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Berne, 14 December 2020

Public Consultation on Reports on the Pillar One and Pillar Two Blueprints

Joint comments by economiesuisse and SwissHoldings

Dear Madam, Dear Sir,

economiesuisse, the Swiss Business Federation represents approximately 100,000 companies from all business sectors and regions of Switzerland with a collective work force of about 2 million. SwissHoldings represents the interests of 58 Swiss-based multinational enterprises from the manufacturing and service sectors.

We appreciate the initiative taken by the OECD for a multilateral solution to address potentially remaining BEPS challenges, especially to avoid harmful unilateral measures. We believe that profits should almost entirely be taxed where value creation takes place.

We thank the OECD for the opportunity to provide comments on the Pillar One and Pillar Two Blueprints. First, we would like to make some general remarks on the project. This is followed by Appendix 1 commenting on Pillar One and Appendix 2 where we provide concise responses to Pillar Two specific questions posed in the public consultation document.

The general points we would like to raise are the following:

Pillar One

1. Pillar One – in particular Amount A – **will result in significant additional administrative burden for many MNEs** requiring large investments in the IT infrastructure and in-house tax and finance resources. Complexities are increased with continued changes in an MNE's business portfolio through restructurings, reorganization of business lines, acquisitions and divestments. **This applies especially to MNEs with decentralized business and transfer**

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pricing models and a decentralized IT/financial reporting infrastructure. **The compliance burden will increase significantly also for the tax authorities**.

2. **The new taxing right (Amount A) will be an overlay to the existing nexus and profit allocation rules**. Therefore, increased attention should be paid to the interaction between these parallel systems (e.g. avoidance of double counting, interpretation conflicts, dispute prevention and resolution).

3. **The definition of Automated Digital Service and Consumer Facing business needs to be principle based;** the application of clear principles ensures an accurate understanding of in-scope business activities.

4. **While the OECD itself aims for simplicity, the current proposal is difficult to implement, requires significant compliance work and detailed knowledge by the review panels;** the nexus, the segmentation, the revenue sourcing requirements are very detailed and require significant additional work. In particular, the low thresholds are not proportional compared to the additional tax revenues at stake.

5. The Blueprint names certain activities that are proposed to be excluded from Amount A. We welcome these **explicit carve-outs which are necessary to provide clarity for the excluded sectors**.

6. **Amount B is essential for Pillar One as it defines the borderline for the residual profit in Amount A.** Often Amount B is regarded as a fixed, pre-determined return, however, we believe it is a critical element which helps to define the difference between routine and residual profits.

7. **Amount B regulations are of great importance for MNEs**. Standardisation of compensation for distribution activities compensation are not only beneficial to MNEs but **also for tax administrations especially in less developed countries**. The administrative burden is reduced and costly benchmark studies can be avoided.

<u>**Pillar Two**</u>

8. It is critical to **ensure that the domestic implementation by countries is consistent and does not result in divergent applications of Pillar Two rules (maximum standard)**. If there is a lack of consensus on all aspects of Pillar Two, all potential exceptions or deviations need to be expressly allowed and articulated, shall be binding and to the extent to which any exceptions or deviations are allowed, they shall be based on defined principles.

9. **Clear and simple hierarchy between the four proposed rules of Pillar Two is essential** to provide clear guidance and to reduce compliance costs for tax authorities and MNEs. The **Income Inclusion Rule (IIR) should function as the primary rule and apply only at the ultimate parent level**. The Undertaxed Payments Rule (UPR) and Subject to Tax Rule (STTR) should only apply to payments to an affiliate whose ultimate parent is not subject to a Pillar Two IIR.

10. **Inclusive Framework members (IF) must commit to abolish existing CFC rules as well as unilateral deductibility limitations**[1] **upon implementation of Pillar Two measures.** The

[1] E.g. German limitation of royalty deductibility, Austrian limitation of royalty and interests deductibility, Undertaxed Payment Rule in Mexico and Withholding taxes on interest and royalty payments to low-tax countries in the Netherlands.

IF should furthermore agree on a white list of approved foreign minimum tax regimes for purposes of Pillar Two.

11. **The currently proposed substance-based carve-out does not sufficiently consider the importance of R&D and IP for innovation-promoting countries.** Substance-based IP regimes which are fully compliant with the BEPS Action 5 Nexus approach should be carved out from IIR and STTR. In addition, IP regimes compliant with DEMPE concept from BEPS Actions 8-10 should also be carved-out.[2] Pillar Two measures need to balance countries' concerns of artificial arrangements with countries' rights to implement generally accepted tax regimes for R&D.

12. **The proposed measures fall short of the intended target of simplification and reduced compliance burden for MNEs and tax administrations**. Simplifications should be a primary field of improvement of the current Pillar Two framework. We therefore propose, among others, to introduce a second threshold in addition to the EUR 750 million revenue requirement. GloBE rules should only apply to MNEs with a group tax rate, based on IFRS or another recognized accounting standard, of less than a certain level to be defined (e.g. 20%). BEPS risk are clearly very limited for MNEs with high group tax rates and the application of GloBE Rules is thus unnecessary.

13. **The decision for the jurisdictional blending approach should be reconsidered as global blending would effectively answer remaining 'BEPS' concerns of Pillar Two which applies after Pillar One effects**. IF members should give special consideration to avoiding double taxation and the application of withholding taxes whenever possible.

Yours faithfully,

Dr. Frank Marty	Dr. Gabriel Rumo
Executive Board Member	CEO
economiesuisse	SwissHoldings

[2] Para. 6.32 OECD BEPS 8-10, Aligning Transfer Pricing Outcomes with Value Creation.

Appendix 1

Pillar One

CHAPTER	QUESTION	COMMENTS
I. The activity test to define the scope of Amount A	Comments are invited on the design and implementation of the proposed activity test relating to Automated Digital Services and Consumer-Facing Businesses, including any challenges and suggestions on how to address them? *(Refers to paragraphs 38-170 of the Blueprint)*	A clear and principle-based activity definition is required to eliminate any ambiguity by business. These principles should be simple to be applied and lead to an accurate application which also simplifies the work of the review panels. The criteria could be based on the ability of a consumer to independently decide which product to buy without any other intervention by an intermediate. To bring more clarity a positive and negative list on activities could be added. We would appreciate a phased approach for implementation within Pillar One. In a first step, the concept will be applied to Automated Digital Services ("ADS") only. In a later phase of the implementation project (e.g. after few years of observation), the Consumer Facing Business ("CFB") will be involved as well. We welcome that for activities that may be both ADS and CFB, the ADS definition applies (Reference is made to Para. 32 of the Pillar One Blueprint). The term of CFB still needs further clarification, especially what "commonly sold to consumers" means. For example, there are MNEs which supply products, e.g., products for the construction industry which are used in private households, but equally also in office buildings, hotels etc. According to our opinion, such products/MNEs should be excluded from the application of Amount A. This point is closely related to the Blueprint comments on "Dual Use products". We agree with the comments that the identification to who a product is sold (consumer or business) can be a challenge, if possible, at all for some MNEs. But we do not believe that all products shall be treated as CFB in such cases. We suggest that products that are subject to dual use should be excluded from Amount A or a ratio is introduced, e.g., if products are sold <50% to consumers, all are excluded. Members note that the activity-based test is "designed to capture the MNEs that are able to participate in a sustained and significant manner in the economic life of a market jurisdiction without necessarily having a commensurate level of

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		taxable presence in that market," and in this respect, the Blueprint does not sufficiently demonstrate how current tax and OECD rules (notably, transfer pricing principles, as well as BEPS) fail to achieve fair taxation of CFB. There is concern that the proposed Pillar One goes beyond the stated goal of capturing those highly digitalized businesses lacking the necessary commensurate level of taxable presence in markets, instead extending a broad reach while neglecting to provide a principle-based explanation for why the current regulatory framework is not sufficient or could not be altered with minimum effort to address the taxation concerns. Consistent with this concern, one way to avoid double counting issues is to provide that all industries that have applied policies where operations get taxed in local jurisdiction markets under existing structures should be out of scope of Amount A. **Specific application to pharmaceutical products:** In the Blueprint, the OECD describes their view of the pharmaceutical industry and proposes 2 different options on the scope of Amount A on pharmaceutical products. In paragraph 59, the Blueprint states with regards to the pharmaceutical industry and their products that "… these products are generating… substantial profits for pharmaceutical MNEs" and later in paragraph 68 "…high profit margins and mobiles intangibles have facilitated significant base erosion and profit shifting out of market jurisdictions… it would be counter-intuitive to exclude such products…" These paragraphs provide the impression that the pharmaceutical industry needs to be included because of its margin. Such an approach is contradictory to the intention of a principle based approach by applying an activity test which defines the consumer facing activity. We urge the OECD to stick to principles and not being margin and industry driven. The question to be answered is in our view whether the pharmaceutical products are or could be seen as driven by a consumer desire and interaction with the consumer. In our view, patients of the pharmaceutical industry prefer to be

