

# OECD SECRETARY-GENERAL TAX REPORT TO G20 FINANCE MINISTERS AND CENTRAL BANK GOVERNORS

Indonesia, July 2022



G20



OECD

BETTER POLICIES FOR BETTER LIVES

# **OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors**

Indonesia, July 2022

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries.

---

**Please cite this report as:**

OECD (2022), *OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Indonesia, July 2022*, OECD, Paris, [www.oecd.org/g20/topics/international-taxation/oecd-secretary-general-tax-report-g20-finance-ministers-indonesia-july-2022.pdf](https://www.oecd.org/g20/topics/international-taxation/oecd-secretary-general-tax-report-g20-finance-ministers-indonesia-july-2022.pdf).

---

# Table of contents

Introduction	4
The Two-Pillar International Tax Package	5
Inclusive Forum on Carbon Mitigation Approaches	7
Tax and Development	8
Tax Transparency	10
BEPS Project Implementation	11
<b>Annex A. OECD Secretariat Progress Report on Amount A of Pillar One</b>	<b>13</b>
Inclusive Framework Cover Note to the Progress Report on Amount A of Pillar One	13

## Introduction

**The international tax agenda is still dominated by the implementation phase of the historic Two-Pillar deal reached last October to address the tax challenges arising from the digitalisation of the economy.**<sup>1</sup> Significant progress has been made on all aspects of the work, with the Pillar Two global minimum tax rules now out and ready for countries' implementation, and key Pillar One rules have been released for public consultation as agreed by the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting – BEPS (the Inclusive Framework), to inform the work and optimise the possibility to have the Multilateral Convention needed for its implementation enter into force. Taking a little more time to allow for public consultation is necessary to make sure that these rules, which are intended to last decades, are properly drafted and benefit from wider public and inter-governmental consultation before finalisation. In short, better right than rushed, as agreed by the Inclusive Framework in the annexed Progress Report. The new deadline calls for the work to be completed by the first half of 2023, which will become a hard deadline.

**Meanwhile progress continues on the implementation of the BEPS package and on tax and development,** to ensure all members of the Inclusive Framework can participate meaningfully in this work. For instance, following the recommendations of the 2021 report to the G20 on Developing Countries and the Inclusive Framework,<sup>2</sup> Inclusive Framework members elected a representative of Jamaica as Co-Chair, Marlene Nembhard-Parker. To further scale up the G20 ambition on the tax and development agenda, the Indonesian Presidency and the OECD are working on a G20/OECD Roadmap for Developing Countries and International Tax, to be presented at your October meeting.

**Investment in the transparency agenda is paying off.** New steps have been taken on monitoring the implementation of the automatic exchange of information, and there are fewer jurisdictions failing to implement tax transparency standards. Your constant support for the transparency agenda and collective action is yielding impressive results: the most recent data gathered by the OECD-hosted Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum) shows that information on at **least 111 million financial accounts worldwide was exchanged automatically between administrations around the globe in 2021, covering total assets of nearly EUR 11 trillion.** Further developments are also on the horizon. Ahead of your October meeting, the OECD will finalise a new Crypto-Assets Reporting Framework and amendments to the OECD Common Reporting Standard, following your request to the OECD to develop a framework for the automatic exchange of information on crypto-assets. The Framework will help ensure that the tax transparency instruments available to tax administrations are sufficiently modern and cannot be undermined by technologies developed since the tax transparency standards were first agreed.<sup>3</sup>

**Finally, and very importantly, I am glad to report the launch of the new OECD initiative to help countries address climate change: the Inclusive Forum on Carbon Mitigation Approaches.** This new initiative, which will help OECD and non-OECD countries alike, will enable the sharing of data and methods to help facilitate an evidence-based dialogue about the different efforts around the world to reach

---

<sup>1</sup> OECD (2021), *Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy – 8 October 2021*, OECD, Paris, [www.oecd.org/tax/beps/statement-on-a-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-october-2021.htm](https://www.oecd.org/tax/beps/statement-on-a-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-october-2021.htm).

<sup>2</sup> OECD (2021), *Developing Countries and the OECD/G20 Inclusive Framework on BEPS: OECD Report for the G20 Finance Ministers and Central Bank Governors, October 2021*, Italy, OECD, Paris, <https://www.oecd.org/tax/beps/developing-countries-and-the-oecd-g20-inclusive-framework-on-beps.htm>.

<sup>3</sup> OECD (2022), *Public consultation document: Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard, 22 March-29 April 2022*, OECD, Paris, [www.oecd.org/tax/exchange-of-tax-information/public-consultation-document-crypto-asset-reporting-framework-and-amendments-to-the-common-reporting-standard.pdf](https://www.oecd.org/tax/exchange-of-tax-information/public-consultation-document-crypto-asset-reporting-framework-and-amendments-to-the-common-reporting-standard.pdf).

net zero emissions. Over time, better data and information sharing about the comparative effectiveness of different carbon mitigation approaches and the sharing of best practices will help inform better decisions around the world and help secure a globally more coherent and better coordinated approach to carbon mitigation. Informed and facilitated by technical and objective analysis, the Forum, which is modelled on the success of the Inclusive Framework, will also help ensure the global effectiveness of combined carbon mitigation efforts by working to avoid any counterproductive negative spillovers.

## The Two-Pillar International Tax Package

### **Pillar Two**

The technical work on Pillar Two is now close to complete, following the agreement of the model Global Anti-Base Erosion (GloBE) Rules<sup>4</sup> and related Commentary<sup>5</sup> in November 2021 and March 2022 respectively. Implementation now lies in the hands of Inclusive Framework members, with significant progress already made. All G7 countries, the European Union, a number of G20 countries and many others have already scheduled changes in their domestic legislation to introduce the Model Rules. It seems that most are planning for an entry into force in 2024, which represents a slight delay. In spite of some delays in reaching agreement (the draft EU directive has thus far failed to gather unanimity), implementation of the global minimum corporate tax seems ineluctable. A significant number of countries have also announced they will implement a top-up tax domestically, which is a way to help countries remove unnecessary tax incentives and other exemptions and to eliminate profit shifting. The consequences of the implementation of Pillar Two for developing countries are being discussed, notably at the G20 Ministerial Symposium on Tax and Development to be held on 14 July 2022.

The likely 2024 implementation will also provide sufficient time to the Inclusive Framework to develop the Pillar Two Implementation Framework, designed to limit the risks of double taxation and facilitate good co-ordination between tax administrations.

Last but not least, work also continues on the Pillar Two Subject to Tax Rule (STTR) draft model provision and related Commentary, as well as the draft multilateral instrument to facilitate the implementation of the STTR.

### **Pillar One**

Pillar One is revolutionary in its concept and ongoing negotiations remain justifiably intense to turn the deal reached last October into practice and reallocate 25% of the profits of the world's largest multinational companies to market jurisdictions, whether or not they have a physical presence in such jurisdictions. Delegates to the Inclusive Framework continue to work around the clock, and their dedication, coupled with the input received to the rolling public consultations, over the past number of months has enabled significant progress to be achieved, as evidenced in the Progress Report in Annex A.

Since I last reported to you, the Inclusive Framework has continued to launch rolling public consultations on Amount A of Pillar One pertaining to several of the building blocks:

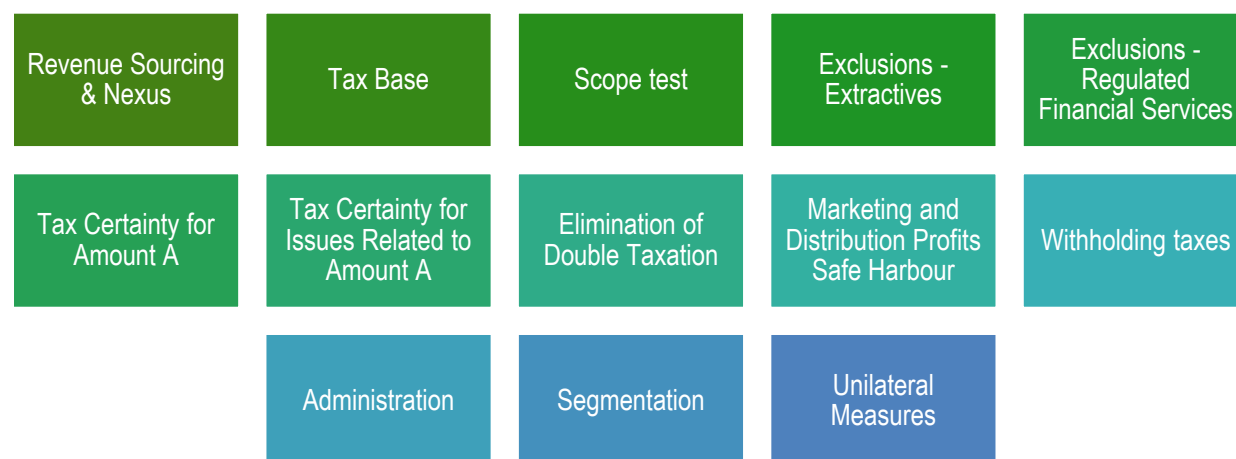
---

<sup>4</sup> OECD (2021), *Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS*, OECD, Paris, [www.oecd.org/tax/beps/tax-challenges-arising-from-the-digitalisation-of-the-economy-global-anti-base-erosion-model-rules-pillar-two.htm](http://www.oecd.org/tax/beps/tax-challenges-arising-from-the-digitalisation-of-the-economy-global-anti-base-erosion-model-rules-pillar-two.htm).

<sup>5</sup> OECD (2022), *Tax Challenges Arising from the Digitalisation of the Economy – Commentary to the Global Anti-Base Erosion Model Rules (Pillar Two)*, OECD, Paris, [www.oecd.org/tax/beps/tax-challenges-arising-from-the-digitalisation-of-the-economy-global-anti-base-erosion-model-rules-pillar-two-commentary.pdf](http://www.oecd.org/tax/beps/tax-challenges-arising-from-the-digitalisation-of-the-economy-global-anti-base-erosion-model-rules-pillar-two-commentary.pdf).

- **18 February:** Nexus and Revenue Sourcing;
- **4 March:** Tax Base Determinations;
- **20 April:** Scope;
- **29 April:** Extractives Exclusion;
- **20 May:** Regulated Financial Services Exclusion;
- **10 June:** Tax certainty.

In addition to the work on Amount A, good progress has also been made on advancing the work on Amount B, to be delivered by year-end.



Building Blocks of Amount A

At this point in the process, the Inclusive Framework will now seek feedback from stakeholders on the overall design of the Amount A rules, as well as specific building blocks, with a view to finalising the design of these innovative new rules in the coming months to ensure they last for decades to come. The Inclusive Framework, which comprises over 140 members, will meet for its first physical meeting in over two years to take stock of progress in October 2022, before the next G20 Finance Ministers and Central Bank Governors' meeting.

The Inclusive Framework has also agreed a new, more realistic timeline to deliver a Multilateral Convention (MLC) for the implementation of Amount A, which will optimise the chance for it to be ratified globally, i.e. by a critical mass of countries, including the largest economies where most in-scope companies are headquartered. This new timetable fixes mid-2023 as the ultimate deadline for signing the MLC and 2024 for its entry into force.

Schedule for Completion on Amount A	
19 August 2022	Stakeholder feedback on the annexed Amount A Progress Report.
October 2022	Inclusive Framework will review stakeholder input and seek to stabilise the rules at its meeting.
First half 2023	The work on the detailed provisions of the Multilateral Convention (MLC) and its Explanatory Statement are expected to be completed so that a signing ceremony of the MLC can be held in the first half of 2023 with the objective of enabling it to enter into force in 2024 once a critical mass of jurisdictions as defined by the MLC have ratified it.

## Inclusive Forum on Carbon Mitigation Approaches

The world urgently needs more ambitious and effective action on climate change. While more countries have committed themselves to achieving net zero emissions, the key is to translate increased ambition and commitments into actual, tangible outcomes. Given that climate change is a global challenge, we need to ensure that measures to reduce emissions from and within individual jurisdictions actually help to reduce global emissions and do not just shift activity, jobs and emissions from one part of the world to others. That is why the world urgently needs a globally more coherent, better-coordinated approach to carbon mitigation.

In spite of significant progress made to date, near-term policy actions on climate remain insufficient to meet the Paris Agreement objectives and the diversity of policy approaches makes understanding their combined global impact challenging and also elevates the risk of counterproductive negative spillovers. The challenge is to ensure that the level of climate ambition and effort in individual jurisdictions can be lifted to the level required to reach global net zero emissions by 2050 while maintaining to the greatest extent possible the global playing field. To really drive the necessary increase in climate ambition and effort around the world, we need to find

*“Countries may rely on a mix of policy instruments to reduce greenhouse gas emissions and may achieve their climate objectives with different speed and trajectories, taking into account national specificities, differing degrees of technological development, different availability of resources needed to finance the green transition. At the same time, Ministers acknowledged the importance of enhanced international cooperation to avoid potential spillovers stemming from unilateral approaches.”*

**Summary of the G20 High Level Symposium on Tax Policy and Climate Change recorded by the Italian Presidency, 9 July 2021**

*“We welcome the Inclusive Forum on Carbon Mitigation Approaches as an instrument to facilitate the dialogue to enhance cross-border cooperation on climate mitigation policies.”*

**OECD 2022 Ministerial Council Statement, 10 June 2022**

ways to avoid counterproductive impacts on international trade competitiveness causing carbon leakage as a result of lifting climate ambition and effort, using different approaches around the world. For that, we need to improve the level of international, multilateral dialogue and cooperation.

This time last year, you met in Venice at the G20 High Level Symposium on Tax Policy and Climate Change, where you agreed that closer international co-ordination on climate action could help achieve common goals and better inform your discussions on the appropriate policy mix to shape just and orderly transitions to sustainable and inclusive economies. Since then, I have had productive conversations with many of you on the OECD proposal to create an Inclusive Forum on

Carbon Mitigation Approaches (the Inclusive Forum). This major new initiative, which was launched and welcomed by OECD Ministers in June 2022, is designed to help facilitate an evidence-based information sharing about the different efforts around the world to reach net zero emissions.<sup>6</sup>

The Inclusive Forum is modelled on the success of other fora including the Inclusive Framework and the OECD-hosted Global Forum. Similar to the Inclusive Framework and Global Forum, OECD and non-OECD members alike will participate in the Inclusive Forum on the basis of consensus and on an equal footing. As countries lift their ambition on climate, all countries would benefit from a globally more coherent, better-

<sup>6</sup> Meeting of the OECD Council at Ministerial Level Paris, 9-10 June 2022, see [www.oecd.org/mcm/2022-MCM-Statement-EN.pdf](https://www.oecd.org/mcm/2022-MCM-Statement-EN.pdf).



coordinated approach to emissions reduction efforts that avoids negative spillovers. The inclusive dialogue of the Inclusive Forum will be informed and facilitated by objective and technical analysis and take account of a broad range of mitigation policies, recognising that different parts of the world with different starting positions in different circumstances, and with different opportunities to make their best possible contribution towards global efforts to reduce emissions, will use different policy approaches and policy mixes to achieve their climate goals.

The Inclusive Forum will help inform policy makers to translate high-level policy ambitions, such as those under the Paris Agreement and the UN Sustainable Development Goals, into concrete action at the national level, and could help some countries to achieve greater domestic resource mobilisation through low-carbon development choices. Over time, better data and information sharing about the comparative effectiveness of different carbon mitigation approaches and the sharing of the best practices to reach net zero emissions will help inform better decisions around the world.

Following the launch last month, the establishment and articulation of the procedural aspects of the Inclusive Forum are currently in progress and I look forward to inviting you to the initiative as it gets underway.

## Tax and Development

Your work to foster domestic resource mobilisation and help build sustainable tax bases remains critically important, particularly for developing countries that are hit harder from steep increases in the price of food and energy, and already struggle with limited fiscal space.

At the margins of your July meeting, the OECD is providing support to the Presidency's G20 Ministerial Symposium on Tax and Development. The Symposium will take stock of progress since the OECD report to the Italian G20 Presidency last October on [Developing Countries and the Inclusive Framework](#), which showed that the pace and scale of progress in international tax reform and intergovernmental co-operation has meant that many developing countries remain on a steep learning curve.<sup>7</sup>

The Symposium will also consider the outcomes of the Ministerial Roundtable chaired by Finance Minister Nigel Clarke of Jamaica in November 2021<sup>8</sup> and identify further actions to ensure the broad and systematic inclusion of developing countries in the

*"We ask the OECD as a top priority to explore further the recommendations of the report on developing countries and the Inclusive Framework to identify possible areas where domestic resource mobilization efforts could be further supported, including in the Asia-Pacific region and in collaboration with the Asian Development Bank's Asia-Pacific Tax Hub."*

**Communiqué, G20 Finance  
Ministers and Central Bank  
Governors Meeting,  
18 February 2022**

<sup>7</sup> OECD (2021), *Developing Countries and the Inclusive Framework: OECD Report for the G20 Finance Ministers and Central Bank Governors, October 2021, Italy*, OECD, Paris, [www.oecd.org/tax/beps/developing-countries-and-the-oecd-g20-inclusive-framework-on-beps.htm](http://www.oecd.org/tax/beps/developing-countries-and-the-oecd-g20-inclusive-framework-on-beps.htm).

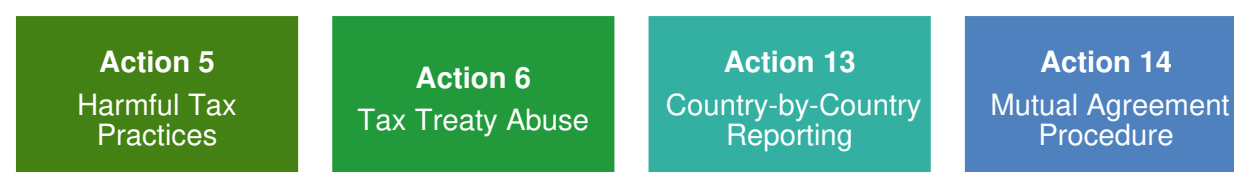
<sup>8</sup> Priority Actions agreed during Ministerial Round Table on Developing Countries and International Taxation chaired by Minister of Finance, November 2021, see [www.mof.gov.jm/priority-actions-agreed-during-ministerial-round-table-on-developing-countries-int-taxation/](http://www.mof.gov.jm/priority-actions-agreed-during-ministerial-round-table-on-developing-countries-int-taxation/).

implementation of the two-pillar solution. The discussions, which will include a focus on tax incentives, will feed into a Roadmap on Developing Countries and International Tax for delivery to your October meeting.

Our capacity building programme continues to deliver results. In 2021, over 23 000 officials benefitted from the OECD's virtual training on tax and over 26 developing countries received bilateral bespoke support on BEPS.<sup>9</sup> There are currently 43 induction programmes ongoing with the developing country members of the Inclusive Framework and developing countries continue to make progress in implementing the four BEPS minimum standards.

Over the past year, 13 countries<sup>10</sup> passed legislation and regulations to implement BEPS measures. These include:

- Zambia enacted Country-by-Country (CbC) reporting regulations based on the model legislation in the BEPS Action 13 report;
- Kazakhstan adopted the primary law to implement the BEPS Action 5 recommendations;
- Benin passed legislation on transfer pricing (BEPS Actions 8-10) and CbC reporting in May 2021;
- Kenya replaced its debt to equity thin capitalisation legislation with new interest limitation rules based on the ATAF suggested approach to drafting interest deductibility legislation and the BEPS Action 4 (limitation on interest deductions) recommended approach; and
- Ukraine developed administrative guidance on transfer pricing treatment of commodity transactions.



BEPS Minimum Standards

### ***OECD/UNDP Tax Inspectors Without Borders (TIWB)***

TIWB assistance programmes have raised **USD 1.7 billion** tax revenues to date.

The TIWB initiative provides niche support by matching experienced tax auditors with developing country tax administrations to assist with concrete cases, particularly on transfer pricing audits. TIWB programmes span 54 jurisdictions with 55 completed and 50 current programmes, including 20 South-South programmes. To date, a total of **USD 1.7 billion tax revenues have been collected and USD 3.9 billion in tax has been assessed** through TIWB assistance programmes.

<sup>9</sup> OECD (2022), *Tax Co-operation for Development: Progress report on 2021*, OECD, Paris, [www.oecd.org/tax/tax-global/tax-co-operation-for-development-progress-report-on-2021.htm](http://www.oecd.org/tax/tax-global/tax-co-operation-for-development-progress-report-on-2021.htm).

<sup>10</sup> Benin, Brazil, Burkina Faso, Honduras, Jamaica, Kazakhstan, Kenya, Mongolia, Rwanda, Senegal, Sierra Leone, Ukraine and Zambia

## Tax Transparency

Since 2009, the Global Forum is monitoring under your mandate the effective implementation of both Transparency and Exchange of Information on Request (EOIR) and Automatic Exchange of Financial Account Information in Tax Matters (AEOI) Standards. Since January 2021, the Global Forum welcomed two new members, Uzbekistan and the Republic of the Congo. With 165 members – more than half of which are developing jurisdictions, the Global Forum has made substantial progress in advancing the G20 agenda regarding international tax co-operation and exchange of information (EOI).

Thanks to tax transparency efforts, information on at least **111 million** financial accounts worldwide, covering total assets of nearly **EUR 11 trillion** was exchanged automatically in 2021.

The end of bank secrecy for tax purposes is an ever-progressing reality. The global implementation of the AEOI Standard is maturing. **In 2021, information on at least 111 million financial accounts worldwide, covering total assets of nearly EUR 11 trillion was exchanged automatically.** This is an increase of 48% and 22%, respectively, compared to the 2020 figures. This increase in accounts and asset value can be explained by the increased number of AEOI bilateral relationships and the improved reporting of data to the Global Forum.

The Global Forum remains active in ensuring the level playing field.

- Its peer review work regarding AEOI effectiveness review is ongoing and will be finalised in time for the G20 Leaders' meeting in October 2022. The review of the legal framework was completed in 2020, but, since then, several jurisdictions have made legislative amendments to address recommendations, and this has been reflected in updated reports. Work is ongoing to determine the future of the AEOI peer review process with the objective of securing the effective implementation of the AEOI Standard by all committed jurisdictions in practice.
- Regarding EOIR, onsite visits have now resumed allowing for the completion of effectiveness' assessment of the EOIR implementation under the second round of reviews.

**The Global Forum's regional initiatives also manifest growing progress.** The most recent one – the Asia Initiative, launched in November 2021 – offers a framework to foster tax co-operation and aims to promote the implementation of the tax transparency standards as tools against tax evasion and other Illicit Financial Flows (IFFs) in the Asian region. **The high-level signing of the Asia Initiative declaration will take place on 14 July 2022, at the margin of your meeting.** Finally, both the Africa Initiative and the Punta del Este Declaration Initiative published their progress reports recently, highlighting encouraging progress and remaining challenges.<sup>11</sup> With two new members, the Africa Initiative now includes 34 member countries and the African Union. The Africa Initiative has raised the profile of tax transparency in Africa since its inception in 2014. African countries are building their EOI frameworks including by joining the Convention on Mutual Administrative Assistance in Tax Matters (e.g. the number of their EOI relationships has increased fourfold between 2015 and 2021 - from 1 162 to 4 135). They are also benefitting from EOI in their domestic resource mobilisation efforts. For example, in 2021, exchange of information enabled three African countries to identify nearly EUR 40 million. African countries are also working on developing the use of cross-border assistance in tax collection. Under the Punta del Este Declaration Initiative, Latin American countries reported EUR 261 million of additional revenues identified in 2021 thanks to EOI. They also approved a framework to facilitate the use of information exchanged through tax treaty channels for other purposes than tax to better fight IFFs.

<sup>11</sup> [Tax Transparency in Africa 2022: Africa Initiative Progress Report](#); [Tax Transparency in Latin America 2022: Punta del Este Declaration Progress Report](#)

As the Global Forum celebrated the 10th anniversary of its capacity building programme last year, demand for capacity-building support remains strong with over 60 jurisdictions having received technical assistance since January 2022, including 24 jurisdictions receiving assistance for the implementation of the AEOI Standard. Globally, developing countries have identified nearly EUR 30 billion through voluntary disclosure programmes and offshore tax investigations since 2009.

### ***List of jurisdictions that have not satisfactorily implemented the tax transparency standards***

To ensure a level playing field, you have requested the OECD to regularly report on the jurisdictions that fail to comply with the tax transparency standards. Since the last report on the list in April 2021, Dominica has started automatic exchanges on financial account information.

The number of jurisdictions failing to comply with **tax transparency standards** has decreased to **four** today.

As Dominica has started exchanging financial account information automatically, the number of identified jurisdictions failing to comply with the tax transparency standards has decreased from 5 to 4 today.<sup>12</sup> The Global Forum is working closely with all of these jurisdictions to provide the necessary assistance and guidance to ensure their progress and a global level playing field.

## **BEPS Project Implementation**

While much of the focus on the Inclusive Framework has been its work on the Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy, steady progress continues to be made on the implementation of other BEPS Actions, in particular the four minimum standards.

- **Action 5 on Harmful Tax Practices**

Since the beginning of the BEPS Action 5 peer reviews, the Forum on Harmful Tax Practices (FHTP) has reviewed over 300 preferential regimes and the substance legislation of 12 no tax or only nominal tax jurisdictions. In addition, over 41 000 exchanges of information on tax rulings between governments have taken place to date, with peer reviews on tax rulings covering 131 jurisdictions. In April 2022, the FHTP concluded its first annual monitoring of the effectiveness in practice of the substantial activities requirements in no or only nominal tax jurisdictions, the results of which will be released later in 2022.

- **Action 6 on Tax Treaty Abuse**

- ❖ Most Inclusive Framework members rely on the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (MLI) to implement Action 6. The MLI now covers 99 jurisdictions and around 1 850 bilateral tax treaties. As of 1 June 2022, the BEPS MLI has already started to modify the bilateral treaties concluded among 76 jurisdictions that have ratified it and an additional 940 treaties will be modified once the MLI is ratified by all signatories.

---

<sup>12</sup> Anguilla, Niue, Sint Maarten and Trinidad and Tobago.

- ❖ Since I last reported to you, the fourth peer review report on the implementation of the Action 6 minimum standard on treaty shopping was released.<sup>13</sup> The report, released in March 2022, shows that the level of compliance has more than doubled since last year. The report also shows that around 2 300 of 2 400 tax treaties concluded between Inclusive Framework members should become compliant with the minimum standard in the near future.

- **Action 13 on Country-by-Country (CbC) reporting**

The implementation of CbC reporting is well underway and tangible progress has been made on multiple fronts since I last reported to you, with more jurisdictions introducing domestic legislation to require CbC reporting, and those with existing legislation taking steps to put exchange relationships in place and address recommendations from earlier peer reviews.<sup>14</sup>

- **Action 14 on Mutual Agreement Procedure**

Under BEPS Action 14, jurisdictions have committed to improving the resolution of tax-related disputes between jurisdictions. As the need for tax certainty increases, this minimum standard is critical to ensuring that tax disputes are resolved in a timely, effective and efficient manner. Despite the significant disruption caused by the COVID-19 pandemic, peer review monitoring of the BEPS Action 14 minimum standard has continued unabated. In April 2022, the latest peer review reports were released, showing the efforts that nine jurisdictions (Andorra, Bahamas, Bermuda, British Virgin Islands, Cayman Islands, Faroe Islands, Macau (China), Morocco and Tunisia) have made to comply with the minimum standard.<sup>15</sup> Peer review reports will continue to be published in batches in accordance with the Action 14 peer review assessment schedule.

### Country-by-Country reporting at a glance

- ✓ Over **100 jurisdictions** have a domestic legal framework for reporting.
- ✓ **83 jurisdictions** have multilateral or bilateral competent authority agreements in place.
- ✓ Around **90 jurisdictions** have undergone a confidentiality and data safeguards assessment.
- ✓ **84 jurisdictions** have provided sufficiently detailed information to assure the Inclusive Framework that CbC reports are being appropriately used.

<sup>13</sup> OECD (2022), *Prevention of Tax Treaty Abuse – Fourth Peer Review Report on Treaty Shopping: Inclusive Framework on BEPS: Action 6, OECD/G20 Base Erosion and Profit Shifting Project*, OECD Publishing, Paris, <https://doi.org/10.1787/3dc05e6a-en>.

<sup>14</sup> OECD (2021), *Country-by-Country Reporting – Compilation of 2021 Peer Review Reports: Inclusive Framework on BEPS: Action 13, OECD/G20 Base Erosion and Profit Shifting Project*, OECD Publishing, Paris, <https://doi.org/10.1787/73dc97a6-en>.

<sup>15</sup> Making tax dispute resolution more effective: [New peer review assessments](#) for Andorra, Bahamas, Bermuda, British Virgin Islands, Cayman Islands, Faroe Islands, Macau (China), Morocco and Tunisia 14 April 2022

# Annex A. OECD Secretariat Progress Report on Amount A of Pillar One

## Inclusive Framework Cover Note to the Progress Report on Amount A of Pillar One

The landmark agreement reached on 8 October 2021 on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy (the Statement) has been joined by 137 members of the OECD/G20 Inclusive Framework on BEPS (the Inclusive Framework). The Statement, together with the Detailed Implementation Plan based on very ambitious political deadlines, has guided an intense period of work for the Inclusive Framework.

Nine months after this historic agreement, the development of the Two-Pillar Solution is well advanced. The Pillar Two GloBE rules, with Model Rules for implementation, were released in December 2021 and the related Commentary published in March 2022. Work on the Implementation Framework for the GloBE rules is well underway following a very useful public consultation, and the design of the Subject To Tax Rule is on-going.

Significant progress has also been achieved in elaborating the comprehensive technical rules of the new taxing right (Amount A) for market jurisdictions established under Pillar One, as can be seen from the attached Amount A Progress Report. As further explained in the introduction to the Report, the design of many of the building blocks has been stabilised from a technical perspective. This would not have been possible without the valuable input received during the rolling public consultation held on various building blocks of Amount A. At the same time, the novelty of the concepts relating to this new taxing right and its integration within the existing international tax architecture merit further deliberation with respect to a few of the building blocks. Here, the Inclusive Framework recognises that it is important to balance the political interest in swift implementation with the need to properly finalise the design of innovative new rules intended to last for decades. As part of this process, the Inclusive Framework has also decided to seek feedback from stakeholders on the overall design of the Amount A rules as well as specific building blocks before reaching final agreement.

The Inclusive Framework further recognises that the substance of these rules must be fully stabilised before the development and completion of a Multilateral Convention (“MLC”), to be signed and ratified by IF members. The MLC will establish the legal obligations of the parties to implement Amount A in a coordinated and consistent manner. This will include binding rules on all aspects of implementing Amount A, including the allocation of Amount A to market jurisdictions, the elimination of double taxation, marketing and distribution safe harbour, a simplified administration process, exchange of information, and the tax certainty process. Pending finalisation of the substantive rules, work on the overall design and the framing of individual provisions of the MLC is already underway.

In addition to the operative provisions of Amount A, the MLC will also contain provisions requiring the withdrawal of all existing digital service taxes and relevant similar measures with respect to all companies, as well as a commitment not to enter into such measures in the future.

The MLC will enter into force only upon ratification by a critical mass of countries, which will include the residence jurisdictions of the ultimate parent entities of a substantial majority of the in-scope companies whose profits will be subject to the Amount A taxing right, as well as the key additional jurisdictions that will be allocated the obligation to eliminate double taxation otherwise arising as a result of the Amount A tax.

In addition to the work on Amount A, good progress has also been made on advancing the work on Amount B, to be delivered by year-end.

Against that background, the Inclusive Framework agreed to revise the schedule for completion of the work on Amount A as follows:

- i. Stakeholder feedback on the attached Amount A Progress Report is sought by 19 August 2022;
- ii. the Inclusive Framework will review stakeholder input and seek to stabilise the rules at its meeting in October 2022;
- iii. the work on the detailed provisions of the MLC and its Explanatory Statement are expected to be completed so that a signing ceremony of the MLC can be held in the first half of 2023 with the objective of enabling it to enter into force in 2024 once a critical mass of jurisdictions as defined by the MLC have ratified it.

The attached Progress Report contains the different building blocks relating to the new taxing right under Amount A presented in the form of domestic model rules. It does not yet include the rules on the administration of the new taxing right, including the tax certainty related provisions, which will be released in due course and before the Inclusive Framework meeting in October.

