

Pillar One – Amount A: Public consultation on draft rules for scope

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Introduction

The Inclusive Framework (IF), working in conjunction with the Organisation for Economic Cooperation and Development (OECD), has released further [draft model rules for public consultation](#) on 4 April. This latest tranche of draft rules covers the scope of Pillar One for the purpose of defining which multinational enterprises (MNEs) are subject to having a portion of their residual profits (Amount A) reallocated to market jurisdictions.

The public consultation is open until 18 April 2022. The IF has emphasised that these draft model rules do not represent the settled agreement of the member jurisdictions, and that negotiation continues within the IF in parallel to the public consultation. Accordingly, these draft rules are subject to agreement.

A key consideration for businesses now is to provide input to the IF on how it can achieve the broad policy objective with the scope of the rules without creating excessive compliance costs. The IF will be looking to strike a balance between ensuring MNEs do not get drawn into scope because of a one-off result on either revenue or profitability, and public and commentators' expectations of being able to readily determine which MNEs will be subject to a reallocation of profits.



Notable elements of the draft model rules

- Whether an MNE group is in scope is generally determined by the consolidated financial statements at the Ultimate Parent Entity (UPE) level.
- There are two thresholds which an MNE group must exceed to be in scope — a 20 billion euro revenue threshold and a 10% pre-tax profit margin threshold (it is proposed that the revenue threshold will be reduced to 10 billion euros around seven years after implementation).
- The revenue threshold applies to the accounting period that is under consideration. The IF continues to debate whether the test should also account for revenue of prior periods and/or an averaging approach to better manage compliance costs.
- The draft profit margin test has three elements, and the MNE group must pass all three to be in scope. The MNE group is in scope if its profit margin exceeds 10% in i) the accounting period under consideration; ii) at least two of the four immediately preceding accounting periods; and iii) on an averaged basis across the accounting period under consideration and the four immediately preceding accounting periods. Negotiations are ongoing regarding whether the last two tests could, alternatively, apply solely as an “entry test” in situations where an MNE group has not previously met the scope thresholds.
- Consistent with Pillar Two, certain entities are excluded and sit outside the main operative provisions of the Amount A rules. An excluded entity’s revenues and profits would not be part of the revenues of an MNE group, nor would they be considered in the calculation of the MNE group’s pre-tax profit margin.
- Examples of excluded entities would be a government entity, an international organisation, a non-profit organisation, a pension fund, an investment fund and a real estate investment vehicle. This is a similar list to the excluded entities for Pillar Two.



- Where MNE groups have Joint Venture arrangements, the revenues reported in the consolidated financial statements of the Group are adjusted to reflect the Group's share of revenues from the Joint Venture in proportion to its share of profit or loss.
- An anti-abuse measure is included in the form of an "anti-fragmentation rule" to deter groups that artificially fragment into numerous groups to circumvent the scope rules. It would only apply where an entity (such as a government body), which would itself be excluded from the Pillar One rules, controlled the UPE. In such a case, there would otherwise be an incentive to split up the MNE group structure.
- The exceptional provisions for treating a business line segment as in scope where it meets the threshold tests but the group does not (e.g. the segment has revenue of over 20 billion euros and over 10% profit, but the group's overall profit margin is lower than 10%).

It is expected that these rules will follow in a later release from the IF.

Much more information from the IF is anticipated over the course of 2022, including whether the IF and OECD can achieve the ambitious goal of implementing the proposed measures by 2023.

What is not in these draft model rules

These draft model rules do not include:

- Details of the two functional exclusions for revenue derived from extractive activities (i.e. natural resources) and regulated financial services.

How we can help

If you would like to discuss the application of these model rules or BEPS2.0 in general, please contact your local KPMG representative. You may also reach out to [Dean Rolfe](#), Head of International Tax, Asia Pacific.

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