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		healthy and not dependent from any pharmaceutical product. The pharmaceutical industry does not market or sell a well-being to patients but tries to cure a not-well-being of a patient. We believe that pharmaceutical products are not intended to satisfy consumer's wishes, dreams or desires. Therefore, the pharmaceutical industry is not a Consumer Facing Business as per the OECD's own principles in the Blueprint. When leaving aside that the demand for pharmaceutical products is driven by an illness of a patient and not by desire of a consumer, the next level down question would be whether there is a market differentiation between the market for prescription drugs versus over-the-counter pharmaceutical products as the Blueprint discusses. We strongly believe that there is a difference as the OECD also points out in the Blueprints. In paragraph 63 the Blueprint suggests that even for prescription drugs the marketing to healthcare professionals is a critical sales driver. This assumption is at least questionable. Independently from any marketing activity, regulatory bodies around the globe define primary and secondary treatments for severe illnesses based on efficacies of pharmaceutical products. The product value in terms of innovation and efficacy leads doctors to the decision to prescribe certain drugs based on patients' diagnosis. Doctors ensure correlation between symptoms and drugs and ultimately monitor the treatment. Therefore, decisions are made by doctors governed by regulatory bodies and healthcare systems. The believe that "marketing directed to medical professionals, insurers and drug purchasing authorities" can be seen as "evidence of a sustained engagement with the market" is contradictory to the definitions in the Blueprint. Persons who acquire goods and services for "for commercial or professional purposes" are expressly excluded from the definition of a "consumer". A prescription drug is also not "commonly sold to consumers" directly and are not "at purchase points accessible by an individual". In addition to that, MNEs in the prescription drug segment do not commonly engage in "marketing and promoting it to consumers." Based on these arguments, the prescription drug market does not fulfill the

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		definitions of a consumer facing business. For the over-the-counter market, however, we tend to agree to the Blueprint view that marketing may be addressed to consumers and it is the patients' choice which over-the-counter product is consumed. The Option 2 in the Blueprint also reflects more accurate the market difference between the over-the-counter versus the prescription drug market. In summary, we believe that the pharmaceutical industry in general does not fulfil the definition of a consumer facing business and should therefore not fall under Amount A. Any margin driven approach weakens the Amount A principles and consequently weakens the general justification of Amount A. In case of an opportunistic approach, we believe that Option 2 with an inclusion of the over-the-counter segment might be justifiable due to the relation to the market and patients own choices.
II. The design of a specific Amount A revenue threshold (in addition to a global revenue threshold) to exclude large MNEs that have a de minimis amount of foreign source in-scope revenue.	More specifically, comments are invited on what would be the best approach to define and identify the domestic or home market of an MNE group (e.g., the residence of the ultimate parent entity). *(Refers to paragraphs 182-184 of the Blueprint)*	Generally, we believe that the home market could be defined as the market of the Ultimate Parent Entity ("UPE") (i.e. the top holding company that is a tax resident in a country). However, even such a definition might lead to discriminating results and in-equitability between MNEs in the same industry. Global revenue test must be limited to in-scope revenues.
III. The development of a nexus rule.	More specifically, comments are invited on the following points: a) The "plus factors" suggested for CFB will be examined as potential indicators which denote	We appreciate that the Pillar One Blueprint sets different nexus rules for ADS and CFB. However, these differences might lead to an even higher profit share to be allocated to the market jurisdictions because CFB focused MNEs have a

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	an engagement with the market beyond the mere conclusion of sales. In terms of compliance costs and administrability, do you have any comments on these plus factors? *(Refers to paragraphs 202-211 of the Blueprint)*	physical presence in the market and might already conduct marketing and advertising activities for which the local entity receives an appropriate return. While the intention of the "plus factors" is appreciated it also adds additional complexity because business set-ups are usually not black or white. Therefore, the proposal is to only apply a deemed nexus based on sales with a high enough threshold.
	b) Do you consider the suggested plus factors (and hence a taxable nexus under Amount A) could be deemed to exist once a certain level of sales is exceeded? If so, what should be the criteria for establishing such level? *(Refers to paragraph 212 of the Blueprint)*	We consider a nexus threshold solely based on revenue might be more appropriate due to the simplicity of such concept. We believe that USD 50'000'000 should be the revenue threshold. Only when passing such a relative high threshold the presence in a country can be seen as significant and important enough to consider a deemed nexus. Also, only such a high threshold justifies the additional complexity and the compliance burden related to Amount A.
	c) Should the market revenue threshold contain a temporal requirement of more than one year? If so, what should it be? (*Refers to paragraph 196 of the Blueprint*)	We believe that e.g. a three-year average of revenue threshold could reduce extreme values.
IV. The development of revenue sourcing rules.	More specifically, comments are invited on the following points: a) Do you have any comments with respect to the proposed sourcing rule and proposed hierarchy of indicators as the basis for the sourcing of revenue for Amount A? *(Refers to paragraphs 227-321 of the Blueprint)*	New and additional data tracking requirement bring additional compliance costs to MNEs as this data needs to be of high quality and requires an audit trail which can be followed by the review panels. The primary rule for indicators should be consistency with the information MNEs already collect. The recognition in the outline that customers/users can refuse to provide location data should push geolocation lower in the hierarchy. The outline should also consider the impact/conflict with existing privacy rules (e.g., European General Data Protection Regulation (GDPR)). The proposed approach of tracking end-consumer data is in many industries impossible and completely impractical when considering multi-level detailing within a country to the end-consumer. In addition, the EU competition rules

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		provides wholesaler the freedom to redirect products within the common EU market to consumers different to those targeted by the MNE.
	b) What factors should be taken into account in determining "reasonable steps" required to obtain information that is unavailable (such as changing contracts with third party distributors)? *(Refers to paragraphs 378-387 of the Blueprint)*	In the case of CFB sales through third-party distributors, MNEs should undertake best efforts to locate the country of final destination of the products. But it must be understood that MNEs may not always be aware of the whole supply chain of its products and collecting such information from third-party distributors may violate commercial contracts and may require extreme efforts. In some cases, even the third-party distributor may not be aware of the final destination and further resellers may be within the chain. From our view it cannot be expected that the MNE renegotiates contractual arrangements with the distributor or that any reporting burden is borne by the distributor. This may have negative implications on relationships, prices and ultimately the business success of the MNE (para. 378). See also our comment to Question IV/a.
	c) What simplification measures, if any, should be considered in the revenue sourcing rules, such as safe harbours or de minimis rules? *(Refers to paragraphs 388-405 of the Blueprint)*	
	d) Do you consider that VPNs and/or any other emerging technology may have an impact on the accuracy and/or reliability of proposed revenue sourcing rules? If yes, what options or design changes should be considered to eliminate or minimise such an impact? *(Refers to paragraphs 305-309 of the Blueprint)*	Yes. However, we are not aware of any better location indicator than IP address.
V. The framework for segmenting the Amount A tax base, and how it	As a simplification, this framework includes different options to limit the need for segmentation, including calculating the Amount A tax base on a consolidated basis as a default rule (and applying it to in-scope revenues to produce a	IAS 14 was superseded by IFRS 8. Going back to an old standard increases complexity per se for all MNEs. Segmentation should only be required if distortive results would be the consequence. In addition to that, the segmentation down to profit before tax is beyond the scope of IFRS and requires

