

OECD issues report to G20 Finance Ministers and Central Bank Governors and hosts webcast to provide update on tax work

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Executive summary

On 18 July 2020, the Organisation for Economic Co-operation and Development (OECD) released the OECD's Secretary-General Report to G20 Finance Ministers and Central Bank Governors (the [report](#)). The report, which consists of two parts, was provided to the G20 Finance Ministers and Central Bank Governors in advance of their virtual meeting on 18 July 2020 for their consideration.

Part I of the report is an update on the activities with respect to the G20's international tax agenda and future progress needed, including an update on the work to address the tax challenges arising from the digitalization of the economy. Part II is a progress report to the G20 by the Global Forum on Transparency and Exchange of Information for Tax Purposes. The report includes, as an annex, the OECD/G20 Inclusive Framework on BEPS: Progress Report July 2019-July 2020 (the Inclusive Framework progress report).

Also, on 22 June 2020, the OECD held its 16th Tax Talks webcast during which members of the OECD Secretariat provided an overview of the outcomes of the G20 Finance Ministers' meeting and an update on the OECD's international tax work consistent with the report.

Detailed discussion

The G20 Finance Ministers and Central Bank Governors met via videoconference on 18 July 2020. In advance of their virtual meeting, the OECD provided a two-part report with updates on the international tax agenda and the progress of the Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum).

Part I: The G20's International Tax Agenda

Part I of the report provides an update on the activities with respect to the G20's international tax agenda and actions required in the future, with a particular focus on the work of the OECD/G20 Inclusive Framework on BEPS (the Inclusive Framework). Part I is divided into five sections:

1. Tax policy in response to the COVID-19 crisis
2. Tax transparency developments
3. Addressing the tax challenges arising from the digitalization of the economy
4. Implementing the Base Erosion and Profit Shifting (BEPS) measures
5. Capacity building – Supporting developing countries

Part I contains an annex providing an update on the OECD criteria to identify jurisdictions that have not satisfactorily implemented the tax transparency standards.

Tax policy in response to the COVID-19 crisis

The report discusses the OECD's work related to tax policy responses to the COVID-19 crisis. At the request of the G20 Presidency, the OECD reviewed countries' tax and fiscal policy responses to the COVID-19 crisis and in April issued a report titled *Tax and Fiscal Policy in Response to the Coronavirus Crisis – Strengthening Confidence and Resilience*.¹ Since then, the OECD has continued to track countries' tax and fiscal policy responses and make this data publicly available on its website,² which currently includes approximately 1,100 policy measures in over 110 jurisdictions. Also, in June, the OECD issued its biannual Economic Outlook,³ which describes the substantial uncertainty surrounding the evolution of the pandemic and its impact on the economy. From the perspective of tax administration, the report notes that the tax administrations of the 53 member jurisdictions of the OECD Forum on Tax Administration (FTA) took rapid and pragmatic action to

mitigate the effects of the COVID-19 crisis on both taxpayers and the day-to-day operation of tax administrations. The report further notes that the OECD has co-hosted a series of virtual regional meetings on tax policy and tax administration responses to the COVID-19 crisis in collaboration with regional tax organizations around the world.

Looking forward, the report indicates that the OECD's tax policy work during the recovery phase will continue to provide tools for facing upcoming challenges. In this regard, the report states that the OECD stands ready to deliver tax policy recommendations by spring 2021 if requested to do so by the G20 Finance Ministers.

Tax transparency developments

The report provides an update on the work that has taken place in the past year on tax transparency issues. According to the report, almost 100 countries carried out automatic exchange of information in 2019, enabling their tax authorities to obtain data on 84 million financial accounts held offshore by their residents and covering total assets of €10 trillion. In addition, according to the report, the deployment of voluntary disclosure programs, offshore tax investigations and related measures, both before the start of automatic exchange in 2017 and since then, to date have led to the identification of €102 billion in additional tax revenues worldwide.

The report also notes the June approval by the Inclusive Framework of new model reporting rules for digital platforms that facilitate transactions in the sharing and gig economy (in particular in the transportation and accommodation sectors).⁴ The report further indicates that to support the implementation of the Model Rules, the OECD will work on development of the international legal and technical framework to facilitate the automatic exchange of the information collected under these model rules.

Finally, the report provides an update on the list of jurisdictions that have not satisfactorily implemented the tax transparency standards. According to the report, currently four jurisdictions (Dominica, Niue, Sint Maarten and Trinidad and Tobago) do not comply with such standards and the Global Forum is working closely with these jurisdictions to provide any assistance and guidance that is needed.