# Table of contents

1. Overview	17
2. Substantive rules on Amount A	19
Title 1: Scope	19
Article 1: Covered Group	19
Title 2: Charge to tax	22
Article 2: Charge to tax	22
Title 3: Nexus and revenue sourcing rules	22
Article 3: Nexus test	22
Article 4: Revenue sourcing rules	22
Title 4: Determination and allocation of taxable profit	24
Article 5: Determination of the Adjusted Profit Before Tax of a Group	24
Article 6: Allocation of profit	25
Title 5: Elimination of double taxation with respect to Amount A	27
Article 7: Relief for Amount A taxation	27
Article 8: Identification of the Specified Jurisdictions for a Covered Group	27
Article 9: Allocation of the obligation to eliminate double taxation with respect to Amount A Profit	27
Article 10: Provision of relief for Amount A taxation to entities of a Covered Group	30
Article 11: Identification of Group Entities of a Covered Group entitled to elimination of double taxation with respect to Amount A	30
Title 6: Administration	31
Title 7: Definitions	31
Schedule A: Supplementary provisions for scope	40
Schedule B: Exclusion of Revenues and profits of a Qualifying Extractives Group	41
Schedule C: Exclusion of Revenues and profits from Regulated Financial Services	55
Schedule D: Covered Segment	67
Schedule E: Detailed revenue sourcing rules	73
Schedule F: Asset Fair Value or Impairment Adjustments	92
Schedule G: Acquired Equity Basis Adjustments	92
Schedule H: Transferred Losses	92
Schedule I: Elimination tax base	94
Schedule J: Elimination of double taxation - Return on Depreciation and Payroll	102



### **Background**

Following years of intensive negotiations to update and fundamentally reform international tax rules, 137 members of the OECD/G20 Inclusive Framework on BEPS (Inclusive Framework) joined the [Statement on the Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy](#) (the Statement) released in October 2021. The Statement sets out the political agreement on the key components of Pillar One and Pillar Two, and mandates the Task Force on the Digital Economy (TFDE) – a subsidiary body – to advance the work needed to implement Amount A. In particular, the TFDE has been charged with developing the Multilateral Convention (MLC) and its Explanatory Statement as well as the Model Rules for Domestic Legislation (Model Rules) and related Commentary through which Amount A will be implemented.

Nine months after this historic agreement, significant work and progress has been achieved on the development of the technical rules of the new taxing right (Amount A), including through the valuable inputs received during the rolling public consultation held on various building blocks of Amount A. To seek further feedback from stakeholders, and consistent with the revised schedule for completing the work on Amount A agreed by the Inclusive Framework (see the “Cover Note to the Progress Report on Amount A of Pillar One”), the secretariat has prepared a Progress Report on Amount A of Pillar One (Progress Report) which includes a consolidated version of the operative provisions on Amount A (presented in the form of domestic model rules), reflecting the technical work completed thus far by the TFDE. This report does not yet include the rules on the administration of the new taxing right, including the tax certainty related provisions, which will be released in due course and before the Inclusive Framework meeting in October 2022.

### **Public consultation**

This Progress Report is a consultation document released by the OECD Secretariat for the purposes of obtaining further input from stakeholders on the technical design of Amount A.

The comments provided will assist members of the Inclusive Framework in completing the work on the technical development of Amount A. Comments are sought with respect to the rules in this document. Where relevant, input should refer to the relevant section of the rules. While comments are invited on any aspect of the rules, input will be most helpful where it explains the additional guidance that would be needed to apply the rules to the circumstances of a particular type of business, as well as input on whether anything is missing or incomplete in the rules.

Interested parties are invited to send their comments on this discussion draft no later than **Friday 19 August, 2022**. They should be sent electronically (in Word format) by email to [tfde@oecd.org](mailto:tfde@oecd.org) and may be addressed to: Tax Treaties, Transfer Pricing and Financial Transactions Division OECD/CTPA.

Please note that all written comments received will be made publicly available on the OECD website. Comments submitted in the name of a collective “grouping” or “coalition”, or by any person submitting comments on behalf of another person or group of persons, should identify all enterprises or individuals who are members of that collective group, or the person(s) on whose behalf the commentator(s) are acting.

**The proposals included in this consultation document have been prepared by the OECD Secretariat, and do not represent the consensus views of the Inclusive Framework, the Committee on Fiscal Affairs (CFA) or their subsidiary bodies.**

# 1. Overview

1. Amount A of Pillar One has been developed as part of the two-pillar solution for addressing the tax challenges arising from the digitalisation of the economy. It is a new taxing right which:

- applies to a portion of the residual profit of large and highly profitable enterprises (i.e. Amount A) for the benefit of jurisdictions in which goods or services are supplied or consumers are located (hereafter, “market jurisdictions”);
- operates as an overlay to the existing profit allocation rules, and therefore includes a mechanism to reconcile the respective different profit allocation systems and prevent double taxation; and
- includes improved tax certainty processes that bring increased certainty for enterprises on Amount A and matters related to Amount A.

2. The core elements of the rules that guide the functioning of Amount A are contained in Section 2 of this Report. These rules have been developed by the Task Force on the Digital Economy (TFDE), taking into account the stakeholder input received under various public consultations. While they are framed as domestic law rules, they will serve as the substantive basis for negotiating the Multilateral Convention (MLC) through which Amount A will be implemented. They consist of the following components:

- The **scope rules** contain thresholds that are designed to ensure that Amount A only applies to large and highly profitable Groups and, as far as possible, have been drafted to apply in a quantitative and objective manner, to be readily administrable and provide certainty as to whether a taxpayer is within scope. In exceptional cases, a Disclosed Segment may be in scope of Amount A, on a standalone basis, while the Group as a whole is not. Revenues and profits from Extractives Activities and Regulated Financial Services are excluded from the scope of Amount A.
- A **special purpose nexus** rule identifies market jurisdictions that are eligible to receive Amount A. The nexus rule contains quantitative thresholds based on the amount of Revenues a Group generates in the market jurisdiction. A lower nexus threshold will apply for smaller market jurisdictions to ensure that these are able to benefit from Amount A as well. The nexus rule is supported by detailed **revenue sourcing rules**, which provide a methodology for determining where the Revenues of a Group are generated, based on reliable indicators or allocation keys.
- The **tax base rules** provide the steps to calculate the profit (or loss) of a Group that will be used for Amount A calculation purposes. It is the measure of profit that forms the basis for the partial reallocation. The Consolidated Financial Statements of a Group, prepared under Acceptable Financial Accounting Standards, form the starting point for the tax base determination. The rules include a limited number of book-to-tax adjustments and a framework allowing Groups to carry-forward losses.
- The **profit allocation rules** are based on a formula which allocates 25% of a Group’s profit in excess of 10% of the Group’s Revenues to eligible market jurisdictions. These profits will be allocated to market jurisdictions in proportion to the amount of Revenues that the Group generates in that jurisdiction, and subject to any adjustment arising from the Marketing and Distribution Profits Safe Harbour (MDSH). The latter adjusts the allocation of Amount A for market jurisdictions that already have existing taxing rights over the Group’s residual profits.

- The **elimination of double taxation rules** will apply to eliminate any double taxation that arises from applying Amount A as an overlay to the existing profit allocation system. The rules will apply on a quantitative and jurisdictional basis to identify Relieving Jurisdictions that will be responsible for the elimination of double taxation.

3. Amount A will also include a **streamlined administration process and innovative tax certainty processes** for the new rules included under Amount A and any issue related to Amount A. The rules and processes for these aspects of Amount A will be released in due course and before the OECD/G20 Inclusive Framework on BEPS (Inclusive Framework) meeting in October.

4. In addition to the operative provisions of Amount A, the MLC will contain provisions requiring the withdrawal of all existing digital service taxes (DSTs) and relevant similar measures with respect to all companies, and will include a definitive list of these existing measures. The MLC will also include a commitment not to enact DSTs or relevant similar measures, provided they impose taxation based on market-based criteria, are ring-fenced to foreign and foreign-owned businesses, and are placed outside the income tax system (and therefore outside the scope of tax treaty obligations). The commitment would not include value-added taxes, transaction taxes, withholding taxes treated as covered taxes under tax treaties, or rules addressing abuse of the existing tax standards. The development of the MLC will include work to further develop the definition of DSTs and relevant similar measures, and to provide for the elimination of Amount A allocations for jurisdictions imposing future measures that are within the scope of this commitment.

5. The work on the building blocks is well advanced. However, the rules contained in this report do not reflect the final agreement at the TFDE. They reflect the technical work conducted thus far in developing Amount A, which is more advanced in some parts as opposed to others. Specific open issues are highlighted in this report through bracketed language with additional explanations provided in the corresponding footnotes. For withholding taxes on deductible payments made to in-scope MNEs there are divergent views as to whether and, if so, to what extent they are related to the elimination of double taxation and to double counting. As discussions are ongoing, this progress report does not deal with the implications of withholding taxes. Further consideration will be given to these questions, with a view to agreeing and developing the relevant rules by the time of the October Inclusive Framework meeting.

## 2. Substantive rules on Amount A

1. This Section sets out the core elements of the rules relating to the taxation in [Jurisdiction name] of a portion of the residual profit of large and highly profitable Groups (Amount A). These rules are framed as domestic law provisions (hereafter, the “Act”), and are organised in seven Titles and ten Schedules.

2. Title 1 defines a Covered Group whose profit may be subject to a tax charge under Title 2, which contains the charging provision allowing a market jurisdiction to apply the new taxing rights to [one or more Group Entities] of a Covered Group. Title 3 contains the threshold that must be met to establish a taxable nexus in a Jurisdiction and determines when revenues are treated as arising in a Jurisdiction. Title 4 contains rules governing the determination and allocation of taxable profit to [Jurisdiction name] for a Period. Title 5 contains rules on the elimination of double taxation arising from the taxation of a portion of residual profit of a Covered Group in a market jurisdiction. Title 6 contains rules on procedural and administrative provisions. Title 7 contains definitions for the purposes of this Act and its Schedules.

3. The Schedules supplement and provide guidance on the application of the rules contained in the Titles. Schedule A contains provisions on scope that supplement Article 1. Schedule B contains the rules governing the exclusion of Revenues and profits of a Qualifying Extractives Group. Schedule C contains the rules governing the exclusion of Revenues and profits derived from Regulated Financial Services. Schedule D contains the rules governing the application of this Act to any Segment Entity of a Covered Segment. Schedule E contains the detailed revenue sourcing rules that supplement Article 4. Schedule F, G, and H supplement Article 5 and respectively contain the rules for making Asset Fair Value or Impairment Adjustment, the rules for making Acquired Equity Basis Adjustments, and the rules regarding Transferred Losses. Finally, Schedules I and J contain additional provisions that complement those contained in Title 5 on the elimination of double taxation with respect to Amount A.

### Title 1: Scope

#### **Article 1: Covered Group**

1. The obligations contained in Titles 2 to 6 of this Act apply to one or more Group Entities of a Covered Group with respect to a Period beginning on or after the Commencement Date. For the purposes of applying the rules contained in this Article, supplementary provisions as set out in Schedule A (*Supplementary provisions for scope*) apply.
2. A Group is a “Covered Group” for a Period where both subparagraphs (a) and (b) are met:
  - a. the Revenues of the Group for the Period are greater than EUR 20 billion (*the revenue test*). Where the Period is shorter or longer than twelve months, the EUR 20 billion amount is adjusted proportionally to correspond with the length of the Period.
  - b. the Pre-Tax Profit Margin of the Group is greater than 10 per cent (*the profitability test*):
    - i. in the Period (*the period test*); and

- ii. where the Group was not a Covered Group in the two consecutive Periods immediately preceding the Period:
    - (a) in two or more of the four Periods immediately preceding the Period (*the prior period test*); and
    - (b) on Average across the Period and the four Periods immediately preceding the Period (*the average test*).
- 3. Where the Group meets the conditions in paragraph 2 and is a Qualifying Extractives Group, the Group is not a Covered Group unless:
  - a. it meets the non-Extractives revenue test; and
  - b. it meets the non-Extractives profitability test
 contained in Section 2 of Schedule B (*Exclusion of Revenues and profits of a Qualifying Extractives Group*).
- 4. Where the Group meets the conditions in paragraph 2 and conducts Regulated Financial Services, the Group is not a Covered Group unless:
  - a. it meets the non-RFS revenue test; and
  - b. it meets the non-RFS profitability test
 contained in Section 2 of Schedule C (*Exclusion of Revenues and profits from Regulated Financial Services*).
- 5. Where a Group meets the conditions in paragraph 3 or 4, any Group Entity of such a Covered Group is subject to the obligations contained in Titles 2 to 6 of this Act as modified by Schedules B and C, whichever applies.
- 6. Where a Group:
  - a. meets the condition in subparagraph 2(a) but it does not meet the conditions in subparagraph 2(b) for a Period; or
  - b. meets the condition in subparagraph 3(a) but it does not meet the conditions in paragraph 3(b) for a Period; or
  - c. meets the condition in subparagraph 4(a) but it does not meet the conditions in paragraph 4(b) for a Period
 then a Disclosed Segment of the Group is a Covered Segment for the Period where the conditions in both subparagraphs (d) and (e) are met:
  - d. the Segment Revenues of the Disclosed Segment for the Period are greater than EUR 20 billion (*the segment revenue test*). Where the Period is shorter or longer than twelve months, the EUR 20 billion amount is adjusted proportionally to correspond with the length of the Period.
  - e. the Segment Pre-Tax Profit Margin of the Disclosed Segment is greater than 10 per cent (*the segment profitability test*):
    - i. where a Segment Change involving the Disclosed Segment did not occur in the Period or any of the four Periods immediately preceding the Period:
      - (a) in the Period; and
      - (b) where the Disclosed Segment was not a Covered Segment in the two consecutive Periods immediately preceding the Period:

- (1) in two or more of the four Periods immediately preceding the Period; and
    - (2) on Average across the Period and the four Periods immediately preceding the Period.
  - ii. where a Segment Change involving the Disclosed Segment occurred in the Period or any of the four Periods immediately preceding the Period, but Segment Restated Accounts of the Disclosed Segment have been prepared for each of the four Periods immediately preceding the Period:
    - (a) in the Period; and
    - (b) where the Disclosed Segment would not have been a Covered Segment in the two consecutive Periods immediately preceding the Period based on the Segment Restated Accounts:
      - (1) in two or more of the four Periods immediately preceding the Period; and
      - (2) on Average across the Period and the four Periods immediately preceding the Period.
  - iii. where a Segment Change involving the Disclosed Segment occurred in the Period or any of the four Periods immediately preceding the Period, and no Segment Restated Accounts of the Disclosed Segment have been prepared for each of the four Periods immediately preceding the Period:
    - (a) in the Period; and
    - (b) on Average across the Periods that follow the Period where the most recent Segment Change occurs.
7. Where a Disclosed Segment meets the conditions in paragraph 6, one or more Segment Entities of the Group is subject to the obligations contained in Titles 2 to 6 of this Act as modified by Schedule D (*Covered Segment*).
  8. If two or more Disclosed Segments meet the conditions provided in paragraph 6, Titles 2 to 6 of this Act, as modified by Schedule D, shall apply to each Disclosed Segment separately as if those Disclosed Segments are independent.
  9. Where a Disclosed Segment meets the conditions in paragraph 6 and the Disclosed Segment is reported by a Qualifying Extractives Group, the Disclosed Segment is not a Covered Segment unless:
    - a. it meets the non-Extractives segment revenue test; and
    - b. it meets the non-Extractives segment profitability test
 contained in Section 12 of Schedule B.
  10. Where a Disclosed Segment meets the conditions in paragraph 6 and the Disclosed Segment is reported by a Group that conducts Regulated Financial Services, the Disclosed Segment is not a Covered Segment unless:
    - a. It meets the non-RFS segment revenue test; and
    - b. It meets the non-RFS profitability test
 contained in Section 12 of Schedule C.

## Title 2: Charge to tax

### Article 2: Charge to tax

1. The income taxable pursuant to this Act for a Period is the relevant portion of a Covered Group's Adjusted Profit Before Tax associated with Revenues treated as arising in [Jurisdiction name] pursuant to Article 4, and with respect to which the nexus test in Article 3 is met. The relevant portion of the Covered Group's Adjusted Profit Before Tax is determined by the two following steps:
  - a. the determination of the Covered Group's Adjusted Profit Before Tax for the Period in accordance with the rules contained in Article 5 and, where applicable, as modified by any Schedule; and
  - b. the allocation of a portion of that Adjusted Profit Before Tax (if any) to [Jurisdiction name] for the Period in accordance with the rules contained in Article 6.

This income is taxable as income of [one or more Group Entities of the Covered Group] for the Period identified under Title 5 of this Act, and in accordance with the rules provided in [reference to domestic law provisions on income tax].

2. Income tax charged in accordance with this Article on a Group Entity of a Covered Group identified under Title 5 has no implications for the determination of any other direct or indirect tax, customs duty, or social security contribution in [Jurisdiction name] of any Group Entity of the same Covered Group.

## Title 3: Nexus and revenue sourcing rules

### Article 3: Nexus test

1. The nexus test is satisfied for a Period if the Revenues of a Covered Group treated as arising in a Jurisdiction pursuant to Article 4 for the Period are equal to or greater than EUR 1 million. Where the Period is shorter or longer than twelve months, the EUR 1 million amount is adjusted proportionally to correspond with the length of the Period.
2. For the purposes of paragraph 1, where the Jurisdiction's Gross Domestic Product for a Period is less than EUR 40 billion, the amount of EUR 1 million is replaced with EUR 250 thousand.
3. Paragraph 1 applies solely to determine whether a Group Entity of the Covered Group is liable to tax charged in accordance with this Act in a Jurisdiction, and has no other implications for any Group Entity of the Covered Group.

### Article 4: Revenue sourcing rules

1. This Article determines when Revenues derived by a Covered Group are treated as arising in a Jurisdiction for the purposes of this Act. For the purposes of applying the rules contained in this Article, supplementary provisions as set out in Schedule E (*Detailed revenue sourcing rules*) apply.
2. Except where an Allocation Key is applicable, Revenues must be sourced in a manner that accounts for differences among Jurisdictions in the goods, content, property, products and services sold, licensed or otherwise alienated and provided by the Covered Group, their quantities and their prices.
3. Revenues must be sourced according to the category of Revenues earned. Revenues that fall under more than one category are sourced according to their predominant character. Revenues derived from Supplementary Transactions may be sourced in accordance with the revenue sourcing rule that applies to the Revenues that they supplement.

4. In applying the revenue sourcing rules, the Covered Group must source all Revenues. Revenues must be sourced using a Reliable Method based on the Covered Group's specific facts and circumstances.
5. Revenues derived from the sale of Finished Goods sold to a Final Customer are treated as arising in a Jurisdiction when the place of the delivery of the Finished Goods to that Final Customer is in that Jurisdiction.
6. Revenues derived from the sale of Digital Content that are not Components are treated as arising in accordance with subparagraph 8(f).
7. Revenues derived from the sale of Components are treated as arising in a Jurisdiction when the place of delivery to a Final Customer of the Finished Goods into which the Component is incorporated is in that Jurisdiction.
8. Revenues derived from the provision of services shall be sourced as follows:
  - a. Location-Specific Services:
    - i. Revenues derived from the provision of Location-Specific Services are treated as arising in a Jurisdiction when the place of performance of the service is in that Jurisdiction.
  - b. Advertising Services:
    - i. Revenues derived from the provision of online Advertising Services are treated as arising in a Jurisdiction when the Location of the Viewer of the advertisement is in that Jurisdiction.
    - ii. Revenues derived from the provision of Advertising Services other than those covered in subdivision (i) are treated as arising in a Jurisdiction when the place of display or reception of the advertisement is in that Jurisdiction.
  - c. Online Intermediation Services:
    - i. Revenues derived from the provision of Online Intermediation Services that facilitate the sale or purchase of tangible goods, Digital Content or services other than Location-Specific Services are treated as arising as follows:
      - (a) half of those Revenues are treated as arising in a Jurisdiction when the Location of the Purchaser of the tangible goods, Digital Content or services other than Location-Specific Services is in that Jurisdiction; and
      - (b) half of those Revenues are treated as arising in a Jurisdiction when the Location of the Seller of the tangible goods, Digital Content or services other than Location-Specific Services is in that Jurisdiction.
    - ii. Revenues derived from the provision of Online Intermediation Services that facilitate the sale or purchase of Location-Specific Services are treated as arising as follows:
      - (a) half of those Revenues are treated as arising in a Jurisdiction when the Location of the Purchaser of the Location-Specific Service is in that Jurisdiction; and
      - (b) half of those Revenues are treated as arising in a Jurisdiction when the place where the Location-Specific Service is performed is in that Jurisdiction.
  - d. Transport services:
    - i. Revenues derived from the provision of Passenger Transport Services are treated as arising in the Jurisdiction of the Place of Destination of the Passenger Transport Service.
    - ii. half of the Revenues derived from the provision of Cargo Transport Services are treated as arising in the Jurisdiction of the Place of Origin of the Cargo Transport Service; and half in the Jurisdiction of the Place of Destination.



- e. Customer Reward Programs:
    - i. Customer Reward Programs Revenues are treated as arising in a Jurisdiction in proportion to the percentage share of Active Members of the Customer Reward Program whose Location is in that Jurisdiction.
  - f. Other Services:
    - i. Revenues derived from the provision of Other Services to which subparagraphs (a) to (e) do not apply are treated as arising in a Jurisdiction when the place of use of the service is in that Jurisdiction.
9. Revenues derived from the licensing, sale or other alienation of:
- a. Intangible Property are treated as arising in a Jurisdiction:
    - i. if the Intangible Property relates to Finished Goods or Components, when the place of delivery of the Finished Goods (including the Finished Goods into which the Component is incorporated) to a Final Customer is in that Jurisdiction;
    - ii. if the Intangible Property supports a service or Digital Content, when the place of use of the service or Digital Content is in that Jurisdiction; or
    - iii. if neither subdivision (i) nor (ii) apply, when the place of use of the Intangible Property is in that Jurisdiction.
  - b. User data are treated as arising in a Jurisdiction when the Location of the User associated with the data is in that Jurisdiction.
10. Revenues derived from sale, lease or other alienation of Real Property are treated as arising in a Jurisdiction when the location of the Real Property is in a Jurisdiction.
11. Revenues derived from Government Grants are treated as arising in a Jurisdiction when the Government Grant was made or funded by Government of that Jurisdiction.
12. Non-customer Revenues not otherwise covered by paragraphs 5 to 11 are treated as arising in a Jurisdiction in proportion to the other Revenues arising under paragraphs 5 to 11.
13. Notwithstanding the preceding paragraphs of this Article, during the Initial Transition Phase, the Covered Group may apply the provisions set out in Section 11 of Schedule E.

## **Title 4: Determination and allocation of taxable profit**

### **Article 5: Determination of the Adjusted Profit Before Tax of a Group**

1. For the purposes of this Act, the Adjusted Profit Before Tax for a Period is the Financial Accounting Profit (or Loss) of a Covered Group after making the adjustments set out in paragraph 2 and deducting any Net Losses in accordance with paragraph 3.
2. The Covered Group's Financial Accounting Profit (or Loss) for a Period is adjusted for the following items (book-to-tax adjustments):
  - a. Tax Expense (or Tax Income) is excluded;
  - b. Excluded Dividends are excluded;
  - c. Excluded Equity Gain or Loss is excluded;
  - d. Policy Disallowed Expenses are excluded;

- e. Prior Period Errors and Changes in Accounting Principles are taken into account;
  - f. Financial Accounting Profit (or Loss) of Excluded Entities is excluded;
  - g. Asset Fair Value or Impairment Adjustments are made, in accordance with the rules contained in Schedule F (*Asset Fair Value or Impairment Adjustments*);
  - h. Acquired Equity Basis Adjustments are made, in accordance with the rules contained in Schedule G (*Acquired Equity Basis Adjustments*); and
  - i. Asset Gain (or Loss) Spreading Adjustments are taken into account.
  - j. [ Treatment of profit attributable to non-controlling interests ]<sup>1</sup>
3. For the purposes of deducting Net Losses under paragraph 1, Net Losses of a Covered Group for a Period constitute:
- a. the total amount of cumulative Financial Accounting Losses of the Covered Group over the Eligible Prior Period(s) that exceeds the total amount of cumulative Financial Accounting Profits of the Covered Group over the Eligible Prior Period(s), after making the adjustments set out in paragraph 2 for each Eligible Prior Period; and,
  - b. any losses transferred in an Eligible Business Combination or Eligible Division, determined in accordance with the rules contained in Schedule H (*Transferred Losses*).

Net Losses are carried forward and deducted in chronological order.

### **Article 6: Allocation of profit**

- 1. The relevant portion of the Adjusted Profit Before Tax of a Covered Group that is taxable in [Jurisdiction name] for a Period is equal to the amount of profit allocated under the formula set out in paragraph 2 (the profit allocation formula), reduced where applicable by the adjustment set out in paragraph 3 (the Marketing and Distribution Profits Safe Harbour Adjustment), or zero, whichever is higher.
- 2. The profit allocation formula comprises:
  - a. a profitability threshold set at a ratio of the Adjusted Profit Before Tax to Revenues of 10 per cent;
  - b. a reallocation percentage set at 25 per cent of the amount of Adjusted Profit Before Tax in excess of the profitability threshold in subparagraph (a); and
  - c. an allocation key equal to the ratio of the Revenues arising in [Jurisdiction name] to the Revenues of the Covered Group.

In algebraic form, the formula is:

$$Q = (P - R \times 10\%) \times 25\% \times \frac{L}{R}$$

Where –

- Q is the amount of profit of the Covered Group allocated to [Jurisdiction name] for a Period.
- P is the Adjusted Profit Before Tax of the Covered Group for a Period pursuant to Article 5.

---

<sup>1</sup> Further work is on-going on the treatment of profits of a Covered Group that are attributable to non-controlling interests in the context of both the allocation tax base and elimination tax base, and identify whether or how such profit should be included or excluded in the tax bases.

- R is the Revenues of the Covered Group for a Period.
  - 10 per cent is the profitability threshold.
  - 25 per cent is the reallocation percentage.
  - L is the amount of Revenues of the Covered Group for a Period that arise in [Jurisdiction name] pursuant to Article 4, in respect of which the nexus test is met for that Period pursuant to Article 3.
3. Where a Covered Group meets the conditions set out in paragraph 4 for a Period, the Marketing and Distribution Profits Safe Harbour Adjustment, as calculated in paragraph 5, shall apply to reduce the amount of profit allocated to [Jurisdiction name] for that Period under paragraph 2.
  4. [ Paragraph 3 applies only when the Elimination Profit of the Covered Group in [Jurisdiction name] is equal to or greater than EUR [X] million for the Period (*de minimis absolute threshold test*). ]<sup>2</sup>
  5. The amount of the adjustment under paragraph 3 is determined by applying the following Marketing and Distribution Profits Safe Harbour formula:

$$M = \text{MIN}((EP - PEP) \times [Y\%], Q)$$

Where –

- M is the Marketing and Distribution Profits Safe Harbour Adjustment that shall be deducted from the amount of profit allocated to [Jurisdiction name] for a Period under paragraph 2.
  - EP is the Elimination Profit of the Covered Group in [Jurisdiction name] for a Period.
  - PEP is the Portion of Elimination Profit of the Covered Group in [Jurisdiction name] for a Period which would result in [ a Return on Depreciation and Payroll of the Covered Group in [Jurisdiction name] equal to the higher of the Elimination Threshold Return on Depreciation and Payroll of the Covered Group or 40 per cent ].<sup>3</sup>
  - Y is the offset percentage, meaning the portion of a Jurisdiction's residual profits (i.e. EP-PEP) that is eligible for offset under the MDSH mechanism.
  - Q is the amount of profit of the Covered Group allocated to [Jurisdiction name] for a Period under paragraph 2.
  - MIN( , ) means that M, the amount of the adjustment, is the lower of  $(EP - PEP) \times Y\%$  or Q.
6. Where the Marketing and Distribution Profits Safe Harbour Adjustment is applied according to paragraph 5 in [Jurisdiction name], an amount equal to [ the adjustment ] or [ a multiple of the adjustment ] shall be deducted from the Elimination Profit of the Covered Group in [Jurisdiction name] for the same Period.

<sup>2</sup> Further work is ongoing to consider the introduction and design of a de minimis profits threshold as well as possible application of other scoping conditions.

<sup>3</sup> Work is on-going to explore fallback metrics for the purposes of the MDSH to address concerns that a pure RODP approach based on the contemplated thresholds could result in inappropriate outcomes for routine activities with a low payroll and asset base, for instance routine distributors.

## Title 5: Elimination of double taxation with respect to Amount A

### **Article 7: Relief for Amount A taxation**

1. Where [Jurisdiction Name] is a Specified Jurisdiction, as defined in Article 8, that is identified as a Relieving Jurisdiction with respect to a Covered Group for a Period under Article 9(3) because it is allocated the obligation to eliminate double taxation with respect to Amount A Profit under Article 9(6) through (14), the provisions of Article 10 shall apply to the Group Entities described in Article 11 to eliminate that double taxation.

### **Article 8: Identification of the Specified Jurisdictions for a Covered Group**

1. For purposes of this Title, a Specified Jurisdiction with respect to a Covered Group for a Period means:
  - a. each Jurisdiction that is part of the smallest group of Jurisdictions with respect to which the aggregate Elimination Profit totals at least 95 per cent of a Covered Group's total Elimination Profit for the Period (giving priority to Jurisdictions with higher Elimination Profit over those with lower Elimination Profit); and
  - b. each Jurisdiction not identified in subparagraph (a) with respect to which Elimination Profit, as defined in Schedule I (*Elimination tax base*), is equal to or greater than EUR 50 million for the Period.

### **Article 9: Allocation of the obligation to eliminate double taxation with respect to Amount A Profit<sup>4</sup>**

1. This Article shall apply to determine the extent to which each Specified Jurisdiction is treated as a Relieving Jurisdiction with respect to a Covered Group for a Period.
2. The following definitions shall apply for purposes of this Article:
  - a. the "Amount A Profit" of a Covered Group for a Period is the total of the amounts allocated for that Period to each Jurisdiction under a provision corresponding to Article 6;
  - b. for each Specified Jurisdiction with respect to each Covered Group:
    - i. the "Jurisdictional Return on Depreciation and Payroll" for a Period is the Return on Depreciation and Payroll for that Specified Jurisdiction, determined under Schedule J (*Elimination of double taxation - Return on Depreciation and Payroll*);
    - ii. the "Adjusted Jurisdictional Return on Depreciation and Payroll" for a Period is the "Jurisdictional Return on Depreciation and Payroll" recalculated after subtracting from the Elimination Profit used in that calculation the total Amount A Profit, if any, with respect to which the obligation to eliminate double taxation has already been allocated to that Specified Jurisdiction under the rules of paragraphs 6 through 14.
3. A Specified Jurisdiction shall be treated as a Relieving Jurisdiction with respect to a Covered Group for a Period to the extent that the obligation to eliminate double taxation with respect to the Covered Group is allocated to that Specified Jurisdiction under paragraphs 6 through 14. The total Amount A Profit for a Covered Group for which the Amount A elimination obligation is allocated to a Relieving Jurisdiction for a Period is the sum of the amounts allocated to such Relieving Jurisdiction under each Tier in paragraph 5 by following the steps in paragraphs 6 through 14.

---

<sup>4</sup> Work is on-going to review and if necessary remove any logical inconsistency from the elimination framework.

4. The rules in paragraphs 6 through 14 shall be applied, in order, to the Specified Jurisdictions with respect to a Covered Group for a Period until the obligation to eliminate double taxation with respect to Amount A Profit with respect to that Covered Group has been fully allocated to Relieving Jurisdictions, with later paragraphs applying only to the extent that there is Amount A Profit for which the obligation to eliminate double taxation remains unallocated after applying earlier paragraphs.
5. With respect to a Covered Group and for a Period:
  - a. a Specified Jurisdiction is within Tier 1 where the Covered Group has a Jurisdictional Return on Depreciation and Payroll in that Specified Jurisdiction that is greater than 1500 per cent of the Return on Depreciation and Payroll for the Covered Group.
  - b. a Specified Jurisdiction is within Tier 2 where the Covered Group has an Adjusted Jurisdictional Return on Depreciation and Payroll in that Specified Jurisdiction that is greater than 150 per cent of the Return on Depreciation and Payroll for the Covered Group.
  - c. a Specified Jurisdiction is within Tier 3A where the Covered Group has an Adjusted Jurisdictional Return on Depreciation and Payroll in that Specified Jurisdiction that is:
    - i. greater than the Elimination Threshold Return on Depreciation and Payroll of the Covered Group; and
    - ii. greater than 40 per cent.
  - d. a Specified Jurisdiction is within Tier 3B where the Covered Group has an Adjusted Jurisdictional Return on Depreciation and Payroll in that Specified Jurisdiction that is greater than the Elimination Threshold Return on Depreciation and Payroll of the Covered Group.