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could be further developed to deliver its objectives.	proxy for in-scope profits.). More specifically, comments are invited on the following points: a) Do you consider that hallmarks drawing on IAS 14 constitute an appropriate basis for developing a test to determine whether an MNE group is required to segment? If not, what other options should be considered to identify relevant segments for Amount A purposes? *(Refers to paragraphs 456-461 of the Blueprint)*	allocation keys for non-segment specific costs. Allocation keys are challenged in audits and will be subject of intense discussions with the review panel. In case a segmented approach is required, segments should not be solely based on IAS 14. The MNE Group shall have the option to choose the segments which best reflect the way the different businesses are managed within the Group. The MNE Group will have to explain why it has chosen specific segments and why these segments are different from the ones that are disclosed in its financial statements. Para. 456 mentions that "it is expected that in most instances, it will be appropriate for a group that is required to segment its Amount A tax base to do so based on the operating segments it discloses for financial reporting purposes". Please note that based on feedback from several member firms this may often not be the case. Financial data is typically disclosed on a highly aggregated level whereas such level often includes in-scope and out-of-scope activities.
	b) Do you consider that existing segments (under financial accounting standards) should be used in the majority of cases as a basis for segmenting the Amount A tax base (for example by using a rebuttable presumption)? If not, what other options should be considered? *(Refers to paragraphs 462-463 of the Blueprint)*	The existing segments shall not necessary be used in most of the cases. The MNE shall have the option to choose no segments or other segments that better reflect its business models and that achieves the objective of Amount A allocation, that is to distribute a portion of the excess profit to the consumers markets. This option, if offered, should be at the sole discretion of the MNE and should not be a requirement imposed by individual jurisdictions on MNEs. In, that instance, appropriate set of criteria or factors should be identified so as to ensure consistency in rule application.
	c) Do you consider that groups should be permitted to calculate Amount A on a geographically segmented basis? If so, what should be the criteria for determining when geographical segmentation is permitted and what those geographic segments	In principle, Amount A calculation should be based and aligned with the segments of the annual report in case these appropriately cover in-scope and out-of-scope activities. However, taxpayers should have the flexibility to create other segments, in particular a geographically segmented basis, which may deviate from the annual report as long as the taxpayer defines a logic and

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	should be? *(Refers to paragraph 459)*	consistent approach. Since many MNE Groups are conducting their business on a geographical basis. The geographies could be either individual countries or group of countries (regions). Geographic segmentation should not be mandatory, but an option which the taxpayer may want to select. MNEs should therefore be able to define and explain a logic and consistent approach.
	d) Alternatively, do you consider that MNE groups should be required or permitted in some cases to segment their profits before tax between in-scope activities (i.e. ADS and/or CFB) and out-of-scope activities? If yes, what criteria could be used to determine when this approach to segmentation should be applied as opposed to calculating the Amount A tax base on a consolidated basis? (*Refers to paragraphs 442-446 of the Blueprint*)	Yes. Although such a segmentation increases the complexity, a segmentation between in-scope and out-of-scope activities should be permitted but not required to be able to isolate the activities that are out of scope and perform the segmentation for in-scope activities. The MNE Group will have to explain (qualitatively) why certain activities are out of scope and perform the segmentation and Amount A determination for in-scope activities. The criteria should be driven by the way the MNE does business and how it is organized.
VI. The development of a loss carry-forward regime that would ensure that Amount A is based on an appropriate measure of net profit.	More specifically, comments are invited on the following points: a) Do you consider that Amount A tax base rules should apply consistently at the level of the MNE group (or segment where relevant) irrespective of whether the outcome is a profit or loss (symmetry)? *(Refers to paragraphs 475-476 of the Blueprint)*	Yes, we strongly support the symmetrical treatment of profit and losses within Amount A. Only the recognition of losses besides profits ensures a fair treatment of start-ups and established groups. In addition to that Amount A aims at an allocation of residual profits. Therefore, only if an MNE constantly overachieves it should contribute to market jurisdictions. Therefore, a new definition of a loss is required which varies from the statutory and consolidated accounts definition.
	b) Do you consider that the carry-forward regime should account for some pre-regime losses and, if so, are any specific rules required to ensure symmetry, limit complexity and compliance costs	Yes. In particular in the Tech industry and also in the Pharma industry large investments are required which may lead to return up to 15 years later. Therefore, only an unlimited pre-regime loss and “profit shortfall” rule would

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	(e.g., time limitations)? *(Refers to paragraphs 477-478 of the Blueprint)*	ensure fairness. Whether MNEs then benefit from this option would be in the discretion of the MNE.
	c) Do you consider that losses for Amount A purposes should not be allocated to market jurisdictions (unlike profits), but instead reported and administered through a single account for the MNE group (or segment where relevant) and carried forward through an earn-out mechanism? If so, do you have specific suggestions to improve the design and administration of this approach? *(Refers to paragraphs 479-480 of the Blueprint)*	A loss allocation to market jurisdictions would be fair as they benefit from investment gains in a later stage. However, such an approach would further increase complexity of the model. Therefore, only if an MNE achieves a residual profit after recognition of prior losses and profit shortfalls an allocation to market jurisdictions should be required.
	d) What is your view of the proposal to extend the carry-forward regime to 'profit shortfalls'? Do you or do you not agree with the conceptual rationale behind it? *(Refers to paragraphs 488-491 of the Blueprint)*	We agree with the conceptual rationale behind "profit shortfalls".
VII. The scope and relevance of possible double counting issues arising from interactions between Amount A and existing taxing rights on business profits in market jurisdictions.	More specifically, comments are invited on the following points: a) Do you consider that the proposed mechanism to eliminate double taxation from Amount A will have an impact on the scope and relevance of possible double counting issues? Do you have suggestions on the design of this mechanism that would improve its ability to resolve (or reduce) possible double counting issues? *(Refers to paragraphs 531-532 of the Blueprint)*	We believe that double counting of taxing rights may arise in particular circumstances, such as decentralized business models or relatively autonomous domestic businesses. A mechanism to eliminate double counting and double taxation by imposing a cap on the Amount A re-allocation is a critical component of any IF agreement, however more refinement is required.
	b) Do you consider that there is an interaction between withholding taxes in market jurisdictions and the taxes under Amount A? If so, how could	Yes, in ADS business, when it comes to payments that qualify as royalties or remuneration for technical services. However, the practical relevance of the interaction between Amount A and withholding taxes might be low, as payees

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	such interactions, including double counting issues, be addressed *(Refers to paragraphs 506, 528 and 555 of the Blueprint)?*	are mainly consumers (individuals). In such a constellation, the enforcement and collection mechanism of withholding taxes might be difficult to implement.
	c) What would be the most important design and technical considerations in developing a marketing and distribution profits safe harbour for MNE groups with an existing taxable presence in the market jurisdiction? For example, do you consider this approach would be effective in dealing with possible double counting issues? Do you have views on how the fixed return could be designed? How should subsequent transfer pricing adjustments be dealt with in relation to this safe harbour? *(Refers to paragraphs 533-546 of the Blueprint)*	Despite the best interest of such a safe harbour it could lead to double counting. The existing relief mechanism might not be sufficient to ensure a full relief.
	d) Should a domestic-to-domestic business exemption be considered to exclude part of a group's business that is primarily carried on in a single jurisdiction from the calculation of the Amount A tax base? If so, do you have views on how this exemption could be designed? *(Refers to paragraphs 547-553 of the Blueprint)*	No. We believe that the number of MNE groups with completely standalone domestic businesses is relatively low. In addition, such a step would require a remodelling of the segmentation framework that would increase complexity and the associated compliance costs. On the other side, the application of the domestic business exemption should be considered on an optional basis in justified cases. Please consider that some CFBs are subject to local regulations which almost require a country specific production and sales model with limited cross-border impact.
	e) Besides the mechanisms proposed in the Blueprint, do you have any other suggestions on how to resolve the possible double counting issue?	
VIII. The development of a process to identify	More specifically, comments are invited on the following points:	The identification of the paying entities is one of the most critical elements of this new approach. The process needs to be clear and simple in its application while

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the entities in an MNE group that bear the Amount A tax liability (the paying entities) for the purpose of eliminating double taxation.	a) What are your views on the proposed approach to eliminate double taxation from Amount A? Do you have any suggestions to improve this approach, including any alternative approach to eliminate double taxation?	also minimizing challenges by the reviewing panels. The terms used should not leave room of interpretation. We believe that the proposed approach could be simplified by potentially using a formulaic approach. However, it is doubtful how such a formulaic approach could be designed. In addition. Para 570 recommends that both the exemption and credit method may be used which will create confusion. We therefore support the exemption method to relieve double taxation for Component 2.
	b) Do you consider that the activities test can be developed based on existing transfer pricing concepts and documentation? If not, what additional concepts or documentation requirements would you suggest, recognising the need to retain a test that is as simple as possible? *(Refers to paragraphs 579-591 of the Blueprint)*	In general, yes. Based on the existing transfer price models and documentation entities which derive residual profits from non-routine activities in a market jurisdiction should be identified. However, besides qualitative data also a profitability test is required.
	c) Do you consider that the profitability test should be calculated as a return on payroll and assets or should alternative approaches be considered? Could the profitability test apply instead of, rather than in addition to, the activities test? *(Refers to paragraphs 592-598 of the Blueprint)*	We agree with the suggested calculation of the profitability test. However, we believe that besides a profitability test a qualitative activity test is essential. Besides the proposed approaches a profit-to-revenue ratio could be considered. Or even any entity earning more than the defined standard routine return.
	d) Do you consider that a market connection priority test should form part of the process to identify a paying entity? Why or why not? *(Refers to paragraphs 599-607 of the Blueprint)*	In the current proposal there are already clauses which enlarge the funding of Amount A to entities without direct connectivity with the market jurisdiction. We believe that this complexity of the direct connection is not required if there is not a limitation of the allocation to the market.
IX. The issue of scope of Amount B and definition of baseline marketing	More specifically, comments are invited on the following points:	We believe that Amount B should take on a broader scope, as it aims at remuneration of related party distributors that perform “baseline marketing and