Addressing the tax challenges arising from the digitalization of the economy

The report states that since the Inclusive Framework's approval of documents with respect to Pillar One and Pillar Two in January 2020,⁵ significant progress has been made on the technical development of both pillars. The report further indicates that there are divergent views among Inclusive Framework members about proposals to decouple Pillar One and Pillar Two and to adopt a phased approach to Pillar One, which will need to be bridged in the coming months.

On Pillar One, the report notes that the progress made includes further refinement of the scope of the new taxing right (Amount A) through the definition of automated digital services and consumer-facing businesses, the new nexus rules to determine when a business can be seen to have a significant and sustained engagement in a market, and the related source rules to allocate and measure revenues derived from a market. However, according to the report, further work will be required to resolve several pending issues and to reduce complexity (for example through reducing the scope of segmentation and simplifying the process to eliminate double taxation). The report indicates that the progress made so far on Pillar One will be reflected in a blueprint report to be considered by the Inclusive Framework in October 2020.

On Pillar Two, the report notes that work has substantially progressed on the definition of the tax base, including the list of permanent adjustments, and the definition of covered taxes. The report indicates that further consideration is being given to carve-outs, the design and scope of the operative rules, the co-existence with the United States GILTI (Global Intangible Low-Taxed Income) and BEAT (Base Erosion and Anti-Abuse Tax) regimes and the minimum tax rate. The report also indicates that work is ongoing on simplification options to reduce compliance costs associated with jurisdictional blending. A blueprint report on Pillar Two will be developed for consideration by the Inclusive Framework at the October meeting.

The report states that work on the economic and tax revenue implications of the Pillar One and Pillar Two proposals is ongoing and the OECD is aiming to produce an economic analysis and impact assessment report by October 2020. The report indicates that preliminary findings suggest that the combined effect of Pillar One and Pillar Two would

lead to a significant increase in global tax revenues and a redistribution of taxing rights to market jurisdictions. The report notes that Pillar One would involve a significant change to the way taxing rights are allocated among jurisdictions and would lead to a modest increase in global tax revenues, while Pillar Two would lead to a significant increase in corporate income tax revenues globally. According to the report, the counterfactual to a consensus-based solution would be a proliferation of uncoordinated and unilateral measures and an increase in tax and trade disputes.

Finally, the report provides an update on the OECD's other work related to digitalization. In particular, the report notes ongoing work on guidance for the value-added tax (VAT) treatment of the sharing and gig economy, including the role of sharing and gig economy platforms in facilitating VAT compliance. Also, according to the report, the Inclusive Framework is developing a report on the taxation of virtual currencies and the OECD is working on technical proposals to address the need for greater tax transparency in the area of digital financial markets, in particular in light of the tax compliance risks posed by virtual assets, e-money and other new financial products.

Implementing the Base Erosion and Profit Shifting measures

The report describes progress on implementing the four BEPS minimum standards as having stabilized since February 2020 due to countries' focus and prioritization on countering the effects of the COVID-19 crisis but notes that several improvements were still accomplished. According to the report, 2020 and 2021 will provide an opportunity to reflect on what has worked well since 2016 and what could be improved, given that reviews of each minimum standard have begun this year.

With respect to Action 5 (Countering harmful tax practices), the report indicates that implementation of the minimum standard has continued to advance. According to the report, the Action 5 minimum standard has strengthened the collaboration between tax administrations through the spontaneous exchange of information on tax rulings, with almost 30,000 exchanges between 2016 and 2020. The report further states that the Forum on Harmful Tax Practices has reviewed 287 preferential regimes since 2015, as well as the substantial activities requirements of 12 no or only nominal tax jurisdictions.

With respect to Action 6 (Preventing treaty abuse), the report highlights that a key tool to implement the minimum standard is the *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS* (MLI), which has been signed by 94 jurisdictions to date. Once all these signatories have ratified the BEPS MLI, the instrument will impact over 1,600 tax agreements.

With respect to Action 13 (Transfer pricing documentation and Country-by-Country (CbC) Reporting), the report notes that over three quarters of the G20/OECD Inclusive Framework members have introduced or are in the process of introducing a CbC reporting obligation, including all G20 countries. According to the report, this means that substantially all multinational entities above the reporting threshold are within the scope of CbC reporting obligations. The BEPS Action 13 Final Report included a mandate for a review of the minimum standard by the end of 2020; accordingly, a public consultation document was released in February 2020⁶ and an online public consultation meeting was held in May 2020.⁷ According to the report, work to agree on revisions to the Action 13 minimum standard is ongoing and will be completed by the end of 2020, despite the challenges posed by COVID-19.