#### *Tier 1*

6. With respect to a Covered Group for a Period, the obligation to eliminate double taxation with respect to Amount A Profit that is allocated to the Specified Jurisdiction in Tier 1 with that Covered Group's highest Jurisdictional Return on Depreciation and Payroll shall be equal to the lowest of:
  - a. the amount that reduces the Adjusted Jurisdictional Return on Depreciation and Payroll of that Specified Jurisdiction until it is equal to the Jurisdictional Return on Depreciation and Payroll of the Specified Jurisdiction with the second highest Jurisdictional Return on Depreciation and Payroll;
  - b. the Amount A Profit of that Covered Group; and
  - c. the amount that reduces the Adjusted Jurisdictional Return on Depreciation and Payroll for that Specified Jurisdiction to 1500 per cent of the Return on Depreciation and Payroll for the Covered Group.
7. With respect to a Covered Group for a Period, where a portion of Amount A Profit is allocated to the Specified Jurisdiction with the highest Jurisdictional Return on Depreciation and Payroll under paragraph 6(a), the Specified Jurisdiction with the highest Jurisdictional Return on Depreciation and Payroll and the Specified Jurisdiction with the second highest Jurisdictional Return on Depreciation and Payroll shall each be allocated the obligation to eliminate double taxation with respect to Amount A Profit in proportion to the ratio that the amount referred to in subparagraph (c) with respect to that Specified Jurisdiction bears to the sum of the amount referred to in that subparagraph with respect to both Specified Jurisdictions, until the amount allocated under this paragraph reaches the lowest of:
  - a. the amount that reduces their Adjusted Jurisdictional Return on Depreciation and Payroll so that they are equal to the Return on Depreciation and Payroll of the Specified Jurisdiction with the third highest Return on Depreciation and Payroll;
  - b. the remaining Amount A Profit of that Covered Group; or

- c. the amount that reduces the Adjusted Jurisdictional Return on Depreciation and Payroll of those Specified Jurisdictions to 1500 per cent of the Return on Depreciation and Payroll for the Covered Group.
8. The approach to apportionment of the elimination obligation with respect to Amount A Profit described in paragraph 7 shall be applied iteratively with respect to each additional Specified Jurisdiction in Tier 1, starting with the Specified Jurisdiction with the next highest Adjusted Jurisdictional Return on Depreciation and Payroll, until:
- a. the obligation to eliminate double taxation with respect to the Amount A Profit of the Covered Group for a Period has been fully allocated to Specified Jurisdictions in Tier 1; or
  - b. the Adjusted Jurisdictional Return on Depreciation and Payroll for each Specified Jurisdiction in Tier 1 is equal to 1500 per cent of the Return on Depreciation and Payroll for the Covered Group in a Period.

### *Tier 2*

9. Any obligation to eliminate double taxation with respect to Amount A Profit with respect to a Covered Group for a Period that remains unallocated after applying paragraphs 6 through 8 is allocated to each Specified Jurisdictions in Tier 2 in proportion to the ratio of the Jurisdictional Tier 2 Residual Profit of that Specified Jurisdiction to the sum of the Jurisdictional Tier 2 Residual Profit of all Specified Jurisdictions in Tier 2 with respect to the Covered Group for the Period, until either:
- a. the obligation to eliminate double taxation with respect to the remaining Amount A Profit of that Covered Group is fully allocated; or
  - b. the amount allocated with respect to that Covered Group reduces the Adjusted Jurisdictional Return on Depreciation and Payroll for such Specified Jurisdiction to 150 per cent of the Return on Depreciation and Payroll for the Covered Group.
10. The Jurisdictional Tier 2 Residual Profit of a Specified Jurisdiction with respect to a Covered Group for a Period is the Elimination Profit of that Specified Jurisdiction reduced by:
- a. the portion of the Elimination Profit of that Specified Jurisdiction that would result in a Return on Depreciation and Payroll in that Specified Jurisdiction equal to 150 per cent of the Return on Depreciation and Payroll for the Covered Group; and
  - b. any Amount A Profit for which the obligation to eliminate double taxation was allocated to such Specified Jurisdiction in Tier 1.

### *Tier 3A*

11. Any obligation to eliminate double taxation with respect to Amount A Profit with respect to a Covered Group for a Period that remains unallocated after applying paragraphs 6 through 10 is allocated to each Specified Jurisdictions in Tier 3A in proportion to the ratio of the Jurisdictional Tier 3A Residual Profit of that Specified Jurisdiction to the sum of the Jurisdictional Tier 3A Residual Profit of all Specified Jurisdictions in Tier 3A with respect to the Covered Group for the Period, until either:
- a. the obligation to eliminate double taxation with respect to the remaining Amount A Profit of that Covered Group is fully allocated; or
  - b. the amount allocated with respect to that Covered Group reduces the Adjusted Jurisdictional Return on Depreciation and Payroll for such Specified Jurisdiction to the higher of 40 per cent and the Elimination Threshold Return on Depreciation and Payroll of the Covered Group.

12. The Jurisdictional Tier 3A Residual Profit of a Specified Jurisdiction with respect to a Covered Group for a Period is the Elimination Profit of that Specified Jurisdiction reduced by:
- the Elimination Profit of that Specified Jurisdiction that would result in a Return on Depreciation and Payroll in that Specified Jurisdiction equal to the higher of the Elimination Threshold Return on Depreciation and Payroll of the Covered Group and 40 per cent; and
  - any Amount A Profit for which the obligation to eliminate double taxation was allocated to such Specified Jurisdiction in Tier 1 and Tier 2.

### *Tier 3B*

13. Any obligation to eliminate double taxation with respect to Amount A Profit with respect to a Covered Group for a Period that remains unallocated after applying paragraphs 6 through 12 is allocated to each Specified Jurisdiction in Tier 3B in proportion to the ratio of the Jurisdictional Tier 3B Residual Profit of that Specified Jurisdiction to the sum of the Jurisdictional Tier 3B Residual Profit of all Specified Jurisdictions in Tier 3B with respect to the Covered Group for the Period, until either:
- the obligation to eliminate double taxation with respect to the remaining Amount A Profit of that Covered Group is fully allocated; or
  - the amount allocated with respect to that Covered Group reduces the Adjusted Jurisdictional Return on Depreciation and Payroll for such Specified Jurisdiction to the Elimination Threshold Return on Depreciation and Payroll of the Covered Group.
14. The Jurisdictional Tier 3B Residual Profit of a Specified Jurisdiction with respect to a Covered Group for a Period is the Elimination Profit of that Specified Jurisdiction reduced by:
- the Elimination Profit of that Specified Jurisdiction that would result in a Return on Depreciation and Payroll in that Specified Jurisdiction equal to the Elimination Threshold Return on Depreciation and Payroll of the Covered Group; and
  - any Amount A Profit for which the obligation to eliminate double taxation was allocated to such Specified Jurisdiction in Tier 1, Tier 2, and Tier 3A.

## **Article 10: Provision of relief for Amount A taxation to entities of a Covered Group**

- Where [Jurisdiction Name] is a Relieving Jurisdiction, relief for the amounts allocated to [Jurisdiction Name] under Article 9(6) to (14) will be provided pursuant to paragraph 2 to Group Entities of a Covered Group identified in accordance with Article 11.
- [Exemption method or Credit method]<sup>5</sup>.

## **Article 11: Identification of Group Entities of a Covered Group entitled to elimination of double taxation with respect to Amount A**

*[Please note that the approach to identifying the Group Entities entitled to relief from double taxation is not included in this note. A separate document that will discuss the approach to be taken, as well as administration and tax certainty, will be publicly released separately.]*

---

<sup>5</sup> Work on the methods for elimination of double taxation with respect to Amount A will also include discussion of how elimination of double taxation could be provided in jurisdictions that have traditionally used methods other than the credit or exemption methods.

## Title 6: Administration

*[Please note that the approach for administration is not included in this document. A separate document, with sections on administration and tax certainty will be publicly released separately.]*

## Title 7: Definitions

1. The definitions included in this Title apply for the purposes of this Act and its Schedules, unless explicitly stated otherwise.

### **Group and related definitions**

2. “Entity” means any legal person (other than a natural person) or an arrangement, including but not limited to a partnership or trust, that prepares, or is required to prepare, separate financial accounts.
3. “Excluded Entity” means:
  - a. an Entity that is:
    - i. a Governmental Entity;
    - ii. an International Organisation;
    - iii. a Non-profit Organisation;
    - iv. a Pension Fund;
    - v. an Investment Fund that is a UPE; or
    - vi. a Real Estate Investment Vehicle that is a UPE; and
  - b. an Entity where at least 95 per cent of the value of the Entity is owned (directly or through a chain of Excluded Entities) by one or more Excluded Entities referred to in subdivisions (a)(i) to (vi) (other than a Pension Services Entity), and where that Entity:
    - i. operates exclusively or almost exclusively to hold assets or invest funds for the benefit of the Excluded Entity or Entities, or
    - ii. only carries out activities that are ancillary to those carried out by the Excluded Entity or Entities.
4. “Group” means:
  - a. the collection of Group Entities whose assets, liabilities, income, expenses and cash flows are included in the Consolidated Financial Statements of a UPE, or would be included if the UPE had prepared Consolidated Financial Statements; or
  - b. an Entity, other than an Excluded Entity, an Investment Fund that is not a UPE or a Real Estate Investment Vehicle that is not a UPE, that is not a part of another Group provided that the Entity satisfies the revenue test and profitability test in Article 1(2).
5. “Group Entity” means:
  - a. any Entity, other than an Excluded Entity, whose assets, liabilities, income, expenses and cash flows are included in the Consolidated Financial Statements of a UPE or would be included if the UPE had prepared Consolidated Financial Statements; or
  - b. an Entity referred to in subparagraph 4(b).



6. "Ultimate Parent Entity" (UPE) means:
  - a. an Entity that meets the following criteria:
    - i. it owns directly or indirectly a Controlling Interest in any other Entity;
    - ii. it is not owned directly or indirectly by another Entity with a Controlling Interest, unless that other Entity is a Governmental Entity or a Pension Fund; and
    - iii. it is not a Governmental Entity or a Pension Fund.
  - b. an Entity referred to in of subparagraph 4(b).

### ***Consolidated Financial Statements and related definitions***

7. "Acceptable Financial Accounting Standards" means IFRS and the GAAP of: Australia; Brazil; Canada; Member States of the European Union; Member States of the European Economic Area; Hong Kong, China; Japan; Mexico; New Zealand; the People's Republic of China; the Republic of India; the Republic of Korea; Russia, Singapore; Switzerland; the United Kingdom; and the United States of America.
8. "Consolidated Financial Statements" means:
  - a. the independently audited financial statements prepared by the UPE of a Group in accordance with an Acceptable Financial Accounting Standard in which the assets, liabilities, income, expenses and cash flows of the UPE of the Group and other Group Entities are presented as those of a single economic entity; or
  - b. for purposes of an Entity referred to in subparagraph 4(b), the independently audited financial statements of that Entity prepared in accordance with an Acceptable Financial Accounting Standard.
9. "Financial Accounting Profit (or Loss)" means the profit or loss set out in the Consolidated Financial Statements of the UPE of the Covered Group taking into account all income and expenses of the Covered Group except for those items reported as Other Comprehensive Income.
10. "GAAP" means the generally accepted accounting principles as adopted by the body with legal authority in the relevant tax jurisdiction to prescribe, establish, or accept accounting standards for financial reporting purposes.
11. "IFRS" means the International Financial Reporting Standards. It includes IFRS as adopted in Regulation (EC) No 1126/2008, as amended, and IFRS as adopted by the body with legal authority in the relevant tax jurisdiction to prescribe, establish, or accept accounting standards for financial reporting purposes.
12. "Other Comprehensive Income" means those items of income or expense disclosed as other comprehensive income in the Consolidated Financial Statements of the Covered Group. For the avoidance of doubt, items listed as other comprehensive income in the Consolidated Financial Statements are not included in Financial Accounting Profit (or Loss).
13. "Pre-Tax Profit Margin" of a Group for a Period is the number expressed as a percentage by dividing:
  - a. the Financial Accounting Profit (or Loss) of the Group for the Period after making the adjustments set out in Article 5(2) for the Period;
  - by
  - b. the Revenues of the Group for the Period.

14. “Revenues” of a Group for a Period means the revenues reported in the Consolidated Financial Statements of the Group for the Period prepared in accordance with an Acceptable Financial Accounting Standard, subject to the following adjustments:
- a. exclude revenue of the Group for the Period that relates to items excluded in Article 5(2)(b)-(c);
  - b. exclude revenue for the Period derived from an Excluded Entity;
  - c. adjust for any Prior Period Errors and Changes in Accounting Principles of the Group for the Period in accordance with Article 5(2)(e) in instances where the adjustment for Prior Period Errors and Changes in Accounting Principles of the Group for the Period relates to amount(s) that are classified as revenue under an Acceptable Financial Accounting Standard; and
  - d. adjust for revenues derived from a Joint Venture or a Joint Operation in the Period to align with the Group’s proportionate share of profit or loss derived from the Joint Venture or the Joint Operation.

### ***Book-to-tax Adjustments and related definitions***

15. “Acquired Equity Basis Adjustments” means the adjustments described in Schedule G.
16. “Asset Fair Value or Impairment Adjustments” means the adjustments described in Schedule F.
17. “Asset Gain (or Loss) Spreading Adjustments” means adjustments required to ensure that the gain (or loss) recognised upon the sale of an asset such that this gain (or loss) is allocated evenly between the Period in which the gain (or loss) arises and the four subsequent Periods. This adjustment shall apply with respect to asset sales other than inventory.
18. “Excluded Dividends” means dividends or other distributions included in calculating the Financial Accounting Profit (or Loss) of the Covered Group under an Acceptable Financial Accounting Standard that are received or accrued in respect of an Ownership Interest.
19. “Excluded Equity Gain or Loss” means the gain, profit or loss included in calculating the Financial Accounting Profit (or Loss) of the Covered Group under an Acceptable Financial Accounting Standard arising from:
- a. gains and losses from changes in fair value of an Ownership Interest;
  - b. profit or loss in respect of an Ownership Interest included under the equity method of accounting, except profit or loss derived from a Joint Venture in which the Covered Group has joint control; and
  - c. gains and losses from disposition of an Ownership Interest.
20. “Policy Disallowed Expenses” means:
- a. expenses included in the Financial Accounting Profit (or Loss) of the Covered Group for illegal payments, including bribes and kickbacks; and
  - b. expenses included in the Financial Accounting Profit (or Loss) of the Covered Group for fines or penalties that equal or exceed EUR 50 thousand for that Group Entity (or an equivalent in the functional currency in which the Group Entity’s Financial Accounting Profit (or Loss) was calculated).
21. “Prior Period Errors and Changes in Accounting Principles” means all changes in the opening equity of the Period of a Covered Group attributable to transactions or other events that would have impacted a Period when the Covered Group was in scope of Amount A if they had initially been recorded on the updated basis and relate to either a correction of an error in the determination of Financial Accounting Profit (or Loss) in a previous Period that affected the income or expenses includible in the computation

of Adjusted Profit Before Tax for such Period; or a change in an accounting principle or policy that affects income or expenses includible in the computation of Adjusted Profit Before Tax.

22. “Tax Expense (or Tax Income)” means the income tax (expense or income) included in calculating the Financial Accounting Profit (or Loss) of the Covered Group under an Acceptable Financial Accounting Standard. Tax Expense (or Tax Income) includes current and deferred income tax expense (or income) as recognised in the Financial Accounting Profit (or Loss) of the Covered Group. The definition of Tax Expense (or Tax Income) does not include interest charges for late payment of tax.

### **Other definitions**

23. “Acquiring Group” means the Group that existed prior to the Group Merger that includes the combining entity that is the acquirer for the purpose of an Acceptable Financial Accounting Standard.

24. “Average” means the value expressed as a percentage by:

- a. multiplying the Pre-Tax Profit Margin of each of the Period and the four Periods immediately preceding the Period by the Revenues of that same Period;
- b. summing the results of subparagraph (a); and
- c. dividing the result of subparagraph (b) by the sum of the Revenues of the Period and the four Periods immediately preceding the Period;

but:

- d. in the case of a Group Merger, where a Period is prior to the Merger Period, the Revenues of the Acquiring Group or the Existing Group, as appropriate, is used for the purposes of subparagraphs (a) and (c) for that Period; and
- e. in the case of a Group Demerger, where a Period is prior to the Demerger Period, the Revenues of the Demerging Group are used for the purposes of subparagraphs (a) and (c) for that Period and will be subject to the following calculation:

$$\frac{A}{B} C_n$$

Where,

$n$  = Period, with 0 being the current Period

$A$  = the Revenues of the Demerged Group in the Demerger Period;

$B$  = the sum of Revenues of all Demerged Groups in the Demerger Period;

$C_n$  = the Revenues of the Demerging Group in Period  $n$ .

25. “Commencement Date” means [the date on which the Multilateral Convention (MLC) implementing Amount A comes into effect for [Jurisdiction name]].

26. “Controlling Interest” means:

- a. an Ownership Interest in an Entity such that the interest holder:
  - i. is required to consolidate the assets, liabilities, income, expenses and cash flows of the Entity on a line-by-line basis in accordance with an Acceptable Financial Accounting Standard; or
  - ii. would have been required to consolidate the assets, liabilities, income, expenses and cash flows of the Entity on a line-by-line basis if the interest holder had prepared Consolidated Financial Statements; and

- b. for the purposes of the anti-fragmentation rule in paragraph 2 of Schedule A and the definition of Internal Fragmentation provided in paragraph 37, an Ownership Interest held by an Investment Fund or Real Estate Investment Vehicle in an Entity, such that the interest holder has control under an Acceptable Financial Accounting Standard and is required to measure its investment at fair value through profit or loss in accordance with that Acceptable Financial Accounting Standard, or would be required if the UPE prepared Consolidated Financial Statements.
- 27. “Disclosed Segment” means any segment reported in the Consolidated Financial Statements of the UPE of a Group prepared in accordance with an Acceptable Financial Accounting Standard.
- 28. “Dual-listed Arrangement” means an arrangement entered into by two or more UPEs of separate Groups, under which:
  - a. the UPEs agree to combine their business by contract alone;
  - b. pursuant to contractual arrangements the UPEs will make distributions (with respect to dividends and in liquidation) to their shareholders based on a fixed ratio;
  - c. their activities are managed as a single economic entity under contractual arrangements while retaining their separate legal identities;
  - d. the Ownership Interests in the UPEs comprising the agreement are quoted, traded or transferred independently in different capital markets; and
  - e. the UPEs prepare Consolidated Financial Statements in which the assets, liabilities, income, expenses and cash flows of all the Entities of the Groups are presented together as those of a single economic unit and that are required by a regulatory regime to be externally audited.
- 29. “Eligible Prior Period” means, irrespective of whether the Covered Group was a Covered Group in the prior Period(s):
  - a. the earliest prior Period (if any) of a Covered Group in which, after making the adjustments set out in Article 5(2), there is an Unused Loss, and that either:
    - i. [begins][or][ends] on or after [DATE], but [begins][or][ends] no more than ten calendar years prior to the beginning of the current Period (post-implementation losses); or
    - ii. [begins][or][ends] before the [DATE], but [begins][or][ends] no more than (i) three calendar years prior to the [DATE], and (ii) ten calendar years prior to the beginning of the current Period (pre-implementation losses); and
  - b. all Period(s) (if any) between the Eligible Prior Period determined under subparagraph (a) and the current Period.
- 30. “Elimination Profit (or Loss)” of a Covered Group for a Period in [Jurisdiction name] means the sum of the Elimination Profit (or Loss) for each Group Entity in the jurisdiction calculated under Schedule I.
- 31. “Elimination Threshold Return on Depreciation and Payroll of a Covered Group” for a Period is determined by multiplying the Covered Group’s Revenues by 10 per cent and dividing the product by the sum of the Covered Group’s Depreciation and Payroll.
- 32. “Existing Group” means the Group that existed prior to the Group Merger and produced Consolidated Financial Statements.
- 33. “Governmental Entity” means an Entity that meets all of the following conditions:
  - a. it is part of or wholly-owned by a government (including any political subdivision or local authority thereof);
  - b. it does not carry on a trade or business and has the principal purpose of:

- i. fulfilling a government function; or
  - ii. managing or investing that government's or jurisdiction's assets through the making and holding of investments, asset management, and related investment activities for the government's or jurisdiction's assets;
  - iii. it is accountable to the government on its overall performance, and provides annual information reporting to the government; and
  - iv. its assets vest in such government upon dissolution and to the extent it distributes net earnings, such net earnings are distributed solely to such government with no portion of its net earnings inuring to the benefit of any private person.
34. "Gross Domestic Product" means the gross domestic product value for the most recent calendar year that does not end after the Period ends, expressed at current USD prices as published by the United Nations for a Jurisdiction, or if not available, the value in current USD as published by the World Bank and converted to EUR at the Average Exchange Rate. If that value is not available for a Jurisdiction, an approximation is calculated based on that Jurisdiction's population as published by the United Nations for the relevant calendar year, or if not available, the preceding calendar year, and the simple average of the ratio of Gross Domestic Product to population for all Jurisdictions for which Gross Domestic Product was available.
35. "Group Demerger" means any transaction or arrangement where the Group Entities of a single Group (the Demerging Group") are separated into two or more Groups (each respective Group being a "Demerged Group") that are no longer included in the Consolidated Financial Statements of the same UPE.
36. "Group Merger" means any transaction or arrangement that is a business combination for the purpose of an Acceptable Financial Accounting Standard in a Period where:
- a. an Entity or Entities that met the definition of UPE before the transaction or arrangement no longer meet that definition; and
  - b. an Entity other than an Entity referred to in subparagraph (a) is the UPE of a Group as a result of the transaction or arrangement.
37. "Internal Fragmentation" means any arrangement, transaction or series of transactions applied to one or more Group Entities of a Group on or after [DATE], and where:
- a. prior to the arrangement, transaction or series of transactions, the UPE of the Group is owned directly or indirectly by an Excluded Entity, Investment Fund that is not a UPE or Real Estate Investment Vehicle that is not a UPE with a Controlling Interest; and
  - b. following the arrangement, transaction or series of transactions, the Group is separated into two or more Groups each with a UPE owned directly or indirectly by the same Excluded Entity, Investment Fund that is not a UPE or Real Estate Investment Vehicle that is not a UPE with a Controlling Interest.
38. "International Organisation" means any intergovernmental organisation (including a supranational organisation) or wholly-owned agency or instrumentality thereof that meets all of the following conditions:
- a. it is comprised primarily of governments;
  - b. it has in effect a headquarters or substantially similar agreement (for example, arrangements that entitle the organisation's offices or establishments in the jurisdiction (e.g. a subdivision, or a local, or regional office) to privileges and immunities) with the jurisdiction in which it is established; and
  - c. law or its governing documents prevent its income inuring to the benefit of private persons.

39. “Investment Fund” means an Entity that meets all of the following conditions:

- a. it is designed to pool assets (which may be financial and non-financial) from a number of investors (some of which are not connected);
- b. it invests in accordance with a defined investment policy;
- c. it allows investors to reduce transaction, research, and analytical costs, or to spread risk collectively;
- d. it is primarily designed to generate investment income or gains, or protection against a particular or general event or outcome;
- e. investors have a right to return from the assets of the fund or income earned on those assets, based on the contributions made by those investors;
- f. the Entity or its management is subject to a regulatory regime in the jurisdiction in which it is established or managed (including appropriate anti-money laundering and investor protection regulation); and
- g. it is managed by investment fund management professionals on behalf of the investors.

40. “Joint Operation” means an arrangement where the parties that have joint control of the arrangement have rights to the assets, and obligations for the liabilities, relating to the arrangement, and the UPE of the Group is required to recognise its interest in the joint operation on a line by line basis in its Consolidated Financial Statements under an Acceptable Financial Accounting Standard.

41. “Joint Venture” means an arrangement where the parties that have joint control have rights to the net assets of the arrangement, and the financial results of the arrangement are reported in the Consolidated Financial Statements of a Covered Group under the equity method under an Acceptable Financial Accounting Standard.

42. “Jurisdiction” means *[A definition will be developed during the negotiation of the MLC that will include the land territory, internal waters, territorial sea and the airspace above them, as well as the maritime areas over which it has sovereign rights or jurisdiction for the purposes of exploration, exploitation and preservation of natural resources pursuant to international law]*.

43. “Non-profit Organisation” means an Entity that meets all of the following conditions:

- a. it is established and operated in its jurisdiction of residence:
  - i. exclusively for religious, charitable, scientific, artistic, cultural, athletic, educational, or other similar purposes; or
  - ii. as a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;
- b. substantially all of the income from the activities mentioned in subparagraph (a) is exempt from income tax in its jurisdiction of residence;
- c. it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
- d. the income or assets of the Entity may not be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than:
  - i. pursuant to the conduct of the Entity’s charitable activities;
  - ii. as payment of reasonable compensation for services rendered or for the use of property or capital; or

- iii. as payment representing the fair market value of property which the Entity has purchased, and
  - e. upon termination, liquidation or dissolution of the Entity, all of its assets must be distributed or revert to a Non-profit Organisation or to the government (including any Governmental Entity) of the Entity's jurisdiction of residence or any political subdivision thereof;

but does not include any Entity carrying on a trade or business that is not directly related to the purposes for which it was established.
- 44. "Ownership Interest" means an equity interest that carries rights to the profits, capital or reserves of an Entity, determined as per the applicable Acceptable Financial Accounting Standard.
- 45. "Pension Fund" means:
  - a. an Entity that is established and operated in a jurisdiction exclusively or almost exclusively to administer or provide retirement benefits and ancillary or incidental benefits to individuals:
    - i. regulated as such by that jurisdiction or one of its political subdivisions or local authorities; or
    - ii. those benefits are secured or otherwise protected by national regulations and funded by a pool of assets held through a fiduciary arrangement or trustor to secure the fulfilment of the corresponding pension obligations against a case of insolvency of a group to which the Entity belongs; and
  - b. a Pension Services Entity.
- 46. "Pension Services Entity" means an Entity that is established and operated exclusively or almost exclusively:
  - a. to invest funds for the benefit of Entities referred to in subparagraph (a) of the definition of Pension Fund; or
  - b. to carry out activities that are ancillary to those regulated activities carried out by the Entities referred to in subparagraph (a) of the definition of Pension Fund provided that they are members of the same group as the Entity.
- 47. "Period" means a reporting period with respect to which the UPE of a Group prepares Consolidated Financial Statements.
- 48. "Qualifying Extractives Group" means a Group that is defined as such in Schedule B.
- 49. "Real Estate Investment Vehicle" means an Entity the taxation of which achieves a single level of taxation either in its hands or the hands of its interest holders (with at most one year of deferral), provided that that Entity holds predominantly immovable property and is itself widely held.
- 50. "Regulated Financial Services" means services carried out by a Regulated Financial Institution as defined in Schedule C.
- 51. "Return on Depreciation and Payroll of a Covered Group" for a Period means the Return on Depreciation and Payroll, determined under Schedule J for the Covered Group for that Period.
- 52. "Segment Change" means any change to the composition of the Disclosed Segments of a Group following which the Group is required under an Acceptable Financial Accounting Standard to disclose whether it has restated the corresponding items of segment information for prior Periods.
- 53. "Segment Entity" means any Group Entity whose income and expenses are, in whole or part, included in:
  - a. the Disclosed Segment; or
  - b. the Segment Adjusted Profit Before Tax of the Disclosed Segment.

54. “Segment Restated Accounts” means the information reported in the Consolidated Financial Statements that has been restated, following a Segment Change, to reflect the newly reportable Disclosed Segment in a Period prior to that Segment Change, in accordance with an Acceptable Financial Accounting Standard.
55. “Stapled Structure” means an arrangement entered into by two or more UPEs of separate Groups, under which:
- a. 50 per cent or more of the Ownership Interests in the UPEs of the separate Groups are by reason of form of ownership, restrictions on transfer, or other terms or conditions combined with each other, and cannot be transferred or traded independently. If the combined Ownership Interests are listed, they are quoted at a single price; and
  - b. one of those UPEs prepares Consolidated Financial Statements in which the assets, liabilities, income, expenses and cash flows of all the Entities of the Groups are presented together as those of a single economic unit and that are required by a regulatory regime to be externally audited.
56. “Unused Loss” means a Financial Accounting Loss of a prior Period that has not been offset by Financial Accounting Profit of subsequent Period(s), after making the adjustments under Article 5(2), in the Periods, in accordance with the rules set out under Article 5(3).



## Schedule A: Supplementary provisions for scope

1. Where a Group meets the conditions in Article 1(2) for a Period but was not a Covered Group in any prior Period, the Group is not a Covered Group for the Period and instead a Disclosed Segment of the Group is a Covered Segment for the Period where the conditions in subparagraphs (a) to (d) are met:
  - a. the Disclosed Segment meets the segment revenue test and the segment profitability test for the Period;
  - b. the Disclosed Segment was a Covered Segment under Article 1(6) in two or more Periods immediately preceding the Period where the Group meets the conditions in Article 1(2);
  - c. the Period falls within the five consecutive Periods that begin with the Period that immediately follows the two or more Periods referenced in subparagraph (b); and
  - d. the Adjusted Segment Profit Before Tax of the Disclosed Segment that would be calculated under Section 5(1) of Schedule D for each Period that follows the two or more Periods referenced in subparagraph (b) is higher than the Adjusted Profit Before Tax of the Group calculated under Article 5 in each respective Period.
2. For the purpose of Article 1(2)(b)(ii)(a) and (b):
  - a. where a Group Merger occurs in the Period or any of the three Periods immediately preceding the Period (the “Merger Period”) the calculation of the Pre-Tax Profit Margin for the Period(s) prior to the Merger Period should be made by replacing “Group” in that definition with “Acquiring Group”, except where there is no “Acquiring Group” in which case “Group” is replaced with “Existing Group”; and
  - b. where a Group Demerger occurs in the Period or any of the three Periods immediately preceding the Period (the “Demerger Period”) the calculation of the Pre-Tax Profit Margin for the Period(s) prior to the Demerger Period should be made by replacing “Group” in that definition with “Demerging Group”.
3. Where, following an Internal Fragmentation, the UPE of a Group is owned directly or indirectly by an Excluded Entity, an Investment Fund that is not a UPE or a Real Estate Investment Vehicle that is not a UPE, with a Controlling Interest and the Group has Revenues of EUR 20 billion or less in a Period, the revenue test in Article 1(2)(a), (3)(a) or (4)(a), whichever is relevant, is deemed to be met in that Period for the Group if (*the anti-fragmentation rule*):
  - a. the Group meets the profitability test in Article 1(2)(b), (3)(b) or (4)(b) in the Period;
  - b. the sum of the Revenues of the Group and the other Groups, resulting from the same Internal Fragmentation and each with a UPE owned directly or indirectly by the same Excluded Entity, Investment Fund that is not a UPE or Real Estate Investment Vehicle that is not a UPE with a Controlling Interest, for the Period ending in the same calendar year is greater than EUR 20 billion; and
  - c. it is reasonable to conclude, having regard to all relevant facts and circumstances, that failing the revenue test in Article 1(2)(a), (3)(a) or (4)(a) was one of the principal purposes of the Internal Fragmentation referred to in subparagraph (b).
4. Where the UPE of a Group is not otherwise required to prepare Consolidated Financial Statements under an Acceptable Financial Accounting Standard, it must, for the purposes of this Act, produce Consolidated Financial Statements for its most recently closed accounting period and the four accounting periods immediately preceding that period if:

- a. the Group would have met the revenue test and the profitability test in Article 1(2) if the UPE had prepared Consolidated Financial Statements for such accounting periods, except for the cases where subparagraph (b) is applicable ; or
  - b. the Coordinating Entity of the Group files a request [placeholder for reference to rules on entry in early certainty process].
5. Where two or more Groups are part of the same Dual-listed Arrangement or the same Stapled Structure, the following applies for purposes of this Act:
- a. the Group Entities of the Groups are treated as members of a single Group;
  - b. the Groups will be deemed to have as a single UPE:
    - i. the Entity that prepares Consolidated Financial Statements in which the assets, liabilities, income, expenses and cash flows of all Entities of the Groups are presented together as those of a single economic unit; or
    - ii. in case multiple Entities prepare such Consolidated Financial Statements, the Entity designated by the Groups under [placeholder for reference to rule in Title 6], and such designation shall be binding for the Period and the following Periods until the Entity does not meet the definition of UPE for a Period; and
  - c. the Consolidated Financial Statements of the single Group under subparagraph (a) shall be the Consolidated Financial Statements prepared by the single UPE under subparagraph (b), and the Acceptable Financial Accounting Standard of the single Group shall be the Acceptable Financial Accounting Standard according to which such Consolidated Financial Statements are prepared.