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and distribution activities.	a) Do you consider that Amount B should be narrow in its scope or should it take on a broader scope? What are the advantages or disadvantages of a narrow or broader scope? *(Refers to paragraph 659 of the Blueprint)*	distribution activities" according to the existing arm's length principle. Consequently, Amount B will apply to entities with existing nexus rules. As Amount A focuses on residual profits the definition of Amount B is essential to the whole Pillar 1 model. It clearly defines the scope of the routine activities not to be considered for Amount A purposes. To avoid double counting between Amount A and Amount B the scope of both Amounts requires a clear alienation. Therefore, there will be less compliance costs, tax controversy connected with them, as the scope limitations of Amount A related to the activity test, and threshold tests are not applicable to Amount B. We still like to highlight that there are MNEs with complex and very much business driven transfer pricing models; in such MNEs management accounts are fully aligned to tax books, transfer prices are partly negotiated between the various operational units, likely resulting into arm's length prices. While we see the advantages of the introduction of Amount B, for such complex MNEs it means significant administration and the introduction of a second set of books to account for tax specific transfer prices. However, we would like to point out that, a limited risk distributor should only apply in circumstances where companies are using the transactional net margin method ("TNMM").
	b) Do you consider the baseline activities outlined in the positive and negative list achieve the narrow scope definition examined in the Blueprint? If not, what changes should be considered? What changes to these lists would be required if a broader scope was adopted? *(Refers to paragraphs 664-673 of the Blueprint)*	Yes. However, we believe this is not sufficient. If the goal of Amount B is to achieve a fixed return on baseline marketing and distribution activities, then the scope of Amount B should be that wide and open that all activities which can be benchmarked are covered while any further uplift or add-on currently assumed by tax authorities to reflect marketing intangibles would be part of Amount A's residual profit. A routine distributor may also perform auxiliary and related service activities (to third party customer directly). In the transfer pricing model, the financial result of such service activities is typically combined with the margin from the resale of

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		the products. Therefore, they should be considered for the Amount B calculation as well.
	c) Do you consider that quantitative indicators or thresholds should be used when establishing whether or not entities are in the scope of Amount B? Why or why not, and if not what other factors should be considered? *(Refers to paragraph 674-679 of the Blueprint)*	We support as broad definition of Amount B, as possible. Quantitative figures can support the scoping based on qualitative indicators, but only as a support and not conclusive.
	d) Do you consider that multifunctional entities (i.e. entities that perform baseline marketing and distribution and other activities) should be eligible for Amount B? *(Refers to paragraph 680-684 of the Blueprint)*	Yes. Segmented financials will be required because of often entities perform activities beyond baseline marketing and distribution.
	e) Do you consider that Amount B will be effective in reducing disputes? If not, why? *(Refers to paragraph 664-673 of the Blueprint)*	Yes, if the scope and coverage of the activities is clearly defined and it is commonly agreed that any further routine activity which goes beyond baseline marketing and distribution activities will be covered by Amount C. Similarly, the residual profit will be in scope of Amount A. As a simplification, it should be considered to apply Amount B on an aggregated basis in case a distributor resells products from various intercompany suppliers. In general, Amount B should not be applied on a transactional basis, but in aggregation for a whole year and a portfolio of transactions (portfolio view). The introduction of Amount B **must** be accompanied with the introduction of year-end adjustment regulations, also addressing indirect tax and customs as well as corporate tax implications. In practice it is often not possible to reach the target margins with the pre-agreed transfer prices which results into the need of year-end adjustments. Such year-end adjustments with respective counter adjustment for the supplying entities are currently not possible in a number of countries.

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X. The appropriate profit level indicator for calculating Amount B, and how it should be calculated assuming Amount B is based on a narrow scope.	More specifically, comments are invited on the following points: a) What the appropriate profit level indicator should be, for example whether a return on sales set at the (potentially adjusted) EBIT or PBT level should be used? *(Refers to paragraphs 686-688 of the Blueprint).*	We agree with the suggestions made in Paras. 686 and 687 of Pillar One Blueprint und support profit level indicators that are commonly used in the TNMM for distribution function. An appropriate profit level indicator for calculating Amount B could be a fixed operating profit margin, e.g. measured as a return on sales. Furthermore, we want to encourage the Inclusive Framework to build on experience with existing Advance Pricing Agreements (APA) in order to define Amount B. However, it also needs to be highlighted that in specific business model a revenue based PLI like ROS may not be appropriate; flexibility should be provided in such exceptional situations.
	b) Do you consider that Amount B should account for variation in returns to baseline marketing and distribution activities by industry and/or region? If yes, what industry and/or regional variations should be considered? Are there any other differentiation factors that should be considered? *(Refers to paragraphs 690-693 of the Blueprint).*	We support variation in returns to baseline marketing and distribution activities by industry. We would also like to draw the attention on the fact that there may be collateral impacts from a customs perspective: the return on sales (ROS) of a distribution entity is indeed relevant from a customs perspective since it determines the import value of goods (under either the “transaction value method” or the “deductive value method” set forth under the WTO Agreement). If the ROS of the distribution entity is not strictly speaking at arm’s length because of the use of too broad a benchmark, it can no longer form an acceptable basis for the determination of import values. This may have far-reaching consequences (from an increase in customs disputes to changes in the customs duties revenue) which should be part of the thinking around Amount B.
XI. The development of an early tax certainty process to prevent and resolve disputes on Amount A.	More specifically, comments are invited on the following points: a) What do you consider will be the key challenges in the early tax certainty process described in the Blueprint and how do you think would they best be addressed?	First of all, we want to highlight that tax certainty is important to MNEs. A simple and quick process to achieve tax certainty is of utmost importance. The process described with different panels to be involved might take about to 3 years to gain tax certainty which feels by far too long. We believe that the key challenge will be interpretation conflicts on: correct delineation of in- and out-of scope activities, business lines, calculation of their profits, the existence of nexus and the identification of paying entities and the

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		allocation from paying entities to market jurisdictions. These issues have to be reduced by the OECD by providing sufficient interpretation guidance. In addition, results achieved with BEPS Action 14 should be utilized. Also of concern is the limited integration of the MNE in the process to achieve tax certainty. In an audit or a joint audit, the MNE is integral part of the audit as all information is provided by the MNE. Any panel is not in the position to fully understand the complex structures of a certain MNE without involvement of the MNE. However, such an involvement requires significant resources at the MNE and of the panel members who need to have expert knowledge on global accounting standards, industry knowledge etc. Such experts would first need to be trained by tax authorities globally as they are not available in the required magnitude. Such trainings would also be intense from a timing and administration burden perspective.
	b) Do you consider that there are circumstances where an MNE group's ultimate parent entity would not be the most suitable constituent entity to be the group's co-ordinating entity? If so, which constituent entities in an MNE group are likely to be more suitable. (*Refers to paragraph 718 of the Blueprint*)	No, unless the ultimate parent entity is a tax resident in a country that is not a member of the Inclusive Framework.
	c) Are there any features that could be incorporated into the Amount A tax certainty process to encourage participation by MNE groups? Do you see any features in the proposed design that could discourage participation by MNE groups? (*Refers to paragraphs 728-729 of the Blueprint*).	The described process is long and very cumbersome for MNEs and the lead tax authorities. The MNEs business further evolves year-by-year to strive for innovations and the tax certainty process needs to be repeated on a yearly basis. We believe that both MNEs and the lead tax administrations should be remunerated by other participating tax administrations for self-assessment and coordination effort to compensate for the significant additional compliance cost which include an extra financial reporting just for the purpose of Amount A and the participation in the required detail support to the lead authority and any panel member authority.

