**2022 –** A multilateral instrument (that will have to be ratified domestically) is contemplated for Pillar One and the STTR rule in Pillar Two. Other components might need to be adopted through domestic legislation.	**2023 –** Effective date for implementation for both Pillar One and Pillar Two (with a possible deferred implantation of the UTPR)	**c. 2030 –** Review of Pillar One including potential reduction of the scope threshold from EUR 20 billion to EUR 10 billion

What tax leaders can do

The framework for reforms agreed by the 130 members of the IF will have a wide-ranging effect on many MNEs. Given the ambitious timeline for implementation, it is important that potentially impacted businesses understand what is coming and prepare for the resulting changes. Tracking the timeline for further developments provided below, MNEs should:

1. **Monitor Developments.** Between now and October, the members of the IF and the OECD secretariat will be working to fill out the details and finish the design of the rules necessary to implement various aspects of Pillars One and Two. These details will be important to the operation and impact of the new rules.

2. **Consider Engagement.** As the OECD works towards finalizing rules, there may be formal and informal opportunities for engagement both at the OECD or with implementing jurisdictions. The OECD and participating members have welcomed engagement by the business community in completing the work and understanding practical considerations including administrability.

3. **Model and Assess Impact.** The reforms being considered are complex and potentially will intersect with existing domestic rules. It will be important for MNEs to use appropriate assessment tools to model impacts, evaluate interdependencies and prevent double taxation or other inadvertent impacts.

4. **Track Implementation:** Implementation of agreed reforms requires legislative adoption and, where relevant, ratification of a signed multilateral instrument. Given the variations in legislative and parliamentary processes across jurisdictions, MNEs will need to understand the timelines and relevant requirements of the various processes and track when laws in different jurisdictions come into effect.

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