## Schedule B: Exclusion of Revenues and profits of a Qualifying Extractives Group

### Section 1: Overview

1. This Schedule contains the rules that govern the application of this Act to a Group or a Disclosed Segment which is a Qualifying Extractives Group and, where specifically provided for in this Schedule, the rules in Titles 2 to 6 and the definitions contained in Title 7 of this Act are modified or replaced by the rules and definitions contained in this Schedule. Unless otherwise explicitly stated, the existing rules contained in Titles 2 to 6 and definitions contained in Title 7 of this Act continue to apply.
2. Section 2 contains the scope rules for a Group that is a Qualifying Extractives Group. Section 3 contains the charge to tax. Section 4 contains the threshold that must be met to establish a taxable nexus in a Jurisdiction. Section 5 determines the revenues arising in a Jurisdiction. Section 6 contains rules governing the determination of Non-Extractives taxable profit. Section 7 contains the rules governing the allocation of taxable profit to a Jurisdiction for a Period. Section 8 contains rules on the elimination of double taxation arising from the taxation of a portion of residual profit of a Covered Group in another jurisdiction. Section 9 contains rules on procedural and administrative provisions. Section 10 contains definitions related to sections 2 to 9 for a Group that is a Qualifying Extractives Group. Sections 11 to 19 contain the corresponding provisions to sections 2 to 10, but in respect of a Covered Segment that is in scope of Amount A under Article 1(6), and adjusts those rules to apply to a Covered Segment of a Qualifying Extractives Group in order to apply Article 1(9). Section 20 contains the definitions necessary for identifying a Qualifying Extractives Group. Section 21 contains a transition rule.

## ***Section 2: Scope of Amount A for a Group that is a Qualifying Extractives Group***

1. A Group is a Qualifying Extractives Group where it meets the definition set out in Section 20.
2. The non-Extractives revenue test is met where the Non-Extractives Revenues of a Qualifying Extractives Group for the Period are greater than EUR 20 billion. Where the Period is shorter or longer than twelve months, the EUR 20 billion amount is adjusted proportionally to correspond with the length of the Period.
3. The non-Extractives profitability test is met where the Non-Extractives Pre-Tax Profit Margin of the Group is greater than 10 per cent:
  - a. in the Period; and
  - b. where the Group was not a Covered Group in the two consecutive Periods immediately preceding the Period:
    - i. in two or more of the four Periods immediately preceding the Period; and
    - ii. on Average across the Period and the four Periods immediately preceding the Period.
4. For the purpose of paragraph 3(b) and (c):
  - a. where a Group Merger occurs in the Period or any of the three Periods immediately preceding the Period (the “Merger Period”) the calculation of the Non-Extractives Pre-Tax Profit Margin for the Period(s) prior to the Merger Period should be made by replacing “Group” in that definition with “Acquiring Group”, except where there is no “Acquiring Group” in which case “Group” is replaced with “Existing Group”; and
  - b. where a Group Demerger occurs in the Period or any of the three Periods immediately preceding the Period (the “Demerger Period”) the calculation of the Non-Extractives Pre-Tax Profit Margin for the Period(s) prior to the Demerger Period should be made by replacing “Group” in that definition with “Demerging Group”.
5. Notwithstanding paragraph 2, a Group may demonstrate that it does not meet the non-Extractives revenue test in paragraph 1 by applying any of the following calculations:
  - a. Deducting from the Revenues of the Group the revenues included in the Consolidated Financial Statements that are earned by one or more Extractives Segments, to the extent that the result of this calculation demonstrates that the Group does not satisfy the non-Extractives revenue test. In such cases, the Group is not required to calculate its Non-Extractives Revenues as defined by Section 10(13); or
  - b. Deducting the revenues included in the Consolidated Financial Statements that are derived by one or more Extractives Entities, to the extent that the result of this calculation demonstrates that the Group does not satisfy the non-Extractives revenue test. In such cases, the Group is not required to calculate its Non-Extractives Revenues as defined by Section 10(13); or
  - c. Aggregating the revenues of all Non-Extractives Segments reported in the Group's financial statements, and the result of this calculation demonstrates that the Group does not satisfy the non-Extractives revenue test. In such case, the Group is not required to calculate its Non-Extractives Revenues as defined by Section 10(13); or
  - d. Aggregating the revenues of all Non-Extractives Entities reported in their financial statements, and the result of this calculation demonstrates that the Group does not satisfy the non-Extractives revenue test. In such case, the Group is not required to calculate its Non-Extractives Revenues as defined by Section 10(13).

### ***Section 3: Charge to tax***

1. The income taxable pursuant to this Act for a Period is the relevant portion of a Covered Group's Non-Extractives Adjusted Profit Before Tax associated with Non-Extractives Revenues arising in [Jurisdiction Name] pursuant to Section 5, and with respect to which the nexus test in Section 4 is met. Article 2 of the Act does not apply for a Covered Group that is a Qualifying Extractives Group.
2. The relevant portion of the Covered Group's Non-Extractives Adjusted Profit Before Tax is determined by the two following steps:
  - a. the determination of the Covered Group's Non-Extractives Adjusted Profit Before Tax in accordance with the rules in Section 6; and
  - b. the allocation of a portion of that Non-Extractives Adjusted Profit Before Tax (if any) to [Jurisdiction name] for the Period in accordance with the rules in Section 7.
3. This income referred to in paragraph 1 is taxable for the Period as the income of [one or more Group Entities] of the Covered Group identified under [provision identifying the liable entity or entities], and in accordance with the rules provided in [reference to domestic law provisions on income tax].
4. Income tax charged in accordance with this Schedule on [one or more Group Entities] of a Covered Group identified under [provision identifying the liable entity or entities] has no implications for the determination of any other direct or indirect tax, customs duty, or social security contribution in a Jurisdiction of any Group Entity of the same Group.

### ***Section 4: Nexus***

1. The nexus test is satisfied for a Period if the Non-Extractives Revenues of the Covered Group arising in a Jurisdiction pursuant to Section 5 for the Period are equal to or greater than EUR 1 million. Where the Period is shorter or longer than twelve months, the EUR 1 million amount is adjusted proportionally to correspond with the length of the Period.
2. For the purposes of paragraph 1, where a Jurisdiction's Gross Domestic Product for a Period is less than EUR 40 billion, the amount of EUR 1 million in paragraph 1 is replaced with EUR 250 thousand.
3. Paragraph 1 applies solely to determine whether [one or more Group Entities] of the Covered Group is liable to tax charged in accordance with this Act in a Jurisdiction, and has no other implications for any Group Entity of the Group. Article 3 of the Act does not apply for a Covered Group that is a Qualifying Extractives Group.

### ***Section 5: Revenue sourcing rules***

1. Non-Extractives Revenues are sourced in accordance with Article 4(1) to (12) and Schedule E, but replacing "Revenues" with "Non-Extractives Revenues".

### ***Section 6: Determination of Non-Extractives Adjusted Profit Before Tax***

1. The Non-Extractives Adjusted Profit Before Tax of the Group for a Period is the Non-Extractives Financial Accounting Profit (or Loss) of the Group after making the adjustments in paragraph 8 and deducting any Non-Extractives Net Losses carried forward in accordance with the rule contained in paragraph 9.
2. A Qualifying Extractives Group must calculate the Non-Extractives Financial Accounting Profit (or Loss) under either paragraphs 3 - 6 (Disclosed Segment Approach) or paragraph 7 (Entity Approach).

3. Where a Group reports one or more Disclosed Segments that meet the definition of an Extractives Segment, a Non-Extractives Segment or a Mixed Segment, and chooses the Disclosed Segment Approach then the Non-Financial Accounting Profit (or Loss) of the Group is calculated by taking the Financial Accounting Profit (or Loss) of the Group and sequentially performing the adjustments under paragraphs 4 to 6.
4. Where a Disclosed Segment is an Extractives Segment, then the Non-Extractives Financial Accounting Profit (or Loss) of the Group is calculated by taking the Financial Accounting Profit (or Loss) of the Group and:
  - a. excluding all revenues reported in the Consolidated Financial Statements that are derived by the Extractives Segment;
  - b. including all revenues reported in the Non-Extractive Segments that are derived from transactions with the Extractives Segment;
  - c. excluding all costs included in the Consolidated Financial Statements that are incurred by the Extractives Segment;
  - d. including all costs reported by the Non-Extractives Segments that are derived from transactions with the Extractive Segment;
  - e. excluding the amount of Unallocated Income that is indirectly allocable to the Extractives Segment using the Allocation Factor;
  - f. excluding the amount of Unallocated Expense that is indirectly allocable to the Extractives Segment using the Allocation Factor.
5. Where a Disclosed Segment is a Non-Extractives Segment, then the Non-Extractives Financial Accounting Profit (or Loss) of the Group is calculated by taking the Non-Extractives Revenue of the Non-Extractives Segment multiplied by the Pre-Tax Profit Margin of the Non-Extractives Segment and:
  - a. adding the result of the calculation  $(i) \times (ii) / (iii)$ , where:
    - i. is the amount of Unallocated Income that is indirectly allocable to the Non-Extractives Segment using the Allocation Factor;
    - ii. is the total revenues of the Non-Extractives Segment for the Period less Extractives Revenues of the Non-Extractives Segment of the Period; and
    - iii. is the total revenues of the Non-Extractives Segment for the Period.
  - b. deducting the result of the calculation  $(i) \times (ii) / (iii)$ , where:
    - i. is the amount of Unallocated Expense that is indirectly allocable to the Non-Extractives Segment using the Allocation Factor;
    - ii. is the total revenues of the Non-Extractives Segment for the Period less Extractive Revenues of the Non-Extractives Segment of the Period; and
    - iii. is the total revenues of the Non-Extractives Segment for the Period.
6. Where a Disclosed Segment is a Mixed Segment, the Non-Extractives Financial Accounting Profit (or Loss) of the Group is calculated by taking the Financial Accounting Profit (or Loss) of the Group and:
  - a. excluding Extractive Revenues of the Mixed Segment included in the Consolidated Financial Statements;
  - b. excluding Extractives Costs of the Mixed Segment included in the Consolidated Financial Statements;

- c. adding the result of the calculation (i) x (ii) / (iii), where:
  - i. is the amount of Unallocated Income that is indirectly allocable to the Mixed Segment using the Allocation Factor;
  - ii. is the total revenues of the Mixed Segment for the Period less Extractive Revenues of the Mixed Segment of the Period; and
  - iii. is the total revenues of the Mixed Segment for the Period.
- d. deducting the result of the calculation (i) x (ii) / (iii), where:
  - i. is the amount of Unallocated Expense that is indirectly allocable to the Mixed Segment using the Allocation Factor;
  - ii. is the total revenues of the Mixed Segment for the Period less Extractive Revenues of the Mixed Segment of the Period; and
  - iii. is the total revenues of the Mixed Segment for the Period.
- 7. Where a Group chooses the Entity Approach the Non-Extractive Financial Accounting Profit (or Loss) of the Group is calculated by:
  - a. summing the Non-Extractives Revenues of the Group and the Non-Extractives Intra-Group Revenues of the Group;
  - b. deducting the sum of Non-Extractives Costs of the Group and Non-Extractives Intra-Group Costs of the Group.
- 8. The following adjustments are made to the Non-Extractives Financial Accounting Profit (or Loss) of the Group:
  - a. Tax Expense (or Tax Income) is excluded;
  - b. Excluded Dividends are excluded;
  - c. Excluded Equity Gain or Loss is excluded;
  - d. Policy Disallowed Expenses are excluded;
  - e. Prior Period Errors and Changes in Accounting Principles are adjusted;
  - f. Financial Accounting Profit (or Loss) of Excluded Entities is excluded;
  - g. Asset Fair Value or Impairment Adjustments are made, in accordance with the rules contained in Schedule F;
  - h. Acquired Equity Basis Adjustments are made in accordance with the rules contained in Schedule G;
  - i. Asset Gain (or Loss) Spreading Adjustments are taken into account ; and
  - j. [ Treatment of profit attributable to non-controlling interests ].<sup>6</sup>
- 9. For the purposes of deducting Non-Extractives Net Losses under paragraph 1, Non-Extractives Net Losses of the Covered Group for a Period constitute:
  - a. the total amount of cumulative Non-Extractives Financial Accounting Losses of the Covered Group over the Non-Extractives Eligible Prior Period(s) that exceeds the total amount of cumulative Non-Extractives Financial Accounting Profits of the Covered Group over the Non-Extractives Eligible

---

<sup>6</sup> See footnote 1.

Prior Period(s), after making the adjustments set out in paragraph 8 for each Non-Extractives Eligible Prior Period; And

- b. *[Rules have been developed in Article 5(3)(b) and Schedule H providing that a Covered Group may elect to deduct transferred losses in certain specific circumstances. Work is underway to translate these rules for application in the context of a Qualifying Extractives Group.]*

Non-Extractives Net Losses are carried forward and deducted in chronological order.

10. “Non-Extractives Eligible Prior Period” means, irrespective of whether the Covered Group was a Covered Group in the prior Period(s):
  - a. the earliest prior Period (if any) of a Covered Group in which, after making the adjustments set out in paragraph 8, there is an Non-Extractives Unused Loss, and that either
    - i. [begins][or][ends] on or after the [DATE], but [begins][or][ends] no more than ten calendar years prior to the beginning of the current Period (post-implementation losses); or
    - ii. [begins][or][ends] before the [DATE], but [begins][or][ends] no more than (i) three calendar years prior to the [DATE], and (ii) ten calendar years prior to the beginning of the current Period (pre-implementation losses); and
  - b. All Period(s) (if any) between the Non-Extractives Eligible Prior Period determined under subparagraph (a) and the current Period.
11. “Non-Extractives Unused Loss” means a Non-Extractives Financial Accounting Loss of a prior Period that has not been offset by Non-Extractives Financial Accounting Profit of subsequent Period(s), after making the adjustments under paragraph 8 in the Periods, in accordance with the rules set out under paragraph 9.

## **Section 7: Allocation of profit**

*[Rules for the allocation of taxable profit have been developed in Article 6 including provisions on the marketing and distribution profits safe harbour (MDSH). The purpose of Article 6 is to determine the relevant portion of Adjusted Profit Before Tax of a Covered Group that is taxable in a jurisdiction by applying the Profit Allocation Formula and the MDSH adjustment. Further work is underway to translate these rules for application in the context of a Qualifying Extractives Group. The approach taken will be the same as the ordinary profit allocation formula that applies for Amount A, but will only incorporate the non-Extractives profits. The profits attributable to an Extractives Segment or Extractives Entity will not be taken into account for the purposes of applying the Marketing and Distribution Profits Safe Harbour.]*

## **Section 8: Elimination of double taxation with respect to Amount A**

*[Rules for the elimination of double taxation have been developed in Title 5 for the purposes of applying Amount A at the level of a Covered Group. Corresponding rules are under development which would translate the group-level rules, retaining the same conceptual approach, into rules that would apply to relieve double taxation of Non-Extractives taxable profit. This would include operative rules for the jurisdictional approach to elimination of double taxation, rules for the calculation of “Depreciation” and “Payroll” expense for the purposes of determining the Return on Depreciation and Payroll, and rules for the determination of the “Elimination Profit”. Importantly, for all of these concepts, including the calculation of the Elimination Profit, the rules will be adapted to ensure these jurisdictional measures exclude the financial data relating to Extractives. This approach will ensure that only Relieving Jurisdictions which share in the Non-Extractives taxable profit are identified as providing relief under the elimination of double taxation mechanism.]*

## **Section 9: Administration**

*[Please note that the approach for administration is not included in this document. A separate document, with sections on administration and tax certainty will be publicly released separately.]*

## **Section 10: Definitions relevant to Sections 1 to 9**

1. "Allocation Factor" has the meaning set out in Schedule D (*Covered Segment*).
2. "Extractives Cost" means a cost directly or indirectly incurred in the conduct of Extractives Activities or the derivation of Extractives Revenues.
3. "Extractives Entity" means any Group Entity for which 75 per cent or more of its revenues reported in its financial statements are Extractives Revenues.
4. "Extractives Revenue" has the meaning set out in Section 20.
5. "Extractives Segment" means any Disclosed Segment for which 75 per cent or more of the revenues reported in the Disclosed Segment in the Consolidated Financial Statements of the Group for a Period are Extractives Revenues.
6. "Mixed Segment" means any Disclosed Segment that is not an Extractives Segment or a Non-Extractives Segment.
7. "Non-Extractives Costs" of a Group for a Period means the total expenses of the Group deducted in calculating the Financial Accounting Profit (or Loss) of the Group less the portion of those total expenses incurred by an Extractives Entity.
8. "Non-Extractives Entity" means any Group Entity that is not an Extractives Entity.
9. "Non-Extractives Intra-Group Costs" of the Group for a Period means the sum of the expenses of Non-Extractives Entities that are derived from transactions with an Extractives Entity.
10. "Non-Extractives Intra-Group Revenues" of a Group for a Period means the sum of the revenues of Non-Extractives Entities that are derived from transactions with an Extractives Entity.
11. "Non-Extractives Pre-Tax Profit Margin" of a Group for a Period is the number expressed as a percentage by dividing:
  - a. the Non-Extractives Financial Accounting Profit (or Loss) of the Group for the Period after making the adjustments set out in Section 6(8)
  - by
  - b. the Non-Extractives Revenues of the Group for the Period.
12. "Non-Extractives Revenues" of a Group for a Period means the Revenues of the Group for the Period after the deduction of all revenues reported in the Consolidated Financial Statements that are Extractives Revenues.
13. "Non-Extractive Segment" means any Disclosed Segment for which 75 per cent or more of the revenues reported in that Disclosed Segment in the Consolidated Financial Statements of the Group for the Period are not Extractives Revenues.

## **Section 11: Scope of Amount A for a Covered Segment of a Qualifying Extractives Group**

1. The rules in sections 11 – 20 apply where the Group is a Qualifying Extractives Group and a Disclosed Segment is in scope under Article 1(6), and provides the application of Article 1(9).



2. The non-Extractives segment revenue test is met where the Non-Extractives Segment Revenues of the Covered Segment for the Period are greater than EUR 20 billion. Where the Period is shorter or longer than twelve months, the EUR 20 billion amount is adjusted proportionally to correspond with the length of the Period.
3. The non-Extractives segment profitability test is met where the Non-Extractives Segment Pre-Tax Profit Margin of the Covered Segment is greater than 10 per cent:
  - a. where a Segment Change involving the Disclosed Segment did not occur in the Period or any of the four Periods immediately preceding the Period:
    - i. in the Period; and
    - ii. where the Disclosed Segment was not a Covered Segment in the two consecutive Periods immediately preceding the Period:
      - (a) in two or more of the four Periods immediately preceding the Period; and
      - (b) on Average across the Period and the four Periods immediately preceding the Period.
  - b. where a Segment Change involving the Disclosed Segment occurred in the Period or any of the four Periods immediately preceding the Period, but Segment Restated Accounts of the Disclosed Segment have been prepared for each of the four Periods immediately preceding the Period:
    - i. in the Period; and
    - ii. where the Disclosed Segment would not have been a Covered Segment in the two consecutive Periods immediately preceding the Period based on the Segment Restated Accounts:
      - (a) in two or more of the four Periods immediately preceding the Period; and
      - (b) on Average across the Period and the four Periods immediately preceding the Period.
  - c. where a Segment Change involving the Disclosed Segment occurred in the Period or any of the four Periods immediately preceding the Period, and no Segment Restated Accounts of the Disclosed Segment have been prepared for each of the four Periods immediately preceding the Period:
    - i. in the Period; and
    - ii. on Average across the Periods that follow the Period where the most recent Segment Change occurs.

### ***Section 12: Charge to tax***

1. The income taxable pursuant to this Act for a Period is the relevant portion of a Covered Segment's Non-Extractives Segment Adjusted Profit Before Tax associated with Non-Extractives Segment Revenues arising in a Jurisdiction pursuant to Section 14, and with respect to which the nexus test in Section 13 is met. Section 2 of Schedule D does not apply for a Covered Segment of a Qualifying Extractives Group.
2. The relevant portion of the Covered Segment's Non-Extractives Segment Adjusted Profit Before Tax is determined by the two following steps:
  - a. the determination of the Covered Segment's Non-Extractives Segment Adjusted Profit Before Tax in accordance with the rules in Section 15; and
  - b. the allocation of a portion of that Non-Extractives Adjusted Profit Before Tax (if any) to [Jurisdiction name] for the Period in accordance with the rules in Section 16.

3. The income calculated under paragraph 1 is taxable for the Period as the income of one or more [Segment Entities] of the Covered Segment identified under [provision identifying the liable entity or entities], and in accordance with the rules provided in [reference to domestic law provisions on income tax].
4. Income tax charged in accordance with this Schedule on [one or more Segment Entities] of a Covered Segment identified under [provision identifying the liable entity or entities] has no implications for the determination of any other direct or indirect tax, customs duty, or social security contribution in a Jurisdiction of any Group Entity of the same Group.

### **Section 13: Nexus**

1. The nexus test is satisfied for a Period if the Non-Extractives Segment Revenues of the Covered Segment arising in a Jurisdiction pursuant to Section 14 for the Period are equal to or greater than EUR 1 million. Where the Period is shorter or longer than twelve months, the EUR 1 million amount is adjusted proportionally to correspond with the length of the Period.
2. For the purposes of paragraph 1, where a Jurisdiction's Gross Domestic Product for a Period is less than EUR 40 billion, the amount of EUR 1 million in paragraph 1 is replaced with EUR 250 thousand.
3. Paragraph 1 applies solely to determine whether [one or more Segment Entities] of the Covered Segment is liable to tax charged in accordance with this Act in a Jurisdiction, and has no other implications for any Group Entity of the Group. Article 3 of the Act does not apply for a Covered Group that is a Qualifying Extractives Group.

### **Section 14: Revenue sourcing rules**

1. Non-Extractives Segment Revenues are sourced in accordance with Section 4(1) to (12) and Schedule E, but replacing "Revenues" with "Non-Extractives Segment Revenues".

### **Section 15: Determination of Non-Extractives Segment Adjusted Profit Before Tax**

1. The Non-Extractives Segment Adjusted Profit Before Tax of the Group for a Period is the Non-Extractives Segment Financial Accounting Profit (or Loss) of the Covered Segment after making the adjustments in paragraph 7 and deducting any Non-Extractives Segment Net Losses carried forward in accordance with the rule contained in paragraph 8.
2. A Qualifying Extractives Group must calculate the Non-Extractives Segment Financial Accounting Profit (or Loss) under either paragraphs 3 to 5 (Covered Segment Approach) or paragraph 6 (Entity Approach).
3. Where a Covered Segment is an Extractives Segment, then the Non-Extractives Segment Financial Accounting Profit (or Loss) of that Covered Segment is zero.
4. Where a Covered Segment is a Non-Extractives Segment, then the Non-Extractives Financial Accounting Profit (or Loss) of the Group is calculated by taking the Non-Extractives Revenue of the Non-Extractives Segment multiplied by the Pre-Tax Profit Margin of the Non-Extractives Segment and:
  - a. adding the result of the calculation (i) x (ii) / (iii), where:
    - i. is the amount of Unallocated Income that is indirectly allocable to the Non-Extractives Segment using the Allocation Factor;
    - ii. is the total revenues of the Non-Extractives Segment for the Period less Extractives Revenues of the Non-Extractives Segment of the Period; and

- iii. is the total revenues of the Non-Extractives Segment for the Period.
  - b. deducting the result of the calculation (i) x (ii) / (iii), where:
    - i. is the amount of Unallocated Expense that is indirectly allocable to the Non-Extractives Segment using the Allocation Factor;
    - ii. is the total revenues of the Non-Extractives Segment for the Period less Extractives Revenues of the Non-Extractives Segment of the Period; and
    - iii. is the total revenues of the Non-Extractives Segment for the Period.
- 5. Where a Covered Segment is a Mixed Segment, then the Non-Extractives Segment Financial Accounting Profit (or Loss) of the Covered Segment can be calculated by taking the Segment Financial Accounting Profit (or Loss) and:
  - a. excluding Extractive Revenues reported in the Covered Segment;
  - b. excluding Extractive Costs incurred by the Covered Segment;
  - c. adding the result of the calculation (i) x (ii) / (iii), where:
    - i. is the amount of Unallocated Income that is indirectly allocable to the Mixed Segment using the Allocation Factor;
    - ii. is the total revenues of the Mixed Segment for the Period less Extractives Revenues reported in the Mixed Segment of the Period; and
    - iii. is the total revenues of the Mixed Segment for the Period.
  - d. deducting the result of the calculation (i) x (ii) / (iii), where:
    - i. is the amount of Unallocated Expense that is indirectly allocable to the Mixed Segment using the Allocation Factor;
    - ii. is the total revenues of the Mixed Segment for the Period less Extractives Revenues of the Mixed Segment of the Period; and
    - iii. is the total revenues of the Mixed Segment for the Period.
- 6. Where a Group chooses the Entity approach, the Non-Extractives Segment Financial Accounting Profit (or Loss) of the Covered Segment is calculated by:
  - a. summing the Non-Extractives Segment Revenues reported in the Covered Segment and the Non-Extractives Intra-Group Segment Revenues of the Covered Segment;
  - b. deducting the sum of Non-Extractives Segment Costs incurred by the Covered Segment and Non-Extractives Intra-Group Segment Costs of the Covered Segment.
- 7. The following adjustments are made to the Non-Extractives Segment Financial Accounting Profit (or Loss):
  - a. Tax Expense (or Tax Income) is excluded;
  - b. Excluded Dividends are excluded;
  - c. Excluded Equity Gain or Loss is excluded;
  - d. Policy Disallowed Expenses are excluded;
  - e. Prior Period Errors and Changes in Accounting Principles are adjusted;
  - f. Financial Accounting Profit (or Loss) of Excluded Entities is excluded;

- g. Asset Fair Value or Impairment Adjustments are made, in accordance with the rules contained in Schedule F;
  - h. Acquired Equity Basis Adjustments are made in accordance with the rules contained in Schedule H;
  - i. Segment Asset Gain (or Loss) Spreading Adjustments are taken into account; and
  - j. [ Treatment of profit attributable to non-controlling interests ].<sup>7</sup>
8. For the purposes of deducting Non-Extractives Segment Net Losses under paragraph 1, Non-Extractives Segment Net Losses of the Covered Segment for a Period constitute:
- a. the total amount of cumulative Non-Extractives Segment Financial Accounting Losses of the Covered Segment over the Segment Eligible Prior Period(s) that exceeds the total amount of cumulative Non-Extractives Segment Financial Accounting Profits of the Covered Segment over the Segment Eligible Prior Period(s), after making the adjustments set out in paragraph 7 for each Segment Eligible Prior Period; and
  - b. *[Rules have been developed in Article 5(3)(b) and Schedule H providing that a Covered Group may elect to deduct transferred losses in certain specific circumstances. Work is underway to translate these rules for application in the context of a Covered Segment of a Qualifying Extractives Group.]*
- Non-Extractives Segment Net Losses are carried forward and deducted in chronological order.
9. “Segment Eligible Prior Period” means, irrespective of whether the Covered Segment was a Covered Segment in the prior Period(s):
- a. the earliest prior Period (if any) of a Covered Segment in which, after making the adjustments set out in paragraph 7, there is an Non-Extractives Segment Unused Loss, and that either
    - i. [begins][or][ends] on or after the [DATE], but [begins][or][ends] no more than ten calendar years prior to the beginning of the current Period (post-implementation losses); or
    - ii. [begins][or][ends] before the [DATE], but [begins][or][ends] no more than (i) three calendar years prior to the [DATE], and (ii) ten calendar years prior to the beginning of the current Period (pre-implementation losses); and
  - b. all Period(s) (if any) between the Segment Eligible Prior Period determined under subparagraph (a) and the current Period.
10. “Non-Extractives Segment Unused Loss” means a Non-Extractives Financial Accounting Loss of a prior Period that has not been offset by Non-Extractives Financial Accounting Profit of subsequent Period(s), after making the adjustments under paragraph 7 in the Periods, in accordance with the rules set out under paragraph 8.

### **Section 16: Allocation of taxable profit**

*[Rules for the allocation of taxable profit have been developed in Article 6 including provisions on the marketing and distribution profits safe harbour (MDSH). The purpose of Article 6 is to determine the relevant portion of Adjusted Profit Before Tax of a Covered Group that is taxable in a jurisdiction by applying the Profit Allocation Formula and the MDSH adjustment. Further work is underway to translate these rules for application in the context of a Covered Segment of a Qualifying Extractives Group.]*

---

<sup>7</sup> See footnote 1.

## **Section 17: Elimination of double taxation with respect to Amount A**

*[Rules for the elimination of double taxation have been developed in Title 5 for the purposes of applying Amount A at the level of a Covered Group. Corresponding rules are under development which would translate the group-level rules, retaining the same conceptual approach, into rules that would apply to relieve double taxation at the level of a Covered Segment of a Qualifying Extractives Group. This would include operative rules for the jurisdictional approach to the elimination of double taxation, rules for the calculation of “Depreciation” and “Payroll” expense for the purposes of determining the Return on Depreciation and Payroll, and rules for the determination of the “Elimination Profit”. Importantly, for all of these concepts, including the calculation of the Elimination Profit, the rules will be adapted to ensure these jurisdictional measures only take into account the relevant financial data that does not relate to Extractives and exclude the corresponding items for the Extractives which are not in scope. This approach will ensure that only Relieving Jurisdictions which share in the non-Extractives Segment’s residual profit are identified as providing relief under the elimination of double taxation mechanism.]*

## **Section 18: Administration**

*[Please note that the approach to administration is not included in this document. A separate document, with sections on administration and tax certainty will be publicly released separately.]*

## **Section 19: Definitions relevant to Sections 11 to 19**

1. “Allocation Factor” has the meaning set out in Schedule D.
2. “Extractives Entity” means any Group Entity for which 75 per cent or more of its revenues are Extractives Revenues.
3. “Non-Extractives Entity” means any Segment Entity that is not an Extractives Entity.
4. “Non-Extractives Intra-Group Segment Costs” of the Covered Segment for a Period means the sum of the expenses of Segment Entities of the Covered Segment that are Non-Extractives Entities where those costs are derived from transactions with Segment Entities of the Covered Segment that are Extractives Entities.
5. “Non-Extractives Intra-Group Segment Revenues” of a Covered Segment for a Period means the sum of the revenues of Segment Entities of the Covered Segment that are Non-Extractives Entities where those revenues are derived from transactions with Segment Entities of the Covered Segment that are Extractives Entities.
6. “Non-Extractives Segment Pre-Tax Profit Margin” of a Covered Segment for a Period is the number expressed as a percentage by dividing:
  - a. the Non-Extractives Segment Financial Accounting Profit (or Loss) of the Covered Segment for the Period after making the adjustments set out in Section 15(7) for the Period;
  - by
  - b. the Non-Extractives Segment Revenues of the Covered Segment for the Period.
7. “Non-Extractives Segment Costs” of a Covered Segment for a Period means the total expenses of the Covered Segment deducted in calculating the Segment Financial Accounting Profit (or Loss) of the Covered Segment less the portion of those total expenses incurred by Extractives Entities.
8. “Non-Extractives Segment Revenues” of a Covered Segment for a Period means the Segment Revenues of the Covered Segment for the Period after the deduction of all revenues reported in the Covered Segment that are derived by Segment Entities that meet the definition of Extractives Entity.

## **Section 20: Definitions of Qualifying Extractives Group**

1. A Group is a Qualifying Extractives Group where:
  - a. it is engaged in Exploration, Development or Extraction; and
  - b. it derives Extractives Revenues, which in aggregate have a substantial connection with its Exploration, Development or Extraction;

whether directly or indirectly through an Extractives Joint Venture or a Resource Development Agreement.
2. “Extractives Joint Venture” means an arrangement, whether incorporated or unincorporated, whereby two or more enterprises participate jointly in Exploration, Development or Extraction.
3. “Resource Development Agreement” means an arrangement whereby the Group is authorised by the Government of the Jurisdiction where the Extractive Product is located to extract and develop the Extractive Product as a contractor or concessionaire.