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	d) Do you consider that a separate process to determine whether an MNE group is within scope of Amount A would be beneficial, or that in practice this is unlikely to be used? (*Refers to paragraphs 729 and 782 of the Blueprint*).	No. We believe that Chapter 2 of Pillar One Blueprint provides sufficient guidance on Scope of Amount A.
XII. The introduction of new approaches to provide greater certainty beyond Amount A.	More specifically, recognising that Inclusive Framework members continue to hold different views as to the extent to which Pillar One should incorporate new tax certainty approaches beyond Amount A, what are your views on the four-element approach explored in the blueprint? What other suggestions and ideas do you have that would take into account these different views and help advance tax certainty beyond Amount A? (*Refers to paragraphs 710 and 801 of the Blueprint*)	We support the suggested measures. Mandatory binding dispute resolutions on all tax matters is critical for MNEs to gain tax certainty. The OECD needs to strive in the implementation of such new and complex rules for certainty to taxpayers in an easy and fast way which is binding for all involved tax authorities.

Appendix 2

Pillar Two

CHAPTER	QUESTION	COMMENTS
I. Chapter 1: Introduction and Executive Summary	**Question a: GILTI co-existence** *(Refers to paragraphs 25-28 of the Blueprint)* 1) Do you foresee any other technical implications of GILTI co-existence – in addition to those already identified in the Blueprint that should be taken into account?	No. Subject to the final draft, we agree that the coexistence of Global Intangible Low-Taxed Income ("GILTI") rules and Pillar Two compliant income inclusion rule ("IIR") will achieve reasonably equivalent effect without any perceived favouritism. Both systems need to be fully harmonized in order to apply in parallel. However, such a conclusion should be reviewed, if GILTI tax base will be narrowed or the GILTI tax rate will be reduced. In any future amendments of GILTI and IIR, blending methods should be aligned.
	2) What are the interactions between GILTI and the GloBE rules that would need to be coordinated and how should they be coordinated?	If the GILTI regime is determined as a compliant income inclusion rule, we believe that the IIR rules applicable in the jurisdiction of the ultimate parent company should prevail over the GILTI rules of the intermediate parent tax resident in the United States. In such a constellation, the GILTI rules should not be applicable. GILTI should therefore not be levied on any US subgroups that are subject to an IIR further up in the organizational chain. In addition, we agree with the necessity to limit the operation of the US Base Erosion and Anti-abuse Tax (BEAT) rules in the case of payments to entities that are subject to Pillar Two IIR. Therefore, BEAT should be a covered tax for GloBE purposes.
II. Chapter 2: Scope of the GloBE rules	**Question a: The treatment of investment funds (as defined in Section 2.3.) under the GloBE rules.** *(Refers to paragraphs 76-83 of the Blueprint)* 1) Considering that the GloBE rules only protect the tax neutrality of investment funds that are at the top of an MNE Group's ownership chain, are there specific situations in which the GloBE rules do not adequately protect the tax neutrality of investment funds?	No.

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	2) In the case of an investment fund under the control of an MNE Group, what additional rules would be needed to ensure the tax neutrality of the fund and ensure that: i. the MNE Group's share of the fund's income is not excluded from the GloBE tax base? and	For the purposes of GloBE rules, any income of a tax transparent entity (e.g. certain types of investment funds) should be treated as income of their immediate owners. Should there be a chain of transparent entities (e.g. a fund of funds), the income of below funds should be treated as income of the first opaque entity in the ownership chain.
	ii. related party payments to and from the fund cannot be used to circumvent the UTPR?	See our comment to Chapter 2 /Question a/1/i above.
III. Chapter 3: Calculating the ETR under the GloBE Rules	**Question a: The treatment of dividends and gains from disposition of stock in a corporation.** *(Refers to paragraphs 181-191 of the Blueprint)* 1) Do you have any views on the appropriate ownership threshold and the methodology of how to determine that threshold, both for the exclusion of portfolio dividends and the exclusion for gains and losses on the disposition of stock from the GloBE tax base?	All dividends (including portfolio dividends) shall be excluded from the GloBE tax base for the sake of simplicity. If not, we believe that the ownership threshold could be determined as follows: • Dividends: at least 10% or at least USD 1 m • Capital gains: at least 10%- and 1-year holding period. Should the participation fall under 10% due to partial sales, the capital gain should still be exempted, if the value of participation exceeded USD 1 m at the end of the financial year before the sale takes place. In addition, the exemption should be provided only to entities that are opaque both at the subsidiary and the parent company level. Such a requirement will cause that income of transparent entities (e.g. certain investments funds) will not be excluded from the GloBE tax base. See our comment to II /2 / I above. The suggested rules are broadly in line with the Council Directive 2011/96/EU of 30 November 2011 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States ("EU Parent-Subsidiary Directive").
	Question b: The treatment of re-organisations under Pillar Two. *(Refers to paragraphs 211-212 of the Blueprint)*	We agree with paragraphs 211-212 of the Pillar Two Blueprint. An introduction of a mechanism mirroring the local tax deferrals under the GloBE rules would be appropriate. It should exclude gains or losses from a non-taxable reorganisation or re-structuring (e.g. transfer of property, including intangible property) between

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	1) What types of re-organisations risk inappropriately triggering a liability under the GloBE rules and what are the technical issues that need to be considered in developing a rule that will allow MNE groups to undertake those re-organisations without triggering a liability under the GloBE rules?	two Constituent Entities in GloBE. In addition, the exclusion should also apply to a step-up in base after an intra-group restructuring. We suggest including such gain or losses, only when realized in a third-party sale of the asset.
	2) Should the rule apply to a re-organisation involving an acquiring entity and an acquired entity located in different jurisdictions? How can these issues be addressed in the design of a rule that minimises compliance costs and the risk of over- or under-taxation?	Yes. See our comment to Chapter 3/Question b/1 above.
	Question c: Rules to adjust for accelerated depreciation *(Refers to paragraphs 220-225 of the Blueprint)* 1) What are the technical issues that need to be considered in developing a rule that will minimise the instances of a tax charge under the GloBE rules and a corresponding IIR tax credit due to accelerated depreciation or immediate expensing of assets capitalised in the financial accounts?	It should be taken into account, that all deviations from IFRS would lead to an increase in administrative burden for the companies. The application of deferred tax accounting to temporary differences relating to depreciation can provide the most appropriate outcome in respect of temporary differences. The application of only a portion of deferred tax accounting in respect to an asset class may result in unintended consequences and are viewed as inadequate to address timing differences due to the limitation on carry forward of IIR credits.
	2) How can these issues be addressed in the design of a rule that minimises compliance and administration costs? Should the rule be based on deferred tax accounting, or rather allow the GloBE tax base to be computed by reference to tax depreciation instead of financial accounting depreciation?	See comment to Chapter 3/ Question c / 1 above.
	Question d: The treatment of tax transparent entities *(Refers to paragraphs 274-278 and 283 of the Blueprint)*	See our comments to: • Chapter 2 /Question a/1/i and

CHAPTER	QUESTION	COMMENTS
	1) Are there further technical issues to consider in regard to the treatment of fully or partially tax transparent and (reverse) hybrid entities?	• Chapter 3/Question a/1.
	Question e: Allocation of "cross-jurisdictional" taxes (particularly, anti-avoidance rule) *(Refers to paragraphs 284 of the Blueprint)* 1) Do you have any views on how to allocate the "cross-jurisdictional" taxes (e.g. CFC regime taxes and withholding taxes)? In your response please also consider the following:	In the jurisdictional blending, cross-jurisdictional taxes (i.e. CFC regime taxes and withholding taxes) should be allocated to the jurisdiction where the income has been taxed and should become an indefinite carry-forward in that jurisdiction applicable to future GloBE payments. However, it is also proposed that withholding tax accrued on an item of income that will be paid within 12 months is included in covered taxes. The currently proposed restriction to 12 months is not adequate to deal with interest income in circumstances where payment of the interest and therefore the withholding tax will not occur until many years into the future. This will result in double taxation and will increase the cost of funding capital investments.
	i. Given the significant planning opportunities of reducing the MNE's tax liability by taking advantage of those "cross jurisdictional" taxes described in paragraph 284, do you have any ideas on the design of an anti-avoidance rule to avoid such planning opportunities and what are the technical issues that need to be considered in developing such a rule?	We believe that existing CFC rules already significantly reduce the planning opportunities with passive income. In addition, the introduction of GloBE (IIR) will even accentuate the effect.
	ii. How can these issues be addressed in the design of a rule that minimises compliance and administration costs?	See our comment to Chapter 3 / Question e / 1. We believe that the entity earning and recording the income subjected to withholding is already in the possession of the necessary information (e.g. invoices, agreements required for credit mechanism): Therefore, our suggestion does not require additional compliance and administrative burden. The tax collected by one jurisdiction can be simply moved to the ETR calculation of another jurisdiction. The same should apply for taxes collected due to anti-avoidance CFC rules (if still applicable).

