PILAR 1: Implications for Participating Jurisdictions
General Position

- Complexity of Amount A Architecture
- Political considerations against core tax principles
- Overall Cost-Benefit Outcome
- Approach to economic impact assessment
Expected Outcome

Pillar one and Pillar two could increase global corporate income tax (CIT) revenues by about USD 150 billion per year.

The reforms would lead to a more favorable environment for investment and growth.

Reduction in the proliferation of unilateral measures, as well as trade disputes, which could reduce global GDP.

About USD500bn in global residual profit, which means a reallocation of taxing rights on between USD100-150bn of global residual profit.
Building Blocks and their Effects

- Revenue Sourcing
- Tax Base Determination
- Segmentation
- Unilateral Measures
- Tax Certainty
- Elimination of Double Taxation
- Nexus
- MDSH
- Scope
- Administration
- Quorum
- Implementation
- Quantum
### SCOPE

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<tr>
<th>1\textsuperscript{st} – 7\textsuperscript{th} Year</th>
<th>Beyond 7\textsuperscript{th} Year</th>
<th>Exclusions</th>
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<td>€20 billion Turnover with profitability of above 10% of Turnover.</td>
<td>Lower Turnover Threshold to €10 billion thereby bringing more MNE’s into scope of Amount A.</td>
<td>Exclusions and carve-outs for:</td>
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<td>The scope threshold ensures only most profitable MNEs are in scope of Amount A. Currently about 100 MNE’s globally</td>
<td>Reduction is contingent upon successful implementation of Amount A, including tax certainty.</td>
<td>- highly regulated sectors;</td>
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<td>- autonomous domestic businesses; and</td>
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<td>- defence.</td>
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<td><strong>Averaging mechanism to the profitability test, means that a MNE can be in or out of scope based on performance in previous years.</strong></td>
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Nexus = The entitlement of a jurisdiction to AMOUNT A:

The nexus threshold is based on the amount of sales a constituent entity of the MNE made in a jurisdiction:

⇒ €1m in jurisdictions with GDP €40 billion or more
⇒ €250,000 in jurisdiction with GDP less than €40 billion
A portion of residual profits of in-scope MNEs is re-allocated to market jurisdictions i.e. 25% of profit in excess of the 10% routine profit.

The Quantum of Amount A is to be shared by all qualifying market jurisdictions (refer to nexus).

Jurisdictions can use available data from tax returns to what MNE will in scope in their countries.
Rules for tracing revenue to actual source:

- Detailed sourcing rules ensures revenue are traced to jurisdiction of actual users.
- It is possible for revenue to be sourced to a jurisdiction which exceeds the revenue booked in that jurisdiction.
SEGMENTATION – ONLY PROFITS OF DISCLOSED SEGMENT
Limited segmentation applies.

Disclosed segments based on consolidated accounts that meet the scope threshold will be treated as an entity in scope.

Profits from the segment will be reallocated based on Amount A rules.
The MDSH is to address a situation where some of the MNE’s profits had been booked in a jurisdiction in order to avoid double allocation of Amount A.

- The basic design is to filter any Amount A profit that had already been retained in a market jurisdiction.
- A metric based on depreciation and payroll is used to isolate routine profits from the total profits booked in the jurisdiction.
- There is a protection for jurisdictions with no or low depreciation and payroll.
- Any Amount A deemed retained in the market jurisdiction is deducted from the Amount A to be allocated using an offset percentage.
- Offset percentage is 90% for low substance jurisdictions and 35% for others.
- Special consideration for low-income or lower-middle income jurisdictions with offset percentage set at 25%
Tax income accruing by way of withholding tax (WHT) may also contribute to the Amount A already retained in a market jurisdiction. An adjustment is equally worked out.

- WHT downward adjustment in the residence state for both MDSH and EoDT
- Inclusion of a staggered WHT capping mechanism to reduce the impact may cause implementation issues.
- Consideration for low-income or lower-middle income jurisdictions with additional 10% higher Haircut in each category
- Inclusion of a transitional rule for WHT upward adjustment is a win for African countries.
Unilateral measures are tax measures or regimes that overlaps with Amount A. A tax regime is deemed a unilateral measure if it:

- establishes taxing rights based primarily on location of customers, users or similar market-based criteria in a way different from traditional taxing criteria
- applies (de jure or de factor) exclusively or almost exclusively to non-residents or to foreign owned businesses
- is aimed at inability to impose income tax under current rules with respect to particular taxpayers or activities, and its is not covered tax for the purposes of tax treaties
- applies only to income from specifically enumerated digital services
- is imposed on gross turnover basis
Jurisdictions that signed up to Amount A of Pillar 1 cannot introduce similar measures in the future.

Those who have such measures must withdraw them upon the coming into force of the Amount A rules.

The withdrawal must be in respect of all MNEs whether or not they are in scope of Amount A.
UNILATERAL MEASURES

- SEP is not classified as DST or RSM but will be switched off for MNEs that are in scope of Amount A

- Effective date of withdrawal of existing measures is after entry into effect of MLC.

- Existing standstill commitment not to introduce new measures extended to December 2024 and may be extended to December 2025 or entry into effect of MLI, whichever comes first.

- Conference of Parties to review measures for classification as DST or RSM.

- Jurisdictions of classified measures to lose Amount A allocation, with possibility of 3 years retroactivity
Ensures that tax disputes are resolved promptly and effectively

- Mandatory binding arbitration for Amount A and issues related to Amount A.
- Issues related to Amount A includes all TP, PE and business profit issues.
- The elective option for developing countries is contingent on the jurisdiction not having more than a 3-year average of 10 TP/Profit Allocation MAP cases in inventory and outcome of their action 14 peer review.
- Once a developing country fails the condition, it would remain in scope of tax certainty in all subsequent years.
- Jurisdiction to bear the cost of dispute resolution with limited consideration for cost of the tax certainty process to tax administration by including a user fee.
- A threshold for issues that can be submitted under the process allows some relieve on the process
Relief process ensures that the jurisdictions earning most revenue provide the most relief (waterfall).

Mechanics ensures all jurisdictions that earn high levels of residual profit provide relief.

Use of a Designated payment Entity ensures a more seamless process.

Relief of Double taxation is based on domestic law of each party.
ADMINISTRATION

- Standardised filing and documentation package.
- Streamlined compliance, use of Single Entity for returns filing (Lead Tax Administration) and for payment (Designated Payment Entity)
- Exchange of refund filed and documentation package through EOI process
- Secondary liability where DPE fails to comply
Rules are such that some jurisdictions would give up revenue for market jurisdictions to gain (lose-win)

Adequate number of jurisdiction that will provide relief (lose revenue) must be on board for the rules regime to work

Minimum of 30 jurisdictions accounting for at least 60 percent of the Ultimate Parent Entities (UPEs) of in-scope MNEs

The effect is that the regime cannot kick off with only market jurisdictions
THANK YOU