### *Extractives Activity*

4. “Development” means the process of drilling, excavating and constructing the Exploration and Extraction facilities and the supporting infrastructure, and the associated maintenance.
5. “Exploration” means the process of searching for and evaluating an Extractive Product resource deposit or reservoir.
6. “Extraction” means the removal of Extractive Products from their natural site or from mine tailings. It includes carbon capture utilisation and storage conducted in connection with such removal of Extractive Products.
7. “Extractives Activity” means conducting Exploration, Development, Extraction, Primary Processing, or Qualifying Transportation.
8. “Extractive Product” means any solid, liquid or gas that is extracted from the earth’s crust and is in the form in which it exists upon its recovery or severance from its natural state. It includes a Mineral, Mineraloid and Hydrocarbon and similar materials extracted from the earth’s crust.
9. “Hydrocarbon” means any organic compound consisting predominantly of carbon and hydrogen molecules that is in solid, liquid or gaseous form occurring naturally in or on the earth or in or under water and which was formed by or subjected to a geological process and includes crude oil, oil sands, heavy oils and natural gas occurring in a subsurface oil and gas reservoir, deposit, or in a stockpile.
10. “Mineral” means any inorganic substance that exhibits crystalline characteristics, in solid form, occurring naturally in or on the earth’s crust or in or under water and which was formed by or subjected to a geological process, and includes clay, gems, gravel, metal, ore, rock, sand, soil, stone, salt and any such substance occurring in an ore body, ore deposit, or in a stockpile or tailings.
11. “Mineraloid” means any substance that does not exhibit crystalline characteristics whether in solid, liquid, or gaseous form, occurring naturally in or on the earth or in or under water and which was formed by or subjected to a geological process, and includes but is not limited to amber, coal, obsidian and opals, and any such substance occurring in an ore body, ore deposit, or in a stockpile or tailings.
12. “Primary Processing” means processing undertaken to concentrate, isolate, purify, refine, blend or liberate an Extractive Product from its natural state to produce a basic commodity, and includes carbon capture utilisation and storage conducted in connection with such processing. It includes the processing undertaken to produce all intermediate products obtained from an Extractive Product up to and including the following:

- a. liquefied natural gas (LNG), liquefied petroleum gas (LPG), crude oil, diesel, kerosene, gasoline, and hydrogen;
- b. Minerals, Mineraloids and metals including metal concentrate, metal oxides, metal hydroxides, anodes, cathodes, cast metals, and aluminium.

Primary Processing does not include a product resulting primarily from combining two or more other products, extrusion, fabrication, or manufacturing, and does not include the production of steel, jewellery, [petrochemicals, chemicals,] plastics, plastic polymers, or similar products.

13. “Qualifying Transportation” means the physical movement and incidental storage of an Extractive Product or a product resulting from Primary Processing, including by air, land or sea, and includes insuring the goods so transported.

### *Extractives Revenue*

14. “Extractives Revenue” means revenue reported in the financial accounts, adjusted as necessary for the application of the Arm’s Length Principle, of an Entity that is resident in the Jurisdiction of Extraction from
- a. Extractives Activity;
  - b. the sale of an Extractive Product or a product resulting from Primary Processing of a type that is produced in the course of carrying out the Group’s Extraction and Primary Processing, and associated hedging gains and losses; and
  - c. the sale of an Extractives Asset held in the course of carrying out the Group’s Extractives Activity.
15. Where the Entity conducts Primary Processing and does not sell the resultant commodity after the Primary Processing, but conducts additional processing to develop a different product beyond the type of products referred to in paragraph 12(a) or (b) and reports revenue from that resultant product, the Extractives Revenues is calculated based on the price that would have been required under the Arm’s Length Principle as if a sale of a product had occurred at the point that the Primary Processing was completed and before the additional processing occurred.
16. “Extractives Asset” means:
- a. a license to explore for or exploit Minerals, Mineraloids and Hydrocarbons; or
  - b. an asset used in the conduct of an Extractive Activity.
17. “Arm’s Length Principle” means the principle under which transactions between Group Entities must be recorded by reference to the conditions that would have been obtained between independent enterprises in comparable transactions and under comparable circumstances.<sup>8</sup>
18. “Jurisdiction of Extraction” means the Jurisdiction where the Extraction is undertaken.

### **Section 21: Transition**

1. Notwithstanding the provisions of this Act or this Schedule B, during the Initial Transition Phase, a Qualifying Extractives Group may demonstrate that it does not meet the non-Extractives profitability test or the non-Extractives Segment profitability test (as applicable) in the Period by applying any of the following calculations:

---

<sup>8</sup> Some members believe the appropriate definition here of the Arm’s Length Principle is the Arm’s Length Principle as set forth in the OECD Transfer Pricing Guidelines (OECD TPG), but not all Inclusive Framework member countries are prepared to agree to the OECD TPG being the common referent for the definition of the Arm’s Length Principle.

- a. where a Disclosed Segment for which 75 per cent or more of the revenues for a Period are Extractives Revenues, irrespective of whether the revenues were reported in the Jurisdiction of Extraction, the segment may be treated as an Extractives Segment;
  - b. the Pre-Tax Profit Margin of a Non-Extractives Segment or Mixed Segment may be determined using the Segment Pre-Tax Profit Margin as defined in Schedule D.
2. “Initial Extractives Transition Phase” means the first six Periods beginning on or after the date on which the Multilateral Convention enters into force pursuant to Article [X] of the Multilateral Convention.

## **Schedule C: Exclusion of Revenues and profits from Regulated Financial Services**

### ***Section 1: Overview***

1. This Schedule contains the rules that govern the application of this Act to a Group or a Disclosed Segment which conducts Regulated Financial Services and, where specifically provided for in this Schedule, the rules in Titles 2 to 6 and the definitions contained in Title 7 of this Act are modified or replaced by the rules and definitions contained in this Schedule. Unless otherwise explicitly stated, the rules contained in Titles 2 to 6 and definitions contained in Title 7 of this Act continue to apply.
2. Section 2 contains the scope rules for a Group that conducts Regulated Financial Services. Section 3 contains the charge to tax. Section 4 contains the threshold that must be met to establish a taxable nexus in a Jurisdiction. Section 5 determines the Revenues arising in a Jurisdiction. Section 6 contains rules governing the determination of taxable profit after excluding Regulated Financial Services. Section 7 contains the rules governing the allocation of taxable profit to a Jurisdiction for a Period. Section 8 contains rules on the elimination of double taxation arising from the taxation of a portion of residual profit of a Covered Group in another Jurisdiction. Section 9 contains rules on procedural and administrative provisions. Section 10 contains definitions related to Sections 2 to 9 for a Group that conducts Regulated Financial Services. Sections 11 to 19 contain the corresponding provisions to Sections 2 to 10, but in respect to a Covered Segment that is in scope of Amount A under Article 1(6), and adjusts those rules to apply to a Covered Segment that conducts Regulated Financial Services in order to apply Article 1(10). Section 20 contains the definitions necessary for identifying a Group that conducts Regulated Financial Services.

### ***Section 2: Scope of Amount A for a Group that conducts Regulated Financial Services***

1. A Group conducts Regulated Financial Services where one or more Group Entities meet the definition of Regulated Financial Institution under Section 20(16) of this Schedule.
2. The non-RFS revenue test is met where the Non-RFS Revenues of the Group for the Period are greater than EUR 20 billion. Where the Period is shorter or longer than twelve months, the EUR 20 billion amount is adjusted proportionally to correspond with the length of the Period.
3. The non-RFS profitability test is met where the Non-RFS Pre-Tax Profit Margin of the Group is greater than 10 per cent:
  - a. in the Period; and
  - b. where the Group was not a Covered Group in the two consecutive Periods immediately preceding the Period:
    - i. in two or more of the four Periods immediately preceding the Period; and
    - ii. on Average across the Period and the four Periods immediately preceding the Period.



5. For the purpose of paragraph 3(b) and (c):
  - a. where a Group Merger occurs in the Period or any of the three Periods immediately preceding the Period (the “Merger Period”) the calculation of the Non-RFS Pre-Tax Profit Margin for the Period(s) prior to the Merger Period should be made by replacing “Group” in that definition with “Acquiring Group”, except where there is no “Acquiring Group” in which case “Group” is replaced with “Existing Group”; and
  - b. where a Group Demerger occurs in the Period or any of the three Periods immediately preceding the Period (the “Demerger Period”) the calculation of the Non-RFS Pre-Tax Profit Margin for the Period(s) prior to the Demerger Period should be made by replacing “Group” in that definition with “Demerging Group”.
4. Notwithstanding paragraph 2, a Group may demonstrate that it does not meet the non-RFS revenue test in paragraph 1 by applying either of the following calculations:
  - a. deducting from the Revenues of the Group the revenues included in the Consolidated Financial Statements that are earned by one or more Regulated Financial Institutions, to the extent that the result of this calculation demonstrates that the Group does not satisfy the non-RFS revenue test. In such cases, the Group is not required to calculate its Non-RFS Revenues as defined by Section 10(1); or
  - b. aggregating the revenues of all Non-RFS Entities reported in their financial statements, and the result of this calculation demonstrates that the Group does not satisfy the non-RFS revenue test. In such case, the Group is not required to calculate its Non-RFS Revenues as defined by Section 10(1).

### ***Section 3: Charge to tax***

1. The income taxable pursuant to this Act for a Period is the relevant portion of a Covered Group’s Non-RFS Adjusted Profit Before Tax associated with Non-RFS Revenues arising in [Jurisdiction Name] pursuant to Section 5, and with respect to which the nexus test in Section 4 is met. Article 2 of the Act does not apply for a Covered Group that conducts Regulated Financial Services.
2. The relevant portion of the Covered Group’s Non-RFS Adjusted Profit Before Tax is determined by the two following steps:
  - a. the determination of the Covered Group’s Non-Excluded Adjusted Profit Before Tax in accordance with the rules in Section 6; and
  - b. the allocation of a portion of that Non-Excluded Adjusted Profit Before Tax (if any) to [Jurisdiction name] for the Period in accordance with the rules in Section 7.
3. The income referred to in paragraph 1 is taxable for the Period as the income of [one or more Group Entities] of the Covered Group identified under [provision identifying the liable entity or entities] and in accordance with the rules provided in [reference to domestic law provisions on income tax].
4. Income tax charged in accordance with this Schedule on [one or more Group Entities of a Covered Group] identified under [provision identifying the liable entity or entities] has no implications for the determination of any other direct or indirect tax, customs duty, or social security contribution in a Jurisdiction of any Group Entity of the Group.

### ***Section 4: Nexus***

1. The nexus test is satisfied for a Period if the Non-RFS Revenues of the Covered Group arising in a Jurisdiction pursuant to Section 5 for the Period are equal to or greater than EUR 1 million. Where the

Period is shorter or longer than twelve months, the EUR 1 million amount is adjusted proportionally to correspond with the length of the Period.

2. For the purposes of paragraph 1, where a Jurisdiction's Gross Domestic Product for a Period is less than EUR 40 billion, the amount of EUR 1 million in paragraph 1 is replaced with EUR 250 thousand.
3. Paragraph 1 applies solely to determine whether [one or more Group Entities] of the Covered Group is liable to tax charged in accordance with this Act in a Jurisdiction, and has no other implications for any Group Entity of the Group. Article 3 of the Act does not apply for a Covered Group that conducts Regulated Financial Services.

### ***Section 5: Revenue sourcing rules***

1. Non-RFS Revenues are sourced in accordance with Article 4(1) to (13) and Schedule E, but replacing "Revenues" with "Non-RFS Revenues".

### ***Section 6: Determination of Non-RFS Adjusted Profit Before Tax***

1. The Non-RFS Adjusted Profit Before Tax of the Group for a Period is the Non-RFS Financial Accounting Profit (or Loss) of the Group after making the adjustments in paragraph 3 and deducting any Non-RFS Net Losses carried forward in accordance with the rule contained in paragraph 4.
2. The Non-RFS Financial Accounting Profit (or Loss) of the Group is calculated by:
  - a. summing the Non-RFS Revenues of the Group and the Non-RFS Intra-Group Revenues of the Group;
  - b. deducting the sum of Non-RFS Costs of the Group and Non-RFS Intra-Group Costs of the Group.
3. The following adjustments are made to the Non-RFS Financial Accounting Profit (or Loss) of the Group:
  - a. Tax Expense (or Tax Income) is excluded;
  - b. Excluded Dividends are excluded;
  - c. Excluded Equity Gain or Loss are excluded;
  - d. Policy Disallowed Expenses are excluded;
  - e. Prior Period Errors and Changes in Accounting Principles are adjusted;
  - f. Financial Accounting Profit (or Loss) of Excluded Entities is excluded;
  - g. Asset Fair Value or Impairment Adjustments are made, in accordance with the rules contained in Schedule F;
  - h. Acquired Equity Basis Adjustments are made in accordance with the rules contained in Schedule G;
  - i. Asset Gain (or Loss) Spreading Adjustments are taken into account ; and
  - j. [ Treatment of profit attributable to non-controlling interests ].<sup>9</sup>
4. For the purposes of deducting Non-RFS Net Losses under paragraph 1, Non-RFS Net Losses of the Covered Group for a Period constitute:

---

<sup>9</sup> See footnote 1.

- a. the total amount of cumulative Non-RFS Financial Accounting Losses of the Covered Group over the Non-RFS Eligible Prior Period(s) that exceeds the total amount of cumulative Non-RFS Financial Accounting Profits of the Covered Group over the Non-RFS Eligible Prior Period(s), after making the adjustments set out in paragraph 3 for each Non-RFS Eligible Prior Period; and
- b. *[Rules have been developed in Article 5(3)(b) and Schedule H providing that a Covered Group may elect to deduct transferred losses in certain specific circumstances. Work is underway to translate these rules for application in the context of a Group that conducts Regulated Financial Services.]*

Non-RFS Net Losses are carried forward and deducted in chronological order.

5. “Non-RFS Eligible Prior Period” means, irrespective of whether the Covered Group was a Covered Group in the prior Period(s):
  - a. the earliest prior Period (if any) of a Covered Group in which, after making the adjustments set out in paragraph 3, there is an Non-RFS Unused Loss, and that either
    - i. *[begins][or][ends]* on or after the [DATE], but *[begins][or][ends]* no more than ten calendar years prior to the beginning of the current Period (post-implementation losses); or
    - ii. *[begins][or][ends]* before the [DATE], but *[begins][or][ends]* no more than (i) three calendar years prior to the [DATE], and (ii) ten calendar years prior to the beginning of the current Period (pre-implementation losses); and
  - b. All Period(s) (if any) between the Non-RFS Eligible Prior Period determined under subparagraph (a) and the current Period.
6. “Non-RFS Unused Loss” means a Non-RFS Financial Accounting Loss of a prior Period that has not been offset by Non-RFS Financial Accounting Profit of subsequent Period(s), after making the adjustments under paragraph 3 in the Periods, in accordance with the rules set out under paragraph 4.

## **Section 7: Allocation of profit**

*[Rules for the allocation of taxable profit have been developed in Article 6, including provisions on the marketing and distribution profits safe harbour (MDSH). The purpose of Article 6 is to determine the relevant portion of Adjusted Profit Before Tax of a Covered Group that is taxable in a jurisdiction by applying the Profit Allocation Formula and the MDSH adjustment. Further work is underway to translate these rules for application in the context of Group that conducts RFS. The approach taken will be the same as the ordinary profit allocation formula that applies for Amount A, but will only incorporate the non-RFS profits. The profits attributable to RFS will not be taken into account for the purposes of applying the Marketing and Distribution Profits Safe Harbour.]*

## **Section 8: Elimination of double taxation with respect to Amount A**

*[Rules for the elimination of double taxation have been developed in Title 5 for the purposes of applying Amount A at the level of a Covered Group. Corresponding rules are under development which would translate the group-level rules, retaining the same conceptual approach, into rules that would apply to relieve double taxation of Non-RFS taxable profit. This would include operative rules for the jurisdictional approach to elimination of double taxation, rules for the calculation of “Depreciation” and “Payroll” expense for the purposes of determining the Return on Depreciation and Payroll, and rules for the determination of the “Elimination Profit”. Importantly, for all of these concepts, including the calculation of the Elimination Profit, the rules will be adapted to ensure these jurisdictional measures exclude the financial data relating*

to RFS. This approach will ensure that only Relieving Jurisdictions which share in the Non-RFS taxable profit are identified as providing relief under the elimination of double taxation mechanism.]

## **Section 9: Administration**

[Please note that the approach for administration is not included in this document. A separate document, with sections on administration and tax certainty will be publicly released separately.]

## **Section 10: Definitions relevant to Sections 1 to 9**

1. “Non-RFS Revenues” of a Group for a Period means the Revenues of the Group for the Period after the deduction of all revenues included in the Consolidated Financial Statements that are derived by Group Entities that meet the definition of Regulated Financial Institution.
2. “Non-RFS Intra-Group Revenues” of a Group for a Period means the sum of the revenues of Non-RFS Entities that are derived from transactions with Regulated Financial Institutions of the Group.
3. “Non-RFS Costs” of a Group for a Period means the total expenses of the Group deducted in calculating the Financial Accounting Profit (or Loss) of the Group less the portion of those total expenses incurred by Regulated Financial Institutions.
4. “Non-RFS Intra-Group Costs” of the Group for a Period means the sum of the expenses of Non-RFS Entities that are derived from transactions with Regulated Financial Institutions of the Group.
5. “Non-RFS Pre-Tax Profit Margin” of a Group for a Period is the number expressed as a percentage by dividing:
  - a. the Non-RFS Financial Accounting Profit (or Loss) of the Group for the Period after making the adjustments set out in Section 6(3)
  - by
  - b. the Non-RFS Revenues of the Group for the Period.
6. “Non-RFS Entity” means any Group Entity that is not a Regulated Financial Institution.
7. “Disclosed Segment,” “Segment Entity” and “Segment Revenues” have the meaning set out in Schedule D.

## **Section 11: Scope of Amount A for a Covered Segment of a Group that conducts Regulated Financial Services**

1. The rules in Sections 11 to 20 apply where a Disclosed Segment is in scope under Article 1(6) (a “Covered Segment”) and provides for the application of Article 1(10) where one or more Segment Entities meet the definition of Regulated Financial Institution under Section 20(16) of this Schedule.
2. The non-RFS segment revenue test is met where the Non-RFS Segment Revenues of the Covered Segment for the Period are greater than EUR 20 billion. Where the Period is shorter or longer than twelve months, the EUR 20 billion amount is adjusted proportionally to correspond with the length of the Period.
3. The non-RFS segment profitability test is met where the Non-RFS Segment Pre-Tax Profit Margin of the Covered Segment is greater than 10 per cent:
  - a. where a Segment Change involving the Disclosed Segment did not occur in the Period or any of the four Periods immediately preceding the Period:
    - i. in the Period; and

- ii. where the Disclosed Segment was not a Covered Segment in the two consecutive Periods immediately preceding the Period:
  - (a) in two or more of the four Periods immediately preceding the Period; and
  - (b) on Average across the Period and the four Periods immediately preceding the Period.
- b. where a Segment Change involving the Disclosed Segment occurred in the Period or any of the four Periods immediately preceding the Period, but Segment Restated Accounts of the Disclosed Segment have been prepared for each of the four Periods immediately preceding the Period:
  - i. in the Period; and
  - ii. where the Disclosed Segment would not have been a Covered Segment in the two consecutive Periods immediately preceding the Period based on the Segment Restated Accounts:
    - (a) In two or more of the four Periods immediately preceding the Period; and
    - (b) on Average across the Period and the four Periods immediately preceding the Period.
- c. Where a Segment Change involving the Disclosed Segment occurred in the Period or any of the four Periods immediately preceding the Period, and no Segment Restated Accounts of the Disclosed Segment have been prepared for each of the four Periods immediately preceding the Period:
  - i. in the Period; and
  - ii. on Average across the Periods that follow the Period where the most recent Segment Change occurs.

## ***Section 12: Charge to tax***

1. The income taxable pursuant to this Act for a Period is the relevant portion of a Covered Segment's Non-RFS Segment Adjusted Profit Before Tax associated with Non-RFS Segment Revenues arising in a Jurisdiction pursuant to Section 14, and with respect to which the nexus test in Section 13 is met. Section 2 of Schedule D does not apply for a Covered Segment that conducts Regulated Financial Services.
2. The relevant portion of the Covered Segment's Non-RFS Segment Adjusted Profit Before Tax is determined by the two following steps:
  - a. The determination of the Covered Segment's Non-RFS Segment Adjusted Profit Before Tax in accordance with the rules in Section 15; and
  - b. The allocation of a portion of that Non-RFS Adjusted Profit Before Tax (if any) to [Jurisdiction name] for the Period in accordance with the rules in Section 16.
3. The income referred to in paragraph 1 is taxable for the Period as the income of [one or more Segment Entities] of the Covered Segment identified under [provisions identifying the liable entity or entities], and in accordance with the rules provided in [reference to domestic law provisions on income tax].
4. Income tax charged in accordance with this Schedule on [one or more Segment Entities] of a Covered Segment identified under [provisions identifying the liable entity or entities] has no implications for the determination of any other direct or indirect tax, customs duty, or social security contribution in a Jurisdiction of any Group Entity of the same Group.

### **Section 13: Nexus**

1. The nexus test is satisfied for a Period if the Non-RFS Segment Revenues of the Covered Segment arising in a Jurisdiction pursuant to Section 14 for the Period are equal to or greater than EUR 1 million. Where the Period is shorter or longer than twelve months, the EUR 1 million amount is adjusted proportionally to correspond with the length of the Period.
2. For the purposes of paragraph 1, where a Jurisdiction's Gross Domestic Product for a Period is less than EUR 40 billion, the amount of EUR 1 million in paragraph 1 is replaced with EUR 250 thousand.
3. Paragraph 1 applies solely to determine whether [one or more Segment Entities] of the Covered Segment is liable to tax charged in accordance with this Act in a Jurisdiction, and has no other implications for any Group Entity of the Group. Article 3 of the Act does not apply for a Covered Group that conducts Regulated Financial Services.

### **Section 14: Revenue sourcing Rules**

1. Non-RFS Segment Revenues are sourced in accordance with Article 4(1) to (13) and Schedule E, but replacing "Revenues" with "Non-RFS Segment Revenues".

### **Section 15: Determination of Non-RFS Segment Adjusted Profit Before Tax**

1. The Non-RFS Segment Adjusted Profit Before Tax of the Group for a Period is the Non-RFS Segment Financial Accounting Profit (or Loss) of the Covered Segment after making the adjustments in paragraph 3 and deducting any Non-RFS Segment Net Losses carried forward in accordance with the rule contained in paragraph 4.
2. The Non-RFS Segment Financial Accounting Profit (or Loss) of the Covered Segment is calculated by:
  - a. summing the Non-RFS Segment Revenues of the Covered Segment and the Non-RFS Intra-Group Segment Revenues of the Covered Segment;
  - b. deducting the sum of Non-RFS Segment Costs of the Covered Segment and Non-RFS Intra-Group Segment Costs of the Covered Segment.
3. The following adjustments are made to the Non-RFS Segment Financial Accounting Profit (or Loss):
  - a. Tax Expense (or Tax Income) are excluded;
  - b. Excluded Dividends are excluded;
  - c. Excluded Equity Gain or Loss are excluded;
  - d. Policy Disallowed Expenses are excluded;
  - e. Prior Period Errors and Changes in Accounting Principles are adjusted;
  - f. Financial Accounting Profit (or Loss) of Excluded Entities are excluded;
  - g. Asset Fair Value or Impairment Adjustments are made, in accordance with the rules contained in Schedule F;
  - h. Acquired Equity Basis Adjustments are made in accordance with the rules contained in Schedule G;
  - i. Segment Asset Gain (or Loss) Spreading Adjustments are taken into account ; and

- j. [ Treatment of profit attributable to non-controlling interests ].<sup>10</sup>
- 4. For the purposes of deducting Non-RFS Segment Net Losses under paragraph 1, Non-RFS Segment Net Losses of the Covered Segment for a Period constitute:
  - a. the total amount of cumulative Non-RFS Segment Financial Accounting Losses of the Covered Segment over the Segment Eligible Prior Period(s) that exceeds the total amount of cumulative Non-RFS Segment Financial Accounting Profits of the Covered Segment over the Segment Eligible Prior Period(s), after making the adjustments set out in paragraph 2 for each Segment Eligible Prior Period; and
  - b. *[Rules have been developed in Article 5(3)(b) and Schedule H providing that a Covered Group may elect to deduct transferred losses in certain specific circumstances. Work is underway to translate these rules for application in the context of a Covered Segment of a Group that conducts Regulated Financial Services.]*

Non-RFS Segment Net Losses are carried forward and deducted in chronological order.

- 5. “Segment Eligible Prior Period” means, irrespective of whether the Covered Segment was a Covered Segment in the prior Period(s):
  - a. the earliest prior Period (if any) of a Covered Segment in which, after making the adjustments set out in paragraph 3, there is an Non-RFS Segment Unused Loss, and that either
    - i. [begins][or][ends] on or after the [DATE], but [begins][or][ends] no more than ten calendar years prior to the beginning of the current Period (post-implementation losses); or
    - ii. [begins][or][ends] before the [DATE], but [begins][or][ends] no more than (i) three calendar years prior to the [DATE], and (ii) ten calendar years prior to the beginning of the current Period (pre-implementation losses); and
  - b. all Period(s) (if any) between the Segment Eligible Prior Period determined under subparagraph (a) and the current Period.
- 6. “Non-RFS Segment Unused Loss” means a Non-RFS Financial Accounting Loss of a prior Period that has not been offset by Non-RFS Financial Accounting Profit of subsequent Period(s), after making the adjustments under paragraph 3 in the Periods, in accordance with the rules set out under paragraph 4.

## **Section 16: Allocation of profit**

*[Rules for the allocation of taxable profit have been developed in Article 6, including provisions on the marketing and distribution profits safe harbour (MDSH). The purpose of Article 6 is to determine the relevant portion of Adjusted Profit Before Tax of a Covered Group that is taxable in a jurisdiction by applying the Profit Allocation Formula and the MDSH adjustment. Further work is underway to translate these rules for application in the context of a Group that conducts RFS. The approach taken will be the same as the ordinary profit allocation formula that applies for Amount A, but will only incorporate the non-RFS profits. The profits attributable to RFS will not be taken into account for the purposes of applying the Marketing and Distribution Profits Safe Harbour.]*

## **Section 17: Elimination of double taxation with respect to Amount A**

*[Rules for the elimination of double taxation have been developed in Title 5 for the purposes of applying Amount A at the level of a Covered Group. Corresponding rules are under development which would*

---

<sup>10</sup> See footnote 1.

*translate the group-level rules, retaining the same conceptual approach, into rules that would apply to relieve double taxation at the level of a Covered Segment of a Regulated Financial Services. This would include operative rules for the jurisdictional approach to the elimination of double taxation, rules for the calculation of “Depreciation” and “Payroll” expense for the purposes of determining the Return on Depreciation and Payroll, and rules for the determination of the “Elimination Profit”. Importantly, for all of these concepts, including the calculation of the Elimination Profit, the rules will be adapted to ensure these jurisdictional measures only take into account the relevant financial data that does not relate to RFS and exclude the corresponding items for the RFS which are not in scope. This approach will ensure that only Relieving Jurisdictions which share in the non-RFS Segment’s residual profit are identified as providing relief under the elimination of double taxation mechanism.]*

## **Section 18: Administration**

*[Please note that the approach for administration is not included in this document. A separate document, with sections on administration and tax certainty will be publicly released separately.]*

## **Section 19: Definitions relevant to Sections 11 to 18**

1. “Non-RFS Segment Revenues” of a Covered Segment for a Period means the Segment Revenues of the Covered Segment for the Period after the deduction of all revenues included in the Covered Segment that are derived by Segment Entities that meet the definition of Regulated Financial Institution.
2. “Non-RFS Intra-Group Segment Revenues” of a Covered Segment for a Period means the sum of the revenues of Segment Entities of the Covered Segment that are Non-RFS Entities where those revenues are derived from transactions with Segment Entities of the Covered Segment that are Regulated Financial Institutions.
3. “Non-RFS Segment Costs” of a Covered Segment for a Period means the total expenses of the Covered Segment deducted in calculating the Segment Financial Accounting Profit (or Loss) of the Covered Segment less the portion of those total expenses incurred by Regulated Financial Institutions.
4. “Non-RFS Intra-Group Segment Costs” of the Covered Segment for a Period means the sum of the expenses of Segment Entities of the Covered Segment that are Non-RFS Entities where those costs are derived from transactions with Segment Entities of the Covered Segment that are Regulated Financial Institutions.
5. “Non-RFS Segment Pre-Tax Profit Margin” of a Covered Segment for a Period is the number expressed as a percentage by dividing:
  - a. the Non-RFS Segment Financial Accounting Profit (or Loss) of the Covered Segment for the Period after making the adjustments set out in paragraph 3 of Section 15 for the Period;
  - by
  - b. the Non-RFS Segment Revenues of the Covered Segment for the Period.
6. “Non-RFS Entity” means any Segment Entity that is not a Regulated Financial Institution.
7. “Covered Segment”, “Disclosed Segment”, “Segment Entity” and Segment Revenues” have the meaning included in Schedule D.

## **Section 20: Definitions of Regulated Financial Services**

1. “Annuity Contract” means a contract under which the issuer or operator agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more



individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the law, regulation, or practice of the jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years.

2. “Asset Manager” means a Group Entity:

- a. that is licensed to carry on asset management as a business under the law or regulations of the jurisdiction in which the Group Entity does that business, or in the case of a Group Entity that does such business in one or more EEA Member States, is licensed by a competent authority to carry on such business in an EEA Member State; and
- b. that is subject to regulation reflecting the Objectives and Principles of Securities Regulation as adopted by the IOSCO and the related implementing methodology;
- c. for which the Total Reported Income attributable to one or more of the following activities equals or exceeds 75 per cent of the Group Entity’s Total Reported Income during the Period: investing in, administering, managing, distributing or risk management associated with interests in, an Investment Fund or Real Estate Investment Vehicle, Financial Assets, or money for or on behalf of other persons;

but does not include a Group Treasury Entity.

3. “Credit Institution” means a Group Entity:

- a. that is licensed to carry on a lending business under the laws or regulations of the jurisdiction in which the Group Entity does that business or, in the case of a Group Entity that does such business in one or more EEA Member States, is licensed by a competent authority to carry on such business in an EEA Member State; and
- b. that is subject to capital adequacy requirements that reflect the Core Principles for Effective Banking Supervision as provided by the Basel Committee on Banking Supervision; and
- c. that provides personal, commercial, or other loans or extensions of credit to unrelated customers (but not including providing credit for the purchase of the Covered Group’s own goods); and
- d. for which the Total Reported Income attributable to the activities described in subparagraph (c) equals or exceeds 75 per cent of the Group Entity’s Total Reported Income during the Period.

4. “Deposit” means funds which are required to be repaid on demand or at the time agreed under the applicable legal and contractual conditions, with or without interest or a premium. It does not include bonds. It does not include down-payments made by customers as part-payment of the purchase of a good; funds where the principal is not repayable at par or the principal is only repayable at par under a particular guarantee or agreement provided by the financial institution or a third party; payment made by way of security for the performance of a contract or in respect of loss; or payments made by customers in connection with money transfer services.

5. “Depository Institution” means a Group Entity:

- a. that is licensed to carry on a banking business under the laws or regulations of the jurisdiction in which the Group Entity does that business or, in the case of a Group Entity that does such business in one or more European Economic Area (EEA) Member States, is licensed by a competent authority to carry on such business in an EEA Member State; and
- b. that is subject to capital adequacy requirements that reflect the Core Principles for Effective Banking Supervision as provided by the Basel Committee on Banking Supervision; and
- c. that accepts Deposits in the ordinary course of a banking or similar business; and
- d. either of the following conditions is met:

- i. at least 20 per cent of the liabilities of the Entity consist of Deposits, as at the balance sheet date for the Period; or
- ii. at least 10 per cent of the liabilities of the Entity consist of Deposits, as at the balance sheet date for the Period, and the Entity can be required to post reserves with a central bank or comply with central bank reserve requirements and has access to the central bank's borrowing window or liquidity facilities;

but does not include a Group Treasury Entity.

6. "Financial Assets" includes:

- a money market instrument,
- a security (for example, a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; note, bond, debenture, or other debt instrument),
- a commodity that is a physical good where it is held as a hedging position against a commodity derivative,
- money (in any currency),
- an Insurance Contract, Annuity Contract, or Insurance Product, and
- any interest (by way of a futures contract, forward contract, option, financial contract for difference, swap or other derivative instrument including an interest rate swap) in an asset described above, an index of such assets or a widely-held or publicly traded partnership interest.

However, the term "Financial Asset" does not include a non-debt, direct interest in real property.

- 7. "Financial Risk" means the risk of a possible future change in one or more of a specified interest rate, financial instrument price, commodity price, currency exchange rate, index of prices or rates, credit rating or credit index or other variable, provided in the case of a non-financial variable that the variable is not specific to a party to the contract.
- 8. "Group Captive Entity" means any Group Entity that carries on an insurance or reinsurance business and 50 per cent or more of the Total Reported Income of which is derived from Group Entities of the same Group that are not Regulated Financial Institutions.
- 9. "Group Treasury Entity" means any Group Entity that provides treasury functions and 50 per cent or more of the Total Reported Income of which is derived from Group Entities of the same Group that are not Regulated Financial Institutions.
- 10. "Insurance Contract" means a contract under which the issuer accepts significant Insurance Risk from another party by agreeing to compensate that other party if a specified uncertain future event adversely affects that other party.
- 11. "Insurance Institution" means a Group Entity:
  - a. that is licensed to carry on an insurance or reinsurance business under the laws or regulations of the jurisdiction in which the Group Entity does that business or, in the case of a Group Entity that does such business in one or more EEA Member States, is licensed by a competent authority to carry on such business in an EEA Member State; and
  - b. that is subject to solvency standards incorporating a risk-based capital measure; and
  - c. the Total Reported Income (inclusive of gross written premiums) of which arising from Insurance Contracts, Annuity Contracts and Insurance Products (including investment income from assets associated with such contracts) for the Period exceeds 75 per cent of Total Reported Income for

such Period; or the aggregate value of the assets held to manage risk associated with Insurance Contracts, Annuity Contracts and Insurance Products exceeds 75 per cent of total assets as at the balance sheet date for the Period;

but does not include a Group Captive Entity.