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IV. Chapter 4: Carry-forwards and carve-out	**Question a: Treatment of pre-GloBE losses and excess taxes under the carry forward approach.** *(Refers to paragraphs 315-318 of the Blueprint)* 1) What technical issues should be taken into account in developing a rule that would recognise the impact of pre-regime losses and benefit of taxes paid by the Constituent Entities of an MNE Group prior to becoming subject to the GloBE rules?	There should be an ability to obtain a refund for excess IIR credits deriving from any excess taxes per GloBE application. We welcome the suggestion from paragraph 318. As in most jurisdictions around the world, the carry forward of taxes must be indefinite. Anything short of unlimited will fail to honour the length of investment cycles that businesses face, particularly in capital intensive industries. All pre-regime losses that are still available at the moment when GloBE starts being applicable should be reflected. Otherwise the framework would be insufficient to account for MNEs with long-term business cycles and furthermore it is particularly relevant given the negative effects COVID-19 is having on many businesses. Tax liabilities in excess of economic income will be the result and will result in distortionary outcomes. A limited loss inclusion period also would stand in contrast to the Pillar One acceptance of unlimited loss carry forward. We believe that the effect of losses and excess taxes will be smoothed-out by the utilisation of carry-forwards (reference is made to paragraph 286 et seq. Pillar Two Blueprint). Jurisdictions should publish a positive list of national taxes deemed in scope in order to provide more certainty around the definition of covered taxes. CFC taxes should be fully allocated to the country where the income has been taxed and should become an indefinite carry-forward in that country applicable to future GloBE payments. Tax paid in a subsequent year in the normal course should be included as a covered tax (e.g., accrued tax in year one but payable in year two when a tax return is filed). Similarly, there should be a mechanism to refund top-up tax in circumstances where there is an amended assessment for local tax purposes in an income year (i.e., an increase in local tax liability) showing that top-up tax should not have been paid. For this purpose, a list of taxes covered by country would be welcome. For example, also financial institution taxes (e.g. bank levies) should also be

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		included in covered taxes as they are a material impost on banking operations. In many jurisdictions these taxes are levied in place of additional or as a top up of corporate tax and therefore need to be factored into the covered tax base.
	2) How can these technical issues be addressed in the design of the rule?	See our comment to Chapter 4 / Question a / 1 above.
	3) Do you have any views on the appropriate period for such losses and taxes being recognised and how to determine that period?	See our comment to Chapter 4 / Question a / 1 above.
	4) Are there special considerations that apply to certain industries?	No. We do not support ring fencing for certain industries.
	Question b: Formulaic substance-based carve-out. *(Refers to paragraphs 332-370 of the Blueprint)* 1) Do you have any comments on the overall design of the carve-out?	In most of the CFC regimes, substance is not a question of formula. Therefore, a return-on-assets approach will provide a more effective method for determining a routine return to business investment. This is recognized by the OECD Transfer Pricing Guidelines (see para. 2.98 and 2.103), which provide that a return on assets is appropriate in evaluating the profits of manufacturing or other asset-intensive activities, and that cost-based indicators should be used only in those cases where costs are a relevant indicator of the value of the functions, assets, and risks of a business. A return-on-assets approach is also consistent with the U.S. GILTI rules, and with sound economic and finance theory (pursuant to which returns are earned on investments, not expenses). While there is a mathematical relationship between depreciation expense and carrying value, a "routine" mark-up on depreciation expense is likely to fall far short of a routine return on the carrying value of long-lived assets in a capital-intensive business. The use of a mark-up on depreciation expense in the carve-out, rather than a return on tangible assets, effectively penalizes capital-intensive businesses in a manner that is inconsistent with the objectives of the GloBE rules. It should be also considered to provide a higher percentage mark-up for different categories of payroll costs, including for strategic management and research and

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		development. This would be consistent with providing a functional routine return to the local activities of the Constituent Entity. Furthermore, many countries have now implemented patent-boxes which are reviewed and are BEPS compliant. For countries that are innovation driven, a carve-out for Intangible assets is needed. Given the variety of business models, some MNE Groups have significant (and legitimate) R&D costs. We therefore, strongly believe, that besides the traditional factors – labour and assets – intangible assets should be regarded as carve-out factors as in many industries the importance of self-created intangibles are critical for any business success. As with the deemed depreciation on land one could consider a deemed depreciation on accumulated R&D expenses over the last 10 years to reflect the creation of such intangible assets. One simplification could be no carve out if we go for global blending. If not, we appreciate that there is a substance-based carve-out that will benefit those MNEs with operations in jurisdictions that are taxed at below the minimum rate. Attention should be paid to the equal jurisdictional rules for the tangible asset component (i.e. depreciation time of individual assets). As simplification, assets should be considered at their fair market value or at least the carrying value. In addition, a (fictitious) depreciation should be possible on the client relationship. Client relationships are a relevant factor in banking and are, for example, decisive for the sales price when a bank is sold in the form of goodwill.
	Question c: Computation of the ETR and top-up tax. *(Refers to paragraphs 371-375 of the Blueprint)* 1) Do you have any comments on the proposed calculation of ETR and top-up tax?	We believe that the adjusted covered tax should include cross-jurisdictional taxes (i.e. CFC and withholding taxes) related to the income are earned and recorded. See our comment to Chapter 3 / Question e / 1.

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V. Chapter 5: Simplification options	**Question a: General.** The Blueprint describes four potential simplification measures, including (i) CbC Report ETR safe harbour, (ii) de minimis profit exclusion, (iii) single jurisdictional ETR calculation to cover several years, and (iv) tax administrative guidance. 1) Are there any options that you consider would offer the most potential for simplification? Are there any options that you consider would offer little potential for simplification?	Several Members of SwissHoldings and economiesuisse are large MNEs operating in more than 80 jurisdictions. Without any simplification, they would be required to undertake the same number of ETR calculations under a jurisdictional blending approach. Therefore, we would highly welcome, if the count of jurisdictions, for which GloBE ETR calculations are required will be reduced to a minimum. Therefore, we encourage the OECD to further develop these and other options. Members strongly support a simplification measure that would provide an exemption from the GloBE rules for any MNE for which the consolidated accounts show that its global effective tax rate was higher than the GloBE minimum rate, as the objective of ensuring an appropriate level of taxation would be already met. The threshold to be out of the GloBE scope could be the slightly higher than the minimum tax rate. In addition, a form of ETR safe harbour based on CbCR would allow MNEs meeting the GloBE spirit not to compute and track a multitude of carry-forward and IIR tax credits. One crucial aspect of a CbCR safe harbour is not to require locally a reconciliation between a theoretical Pillar Two application and the safe harbour methods use as this would be to the detriment of the simplification intent. The OECD might consider a multi-year averaging approach in order to address timing or similar risks of mismatch. We welcome the idea to introduce the Deminimis profit exclusion. However, we agree that such a simplification measure would require further technical work on the treatment of losses in the concept. (Reference is made to paragraph 397 of the Pillar Two Blueprint). Deminimis profit exclusion should be based on a percentage and not on a fixed threshold. Also, there is a need to clarify which measures of PBT should be taken into account.
	2) Do you have any comments regarding how any of these options could be improved in order to provide greater simplification?	The CbCR Table 1 figures “Tangible Assets other than Cash or Cash Equivalents” and “Number of Employees” could be used as an alternative to simplify the jurisdictional substance based carve-out test.

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	3) Can you identify any other overall simplification measures that could be explored by the Inclusive Framework or potential simplifications to the design or application of specific elements of the IIR or the UTPR that would not undermine their objective or effectiveness?	In addition to the before mentioned (Chapter 5/Question a/1 above) exemption for MNEs, if the ETR on a consolidated basis is above a certain threshold, the main additional simplification is that no adjustments to the CbCR Reports should be made. If adjustments are nevertheless unavoidable, the number of required adjustments to use CbCR as a basis for the GloBE ETR calculation should be kept to a minimum. The applicability of the CbCR with the addition of deferred taxes would already require a lot of effort from the MNE's. All further additions and adjustments would only represent an unnecessary and burdensome complication and definitely not result in a simplification. See also our comment to Chapter 5/Question a/2 above.
	Question b: CbC Report ETR Safe Harbour. *(Refers to paragraphs 381-390 of the Blueprint)* *1)* Does the requirement for using the parent's consolidated financial accounts significantly reduce the number of MNEs able to use this simplification measure?	Yes, we agree that the consolidated financials would bring some simplification. However, due to the numerous adjustments required to comply with the Blueprint this simplification is marginalized. We believe that most of the MNEs will be able and glad to use this simplification measure as they need to prepare consolidated financial statements either because they are listed or because their shareholders require so. The use of the parent's consolidated financial accounts is a very good measure that simplifies the calculation of the ETR by country. Using the CBC based on consolidated accounts is the best approach for simplification as well. We also believe that the use of deferred taxes in the CBC would avoid having to compute and track carryforwards and tax credits. This option is key to having a level playing field for all MNE across the world; the CBC guidelines could be easily amended to incorporate deferred taxes. However, incorporating additional required adjustments into CbCR data may not represent a true simplification and instead, may be more complicated to implement from a process and technology standpoint. Therefore, we are reluctant to use the CbCR other then it was intended as high-risk assessment tool. Only the use of CbCR without significant adjustments and

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		adding deferred tax would be a significant simplification. Otherwise, we prefer not to complicate matters. To clarify, our members see local accounts not as statutory accounts but as IFRS or US GAAP style standards. Therefore, our member would recommend not using statutory accounts but local figures of the IFRS or US GAPP accounts. Furthermore, there are some concerns that have to be addressed, like the concern that the data may be used beyond what was intended in the report and could therefore lead to increased disputes. We want to remind the OECD that the CbCR is solely a high-level risk assessment tool with information prepared on this basis.
	2) Do any of the required adjustments, as described in the Blueprint, create significant additional complexity? Do you have any suggestions on how to streamline these required adjustments?	See our comment to Chapter 5 / Question b / 1 above. Any adjustments lead to unnecessary complexity. Only local books translated into IFRS or US GAPP would bring a simplification. Therefore, we suggest limiting the adjustments to the PBT to the minimum and to stick to the PBT that is calculated as per consolidated financial statements. Furthermore, the only adjustments that could be eliminated are those that relate to intercompany dividends, gains/losses on disposals of intra-group shares. Permanent differences should not be adjusted/eliminated because they are coming from the countries tax legislations that increase or decrease the taxable income. They are part of the countries tax policies and should be recognized as such. Further, the adjustments to permanent differences would be too complicated and would not lead to any simplification, Regarding income tax accrued, the proposed adjustments in paragraph 386 are reasonable and shall be easy to track. If you add those requirements in the CBC guidelines, they would be easy to implement, and companies would incorporate those adjustments in future guidelines.
	3) Do you support the idea of using deferred tax accounting to provide a more accurate picture of the MNE's expected tax liability in each jurisdiction without	Yes, this would be a massive simplification and would provide a much accurate picture. We strongly support this measure.

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	the burden of computing and tracking carry-forwards? Would doing so add material complexity?	
	4) Do you have ideas on how this simplification measure should be coordinated with the carry-forward mechanisms described in Blueprint? For example, in instances where the MNE has an ETR that is above the safeharbour ETR for one or more prior years, but one that is below the safeharbour ETR in the current year, should the MNE be allowed to go back and compute its carry-forward attributes for the prior years?	We believe that the carry-forward mechanism should be abandoned and replaced by the deferred tax accounting. Deferred tax accounting takes into consideration prior years and current year losses that can be carried forward. It is a tool that avoids one-offs and spreads the tax credits on losses on future periods. Deferred tax assets on carried forward losses are subject to impairment tests and are reviewed by the external auditors. There are very strict rules that allow to trust the outcome of these calculations. Tax accounting is already complex enough. The GloBe rules and tax authorities should rely on tax accounting rather than create a new accounting system to capture these carry-forward mechanisms.
	Question c: De minimis profit exclusion. *(Refers to paragraphs 391-398 of the Blueprint)* 1) Does the requirement to compute the profit before tax for every jurisdiction pursuant to the GloBE rules materially reduce the simplification benefits of this option?	Yes. We support the use of a de minimis threshold of percentage (e.g. 2.5%) of group profit per jurisdiction. However, this simplification measure would only be useful if it is based on a percentage and not on a fixed de minimis threshold such as the figure suggested in the Blueprint. See also our comment to Chapter V / Question a / 1 above.
	2) Do you have suggestions as to how this determination could be streamlined, for example by using 'Profit (Loss) before Income Tax' as reported in the CbC report?	Indeed, the use of the figure 'Profit (Loss) before Income Tax' as reported in CbCR could streamline the determination.
	3) Do you consider the requirements provided in BEPS Actions 8-10, including DEMPE functions, sufficient to address the risk of fragmentation, or would targeted measures be required to neutralise such risk?	We consider the requirements provided in BEPS Actions 8-10, including DEMPE functions sufficient to address the risk of fragmentation.

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	4) Do you have ideas on how to coordinate this simplification measure with the carry-forward mechanisms described in Blueprint?	We strongly support simplification measures that are easy to administer and implement. Therefore, we would highly appreciate, if the de minimis profit exclusion would not be overloaded with additional technical features, such as those presented in paragraph 385 for CbC Report ETR Safe Harbour.
	5) In order to be effective, how should the de minimis threshold be set? Should it be a percentage of group profit, a fixed monetary amount threshold, or a combination of the two?	See our comment to Chapter 5 / Question c / 1 above.
	Question d: Single jurisdictional ETR calculation to cover several years. *(Refers to paragraphs 399-403 of the Blueprint)* 1) Do you agree with the text in the Blueprint that this simplification option may not offer material simplification given that it requires computing an ETR in every jurisdiction in the base year?	Yes.
	2) Do you agree with the text in the Blueprint that this simplification measure would likely require targeted rules to address potential abusive arrangements, which would further undermine its intended simplification?	Yes.
	Question e: Tax administrative guidance. (*Refers to paragraphs 404-409 of the Blueprint)* 1) Which specific factors would you consider relevant to the determination of a “low-risk” jurisdiction?	We do find appropriate to ringfence certain sectors as “low-risk”. The determination of “low-risk” should be based on objective criteria, e.g. statutory tax rate in the jurisdiction.
	2) Does the possibility that a tax authority could, within a certain period of time, require an MNE in a “low-risk” jurisdiction to perform the ETR calculation for that jurisdiction, reduce tax certainty and therefore limit the practical benefit of this simplification?	Yes.

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	3) What can be done to minimise uncertainty to taxpayers?	See our comment to Chapter 5 / Question e / 1.
	4) In view of the necessary re-determination of a jurisdiction's "low-risk" status in the case of tax law revisions or reform that materially change the jurisdiction's tax base or rate, what can be done, in terms of processes and notification, to minimise uncertainty to taxpayers?	We would welcome, if the OECD would publish yearly updates on their web page on recent development in individual jurisdiction in this respect. Similar to updates on BEPS progress.
	5) Do you have any additional comments regarding this simplification, including how it could be improved to offer greater simplification and certainty?	From a compliance perspective, tax administration guidance (i.e., a whitelist) is a preferred first step, as it is the easiest method for businesses to follow and comply. The whitelist should be kept simple: in or out.
VI. Chapter 6: Income Inclusion and Switch-over rules	**Question a: Top-down approach.** *(Refers to paragraphs 419-430 of the Blueprint)* 1) Do you have any comments on the detailed approach outlined in the report for designing and implementing a top-down income inclusion rule?	The IIR should be the primary rule and apply only at the ultimate parent level, even in a split ownership situation and only for the ownership portion by the MNE. If directly and indirectly owned subsidiaries and lower-tier entities will be required to consider applying the IIR split-ownership rule, this will significantly increase the compliance efforts and will lead to a heavy administrative burden on companies.
	Question b: Integrity measures. *(Refers to paragraphs 431-433 of the Blueprint)* 1) Do you have comments on the types of structures that could erode the integrity of the IIR (e.g., through the use of passive holding companies at the top of the ownership chain) and the types of rules that would protect the IIR's integrity while avoiding undue compliance costs and administrative burdens?	No.
	Question c: Split-ownership. *(Refers to paragraphs 434-452 of the Blueprint)*	The split-ownership proposal complicates the application of the IIR and the subsequent sequencing of the other rules as it requires several countries to test and forces MNEs to split the process into several.