12. “Insurance Product” means a contract under which the issuer agrees to make one or more payments to another party on death or on other specified dates and that the issuer is permitted to issue under its licence to carry on an insurance or reinsurance business.

13. “Insurance Risk” means a risk other than a Financial Risk, transferred from the holder of a contract to the issuer of the contract.

14. “Investment Institution” means a Group Entity:

- a. that is licensed to carry on a broker dealer, custodial, investment firm or investment banking business or one or more of the activities listed in paragraph (c) under the laws or regulations of the jurisdiction in which the Group Entity does that business or, in the case of a Group Entity that does such business in one or more EEA Member States, is licensed by a competent authority to carry on such business in an EEA Member State; and
- b. that is subject to capital adequacy requirements that reflect the Core Principles for Effective Banking Supervision as provided by the Basel Committee on Banking Supervision or Objectives and Principles of Securities Regulation as adopted by the International Organisation of Securities Commissions (IOSCO) and the related implementing methodology; and
- c. For which the Total Reported Income attributable to one or more of the following activities equals or exceeds 75 per cent of the Group Entity’s Total Reported Income during the Period:
  - i. dealing, broking, clearing or trading in Financial Assets for own account or for account of customers; and / or
  - ii. holding securities in inventory; and / or
  - iii. hedging transactions; and / or
  - iv. securities lending and sale and repurchase agreements in respect of Financial Assets; and / or
  - v. participating in placing and underwriting, mergers and acquisitions, syndication, securitisation and securities issues and providing financial services related to such activities; and / or
  - vi. holding, safekeeping, transferring, controlling, administering or distributing Financial Assets for the account of other persons; and / or
  - vii. investment advice in support of the activities identified in subdivisions (i) to (vi) and performed by the Entity;

but does not include a Group Treasury Entity.

15. “Mixed Financial Institution” means a Group Entity:

- a. that is licensed to carry on business as described in subparagraph (a) of any of the definitions of Credit Institution, Investment Institution, Insurance Institution, or Asset Manager and
- b. that is subject to requirements as described in subparagraph (b) of that definition; and
- c. that does not meet the Total Reported Income threshold for that definition; and
- d. for which the Total Reported Income attributable to any of the activities described in subparagraph (c) of the definitions of Credit Institution, Investment Institution, Insurance Institution, or Asset

Manager equals or exceeds 75 per cent of the Group Entity's Total Reported Income during the Period;

but does not include a Group Treasury Entity or a Group Captive Entity.

16. "Regulated Financial Institution" means a Depositary Institution; Credit Institution; Investment Institution; Insurance Institution; Asset Manager; Mixed Financial Institution; and an RFI Service Entity.

17. "RFI Service Entity" means a Group Entity that:

- a. is at least 95 per cent owned (directly or indirectly) by a UPE of a Group that also wholly owns (directly or indirectly) another Regulated Financial Institution (other than an RFI Service Entity) that is a Group Entity of the same Group; and
- b. for which the Total Reported Income attributable to performing administrative support services for the benefit of one or more other Regulated Financial Institutions (other than an RFI Service Entity) of the same Group equals or exceeds 75 per cent of the Group Entity's Total Reported Income during the Period; and
- c. those administrative support services are necessary to the carrying out of the activities of such Regulated Financial Institution;

but does not include a Group Treasury Entity or a Group Captive Entity.

18. "Total Reported Income" means the revenue, as reported on the Entity's financial statements submitted to the relevant financial regulator.

## Schedule D: Covered Segment

### Section 1: Overview

1. This Schedule contains the rules that govern the application of this Act to one or more Segment Entities of a Covered Segment and, where specifically provided for in this Schedule, the rules in Titles 2 to 6 and the definitions contained in Title 7 of this Act are modified or replaced by the rules and definitions contained in this Schedule. Unless otherwise explicitly stated, the existing rules contained in Titles 2 to 6 and definitions contained in Title 7 of this Act continue to apply.
2. Section 2 contains the charge to tax provision. Section 3 contains the threshold that must be met to establish a taxable nexus in [Jurisdiction name] and Section 4 determines when revenues are treated as arising in a Jurisdiction. Section 5 contains rules governing the determination of taxable profit and Section 6 the rules governing the allocation of taxable profit to [Jurisdiction name] for a Period. Section 7 contains rules on the elimination of double taxation arising from the taxation of a portion of residual profit of a Covered Segment in another Jurisdiction. Section 8 contains rules on procedural and administrative provisions. Section 9 contains definitions for the purposes of this Schedule.

### Section 2: Charge to tax

1. The income taxable pursuant to this Act for a Period is the relevant portion of a Covered Segment's Adjusted Segment Profit Before Tax associated with Segment Revenues treated as arising in [Jurisdiction Name] pursuant to Section 4, and with respect to which the nexus test in Section 3, is met. The relevant portion of the Covered Segment's Adjusted Segment Profit Before Tax is determined by the two following steps:
  - a. the determination of the Covered Segment's Adjusted Segment Profit Before Tax in accordance with the rules contained in Section 5; and

- b. the allocation of a portion of that Adjusted Segment Profit Before Tax (if any) to [Jurisdiction name] for the Period in accordance with the rules contained in Section 6.
- 2. This income is taxable as the income of [one or more Segment Entities] of the Covered Segment for the Period identified under [provision identifying liable entity or entities], and in accordance with the rules provided in [reference to domestic law provisions on income tax].
- 3. Income Tax charged in accordance with this Section on a Segment Entity of a Covered Segment identified under [provision identifying liable entity or entities] has no implications for the determination of any other direct or indirect tax, customs duty, or social security contribution in [Jurisdiction name] of any Group Entity of the same Group.

### ***Section 3: Nexus***

- 1. The nexus test is satisfied for a Period if the Segment Revenues of the Covered Segment arising in [a Jurisdiction] pursuant to Section 4 for the Period are equal to or greater than EUR 1 million. Where the Period is shorter or longer than twelve months, the EUR 1 million amount is adjusted proportionally to correspond with the length of the Period.
- 2. For the purposes of paragraph 1, where the [Jurisdiction]'s Gross Domestic Product for a Period is less than EUR 40 billion, the amount of EUR 1 million in paragraph 1 is replaced with EUR 250 thousand.
- 3. Paragraph 1 applies solely to determine whether a Segment Entity of the Covered Segment is liable to tax charged in accordance with this Act in [a Jurisdiction], and has no other implications for any Segment Entity of the Covered Segment or Group Entity of the Group.

### ***Section 4: Revenue Sourcing rules***

- 1. This Section determines when Segment Revenues of the Covered Segment are treated as arising in a Jurisdiction for the purposes of this Act.
- 2. Segment Revenues are sourced in accordance with Article 4(1) to (13) and Schedule E, but replacing "Revenues" with "Segment Revenues" and "Covered Group" with "Covered Segment".

### ***Section 5: Determination of the Adjusted Segment Profit Before Tax of a Covered Segment***

- 1. The Adjusted Segment Profit Before Tax for a Period is the Segment Financial Accounting Profit (or Loss) of a Covered Segment after making the adjustments set out in paragraphs 2 and 3; and deducting any Segment Net Losses carried forward in accordance with paragraph 4:
- 2. The Covered Segment's Financial Accounting Profit (or Loss) for a Period is adjusted for the following items (book-to-tax adjustments):
  - a. Segment Tax Expense (or Segment Tax Income) is excluded;
  - b. Segment Excluded Dividends are excluded;
  - c. Segment Excluded Equity Gain or Loss are excluded;
  - d. Segment Policy Disallowed Expenses are excluded;
  - e. Segment Prior Period Errors and Changes in Accounting Principles are adjusted;
  - f. Segment Financial Accounting Profit (or Loss) of Excluded Entities is excluded;

- g. Segment Asset Fair Value or Impairment Adjustments are made, in accordance with the rules contained in Schedule F;
  - h. Segment Acquired Equity Basis Adjustments are made, in accordance with the rules contained in Schedule G;
  - i. Segment Asset Gain (or Loss) Spreading Adjustments are taken into account ; and
  - j. [ Treatment of profit attributable to non-controlling interests ].<sup>11</sup>
3. Unallocated Income, Unallocated Expense and Corporate Segment Expense that are indirectly allocable to the Covered Segment are adjusted, unless the conditions in paragraph 5 are met, using the Allocation Factor or, where the conditions in paragraph 6 are met, an alternative allocation factor.
  4. For the purposes of deducting Segment Net Losses under paragraph 1, Segment Net Losses of a Covered Segment for a Period constitute:
    - a. the total amount of cumulative Segment Financial Accounting Losses of the Covered Segment over the Segment Eligible Prior Period(s) that exceeds the total amount of cumulative Segment Financial Accounting Profits of the Covered Segment over the Segment Eligible Prior Period(s), after making the adjustments set out in paragraphs 2 and 3 for each Segment Eligible Prior Period; and
    - b. *[Rules have been developed in Article 5(3)(b) and Schedule H providing that a Covered Group may elect to deduct Transferred Losses in certain specific circumstances. Work is underway to translate these rules for application in the context of a Covered Segment.]*

Segment Net Losses are carried forward and deducted in chronological order.

5. No adjustment under paragraph 3 is required where the full amount of Unallocated Income, Unallocated Expense or item of Corporate Segment Expense would be reversed under paragraph 2.
6. Under paragraph 3, an alternative allocation factor can be used for an item of Unallocated Income, item of Unallocated Expense or item of Corporate Segment Expense where the conditions in subparagraphs (a) to (c) below are met:
  - a. using an alternative allocation factor instead of using the Allocation Factor results in a greater than 10% differential on the Segment Adjusted Profit Before Tax of one or more of the Disclosed Segments;
  - b. all Disclosed Segments use the alternative allocation factor consistently for the item of Unallocated Income, item of Unallocated Expense or item of Corporate Segment Expense for the purposes of paragraph 3; and
  - c. *[This third condition would refer to the rules on administration and the certainty process, which would require a Covered Segment to demonstrate that the condition in subparagraphs (a) and (b) are met and request approval from the certainty panel to use an alternative allocation factor based on their view that using the Allocation Factor produces an inappropriate outcome. In addition, the Group would be required to commit to use the alternative allocation factor for [x] periods. Only if the tax certainty panel agrees, can an alternative allocation factor be used.]*
7. *[Additional provisions are being developed to provide for the transition between the application of the rules, in different Periods, at the level of a Covered Group, and at the level of a Covered Segment. These rules will address potential issues such as the interaction between the carry-forward of losses (including transferred losses) at the Group and Segment levels.]*

---

<sup>11</sup> See footnote 1.

## **Section 6: Allocation of profit**

*[Rules for the allocation of taxable profit have been developed in Article 6, including provisions on the marketing and distribution profits safe harbour (MDSH). The purpose of Article 6 is to determine the relevant portion of Adjusted Profit Before Tax of a Covered Group that is taxable in a jurisdiction by applying the Profit Allocation Formula and the MDSH adjustment. Further work is underway to translate these rules for application in the context of a Covered Segment. The approach taken will be the same as the ordinary profit allocation formula that applies for Amount A, but will only incorporate the profits of the Covered Segment. The profits that are not attributable to the Covered Segment will not be taken into account for the purposes of applying the Marketing and Distribution Profits Safe Harbour.]*

## **Section 7: Elimination of double taxation with respect to Amount A**

*[Rules for the elimination of double taxation have been developed in Title 5 for the purposes of applying Amount A at the level of a Covered Group. Corresponding rules are under development which would translate the group-level rules, retaining the same conceptual approach, into rules that would apply to relieve double taxation at the level of a Covered Segment. This would include operative rules for the jurisdictional “revised hybrid approach” to elimination of double taxation, rules for the calculation of “Depreciation” and “Payroll” expense for the purposes of determining the Return on Depreciation and Payroll, and rules for the determination of the “Elimination Profit”. Importantly, for all of these concepts, including the calculation of the Elimination Profit, the rules will be adapted to ensure these jurisdictional measures only take into account the relevant financial data of the Covered Segment and exclude the corresponding items for other Disclosed Segments which are not in scope. This approach will ensure that only Relieving Jurisdictions which share in the Covered Segment’s residual profit are identified as providing relief under the elimination of double taxation mechanism.]*

## **Section 8: Administration**

*[Please note that the approach for administration is not included in this document. A separate document, with sections on administration and tax certainty will be publicly released separately.]*

## **Section 9: Definitions relevant to Sections 1-8**

1. “Allocation Factor” means the proportion of the revenues reported in the Disclosed Segment in the Consolidated Financial Statements for the Period as compared to the sum of the revenues of all Disclosed Segments of the Group for the Period.
2. “Corporate Segment” means a Disclosed Segment that all, or substantially all, its reported expenses in a Period were not incurred for the purposes of generating Segment Revenues of that Disclosed Segment.
3. “Corporate Segment Expense” means any item of expense of a Corporate Segment.
4. “Segment Asset Gain (or Loss) Spreading Adjustments” means adjustments required to ensure that the gain (or loss) recognised upon the sale of an asset by a Segment Entity of the Disclosed Segment such that this gain (or loss) is allocated evenly between the Period in which the gain (or loss) arises and the four subsequent Periods. This adjustment shall apply with respect to asset sales other than inventory.
5. “Segment Excluded Dividends” means dividends or other distributions included in calculating the Segment Financial Accounting Profit (or Loss) of a Disclosed Segment under an Acceptable Financial Accounting Standard that are received or accrued in respect of an Ownership Interest.

6. “Segment Financial Accounting Profit (or Loss)” means the profit or loss set out in the Disclosed Segment taking into account all income and expenses of that Disclosed Segment as reported in the Consolidated Financial Statements.
7. “Segment Eligible Prior Period” means, irrespective of whether the Covered Segment was a Covered Segment in the prior Period(s):
  - a. the earliest prior Period (if any) of a Covered Segment in which, after making the adjustments set out in Section 5(2) and (3), there is a Segment Unused Loss, and that:
    - i. includes the date on which the latest Segment Change involving the Covered Segment occurred or if applicable, is the Period identified under subparagraph (c); and
    - ii. either:
      - (a) [begins][or][ends] on or after [DATE], but [begins][or][ends] no more than ten calendar years prior to the beginning of the current Period (post-implementation losses); or
      - (b) [begins][or][ends] before [DATE], but [begins][or][ends] no more than (i) three calendar years prior to [DATE], and (ii) ten calendar years prior to the beginning of the current Period (pre-implementation losses); and
  - b. all Period(s) (if any) between the Segment Eligible Prior Period determined under subparagraph (a) and the current Period.
  - c. the earliest Period prior to the Period of the latest Segment Change involving the Covered Segment where, for that Period and all Period(s) (if any) between that Period and the Segment Change, Segment Restated Accounts of the Covered Segment have been prepared.
8. “Segment Excluded Equity Gain or Loss” means the gain, profit or loss included in the Segment Financial Accounting Profit (or Loss) of the Covered Segment arising from:
  - a. gains and losses from changes in fair value of an Ownership Interest;
  - b. profit or loss in respect of an Ownership Interest included under the equity method of accounting, except profit or loss derived from a Joint Venture in which the Covered Segment has joint control; and
  - c. gains and losses from disposition of an Ownership Interest.
9. “Segment Policy Disallowed Expenses” means:
  - a. expenses included in the Segment Financial Accounting Profit (or Loss) of the Covered Segment for illegal payments, including bribes and kickbacks; and
  - b. expenses included in the Segment Financial Accounting Profit (or Loss) of the Covered Segment, in respect of a Segment Entity, for fines or penalties that equal or exceed EUR 50 000 for each Segment Entity (or an equivalent in the functional currency in which the Segment Entity’s Financial Accounting Profit (or Loss) was calculated).
10. “Segment Pre-Tax Profit Margin” for a Period is the number expressed as a percentage by dividing:
  - a. the Segment Financial Accounting Profit (or Loss) of the Disclosed Segment for the Period after making the adjustments set out in Section 5(2) and (3) for the Period;
  - by
  - b. the Segment Revenues of the Disclosed Segment for the Period.
11. “Segment Prior Period Errors and Changes in Accounting Principles” means all changes in the opening equity at the beginning of the Period of a Covered Segment attributable to transactions or other events



that would have impacted a Period when the Covered Segment was in scope of Amount A if they had initially been recorded on the updated basis and relate to either a correction of an error in the determination of Segment Financial Accounting Profit (or Loss) in a previous Period that affected the income or expenses includible in the computation of Adjusted Segment Profit Before Tax for such Period; or a change in an accounting principle or policy that affects income or expenses includible in the computation of Adjusted Segment Profit Before Tax.

12. “Segment Revenues” of a Disclosed Segment for a Period means the revenues reported in the Disclosed Segment in the Consolidated Financial Statements of the UPE of the Group for a Period prepared in accordance with an Acceptable Financial Accounting Standard, subject to the following adjustments:
  - a. exclude revenue of the Disclosed Segment for the Period that relates to items excluded in Section 5(2)(b)-(c).
  - b. exclude revenue for the Period derived from an Excluded Entity;
  - c. adjust for revenue derived from a Joint Venture or a Joint Operation in the Period to align with the Disclosed Segment’s proportionate share of profit or loss derived from the Joint Venture or Joint Operation;
  - d. adjust for any Segment Prior Period Errors and Changes in Accounting Principles of the Disclosed Segment for the Period in accordance with Section 5(2)(e) in instances where the adjustment for Segment Prior Period Errors and Changes in Accounting Principles of the Disclosed Segment for the Period relates to amount(s) that are classified as revenue under an Acceptable Financial Accounting Standard; and
  - e. include revenue to align with the Disclosed Segment’s proportionate share of Unallocated Income, determined under Section 5(3), but only to the extent that income is reported as revenues in the Consolidated Financial Statements of the UPE.
13. “Segment Unused Loss” means a Segment Financial Accounting Loss of a Period that has not been offset by Segment Financial Accounting Profit of a subsequent Period, after making the adjustments under Section 5(2) and (3) in the Periods, in accordance with the rules set out under Section 5(4).
14. “Segment Tax Expense (or Tax Income)” means the income tax (expense or income) included in calculating the Segment Financial Accounting Profit (or Loss) of a Covered Segment under an Acceptable Financial Accounting Standard. Segment Tax Expense (or Tax Income) includes current and deferred income tax expense (or income) as recognised in the Segment Financial Accounting Profit (or Loss) of the Covered Segment. The definition of Segment Tax Expense (or Tax Income) does not include interest charges for late payment of tax.
15. “Unallocated Expense” means any item of expense reported in calculating the Financial Accounting Profit (or Loss) of the Group in its Consolidated Financial Statements that is not reported in calculating the Segment Financial Accounting Profit (or Loss) of any Disclosed Segment.
16. “Unallocated Income” means any item of income reported in calculating the Financial Accounting Profit (or Loss) of the Group in its Consolidated Financial Statements that is not reported in calculating the Segment Financial Accounting Profit (or Loss) of any Disclosed Segment.

## Schedule E: Detailed revenue sourcing rules

### Section 1: Categorising Revenues

#### *A – Nature of Revenues*

1. Revenues are categorised based on the ordinary or predominant character of the transactions from which they are derived.
2. The character is determined by reference to the substance of the transactions irrespective of legal form, and in accordance with additional guidance provided in the Commentary or agreed by the Conference of the Parties.
3. Revenues that do not fit within any category of Revenues provided in Article 4 and in Schedule E shall be sourced according to the most analogous category of Revenues.

#### *B – Revenues from Supplementary Transactions*

1. The Covered Group may source Revenues derived from Supplementary Transactions in accordance with the revenue sourcing rule that applies to the Revenues that they supplement.

### Section 2: Reliable Method

1. Revenues must be sourced using Reliable Indicators, or, if the conditions in paragraph 6 are met, an Allocation Key.
2. For the purposes of Schedule E, the term “Indicator” means information (other than an Allocation Key) that identifies the source of Revenues.
3. For the purposes of Schedule E, the term “Enumerated Reliable Indicator” means an Indicator that is provided for in the relevant revenue sourcing rule or otherwise agreed by the Conference of the Parties, other than Another Reliable Indicator or an Alternative Reliable Indicator, and:
  - a. produces results that are consistent with the revenue sourcing rule for the category of Revenues at issue; and
  - b. meets one or more of the following reliability tests:
    - i. the Indicator is relied upon by the Covered Group for commercial purposes or to fulfil legal, regulatory, or other related obligations;
    - ii. the Indicator is verified by information provided to the Covered Group by a third party that has collected the information pursuant to its own commercial, legal, regulatory or other obligations;
    - iii. that Indicator and one or more other Indicators that are provided for in the relevant revenue sourcing rule identify the same Jurisdiction; or
    - iv. the Indicator is verified in another manner that is functionally equivalent to the above subdivisions (i) to (iii).
4. For the purposes of Schedule E, the term “Another Reliable Indicator” means information other than an Enumerated Reliable Indicator or an Alternative Reliable Indicator, that may be used by the Covered Group, and:
  - a. produces results that are consistent with the revenue sourcing rule for the category of Revenues at issue; and
  - b. meets the requirements of subparagraph 3(b).

5. For the purposes of Schedule E, the term “Alternative Reliable Indicator” means information other than an Enumerated Reliable Indicator or Another Reliable Indicator, that may be used by the Covered Group where:
  - a. it produces results that are consistent with the revenue sourcing rule for the category of Revenues at issue;
  - b. the Covered Group provides documentation to the Review Panel in the Advance Certainty Review explaining the reasons for using that information to identify where the Revenues arises, instead of an Enumerated Indicator; and
  - c. it does not meet the requirements of subparagraph 3(b), but is otherwise shown to be reliable and agreed in an Advance Certainty Outcome.
6. An Allocation Key may only be used:
  - a. where it is permitted in the relevant revenue sourcing rule;
  - b. if the Covered Group demonstrates that it has taken Reasonable Steps to identify an Enumerated Reliable Indicator and has concluded that no Enumerated Reliable Indicator is available; and
  - c. after the application of the Knock-out Rule,

unless the Revenues are from Transport Services, in which case the prescribed Allocation Key must be used in all cases.
7. Where the Covered Group has failed to meet the requirements of paragraphs 3, 4, 5 or 6 with respect to parts of its Revenues, those Revenues are treated as arising using an Allocation Key, notwithstanding the conditions set out in paragraph 6. The Allocation Key is the Global Allocation Key, unless paragraph 8 applies.
8. For the purposes of paragraph 7, where the Covered Group:
  - a. derives Revenues from the sale of Finished Goods to a Final Customer through an Independent Distributor, and to the extent Section 3(B)(5) cannot be applied, those Revenues are treated as arising using the Global Allocation Key;
  - b. derives Revenues from the sale of Components, those Revenues are treated as arising using the Component Allocation Key; and
  - c. derives Revenues from the provision of Other Services, those Revenues are treated as arising using the Service Allocation Key.
9. The Covered Group must have an Internal Control Framework that evidences how the Covered Group ensures the following:
  - a. that the approach taken to the categorisation of Revenues, including the application of the predominant character test and the test for Revenues from Supplementary Transactions, are in accordance with the Schedule;
  - b. that the Indicators used by the Covered Group meet the definition of Reliable Indicators;
  - c. that any Allocation Keys used by the Covered Group are used in accordance with the rule for the relevant category of Revenues;
  - d. that relevant Systems have been designed to:
    - i. appropriately categorise Revenues; and
    - ii. associate the correct amount of Revenues with each market jurisdiction as defined in Schedule E, including by accounting for differences in the goods, content, property, products and

services sold, licensed, leased or otherwise alienated and provided by the Covered Group in each Jurisdiction, their quantities and their prices if applicable;

- e. that the outcomes produced by the relevant Systems are assured through quality assurance processes, including measures to verify the integrity of the data and periodic sampling; and
- f. a periodic review to account for changes in business models, business practices and collection of new information and to explain any changes in the approach.

### **Section 3: Finished Goods**

#### *A – Revenues from Finished Goods sold to a Final Customer directly by the Covered Group*

1. Revenues derived from the sale of Finished Goods to a Final Customer other than those covered in paragraph B(1) are treated as arising in a Jurisdiction when the place of the delivery of the Finished Goods to that Final Customer is in that Jurisdiction.
2. For the purposes of paragraph A(1), the place of the delivery of the Finished Goods to a Final Customer is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
  - a. the delivery address of the Final Customer;
  - b. the place of the retail store selling to the Final Customer;
  - c. Another Reliable Indicator as defined in Section 2(4); or
  - d. an Alternative Reliable Indicator as defined in Section 2(5).

#### *B – Revenues from Finished Goods sold to a Final Customer through an Independent Distributor*

1. Revenues derived from the sale of Finished Goods to a Final Customer through an Independent Distributor are treated as arising in a Jurisdiction when the place of the delivery of the Finished Goods to that Final Customer is in that Jurisdiction.
2. For the purposes of paragraph B(1), the place of the delivery of the Finished Goods to a Final Customer is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
  - a. the Indicators in subparagraphs A(2)(a) and (b) as reported to the Covered Group by the Independent Distributor;
  - b. the Location of the Independent Distributor, provided that it is contractually restricted to selling in that Location or that it is otherwise reasonable to conclude that it is located in the same Jurisdiction as the place of the delivery of the Finished Goods to the Final Customer;
  - c. Another Reliable Indicator as defined in Section 2(4); or
  - d. an Alternative Reliable Indicator as defined in Section 2(5).
3. To the extent that Another Reliable Indicator or an Alternative Reliable Indicator were not used, and provided the conditions in Section 2(6) are met:
  - a. where the Covered Group can demonstrate that for legal, regulatory or commercial reasons a portion of the Revenues arise in a Region, the Revenues from that portion are treated as arising in Jurisdictions in that Region using the Regional Allocation Key; and

- b. after the application of subparagraph B(3)(a), any remaining Revenues from the sale of Finished Goods to Final Customers through Independent Distributors (the “Tail-End Revenues”) associated with particular Independent Distributors that have not been sourced are treated, on a pro rata basis and up to the aggregate 5 per cent limit in paragraph B(4), as arising in Low Income Jurisdictions using the Low Income Jurisdiction Allocation Key. In the event that the Covered Group demonstrates that part or all of its Tail-End Revenues did not arise in any Low Income Jurisdictions during a Period, those Tail-End Revenues, up to the aggregate limit in paragraph B(4), are treated as arising using the Global Allocation Key.
- 4. If the Tail-End Revenues of the Covered Group for a Period are equal to or greater than 5 per cent of all Revenues derived by the Covered Group from the sale of Finished Goods through an Independent Distributor for that Period, the Covered Group must take Reasonable Steps to reduce the size of its Tail-End Revenues arising in subsequent Periods. The Reasonable Steps must be completed within two Periods from the first Period in which the Tail-End Revenues are equal to or greater than 5 per cent of all Revenues derived from the sale of Finished Goods to Final Customers through an Independent Distributor.
- 5. Revenues associated with particular Independent Distributors that remain unsourced after the operation of paragraph B(3) because they collectively exceed the 5 per cent limit are treated as follows:
  - a. 85 per cent of that excess is treated as arising on a pro rata basis in the Jurisdiction which is the Location of each Independent Distributor; and
  - b. 15 per cent of that excess is treated as arising using the Global Allocation Key, but excluding Jurisdictions that receive an allocation under subparagraph (a).
- 6. Paragraph B(5) shall not apply to the extent that the Covered Group knows or has a reasonable basis to conclude that its Finished Goods sold through Independent Distributors are primarily delivered to Final Customers outside the Jurisdiction of the Location of its Independent Distributor in which case the Global Allocation Key applies.

## **Section 4: Digital Content**

### *A – Revenues from Digital Content*

- 1. Revenues derived from the sale of Digital Content that are not Components are treated as arising in a Jurisdiction using the revenue sourcing rules applicable to Other Services (in accordance with Section 6(F)).

## **Section 5: Components**

### *A – Revenues from Components*

- 1. Revenues derived from the sale of Components are treated as arising in a Jurisdiction when the place of delivery to a Final Customer of the Finished Goods into which the Component is incorporated is in that Jurisdiction.
- 2. For the purposes of paragraph A(1), the place of delivery to a Final Customer of the Finished Goods into which the Component is incorporated is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
  - a. the Indicators in Section 3(A)(2)(a) and (b) or Section 3(B)(2)(b);
  - b. Another Reliable Indicator as defined in Section 2(4); or
  - c. an Alternative Reliable Indicator as defined in Section 2(5).

3. To the extent that Another Reliable Indicator or an Alternative Reliable Indicator were not used and provided the conditions in Section 2(6) are met, the remaining Revenues derived from the sale of Components are treated as arising using the Component Allocation Key.

## **Section 6: Services**

### *A – Revenues from Location-Specific Services*

#### **Services Connected to Tangible Property**

1. Revenues derived from the provision of Services Connected to Tangible Property are treated as arising in a Jurisdiction when the place of performance of the service is in that Jurisdiction.
2. For the purposes of paragraph A(1), the place of performance of the service is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
  - a. the place where the tangible property is situated when the service is performed;
  - b. Another Reliable Indicator as defined in Section 2(4); or
  - c. an Alternative Reliable Indicator as defined in Section 2(5).
3. For the purposes of subparagraph A(2)(a), if the service involves:
  - a. services described in subparagraph (a) of the definition of Services Connected to Tangible Property in Section 12, and the tangible property is situated in international waters or international airspace when the service is performed; or
  - b. services described in subparagraph (b) of the definition of Services Connected to Tangible Property in Section 12, and the tangible property is or may be situated in international waters or international airspace during the term of the lease, hire or license;

the tangible property shall be deemed to be situated at the Location of the Customer when the service is performed.

#### **Services Performed at the Location of the Customer**

4. Revenues derived from the provision of Services Performed at the Location of the Customer that are not Passenger Transport Services are treated as arising in a Jurisdiction when the place of performance of the service is in that Jurisdiction.
5. For the purposes of paragraph A(4), the place of performance of the service is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
  - a. the place where the Customer or its agent is situated when the service is performed;
  - b. Another Reliable Indicator as defined in Section 2(4); or
  - c. an Alternative Reliable Indicator as defined in Section 2(5).

### *B – Revenues from Advertising Services*

#### **Online Advertising Services**

1. Revenues derived from the provision of online Advertising Services are treated as arising in a Jurisdiction when the Location of the Viewer of the online advertisement is in that Jurisdiction.

2. For the purposes of paragraph B(1), the Location of the Viewer of the online advertisement is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
  - a. the User Profile Information of the Viewer;
  - b. the geolocation of the device of the Viewer on which the online advertisement is displayed;
  - c. the IP address of the device of the Viewer on which the online advertisement is displayed;
  - d. Another Reliable Indicator as defined in Section 2(4); or
  - e. an Alternative Reliable Indicator as defined in Section 2(5).

### **Advertising Services other than online Advertising Services**

3. Revenues derived from the provision of Advertising Services other than online Advertising Services covered in paragraph B(1) are treated as arising in a Jurisdiction when the place of display or reception of the advertisement is in that Jurisdiction.
4. For the purposes of paragraph B(3), the place of display or reception of the advertisement is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
  - a. for advertisements displayed on a billboard or at another fixed site, the location of the billboard or other fixed site where the advertisement is displayed;
  - b. for advertisements displayed in newspapers, magazines, journals or other publications, the place where the publication is circulated or expected to be circulated;
  - c. for advertisements displayed on television or broadcast on radio, the place where the television or radio programming is received or expected to be received;
  - d. the place identified in the contract or any other commercial documentation indicating where the advertisement will be displayed or received;
  - e. Another Reliable Indicator as defined in Section 2(4); or
  - f. an Alternative Reliable Indicator as defined in Section 2(5).

### *C – Revenues from Online Intermediation Services*

#### **Online intermediation of tangible goods, Digital Content or services other than Location-Specific Services**

1. Half of the Revenues derived from the provision of Online Intermediation Services that facilitate the sale or purchase of tangible goods, Digital Content, or services other than Location-Specific Services are treated as arising in a Jurisdiction when the Location of the Purchaser is in that Jurisdiction.
2. Half of the Revenues derived from the provision of Online Intermediation Services that facilitate the sale or purchase of tangible goods, Digital Content or services other than Location-Specific Services are treated as arising in a Jurisdiction when the Location of the Seller is in that Jurisdiction.
3. For the purposes of paragraph C(1), the Location of the Purchaser is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
  - a. the delivery address of the Purchaser, in the case of a purchase of tangible goods;
  - b. the billing address of the Purchaser;

- c. the User Profile Information of the Purchaser;
  - d. the geolocation of the device of the Purchaser through which the purchase is made;
  - e. the IP address of the device of the Purchaser through which the purchase is made;
  - f. Another Reliable Indicator as defined in Section 2(4); or
  - g. an Alternative Reliable Indicator as defined in Section 2(5).
4. For the purposes of paragraph C(2), the Location of the Seller is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
- a. the billing address of the Seller;
  - b. the User Profile Information of the Seller;
  - c. Another Reliable Indicator as defined in Section 2(4); or
  - d. an Alternative Reliable Indicator as defined in Section 2(5).

#### **Online intermediation of Location-Specific Services**

5. Half of the Revenues derived from the provision of Online Intermediation Services that facilitate the sale or purchase of Location-Specific Services are treated as arising in a Jurisdiction when the Location of the Purchaser is in that Jurisdiction.
6. Half of the Revenues derived from the provision of Online Intermediation Services that facilitate the sale or purchase of Location-Specific Services are treated as arising in a Jurisdiction when the Location-Specific Service is performed is in that Jurisdiction.
7. For the purposes of paragraph C(5), the Location of the Purchaser of the Location-Specific Service is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
- a. the billing address of the Purchaser;
  - b. the User Profile Information of the Purchaser;
  - c. the geolocation of the device of the Purchaser through which the purchase is made;
  - d. the IP address of the device of the Purchaser through which the purchase is made;
  - e. Another Reliable Indicator as defined in Section 2(4); or
  - f. an Alternative Reliable Indicator as defined in Section 2(5).
8. For the purposes of paragraph C(6), the place where the Location-Specific Service is performed is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
- a. the place where the Location-Specific Service is performed;
  - b. Another Reliable Indicator as defined in Section 2(4); or
  - c. an Alternative Reliable Indicator as defined in Section 2(5).

#### *D – Revenues from transport services*

##### **Air transport services**

1. Revenues derived from the provision of Passenger Air Transport Services are treated as arising in the Jurisdiction of the Place of Landing using the Passenger Air Transport Allocation Key.



2. Half of the Revenues derived from the provision of Cargo Air Transport Services are treated as arising in the Jurisdiction of the Place of Take-off and half in the Jurisdiction of the Place of Landing, using the Cargo Air Transport Allocation Key.

### **Non-air transport services**

3. Revenues derived from the provision of Passenger Non-air Transport Services are treated as arising in the Jurisdiction of the Place of Destination using the Passenger Non-air Transport Allocation Key.
4. Half of the Revenues derived from the provision of Cargo Non-air Transport Services are treated as arising in the Jurisdiction of the Place of Origin and half in the Jurisdiction of the Place of Destination, using the Cargo Non-air Transport Allocation Key.

### *E – Customer Reward Programs*

1. Customer Reward Program Revenues are treated as arising in a Jurisdiction in proportion to the percentage share of the Active Members of a Customer Reward Program located in that Jurisdiction.
2. For the purposes of paragraph E(1), the Location of an Active Member of a Customer Reward Program is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
  - a. the User Profile Information of the Active Member of a Customer Reward Program;
  - b. the billing address of the Active Member of a Customer Reward Program;
  - c. the place of the international dialling code associated with the telephone number of the Active Member of a Customer Reward Program;
  - d. Another Reliable Indicator as defined in Section 2(4); or
  - e. an Alternative Reliable Indicator as defined in Section 2(5).

### *F – Revenues from Other Services*

1. Revenues derived from the provision of Other Services to which paragraphs A to E or F(4) do not apply are treated as arising in a Jurisdiction when the place of use of the service is in that Jurisdiction.
2. For the purposes of paragraph F(1):
  - a. in respect of a Smaller Customer, the place of use of the service is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
    - i. the Smaller Customer's billing address;
    - ii. Another Reliable Indicator as defined in Section 2(4); or
    - iii. An Alternative Reliable Indicator as defined in Section 2(5).
  - b. in respect of a Large Customer, the place of use of the service is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
    - i. information on the place of use of the service reported to the Covered Group by the Large Customer;
    - ii. the place identified in the contract or any other commercial documentation as the place where the service will be used by the Large Customer;
    - iii. Another Reliable Indicator as defined in Section 2(4); or
    - iv. an Alternative Reliable Indicator as defined in Section 2(5).

3. To the extent that Another Reliable Indicator or an Alternative Reliable Indicator were not used and provided the conditions in Section 2(6) are met, the remaining Revenues derived from the provision of Other Services are treated as arising using the Aggregate Headcount Allocation Key.

#### **Other Services sold through Resellers**

4. Revenues derived from the provision of Other Services to which paragraphs A to E do not apply and which are sold through Resellers are treated as arising in a Jurisdiction when the place of use of the service by a Final Customer of the Reseller is in that Jurisdiction.
5. For the purposes of paragraph F(4), the place of use of the service by a Final Customer is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
  - a. information on the Location of the Final Customer provided to the Covered Group by the Final Customer;
  - b. information reported by the Reseller to the Covered Group on the place of use of the service by the Final Customer determined by applying the Indicators in paragraph F(2);
  - c. the Location of the Reseller, provided that the Reseller is contractually restricted to selling in that Location or that it is otherwise reasonable to conclude that the Reseller is located in the place of use of the services by the Final Customer;
  - d. Another Reliable Indicator as defined in Section 2(4); or
  - e. an Alternative Reliable Indicator as defined in Section 2(5).
6. To the extent that Another Reliable Indicator or an Alternative Reliable Indicator were not used and provided the conditions in Section 2(6) are met, the remaining Revenues derived from the provision of Other Services sold through Resellers are treated as arising using the Service Allocation Key.

### **Section 7: Intangible Property and User data**

#### *A – Revenues from Intangible Property*

1. Revenues derived from licensing, sale or other alienation of Intangible Property are treated as arising in a Jurisdiction:
  - a. if the Intangible Property relates to Finished Goods or Components, when the place of delivery of the Finished Goods (including the Finished Goods into which the Component is incorporated) to a Final Customer is in that Jurisdiction;
  - b. if the Intangible Property supports a service or Digital Content, when the place of use of the service or Digital Content is in that Jurisdiction; or
  - c. if neither subparagraph (a) nor (b) apply, when the place of use of the Intangible Property is in that Jurisdiction.
2. For the purposes of paragraph A(1)(a) or (b):
  - a. if the Intangible Property relates to Finished Goods or Components, the place of delivery of the Finished Goods (including the Finished Goods into which the Component is incorporated) to a Final Customer is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
    - i. the place(s) of delivery of the Finished Goods to a Final Customer reported to the Covered Group by the licensee, Purchaser or other transferee (as applicable);
    - ii. the place of the retail store selling the Finished Goods to a Final Customer;

- iii. Another Reliable Indicator as defined in Section 2(4); or
  - iv. an Alternative Reliable Indicator as defined in Section 2(5).
- b. if the Intangible Property supports a service or Digital Content, the place of use of the service or Digital Content is identified using the relevant Indicators identified in Section 6 or Section 4 (as applicable), provided they meet the definition of a Reliable Indicator in Section 12.
- 3. To the extent that Another Reliable Indicator or an Alternative Reliable Indicator were not used under paragraph A(2) and provided the conditions in Section 2(6) are met, the remaining Revenues derived from licensing, sale or other alienation of Intangible Property described in paragraph A(1)(a) or (b) are treated as arising using:
  - a. the Regional Allocation Key if the Revenues are derived from a Specified Intangible Property Contract and the terms on which the Covered Group licensed, sold or otherwise alienated the Intangible Property restricted the licensee, Purchaser or other transferee (as applicable) to exploiting the Intangible Property within a Region; or
  - b. after the application of subparagraph A(3)(a), the Global Allocation Key.
- 4. If the Intangible Property is not covered by paragraph A(1)(a) or (b) and the Revenues are derived from a Large Intangible Property Contract, the place of use of the Intangible Property is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
  - a. the place identified in the contract or any other commercial documentation as the place where the Intangible Property will be used by the licensee, Purchaser or other transferee (as applicable);
  - b. Another Reliable Indicator as defined in Section 2(4); or
  - c. an Alternative Reliable Indicator as defined in Section 2(5).
- 5. To the extent that Another Reliable Indicator or an Alternative Reliable Indicator were not used under paragraph A(4) and provided the conditions in Section 2(6) are met, the remaining Revenues derived from licensing, sale or other alienation of Intangible Property described in paragraph A(4) are treated as arising using the Aggregate Headcount Allocation Key and for that purpose the licensee, Purchaser or other transferee (as applicable) are treated as a Large Customer.
- 6. If the Intangible Property is not covered by paragraph A(1)(a) or (b) and the Revenues are not derived from a Large Intangible Property Contract, the place of use of the Intangible Property is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
  - a. the place identified in the contract or other commercial documentation as the place where the Intangible Property will be used by the licensee, Purchaser or other transferee (as applicable);
  - b. the Location of the licensee, Purchaser or other transferee (as applicable);
  - c. the billing address of the licensee, Purchaser or other transferee (as applicable);
  - d. Another Reliable Indicator as defined in Section 2(4); or
  - e. an Alternative Reliable Indicator as defined in Section 2(5).

#### *B – Revenues from User data*

1. Revenues derived from licensing, sale, or other alienation of User data are treated as arising in a Jurisdiction when the Location of the User that is the subject of the data being transferred is in that Jurisdiction.

2. For the purposes of paragraph B(1), the Location of the User that is the subject of the data being transferred can be determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
  - a. the User Profile Information of the User;
  - b. the geolocation of the device of the User through which the User data is transferred;
  - c. the IP address of the device of the User through which the User data is transferred;
  - d. Another Reliable Indicator as defined in Section 2(4); or
  - e. an Alternative Reliable Indicator as defined in Section 2(5).

## **Section 8: Real Property**

### *A – Revenues from Real Property*

1. Revenues derived from sale, lease or other alienation of Real Property are treated as arising in a Jurisdiction when the location of the Real Property is in that Jurisdiction.
2. For the purposes of paragraph A(1), the location of Real Property is determined using the following Indicators, provided they meet the definition of a Reliable Indicator in Section 12:
  - a. the address of the Real Property;
  - b. the Jurisdiction granting the right to exploit the Real Property;
  - c. Another Reliable Indicator as defined in Section 2(4); or
  - d. an Alternative Reliable Indicator as defined in Section 2(5).

## **Section 9: Government Grants**

### *A – Revenues from Government Grants*

1. Revenues derived from a Government Grant are treated as arising in a Jurisdiction when the Government Grant was made or funded by Government of that Jurisdiction.
2. If a Government Grant is funded by Government of a Jurisdiction and Governments of other Jurisdictions, the Revenues are treated as arising in each Jurisdiction in proportion to the percentage share of the funding provided by each Jurisdiction and in the absence of such information, the Revenues are treated as arising equally in each Jurisdiction.

## **Section 10: Non-customer Revenues**

1. Non-customer Revenues not otherwise covered by Sections 3 to 9 are treated as arising in a Jurisdiction in proportion to the share of Revenues that arise in that Jurisdiction under Sections 3 to 9.

## **Section 11: Transition**

### *A – Initial Transition Phase*

1. Notwithstanding Article 4(1) to (12) and Sections 1 to 10, during the Initial Transition Phase, the Covered Group may apply the following provisions for all or any part of their Revenues as follows, regardless of whether they meet the conditions set out in Section 2(6):

- a. for Revenues from the sale of Finished Goods to a Final Customer through an Independent Distributor:
    - i. 85 per cent of those Revenues are treated as arising in the Jurisdiction which is the Location of the Independent Distributor;
    - ii. 5 per cent of those Revenues are treated as arising using the Low Income Jurisdiction Allocation Key, but excluding Low Income Jurisdictions that receive an allocation under subparagraph (i); and
    - iii. 10 per cent of those Revenues are treated as arising using the Global Allocation Key, but excluding Jurisdictions that receive an allocation under subparagraph (i) or (ii);
  - b. for Revenues from the sale of Finished Goods to a Final Customer through Independent Distributors, to the extent the Covered Group cannot apply subparagraph (a), those Revenues are treated as arising using the Global Allocation Key;
  - c. for Revenues from the sale of Components, those Revenues shall be treated as arising using the Component Allocation Key;
  - d. for Revenues from the provision of Other Services, those Revenues are as arising using the Services Allocation Key; and
  - e. for all other cases, those Revenues are treated as arising using the Global Allocation Key.
2. Subparagraph A(1)(a) shall not apply to the extent that the Covered Group knows or has a reasonable basis to conclude that its Finished Goods sold through Independent Distributors are primarily delivered to Final Customers outside the Jurisdiction of the Location of its Independent Distributor in which case:
    - a. where it can demonstrated that for legal, regulatory or commercial reasons a portion of the Revenues arise in a Region, the Revenues from that portion are treated as arising in that Region using the Regional Allocation Key; and
    - b. after the application of subparagraph (a), any remaining Revenues are treated as arising using the Global Allocation Key.

## **Section 12: Definitions relevant to Sections 1-11**

1. For the purposes of Article 4 of the Model Rules and this Schedule, the following definitions apply:

### **General definitions**

2. "Allocation Key" means the Aggregate Headcount Allocation Key, the Cargo Air Transport Allocation Key, the Cargo Non-air Transport Allocation Key, the Component Allocation Key, the Global Allocation Key, the Low Income Jurisdiction Allocation Key, the Passenger Air Transport Allocation Key, the Passenger Non-air Transport Allocation Key, the Regional Allocation Key, and the Service Allocation Key.
3. "Business Customer" means a person who acquires goods or services in a capacity other than as a Consumer and includes a Government.
4. "Component" means:
  - a. a tangible good or Digital Content;
  - b. sold to a Business Customer;
  - c. that is designed to be incorporated directly or indirectly into a Finished Good;
  - d. that Finished Good will be for sale; and

- e. the Final Customer of that Finished Good will ultimately have possession or use of that Component as an enduring input into that Finished Good, irrespective of whether the Component has been transformed in the production process and is no longer severable from the resulting Finished Good.
- 5. “Component Allocation Key” means that Revenues are treated as arising in Jurisdictions in proportion to their percentage share of total Gross Domestic Product.
- 6. “Comprehensive Certainty Outcome” means “Comprehensive Certainty Outcome” defined in Section 8 [of the rules on tax certainty].
- 7. “Consumer” means an individual who acquires goods or services for personal purposes, rather than for commercial or professional purposes.
- 8. “Customer” means a person who acquires goods or services from the Covered Group in the ordinary course of trade of the Covered Group.
- 9. “Final Customer” means a person (including a Business Customer or Government) acquiring the Finished Good, or service for consumption or use, other than as a Component.
- 10. “Finished Goods” means any tangible goods sold to a Final Customer.
- 11. “Global Allocation Key” means that Revenues are treated as arising in Jurisdictions in proportion to their percentage share of total final consumption expenditure for the most recent calendar year that does not end after the Period ends expressed at current USD prices as published by the United Nations, and if not available, the value in USD as published by the World Bank and converted to EUR at the Average Exchange Rate. If that value is not available for a Jurisdiction, an approximation is calculated based on that Jurisdiction’s Gross National Income or Gross Domestic Product (in that order and based on availability) and the simple average of the ratio of final consumption expenditure to Gross National Income or Gross Domestic Product for all Jurisdictions for which final consumption expenditure was available.
- 12. “Government” means a government, a political subdivision or local authority thereof, the central bank of the Jurisdiction or any institution wholly owned by that Jurisdiction or a political subdivision or local authority thereof.
- 13. “Gross National Income” means the gross national income value for the most recent calendar year that does not end after the Period ends, expressed at current USD prices as published by the United Nations for a Jurisdiction, or if not available, the value in current USD as published by the World Bank and converted to EUR at the Average Exchange Rate.
- 14. “Independent Distributor” means an enterprise or other person that is not a member of the Covered Group that distributes or resells the Covered Group’s Finished Goods.
- 15. “Knock-out Rule” means, in the context of applying an Allocation Key, a requirement that the Covered Group must identify a Jurisdiction or a group of Jurisdictions where there is a legal, regulatory or commercial reason such that it can reasonably be concluded that Revenues did not arise in that Jurisdiction or group of Jurisdictions. Where such Jurisdiction(s) are identified, that Jurisdiction or group of Jurisdictions must be excluded when applying the Allocation Key.
- 16. “Location” means in the context of a business where that business has its physical premises from where it conducts the activities associated with the Revenues in question and in the context of a Consumer the Jurisdiction where that Consumer is habitually located.
- 17. “Low Income Jurisdiction” means a Jurisdiction that is defined for the Period by the World Bank as a Low-Income Economy or as a Lower-Middle Income Economy.
- 18. “Low Income Jurisdiction Allocation Key” means that Tail-End Revenues are treated as arising in Jurisdictions, provided they are Low Income Jurisdictions, in proportion to the percentage of their share

of the total final consumption expenditure for the most recent calendar year that does not end after the Period ends expressed at current USD prices as published by the United Nations, and if not available, the value in current USD as published by the World Bank and converted to EUR at the Average Exchange Rate. The proportion is the portion of a Jurisdiction's final consumption expenditure divided by [the total final consumption expenditure of all Low Income Jurisdictions]. If that value is not available for a Jurisdiction, an approximation is calculated based on that Jurisdiction's Gross National Income or Gross Domestic Product (in that order and based on availability) and the simple average of the ratio of final consumption expenditure to Gross National Income or Gross Domestic Product for all Jurisdictions for which final consumption expenditure was available.

19. "Other Service" means any service that is not otherwise categorised under Section 6(A) to (E), irrespective of whether the service is provided to a business or a Consumer, and includes the provision of financing.
20. "Reasonable Steps" means efforts that are consistent with the guidance provided in the Commentary, or agreed by the Conference of the Parties, or with a recommendation included in an agreed Advance Certainty Outcome or an agreed Comprehensive Certainty Outcome relevant to the Covered Group for the relevant Period and for the relevant category of Revenues, but does not include changing contractual arrangements.
21. "Region" means a group of Jurisdictions in which an Independent Distributor distributes or resells Finished Goods of the Covered Group or a group of Jurisdictions in which the Covered Group derived Revenues from licensing, sale or other alienation of Intangible Property, whether that group of Jurisdictions is associated by geographical proximity or not.
22. "Regional Allocation Key" means that Revenues are treated as arising in Jurisdictions, provided they are in the Region, in proportion to the percentage of their share of the final consumption expenditure for the most recent calendar year that does not end after the Period ends expressed at current USD prices as published by the United Nations, and if not available, the value in current USD as published by the World Bank and converted to EUR at the Average Exchange Rate. The proportion is the portion of a Jurisdiction's final consumption expenditure divided by the total final consumption expenditure of all Jurisdictions in the Region. If that value is not available for a Jurisdiction, an approximation is calculated based on that Jurisdiction's Gross National Income or Gross Domestic Product (in that order and based on availability) and the simple average of the ratio of final consumption expenditure to Gross National Income or Gross Domestic Product for all Jurisdictions for which final consumption expenditure was available.
23. "Reliable Method" means a method that determines the Jurisdictions where Revenues are treated as arising using Reliable Indicators or Allocation Keys as authorised in Schedule E.
24. "Service Allocation Key" means that Revenues are treated as arising in Jurisdictions in proportion to their percentage share of total Gross Domestic Product.

### **Section 1: Categorising Revenues**

25. "Revenues from Supplementary Transactions" means Revenues derived from one or more transactions that:
  - a. would not have been entered into but for one or more other transactions entered into by the Covered Group;
  - b. from which the Revenues will not exceed 15 per cent of the total Revenues from those transactions and the other transactions combined; and
  - c. do not exceed 5 per cent of the Covered Group's Revenues for the Period.

## **Section 2: Reliable Method**

26. “Advance Certainty Outcome” has the meaning set out in [section of the rules on tax certainty].
27. “Advance Certainty Review” means “Advance Certainty Review” as defined in [section of the rules on tax certainty].
28. “Internal Control Framework” means a suite of policies and procedures which is endorsed by the board of directors and designed to ensure the accurate application of Schedule E.
29. “Reliable Indicator” means an Enumerated Reliable Indicator, Another Reliable Indicator, or an Alternative Reliable Indicator as defined in Section 2.
30. “Review Panel” means “Review Panel” as defined in [section of the rules on tax certainty].
31. “System” means usual business systems which are used for capturing, recording, validating, processing, reporting data. This could include enterprise wide systems used to process business transactions and/or tax reporting software.

## **Section 4: Digital Content**

32. “Digital Content” means the content provided through digital means (e.g. music, books, videos, text, games, applications, computer programmes, software, online newspapers, online libraries and online databases), whether for access one time, a limited period or in perpetuity.

## **Section 6: Services**

33. “Active Member of a Customer Reward Program” means a member of that program that has redeemed or earned units during the Period.
34. “Advertising Service” means the provision or facilitation of advertising and includes services for the purchase, storage and distribution of advertising messages, and for advertising monitoring and performance measurement.
35. “Aggregate Headcount Allocation Key” means that:
  - a. revenues are treated as arising in Jurisdictions in proportion to the percentage share of total aggregated employee headcount identified in the aggregated Country-by-Country Reporting statistics of the Jurisdiction of which the Ultimate Parent Entity of the Large Customer is resident; or
  - b. if the aggregated Country-by-Country Reporting statistics of the Jurisdiction of which the Ultimate Parent Entity of the Large Customer is resident does not provide full disaggregation among Jurisdictions:
    - i. where the aggregated employee headcount is available for a Jurisdiction, Revenues are treated as arising in that Jurisdiction using the method under subparagraph (a) in respect of the share of aggregated employee headcount for that Jurisdiction relative to the total headcount of all Jurisdictions in the aggregated Country-by-Country Reporting statistics; and
    - ii. where the aggregated employee headcount is available for a group of Jurisdictions (e.g. a continent), Revenues are treated as arising in that group of Jurisdictions in proportion to the share of aggregated employee headcount for those Jurisdictions relative to the total headcount of all Jurisdictions in the aggregated Country-by-Country Reporting statistics and those Revenues are treated as arising in each of those Jurisdictions in proportion to their percentage share of Gross Domestic Product. The proportion is the portion of a Jurisdiction’s Gross Domestic Product divided by the total Gross Domestic Product of Jurisdictions in that group of Jurisdictions.



- c. if the aggregated Country-by-Country Reporting statistics of the Jurisdiction in which the Ultimate Parent Entity of the Large Customer is resident is not available:
  - i. 50 per cent of the Revenues are treated as arising in a Jurisdiction when it is the Jurisdiction of residence of the Ultimate Parent Entity of the Large Customer; and
  - ii. 50 per cent of the Revenues are treated as arising in Jurisdictions using the Service Allocation Key, unless Revenues are already treated as arising in that Jurisdiction under subparagraph (i).
- 36. “Cargo Air Transport Service” means any service for the carriage of cargo from one location to another by air and includes transactions that supplement those services provided by the Covered Group that would not be entered into by the Covered Group but for the services they supplement.
- 37. “Cargo Air Transport Allocation Key” means that Revenues are treated as arising in Jurisdictions in proportion to the percentage share determined as:
  - a. the sum of the cargo weight transported by the Covered Group in a Period from a Place of Take-off in a Jurisdiction and the cargo weight transported by the Covered Group in a Period to a Place of Landing in that Jurisdiction; divided by
  - b. the sum of the cargo weight transported by the Covered Group in a Period in all Jurisdictions.
- 38. “Cargo Non-air Transport Allocation Key” means that Revenues are treated as arising in Jurisdictions in proportion to the percentage share determined as:
  - a. the sum of the volume or weight (as the case may be) of cargo transported by the Covered Group in a Period from a Place of Origin in a Jurisdiction and the volume or weight (as the case may be) of cargo transported by the Covered Group in a Period to a Place of Destination in that Jurisdiction; divided by
  - b. the sum of the volume or weight (as the case may be) of cargo transported by the Covered Group in a Period in all Jurisdictions.
- 39. “Cargo Non-air Transport Service” means any service, other than Cargo Air Transport Services, for the carriage of cargo from one location to another and includes transactions that supplement those services provided by the Covered Group and that would not be entered into by the Covered Group but for the services they supplement.
- 40. “Cargo Transport Service” means a Cargo Air Transport Service or a Cargo Non-air Transport Service.
- 41. “Customer Reward Program” means a marketing program of the Covered Group designed to win customer loyalty by awarding units to a Customer which may be redeemed for other goods and services and includes such marketing programs where the Covered Group sells units to third party Business Customers for award to mutual Customers.
- 42. “Customer Reward Program Revenues” means Revenues generated in connection with the operation of a Customer Reward Program other than Revenues generated from the redemption of awarded units for goods or services provided by the Covered Group.
- 43. “Large Customer” means a person to whom the Covered Group provides Other Services,
  - a. for Revenues derived by the Covered Group from the provision of Other Services to that person exceeding EUR 20 million in a Period and that is one of the 200 Customers from which the Covered Group derives the most Revenues from Other Services provided by the Covered Group to that person in the Period; or
  - b. for Revenues derived by the Covered Group from the provision of Other Services to that person exceeding EUR 100 million in a Period.

44. "Location-Specific Service" means Services Connected to Tangible Property and Services Performed at the Location of the Customer.
45. "Online Intermediation Service" means the provision of an online platform to enable users to sell, lease, advertise, display or otherwise offer goods or services to other users provided the Revenues derived from the service are dependent on the conclusion of transactions between users of the service. It does not include the online sale of goods and services of the online platform's own inventory.
46. "Passenger Air Transport Allocation Key" means that Revenues are treated as arising in Jurisdictions in proportion to the percentage share determined as:
  - a. the available passenger capacity of the Covered Group in a Period arriving to Place of Landing in a Jurisdiction; divided by
  - b. the available passenger capacity of the Covered Group in a Period arriving to Places of Landing in any Jurisdiction.
47. "Passenger Air Transport Service" means any service for the carriage of passengers from one location to another by air and includes transactions (other than Customer Reward Program Revenues) that are ancillary to those services provided by the Covered Group and would not be entered into by the Covered Group but for the services they supplement.
48. "Passenger Non-air Transport Allocation Key" means that Revenues are treated as arising in Jurisdictions in proportion to the percentage share determined as:
  - a. the number of passengers transported by the Covered Group in a Period to Places of Destination in a Jurisdiction; divided by
  - b. the number of passengers transported by the Covered Group in a Period to Places of Destination in any Jurisdiction.
49. "Passenger Non-air Transport Service" means any service, other than Passenger Air Transport Services, for the carriage of passengers from one location to another and includes transactions (other than Customer Reward Programs) that supplement those services provided by the Covered Group and would not be entered into by the Covered Group but for the services they supplement.
50. "Passenger Transport Service" means a Passenger Air Transport Service or a Passenger Non-air Transport Service.
51. "Place of Destination" for Non-air Transport Services means the place in a Jurisdiction where passengers alight or cargo is unloaded from the ship, train, bus, truck or other vessel provided by or on behalf of the Covered Group but does not include Transit Stops and for Air Transport Services means the Place of Landing.
52. "Place of Landing" means the Jurisdiction where the passengers alight or cargo is unloaded from the aircraft, helicopter or other air transport vessel.
53. "Place of Origin" for Non-air Transport Services means the place in a Jurisdiction where cargo is loaded onto the ship, train, bus, truck or other vessel by or on behalf of the Covered Group and for Air Transport Services means the Place of Take-off.
54. "Place of Take-off" means the place in a Jurisdiction where the cargo is loaded onto the aircraft, helicopter or other air transport vessel.
55. "Purchaser" means the party making a payment under a contract to acquire goods or services.
56. "Reseller" means a Business Customer that buys a service subject to the condition that the service is solely for onward sale to a third party but does not include a Business Customer that acquires a service as an input to facilitate the provision of a different service to a third party.

57. “Seller” means the party providing the goods or services under a contract with a Purchaser.
58. “Service Connected to Tangible Property” means a service which satisfies one of the following conditions:
- a. substantially all of the service is performed at the location of the tangible property and the service results in physical manipulation of the property whether through building, demolition, manufacturing, assembly, maintenance or repair;
  - b. any lease of, hire of or licence to use tangible property;
  - c. the provision of utilities services to a fixed premises including electricity, internet and telecommunications services and for this purpose, the fixed premises is the relevant tangible property;
  - d. architectural, engineering, design or other advisory services in relation to the development, acquisition, disposal, lease or other alienation of real estate; or
  - e. any service facilitating the arrival or departure of an aircraft, ship or other vessel to, from or in a jurisdiction, including pilotage, towage and port, airport and terminal services and for this purpose the aircraft, ship or other vessel is the tangible property.
59. “Service Performed at the Location of the Customer” means a service that is physically performed in person and where the Customer or its agent must be present for substantially all of the time at the place where the service is physically performed.
60. “Smaller Customer” means a person to whom the Covered Group provides Other Services and which is not a Large Customer for the Period.
61. “Transit Stop” means an intermediate place where the passenger alights or the cargo is unloaded to facilitate the onward transport of the passenger or cargo by or on behalf of the Covered Group.
62. “User” means any person accessing a service, but does not include:
- a. the provider, or a member of the same Covered Group as the provider, of that service; and
  - b. an employee of a person referred to in subparagraph (a) acting in the course of that person’s business.
63. “User Profile Information” means information that the Covered Group holds for commercial purposes identifying an Active Member of a Customer Reward Program, Purchaser, Seller, User or Viewer (as the context requires), that may include:
- a. information on Location obtained from recurring data on geolocation or IP address of the device of the Active Member of a Customer Reward Program, Purchaser, Seller, User or Viewer (as the context requires);
  - b. billing address of the Active Member of a Customer Reward Program, Purchaser, Seller, User or Viewer (as the context requires);
  - c. the place of the international dialling code associated with the telephone number of the Active Member of a Customer Reward Program, Purchaser, Seller, User or Viewer (as the context requires); or
  - d. information on Location provided by the Active Member of a Customer Reward Program, Purchaser, Seller, User or Viewer (as the context requires).
64. “Viewer” means the individual to whom an advertisement is displayed.

## **Section 7: Intangible Property**

65. “Intangible Property” means property which is not in tangible form and which is capable of being owned or controlled for use in commercial activities but does not include Real Property, financial assets, Digital Content, User data or the right to use computer programs. It includes copyrights, trademarks, tradenames, logos, designs, patents, know-how and trade secrets.
66. “Large Intangible Property Contract” means a contract entered into by the Covered Group from which Revenues from Intangible Property are derived and:
- a. those Revenues exceed EUR 20 million in a Period and the contract is one of the 200 contracts from which the Covered Group derives the most Revenues in the Period from Intangible Property licensed, sold or alienated by the Covered Group;
  - b. those Revenues exceed EUR 100 million in a Period.
67. “Specified Intangible Property Contract” means a contract entered into by the Covered Group from which Revenues from Intangible Property are derived and:
- a. those Revenues exceed EUR 20 million in a Period and the contract is one of the 200 contracts from which the Covered Group derives the most Revenues in the Period from Intangible Property licensed, sold or alienated by the Covered Group;
  - b. those Revenues exceed EUR 100 million in a Period; or
  - c. the Intangible Property that is the subject of the contract supports a Location-Specific Service.

## **Section 8: Real Property**

68. “Real Property” means immovable property and includes land, buildings, improvements to land or buildings, an interest (including a lease, licence or any other right to use) in land, buildings, or improvements to land or buildings, natural resources, a right to explore for, develop or exploit natural resources, rights to variable or fixed payments as consideration for the exploitation of, or the right to explore for, develop or exploit natural resources, property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property; but excludes ships and aircraft.

## **Section 9: Government Grants**

69. “Government Grant” means transfers in cash or in kind made by Governments or international organisations to the Covered Group and includes payments to finance business expenses, costs of their acquiring fixed assets, subsidies, grants and refundable credits.

## **Section 10: Non-customer Revenues**

70. “Non-customer Revenues” means Revenues that are not derived from Customers of the Covered Group, including interest earned by the Covered Group other than as a lender, returns on financial assets, foreign currency gains, portfolio dividends, releases of provisions, asset revaluations, changes in pension liabilities, insurance proceeds, proceeds from the disposition of assets otherwise than in the ordinary course of business and other non-operating income.

## **Section 11: Transition**

71. “Initial Revenue Sourcing Transition Phase” means the first three Periods beginning on or after the date on which the Multilateral Convention enters into force pursuant to Article [X] of the Multilateral Convention.