CHAPTER	QUESTION	COMMENTS
	1) Do you have comments on the design of the proposed split-ownership rules?	
	2) What would be an appropriate minority ownership percentage to use when applying such a rule and what impact would the rule then have on common multinational group structures?	10%. In case the simplification measures above are not taken, this limitation would limit the need to co-ordinate the interaction between the IIRs in different jurisdictions in those cases where a relatively small number of equity interest in a group company are held by minority shareholders (e.g. employees, legacy shareholders from a prior acquisition or financing counterparties). In addition, it ensures that the additional complexity only applies in situations where an important percentage of profits (i.e. more than 10%) would otherwise remain undertaxed. We agree with the suggestion in paragraph 442 that the application of this rule depends on the corporate structure of the MNE Group at the end of the accounting period.
VII. Chapter 7: Undertaxed payments rule	**Question a: Undertaxed payments rule.** *(Refers to* Chapter 7 of the *Blueprint)* 1) Are additional rules necessary to ensure that there is no overlapping application of the UTPR and the IIR?	Because timing differences can have a negative effect under the UTPR rules, the OECD might consider applying a long cycle (e.g., every 5 years) to smooth out timing differences. However, the UTPR should not be applied to domestic income of a UPE of an MNE since the objective is to ensure a minimum level of tax on foreign income earned by the MNEs. Furthermore, we suggest that the OECD provide a white list of countries with adequate IIR.
	2) Do you have comments on the approach for allocating the top-up tax between constituent entities?	No.
	Question b: Compliance and administration. *(Refers to paragraphs 526-537 of the Blueprint)* 1) Do you have comments on the efficacy of the certification requirements, standardized self-assessment returns, and local filing requirements provided under the UTPR either in the application of the	We support this compliance simplification measure.

CHAPTER	QUESTION	COMMENTS
	rule or the deactivation of the rule in situations where the IIR applies?	
	2) Are there ways in which these can be improved to further streamline the compliance burden on MNEs?	We would appreciate, if there would be globally unified requirements on such certificates implemented in all member countries of the Inclusive Framework, e.g. digital version of such certificates (in Pdf.) would be sufficient.
VIII. Chapter 8: Special rules for Associates, joint ventures and orphan entities	**Question a: Simplified IIR for associates and joint ventures.** *(Refers to 542- 551of* the *Blueprint)* 1) Do you have comments on the design of a simplified IIR that would apply in respect of associates and joint ventures accounted for under the equity method?	If associates and JVs were in scope, a new reporting process would need to be established in order to obtain information from unconsolidated associates, which will impose a significant administrative burden. It is proposed that associates and JVs are reported and in scope only by the entity which ultimately consolidates such entities.
	2) What are the technical issues or practical challenges that need to be considered in developing a simplified IIR? How can these issues be addressed in the design of a rule that minimises compliance costs and the risk of over- or under-taxation?	The coordination of the technical rules among jurisdictions of JV and subsidiaries.
	3) Do you have any views on the application of the simplified IIR in a broader context of the application of the IIR described in Chapter 6, including the top-down approach and the split-ownership rules?	No.
	Question b: Orphan Entity rule. *(Refers to 552- 565 of* the *Blueprint)* 1) Do you have comments on the design of an Orphan Entity rule?	No.
	2) What are the technical issues and practical challenges that need to be considered in developing an Orphan Entity rule and how can such challenges be addressed?	To ensure consistent application of the 50% threshold for orphan entities in all member states of inclusive framework.

CHAPTER	QUESTION	COMMENTS
	3) How can these issues be addressed in the design of a rule that minimises compliance costs and the risk of over- or under-taxation?	There should be an OECD Model developed for the implementation of GloBE. Probably in the form of a multilateral instrument.
IX. Chapter 9: Subject to tax rule	**Question a: Covered payments and low-return exclusion.** *(Refers to paragraphs 588- 616 of the Blueprint)* 1) Do you consider that the categories of covered payments and the exclusion for low-return payments ensures that the STTR focuses on the transactions that present significant BEPS risks?	Yes. However, we believe that BEPS Actions 4 (Limitation of interest deductions) and Actions 8-10 (Transfer Pricing) already sufficiently addressed potential risks connected with royalties and interest payments. Overall, we believe that the STTR will likely lead to double taxation, which need to be eliminated from the framework objective of Pillar Two.
	2) Do you have any views on the design and practical application of this rule component as well as potential simplifications?	As STTR only complements the principal mechanism of Pillar Two – IIR together with the undertaxed payments rule (UTPR) acting as a backstop -, we would welcome, if the implementation of STTR would be optional for members of the Inclusive Framework. In the context of agency and other intermediary services we urge the OECD that any payment in relation to regulatory requirements should be out of scope.
	Question b: Materiality threshold. *(Refers to paragraphs 623-636 of the Blueprint)* 1) What are your views on including a materiality threshold?	We would welcome a percentage amount-based materiality threshold. (so called minor expenses safe harbour in Chapter B.4.5.2 of UN Transfer Pricing Manual). Payments lower than this amount would not be subject to STTR. In our view, low-value services should not be subject to STTR at all.
	2) Would such a threshold simplify the administration of the rule and limit compliance costs in a material way?	Yes.
	3) Do you have any views on the different approaches suggested for the materiality threshold as well as on their application in isolation or combination?	See our comments to Chapter 9 / Question b / 1 and 2 above.
	Question c: Administrative considerations. *(Refers to paragraphs 661-667 of the Blueprint)*	We consider (ii) the certification system providing for reduced rates of withholding tax the most suitable, due to the legal certainty and relatively low

CHAPTER	QUESTION	COMMENTS
	1) Further technical work will be undertaken in the Inclusive Framework on administrative approaches that could deliver these aims. This will include work on (i) applying the top-up tax as an ex-post annualized charge, (ii) a certification system providing for reduced rates of withholding tax, and (iii) the application of contingent withholding taxes set at a level that would generally result in an annual ex-post balancing payment by the taxpayer (rather than a repayment). Which administrative approach do you consider to be the most suitable?	administrative burden. The reduced WHT rates should apply, if the statutory tax rate in the recipient country is above e.g. 15%. However, since such IIR and UTPR measure are likely to be implemented through domestic legislation, it would be appreciated if an overall binding framework with clear principles will be developed by the OECD to achieve a coordinated and aligned implementation. Otherwise, inconsistencies and deviations in domestic legislation may arise which potentially result in double taxation. Therefore, such binding framework should contain provisions for dispute prevention and dispute resolution. Further, for those jurisdictions without IIR, the OECD should give sufficient time to introduce an IIR before any UTPR would be activated given the complexity of UTPR and the higher probability of disputes. Although IIR and UTPR do not require changes to bilateral treaties, STTR and the switch-over-rule require amendments to bilateral treaties though. Alternatively, the implementation of an MLI would be required for the purpose of tax certainty and elimination of double taxation.
	2) Do you have other suggestions to minimize the administrative burden and to facilitate the collection of the top-up tax?	We would welcome, if the OECD could publish a guidance that would unify the certification process (e.g. formal and technical requirements).
X. Chapter 10: Implementation and rule co-ordination	**Question a: Implementation and rule co-ordination.** *(Refers to paragraphs 697- 708 of the Blueprint)* 1) Are there any co-ordination mechanisms or other features of the GloBE that you would suggest exploring in order to provide for more tax certainty in applying the Pillar Two rules?	In addition to that, besides GILTI other countries have implemented UTPR in local laws already or similar measures. All these local rules and measures would need either to be abolished or as GILTI declared as GloBE compliant. Here a coordination and guidance by the OECD is appreciated. Further, it is essential that clear rules will be implemented in terms of the interaction between the proposal under Pillar One and Pillar Two as well as between the measures under Pillar Two and the existing international and domestic tax rules. See also our comment to Chapter 9 / Question a / 2 above.

CHAPTER	QUESTION	COMMENTS
	Question b: Dispute prevention and resolution. *(Refers to paragraphs 709-715 of the Blueprint)* 1) In addition to the design features and proposed approach to implementation of the IIR and UTPR, what additional options do you think should be considered to minimise the scope for double taxation and dispute?	We appreciate the suggestions presented in paragraphs 710 to 715 and find them comprehensive. We also want to emphasize that good experience has been made with the implementation of an MLI which has been designed to modify double taxation treaties in line with minimum standards defined by the OECD. Therefore, we advocate for a similar MLI for Pillar Two as an instrument of dispute prevention. Such an MLI and its implementation ensures a coordinated and consistent approach to be applied by different jurisdictions and reduces double or multiple taxation.