## Schedule F: Asset Fair Value or Impairment Adjustments

1. With respect to assets and liabilities that are subject to fair value or impairment accounting in the Consolidated Financial Statements, a Covered Group shall determine gains and losses using the realisation principle for purposes of computing Adjusted Profit Before Tax. Under this principle:
  - a. all gains or losses attributable to fair value or impairment accounting with respect to an asset or liability shall be excluded from the computation of Adjusted Profit Before Tax; and
  - b. the carrying value of an asset or liability for purposes of determining gain or loss shall be its carrying value at the date the asset was acquired or liability was incurred.

## Schedule G: Acquired Equity Basis Adjustments

1. Where a Covered Group acquires an Ownership Interest in another Entity such that the acquired Entity becomes a Group Entity, the following adjustments will be applied to determine Adjusted Profit Before Tax of the Covered Group:
  - a. for purposes of determining any depreciation, amortisation or other impairment amount with respect to the underlying assets or liabilities acquired by the Covered Group, the Covered Group will be considered to inherit the accounting carrying value of the assets and liabilities that were applicable from the perspective of the acquired Entity immediately before the acquisition;
  - b. for purposes of determining any gain or loss in the event of the disposal of indirectly acquired assets or liabilities by the Covered Group, the Covered Group will determine relevant gain or loss based on the accounting carrying value of the assets and liabilities that were applicable from the perspective of the acquired Entity immediately before the acquisition after deducting any depreciation, amortisation or other impairment amount determined under subparagraph (a).

## Schedule H: Transferred Losses

### Section 1: Transferred Losses rules

1. For the purposes of Article 5(3)(b), and subject to paragraph 2 (*business continuity conditions*), a Covered Group may elect to deduct losses determined under subparagraph (a) (*Eligible Business Combination*) or (b) (*Eligible Division*):
  - a. following an Eligible Business Combination, the total amount that would be the Net Losses of the Transferred Group or Entity at the time of the Eligible Business Combination, calculated under Article 5(3)(a) with respect to losses of the Transferred Group or Entity, but replacing “Covered Group” with “Transferred Group or Entity” and by reference only to prior Period(s) that would be Eligible Prior Period(s) of the Covered Group if any Unused Loss of the Transferred Group or Entity was an Unused Loss of the Covered Group, and with respect to losses transferred to the Transferred Group or Entity in another Eligible Business Combination or in an Eligible Division prior to this Eligible Business Combination, determined under Article 5(3)(b);
  - b. following an Eligible Division, the amount equal to  $A \times B$  where:
    - i. A is the total amount that would be Net Losses of the Predecessor Group at the time of the Eligible Division, calculated under Article 5(3)(a) with respect to losses of the Predecessor Group, but replacing “Covered Group” with “Predecessor Group” and by reference only to prior Period(s) that would be Eligible Prior Period(s) of the Covered Group if any Unused Loss of the Predecessor Group was an Unused Loss of the Covered Group, and with respect to losses

transferred to the Predecessor Group in another Eligible Division or in an Eligible Business Combination prior to this Eligible Division, determined under Article 5(3)(b);

- ii. B is the Successor Allocation Factor, or, where the conditions in paragraph 3 are met, an alternative allocation factor.

Such losses constitute part of the Net Losses of the Covered Group and are carried forward and deducted in chronological order.

2. The deduction of losses determined under subparagraph 1(a) or (b) is only permitted if (*business continuity conditions*):
  - a. throughout the twelve months immediately preceding the Eligible Business Combination or Eligible Division, the Transferred Group or Entity or the part of the Predecessor Group that is transferred to the Covered Group, carried on the same or similar business(es) as it carried on at the time of the Eligible Business Combination or Eligible Division; and
  - b. throughout the twenty-four months immediately following the Eligible Business Combination or Eligible Division, the Covered Group carries on the same or similar business(es) referred to in subparagraph (a).
3. Under subdivision 1(b)(ii), an alternative allocation factor can be used by a Covered Group following an Eligible Division where the conditions in subparagraphs (a) and (b) are met:
  - a. all new Groups, including the Covered Group, resulting from the Eligible Division use the alternative allocation factor consistently for the purposes of subdivision 1(b)(ii); and
  - b. *[This second condition would refer to the rules on administration and the certainty process, which would require a Covered Group to demonstrate that the condition in subparagraph (a) is met and request approval through the certainty panel process to use an alternative allocation factor based on their view that using the Successor Allocation Factor produces an inappropriate outcome. Only if the tax certainty panel agrees, can an alternative allocation factor be used.]*
4. *[Rules have been developed in the context of the exclusions for Qualifying Extractives Groups and Regulated Financial Services to calculate Non-Extractives Net Losses and Non-RFS Net Losses, in Section 15(8) of Schedule B and Section 15(4) of Schedule C, respectively. Work is underway to translate these rules for application to determine the amount of transferred losses of a Transferred Group, Entity or Predecessor Group that is a Qualifying Extractives Group or that conducts Regulated Financial Services, to ensure the consistent application of the exclusions.]*

## **Section 2: Definitions relevant to Section 1**

1. “Eligible Business Combination” means an arrangement or transaction that is reported as a business combination in the Consolidated Financial Statements of a Covered Group, where:
  - a. an Entity that was not a Group Entity of another Group at the time of the arrangement or transaction is transferred such that the Entity is a Group Entity of the Covered Group (the Transferred Entity), or
  - b. all or substantially all the assets and liabilities of another Group is transferred such that each of the transferred Group Entities of that other Group (the Transferred Group) constitutes a Group Entity of the Covered Group, and the non-transferred part of the Transferred Group, if any, is not a Group separate from the Covered Group following the arrangement or transaction.
2. “Eligible Division” means an arrangement or transaction where the UPE of a single Group (the Predecessor Group) transfers all or substantially all its assets and liabilities to two or more Entities such that each become the UPE of a new Group, including the Covered Group, in exchange for the

pro rata issue to its shareholders of stock or securities representing the capital of these new Groups, provided the Predecessor Group ceases to exist as a result of the arrangement or transaction.

3. “Predecessor Group”, of a Covered Group, means the Group of which the UPE has transferred part of its assets and liabilities to the UPE of the Covered Group in the context of an Eligible Division.
4. “Successor Allocation Factor” means the proportion of the opening equity reported in the Consolidated Financial Statements of the Covered Group in the Period immediately following the Eligible Division as compared to the sum of the opening equity of each of the new Groups, including the Covered Group, resulting from that Eligible Division for that same Period.
5. “Transferred Group or Entity” means an Entity or Group brought under the control of the UPE of a Covered Group in the context of an Eligible Business Combination.

## Schedule I: Elimination tax base

### ***Section 1: Elimination Profit (or Loss)***

1. The Elimination Profit (or Loss) for a Covered Group for a Period in each Jurisdiction is the sum of the Elimination Profit (or Loss) for each Group Entity in a Jurisdiction calculated under Section 2, subject to a reduction for available loss carry-forwards pursuant to Section 7.

### ***Section 2: Adjustments to determine Elimination Profit (or Loss)***

1. The Elimination Profit (or Loss) for a Group Entity is equal to the Entity Financial Accounting Profit (or Loss) of such Group Entity adjusted for the following items:<sup>12</sup>
  - a. Tax Expense (or Tax Income) is excluded;
  - b. Excluded Non-Portfolio Dividends are excluded;<sup>13</sup>
  - c. Excluded Non-Portfolio Equity Gain or Loss is excluded;
  - d. Included Revaluation Method Gains or Losses are included;
  - e. Gains or losses arising from assets and liabilities excluded under Section 6 are excluded;
  - f. Policy Disallowed Expenses are excluded;
  - g. Prior Period Errors and Changes in Accounting Principles are taken into account;
  - h. Accrued Pension Expense is included;
  - i. Stock-Based Compensation Expense is adjusted for as set out in paragraph 2;
  - j. Hybrid Profit (or Loss) is excluded;
  - k. Asset Gain (or Loss) Spreading Adjustments are taken into account;
  - l. Integration Asset Gains are excluded; and

<sup>12</sup> Further work is ongoing to determine whether and to what extent the elimination tax base should reflect income that is subject to a measure that is an assertion of primary taxing rights that is not a corporate income tax or a withholding tax, such as a diverted profit tax.

<sup>13</sup> Further work is on-going to consider the treatment of Portfolio Shareholdings and whether dividends and equity gains and losses from such shareholdings should be excluded from the Elimination Tax Base.

- m. [ Treatment of profit attributable to non-controlling interests ].<sup>14</sup>
2. Under subparagraph 1(i), a Group Entity must substitute the amount taken as a deduction in the computation of its taxable income in its location<sup>15</sup> for the amount expensed in its financial accounts for a cost or expense of such Group Entity that was paid with stock-based compensation. If the Stock-Based Compensation Expense arises in connection with an option that expires without exercise, the Group Entity must include as income the total amount previously deducted in the computation of its Elimination Profit (or Loss) for the Period in which the option expires.
  3. The price and other terms of any transaction between Group Entities located in different Jurisdictions shall be adjusted to the extent necessary to ensure that it is consistent with the Arm's Length Principle and that the same amount is recorded in the financial accounts of both Group Entities. A loss from a sale or other transfer of an asset between two Group Entities located in the same Jurisdiction that is not recorded consistent with the Arm's Length Principle shall be recomputed based on the Arm's Length Principle if that loss is included in the computation of Elimination Profit (or Loss). To the extent such adjustment relating to the current Period is made in a subsequent Period, such adjustment will be taken into account in that subsequent Period. Rules for allocating income or loss between a Main Entity and any Taxable Presence are found in Section 3.
  4. With respect to assets and liabilities that are subject to fair value or impairment accounting in the Consolidated Financial Statements, a Covered Group shall determine gains and losses using the realisation principle for purposes of computing Elimination Profit (or Loss). Under this principle:
    - a. all gains or losses attributable to fair value or impairment accounting with respect to an asset or liability shall be excluded from the computation of Adjusted Profit Before Tax;
    - b. the carrying value of an asset or liability for purposes of determining gain or loss shall be its carrying value at the date the asset was acquired or liability was incurred.

### ***Section 3: Covered Group Allocation of Income or Loss between a Main Entity and a Taxable Presence***

1. The Entity Financial Accounting Profit (or Loss) of a Group Entity that is a Taxable Presence as defined in Section 8 is the net income or loss reflected in the separate financial accounts of the Taxable Presence. If the Taxable Presence does not have separate financial accounts, then the Financial Accounting Profit (or Loss) is the amount that would have been reflected in its separate financial accounts if prepared on a standalone basis and in accordance with the accounting standard used in the preparation of the Consolidated Financial Accounts of the Covered Group.
2. The Entity Financial Accounting Profit (or Loss) of a Taxable Presence referred to in Section 3(1) shall be adjusted, if necessary:
  - a. in the case of a Taxable Presence as defined by Section 8(20)(a) and (b), to reflect only the amounts and items of income and expense that are attributable to the Taxable Presence in accordance with the applicable Tax Treaty or domestic law of the Jurisdiction where it is located;
  - b. in the case of a Taxable Presence as defined by Section 8(20)(c), to reflect only the amounts and items of income and expense that would have been attributed to it in accordance with Article 7 of the OECD Model Tax Convention.

---

<sup>14</sup> See footnote 1.

<sup>15</sup> Rules are under development to treat the location of a Group Entity and Taxable Presence in a manner consistent with Article 10.3 of the GloBE Rules.



3. In case of a Group Entity that is a Taxable Presence as defined by Section 8(20)(d) its income used for computing Entity Financial Accounting Profit (or Loss) is the income being exempted for local tax purposes in the Jurisdiction where the Main Entity is located and attributable to the operations conducted outside that Jurisdiction. The expenses used for computing Entity Financial Accounting Profit (or Loss) are those that are not deducted for taxable purposes in the Jurisdiction where the Main Entity is located and that are attributable to such operations.
4. The Entity Financial Accounting Profit (or Loss) of a Taxable Presence is not taken into account in determining the Elimination Profit (or Loss) of the Main Entity, except as provided in Section 3(5).
5. An Elimination Loss of a Taxable Presence shall be treated as an expense of the Main Entity (and not of the Taxable Presence) for purposes of computing the Elimination Profit (or Loss) of the Taxable Presence to the extent that the loss of the Taxable Presence is treated as an expense in the computation of the domestic taxable income of such Main Entity and is not set off against an item of income that is subject to tax under the laws of both the Jurisdiction of the Main Entity and the Jurisdiction of the Taxable Presence. Elimination Profit subsequently arising in the Taxable Presence shall be treated as Elimination Profit of the Main Entity (and not the Taxable Presence) up to the amount of the Elimination Loss that previously was treated as an expense for purposes of computing the Elimination Profit (or Loss) of the Main Entity.

#### ***Section 4: Allocation of Income or Loss from a Flow-through Entity***

1. The Entity Financial Accounting Profit (or Loss) of a Group Entity that is a Flow-through Entity is allocated as follows:
  - a. in the case of a Taxable Presence through which the business of the Group Entity is wholly or partly carried out, the Entity Financial Accounting Profit (or Loss) of the Group Entity is allocated to that Taxable Presence in accordance with Section 3;
  - b. in the case of a Tax Transparent Entity that is not the Ultimate Parent Entity, any Entity Financial Accounting Profit (or Loss) remaining after application of subparagraph (a) is allocated to its Group Entity-owners in accordance with their Ownership Interests; and
  - c. in the case of:
    - i. a Tax Transparent Entity that is the Ultimate Parent Entity; or
    - ii. a Reverse Hybrid Entity,
 any Entity Financial Accounting Profit (or Loss) remaining after application of subparagraph (a) is allocated to it.
2. The rules of Section 4(1)(b) shall be applied separately with respect to each Ownership Interest in the Flow-through Entity.
3. The Entity Financial Accounting Profit (or Loss) of a Flow-through Entity is reduced by the amount that is allocated to another Group Entity.

#### ***Section 5: Group Entities joining and leaving a Covered Group***

1. Except to the extent provided in Section 6(2), the following provisions apply where a Group Entity (the target) becomes or ceases to be a Group Entity of an Covered Group as a result of a transfer of direct or indirect Ownership Interests in such Group Entity during the Period (the acquisition year):
  - a. where the target joins or leaves a Covered Group or the target becomes the Ultimate Parent Entity of a new Covered Group, the target will be treated as a member of the Group for the purposes of these rules if any portion of its assets, liabilities, income, expenses or cash flows are included

- on a line-by-line basis in the Consolidated Financial Statements of the Covered Group in the acquisition year;
- b. in the acquisition year, an Covered Group shall take into account only the Entity Financial Accounting Profit (or Loss) of the target that are taken into account in the Consolidated Financial Statements of the Covered Group for purposes of applying these rules;
  - c. in the acquisition year and each succeeding year, the target shall determine its Elimination Profit (or Loss) using its historical carrying value of the assets and liabilities;
  - d. the computation of the target's Eligible Payroll Costs under Schedule J shall take into account only those costs reflected in the Consolidated Financial Statements of the Covered Group; and
  - e. the computation of carrying value of the target's Eligible Tangible Assets for purposes of Schedule J shall be adjusted proportionally to correspond with the length of the relevant Period that the target was a member of the Covered Group.
2. For purposes of these rules, the acquisition or disposal of a Controlling Interest in a Group Entity will be treated as an acquisition or disposal of the assets and liabilities if the Jurisdiction in which the target Group Entity is located, or in the case of a Tax Transparent Entity, the Jurisdiction in which the assets are located, treats the acquisition or disposal of that Controlling Interest in the same or similar manner as an acquisition or disposition of the assets and liabilities and imposes a Covered Tax<sup>16</sup> on the seller based on the difference between the tax basis and the consideration paid in exchange for the Controlling Interest or the fair value of the assets and liabilities.

## ***Section 6: Transfer of Assets and Liabilities***

1. In the case of a disposition or acquisition of assets and liabilities, a disposing Group Entity will include the gain or loss on disposition in the computation of its Elimination Profit (or Loss) and an acquiring Group Entity will determine its Elimination Profit (or Loss) using the acquiring Group Entity's carrying value of the acquired assets and liabilities determined under the accounting standard used in preparing Consolidated Financial Statements of the Covered Group.
2. If the disposition or acquisition of assets and liabilities is part of a Reorganisation, then paragraph 1 shall not apply and:
  - a. a disposing Group Entity will exclude any gain or loss on the disposition from the computation of its Elimination Profit (or Loss); and
  - b. an acquiring Group Entity will determine its Elimination Profit (or Loss) after the acquisition using the disposing Group Entity's carrying values of the acquired assets and liabilities upon disposition.
3. If a disposition or acquisition of assets and liabilities is part of a Reorganisation in which a disposing Group Entity recognises a Non-qualifying Gain or Loss, then paragraphs 1 and 2 shall not apply and:
  - a. the disposing Group Entity will include any gain or loss on the disposition in its Elimination Profit (or Loss) computation to the extent of the Non-qualifying Gain or Loss; and
  - b. an acquiring Group Entity will determine its Elimination Profit (or Loss) after the acquisition using the disposing Group Entity's carrying value of the acquired assets and liabilities upon disposition adjusted consistent with local tax rules to account for the Non-qualifying Gain or Loss.
4. At the election of a Covered Group, a Group Entity that adjusts the basis of its assets and the amount of its liabilities to fair value for tax purposes in the Jurisdiction in which it is located, shall:

---

<sup>16</sup> Rules are under development to define Covered Taxes in a manner consistent with Article 4.2 of the GloBE Rules.

- a. include in the computation of its Elimination Profit (or Loss) an amount of gain or loss in respect of each of its assets and liabilities that is equal to:
- b. the difference between the carrying value for financial accounting purposes of the asset or liability immediately before and the fair value of the asset or liability immediately after the date of the event that triggered the tax adjustment (the triggering event);
- c. decreased (or increased) by the Non-Qualifying Gain (or Loss), if any, arising in connection with the triggering event;
- d. use the fair value for financial accounting purposes of the asset or liability immediately after the triggering event to determine Elimination Profit (or Loss) in Periods ending after the triggering event; and
- e. include the net total of the amounts determined in subparagraph 4(a) in the Group Entity's Elimination Profit (or Loss) in one of the following ways:
  - i. the net total of the amounts is included in the Period in which the triggering event occurs; or
  - ii. an amount equal to the net total of the amounts divided by five is included in the Period in which the triggering event occurs and in each of the immediate four subsequent Periods, unless the Group Entity leaves the Covered Group in a Period within this period, in which case the remaining amount will be wholly included in that Period.

### **Section 7: Elimination Losses**

1. A Net Elimination Loss Carry-forward is established for each Period in which there is a Net Elimination Loss. The balance of a Net Elimination Loss Carry-forward available for use in a Period is equal to the initial Net Elimination Loss Carry-forward amount reduced by the amount used in each preceding taxable year during the Carry-forward Period. The Carry-forward Period is the period ending [x] months after the Period in which the Net Elimination Loss arose.
2. The Net Elimination Loss Carry-forwards of a Covered Group for a Jurisdiction must be used, in chronological order, in any subsequent Period in which there is Net Elimination Profit in that Jurisdiction, in an amount equal to the lower of such Net Elimination Profit or the Net Elimination Loss Carry-forwards. Net Elimination Loss Carry-forwards are used regardless of whether the Covered Group is within the scope of this Act pursuant to Article 1 in a Period.
3. The Net Elimination Loss of a Jurisdiction in a Period is the nil or negative amount, if any, that arises when the Elimination Losses of all Group Entities are subtracted from the Elimination Profit of all Group Entities.
4. For the purpose of paragraph 3:
  - a. the Elimination Profit of all Group Entities is the sum of the Elimination Profit of all Group Entities located in the Jurisdiction determined in accordance with Section 2(1) for the Period; and
  - b. the Elimination Losses of all Group Entities is the sum of the Elimination Losses of all Group Entities located in the Jurisdiction determined in accordance with Section 2(1) for the Period.
5. Net Elimination Loss Carry-forwards also include any losses transferred in an Eligible Business Combination or Eligible Division.<sup>17</sup>

---

<sup>17</sup> Further work is underway to develop detailed rules on the transfer of losses in the context of determining a Covered Group's elimination tax base in a jurisdiction. These rules will translate the approach developed in Article 5(3)(b) and Schedule H, providing that a Covered Group may elect to deduct transferred losses in certain specific circumstances.

## **Section 8: Definitions relevant to Sections 1-7**

1. “Accrued Pension Expense” means the difference between the amount of pension liability expense included in the Entity Financial Accounting Profit (or Loss) and the amount contributed to a Pension Fund for the Period.
2. “Arm’s Length Principle” means the principle under which transactions between Group Entities must be recorded by reference to the conditions that would have been obtained between independent enterprises in comparable transactions and under comparable circumstances.<sup>18</sup>
3. “Group Entity-owner” means a Group Entity that directly or indirectly owns an Ownership Interest in another Group Entity of the same Covered Group.
4. A Taxable Presence of a Main Entity is deemed to be a Group Entity. A Main Entity is deemed to have the Controlling Interests of its Taxable Presences.
5. “Excluded Non-Portfolio Dividends” means dividends or other distributions included in calculating the Entity Financial Accounting Profit (or Loss) of the Covered Group under an Acceptable Financial Accounting Standard that are received or accrued in respect of an Ownership Interest, except for a Short-term Portfolio Shareholding.
6. “Excluded Non-Portfolio Equity Gain or Loss” means the gain, profit or loss included in calculating the Entity Financial Accounting Profit (or Loss) of the Covered Group under an Acceptable Financial Accounting Standard arising from:
  - a. gains and losses from changes in fair value of an Ownership Interest, except for a Portfolio Shareholding;
  - b. profit or loss in respect of an Ownership Interest included under the equity method of accounting, except profit or loss derived from a Joint Venture in which the Covered Group has joint control; and
  - c. gains and losses from disposition of an Ownership Interest, except for a disposition of a Portfolio Shareholding.
7. “Flow-through Entity” means an Entity that is fiscally transparent with respect to its income, expenditure, profit or loss in the jurisdiction where it was created unless it is tax resident and subject to a Covered Tax on its income or profit in another jurisdiction.
  - a. a Flow-Through Entity is a Tax Transparent Entity with respect to its income, expenditure, profit or loss to the extent that it is fiscally transparent in the jurisdiction in which its owner is located.
  - b. a Flow-Through Entity is a Reverse Hybrid Entity with respect to its income, expenditure, profit or loss to the extent that it is not fiscally transparent in the jurisdiction in which the owner is located.
  - c. an Entity is treated as fiscally transparent under the laws of a jurisdiction, if that jurisdiction treats the income, expenditure, profit or loss of that Entity as if it were derived or incurred by the direct owner of that Entity in proportion to its interest in that Entity.
  - d. an Ownership Interest in an Entity or a Taxable Presence that is a Group Entity shall be treated as held through a Tax Transparent Structure if that Ownership Interest is held indirectly through a chain of Tax Transparent Entities.
8. A Group Entity that is not a tax resident and not subject to a Covered Tax or a Qualified Domestic Minimum Top-up Tax based on its place of management, place of creation, or similar criteria shall be

---

<sup>18</sup> See Footnote 8.

treated as a Flow-Through Entity and a Tax Transparent Entity in respect of its income, expenditure, profit or loss to the extent that:

- a. its owners are located in a jurisdiction that treats the Entity as fiscally transparent;
  - b. it does not have a place of business in the jurisdiction where it was created; and
  - c. the income, expenditure, profit or loss is not attributable to a Taxable Presence.
9. An Entity that is treated as a separate taxable person for income tax purposes in the jurisdiction where it is located is a Hybrid Entity with respect to its income, expenditure, profit or loss to the extent that it is fiscally transparent in the jurisdiction in which its owner is located.
10. “Reorganisation” means a transformation or transfer of assets and liabilities such as in a merger, demerger, liquidation, or similar transaction between Group Entities of a Covered Group where:
- a. the consideration for the transfer is, in whole or in significant part, equity interests issued by the acquiring Group Entity or by a person connected with the acquiring Group Entity, or, in the case of a liquidation, equity interests of the target (or, when no consideration is provided, where the issuance of an equity interest would have no economic significance);
  - b. the disposing Group Entity’s gain or loss on those assets is not subject to tax, in whole or in part; and
  - c. the tax laws of the jurisdiction in which the acquiring Group Entity is located require the acquiring Group Entity to compute taxable income after the disposition or acquisition using the disposing Group Entity’s tax basis in the assets, adjusted for any Non-qualifying Gain or Loss on the disposition or acquisition.
11. “Entity Financial Accounting Profit (or Loss)” is the net income or loss determined for a Group Entity (before any consolidation adjustments eliminating intra-group transactions) in preparing Consolidated Financial Statements of the Covered Group.
12. “Hybrid Profit (or Loss)” is any income or loss of a Group Entity that arises in relation to an intragroup financing arrangement that can be reasonably anticipated, over the expected duration of the arrangement to:
- a. increase the amount of expenses taken into account in calculating the Elimination Profit of an entity that is classified as a Low-Tax Entity for purposes of [the GloBE Rules];
  - b. without resulting in a commensurate increase in the taxable income of an entity that is classified as a High-Tax Counterparty for purposes of [the GloBE Rules.]<sup>19</sup>
13. “Intragroup Transfer” means a transfer of assets between connected Group Entities.
14. “Included Revaluation Method Gain or Loss” means the net gain or loss, increased or decreased by any associated Covered Taxes, for the Period in respect of all property, plant and equipment that arises under an accounting method or practice that:
- a. periodically adjusts the carrying value of such property to its fair value;
  - b. records the changes in value in Other Comprehensive Income; and
  - c. does not subsequently report the gains or losses recorded in Other Comprehensive Income through profit and loss.

---

<sup>19</sup> Work is on-going to translate this cross-reference into a rule appropriate for inclusion in the broader framework of Amount A.

15. “Integration Asset Gain” means the gain recognised upon the transfer of an asset from an acquired Group Entity to another Group Entity that is a member of the same Covered Group within 18 months following the target Group Entity first becoming a Group Entity of the Covered Group when the transferor Group Entity has not previously been a member of another Covered Group. In the context of transactions subject to this adjustment the transferee Group Entity shall be deemed to take an arm’s length basis in the transferred asset and such asset may be depreciated or amortised based on that arm’s length basis in accordance with the relevant financial accounting standard. Further any gains or losses on subsequent disposal, if applicable, will be determined in accordance with this basis, depreciation and amortisation treatment.<sup>20</sup>
16. “Main Entity”, in respect of a Taxable Presence, is the Group Entity that includes the Financial Accounting Profit (or Loss) of the Taxable Presence in its financial statements.
17. “Non-qualifying Gain or Loss” means the lesser of the gain or loss of the disposing Group Entity arising in connection with a Reorganisation that is subject to tax in the disposing Group Entity’s location and the financial accounting gain or loss arising in connection with the Reorganisation.
18. “Taxable Presence” means:
  - a. a place of business (including a deemed place of business) situated in a jurisdiction and treated as a permanent establishment in accordance with an applicable Tax Treaty in force provided that such jurisdiction taxes the income attributable to it in accordance with a provision similar to Article 7 of the OECD Model Tax Convention on Income and on Capital;
  - b. if there is no applicable Tax Treaty in force, a place of business (including a deemed place of business) in respect of which a jurisdiction taxes under its domestic law the income attributable to such place of business on a net basis similar to the manner in which it taxes its own tax residents;
  - c. if a jurisdiction has no corporate income tax system, a place of business (including a deemed place of business) situated in that jurisdiction that would be treated as a permanent establishment in accordance with the OECD Model Tax Convention on Income and on Capital provided that such jurisdiction would have had the right to tax the income attributable to it in accordance with Article 7 of that model; or
  - d. a place of business (or a deemed place of business) that is not already described in paragraphs (a) to (c) through which operations are conducted outside the jurisdiction where the Entity is located provided that such jurisdiction exempts the income attributable to such operations.
19. “Portfolio Shareholding” means Ownership Interests in an Entity that are held by the Covered Group where the Covered Group carries rights to less than 10 per cent of the profits, capital, reserves, or voting rights of the investee Entity at the date of the distribution or disposition.
20. “Qualified Domestic Minimum Top-up Tax” means a minimum tax that is included in the domestic law of a jurisdiction and that:
  - a. determines the Excess Profits of the Entities located in the jurisdiction (domestic Excess Profits) in a manner that is equivalent to the GloBE Rules;
  - b. operates to increase domestic tax liability with respect to domestic Excess Profits to the Minimum Rate for the jurisdiction and Entities for a Period; and
  - c. is implemented and administered in a way that is consistent with the outcomes provided for under the GloBE Rules and the Commentary, provided that such jurisdiction does not provide any benefits that are related to such rules.

---

<sup>20</sup> Further work will be undertaken to consider whether a similar clarification should be added to Section 6.

21. A Qualified Domestic Minimum Top-up Tax may compute domestic Excess Profits based on an Acceptable Financial Accounting Standard permitted by the Authorised Accounting Body or an Authorised Financial Accounting Standard adjusted to prevent any Material Competitive Distortions, rather than the financial accounting standard used in the Consolidated Financial Statements.
22. “Short-term Portfolio Shareholding” means a Portfolio Shareholding that has been economically held by the Entity that receives or accrues the dividends or other distributions for less than one year at the date of the distribution.
23. “Tax” means a compulsory unrequited payment to a Government.
24. “Tax Treaty” means an agreement for the avoidance of double taxation with respect to taxes on income (whether or not other taxes are also covered).

## **Schedule J: Elimination of double taxation - Return on Depreciation and Payroll**

1. The Return on Depreciation and Payroll for a Covered Group for a Period with respect to a Jurisdiction is the Elimination Profit of the Covered Group for that period in that Jurisdiction, divided by the total for that Jurisdiction in that Period of the Depreciation amount determined under paragraph 2 and the Payroll amount determined under paragraph 6.
2. The Depreciation amount for a Jurisdiction in a Period is equal to:
  - a. the reduction in carrying value of Eligible Assets located in such Jurisdiction as recorded in that Period for the purposes of preparing the Consolidated Financial Statements of the Covered Group. This reduction in carrying value must result from depreciation, amortisation, depletion or impairment, including any such amount attributable to capitalisation of payroll expense; and
  - b. payments made to third parties for the use of, or the right to use, Eligible Assets described in subparagraph 4(a).
3. The Depreciation amount for a Jurisdiction in a Period does not include any amount attributable to the use of Eligible Assets in Extractive Activities or Regulated Financial Services.
4. Eligible Assets for a Jurisdiction means:
  - a. property, plant, and equipment located in that Jurisdiction;<sup>21</sup>
  - b. natural resources located in that Jurisdiction; and
  - c. a licence or similar arrangement from the government for the use of immovable property or exploitation of natural resources located in that Jurisdiction that entails significant investment in tangible assets.
5. Eligible Assets shall not include property that is held for sale, lease or investment.
6. The Payroll amount for a Jurisdiction in a Period is equal to the Eligible Payroll Costs of Eligible Employees that perform activities for the Covered Group [in such Jurisdiction]<sup>22</sup> in that Period, except Eligible Payroll costs that are capitalised and included in the carrying value of Eligible Assets described in subparagraph 2(a).

---

<sup>21</sup> Further work is on-going to consider the treatment of mobile assets, including those used in last-mile delivery services, and which jurisdiction such assets should be treated as “located in.”

<sup>22</sup> Work is on-going to clarify how the definition of Eligible Payroll Costs of Eligible Employees will apply to mobile employees.

7. Eligible Payroll Costs means compensation expenditures (including salaries, wages, and other expenditures that provide a direct and separate personal benefit to an Eligible Employee, such as health insurance, pension contributions and stock-based compensation), payroll and employment taxes, employer social security contributions, and payments in respect of services provided by independent contractors.
8. Eligible Payroll Costs shall not include employee compensation expenditures, payroll and employment taxes, and employer social security contributions attributable to a Covered Group's Extractive Activities or Regulated Financial Services.
9. Eligible Employees means:
  - a. employees, including part-time employees, of a Group Entity that is a member of the Covered Group;
  - b. independent contractors; and
  - c. outsourced personnel engaged through independent contractors and acting under the direction and control of a Group Entity that is a member of the Covered Group,  
provided that, in the case of subparagraphs (b) and (c), those persons participate in the ordinary operating activities of the Covered Group.



# OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors

## Indonesia, July 2022

The report sets out the latest developments on the international tax agenda, notably on the implementation of the Two-Pillar Solution to reform international taxation rules, including a Progress Report on the draft of the technical model rules for the implementation of the new taxing right to market jurisdictions (Pillar One) and a revised timeline agreed by the OECD/G20 Inclusive Framework on BEPS attached to the report.

The report also includes updates on progress made in tax transparency, the implementation of the BEPS minimum standard, on tax and development as well as on the recently launched OECD Inclusive Forum on Carbon Mitigation Approaches, which aims to help facilitate a globally more coherent, and better-coordinated approach to carbon mitigation.



**For more information:**



[ctp.contact@oecd.org](mailto:ctp.contact@oecd.org)



<https://oe.cd/g20-tax>



[@OECDtax](https://twitter.com/OECDtax)



[OECD Tax](#)