With respect to BEPS Action 14 (Improving Mutual Agreement Procedures (MAP)), the report describes the peer review process as showing that countries are updating their treaties and greatly improving their MAP frameworks, including by making more resources available to their tax administrations to improve the speed and quality of MAP. However, according to the report, despite significant progress in terms of the speed and efficiency of MAP, the increased access to MAP by taxpayers has resulted in a substantial increase of pending MAP cases, with an inventory of close to 5,000 cases as of the end of 2018. The report indicates that the ongoing 2020 review of Action 14 is intended to make progress in ensuring that MAP remains an accessible and efficient mechanism for addressing double taxation in the future, noting that careful consideration will also be given to ensuring that the peer review process effectively detects and addresses risks as they arise in the global MAP network.

The report also provides a brief update on the OECD tax certainty agenda, noting the OECD FTA's International Compliance Assurance Programme (ICAP),⁸ the ongoing analysis of CbC reports and development of tools for interpreting CbC reports and the work conducted by the FTA to promote joint audits of tax administrations.

The implementation of the BEPS minimum standards and the progress that has been made in 2019 are:

Capacity building – Supporting developing countries

The OECD continues to provide capacity building support to developing countries through a variety of activities, working together with the International Monetary Fund, the United Nations and the World Bank Group to better coordinate support and services to developing countries through the Platform for Collaboration on Tax (PCT) established in 2016. According to the report, to date, 41 bespoke induction programs to support new members of the Inclusive Framework in implementing their BEPS priorities and building capacity have been launched. The report further notes that bilateral technical assistance and capacity building support to increase domestic resource mobilization has been carried out or is ongoing in 35 developing countries.

The report describes tackling tax crimes and other financial crimes as another important area where capacity building is increasing. According to the report, as of June 2020, the OECD's Academy for Tax and Financial Crime Investigation has trained over 1,000 financial crime investigators from almost 100 countries, expanding beyond its international center in Italy with the establishment of regional centers in Argentina and Japan and an ongoing pilot program in Kenya.

The report also provides an update on the activity of the PCT, which includes the release of the Toolkit on Taxation of Offshore Indirect Transfers of assets,⁹ the conduct of workshops to assist countries in making the most effective use of the PCT toolkits, and the launch of the PCT website.

Annex I.A of the report provides an update on the OECD criteria to identify jurisdictions that have not satisfactorily implemented the tax transparency standards.

Part II: Progress report by the Global Forum on Transparency and Exchange of Information for Tax Purposes

Part II of the report provides a summary of the key achievements of the Global Forum over the last six months.

The report indicates that in 2019 there has been rapid spread of automatic exchange of information (AOEI), leading to greater transparency with respect to offshore accounts. The report also notes that the operation of the AEOI standard has been impacted by the COVID-19 pandemic because financial institutions and tax administrations have faced operational constraints in collecting, sorting and validating the information for exchange.

The report further describes the ongoing work on the exchange of information on request (EOIR), including the publication of eight peer reviews earlier this year. The COVID-19 pandemic has also impacted the work on EOIR due to the cancellation of on-site visits and has led to the decision to postpone all future reviews by six months with plans to resume activity in the third quarter of the year.

Also, to strengthen the tax transparency and exchange of information in developing countries, the Global Forum has continued to interact with high-level officials at jurisdiction and regional level. The report mentions that country-specific technical assistance has almost exclusively been delivered remotely through desk-based support and videoconferencing. To support the desk-based assistance and to strengthen its technical assistance offerings more generally, the Global Forum accelerated the development of new tools to continue to support its member jurisdictions, in particular through e-learning modules, toolkits and virtual trainings.

Annual Progress Report of the OECD/G20 Inclusive Framework on BEPS

The annual Inclusive Framework progress report was published on 18 July 2020 and is included as an annex to the report. The Inclusive Framework progress report covers the period from July 2019 to July 2020.

The Inclusive Framework progress report is divided into four parts:

- ▶ Inclusivity and support for developing countries
- ▶ Strengthening coherence, focusing on BEPS Actions 2, 3, 4 and 5
- ▶ Substance, focusing on BEPS Actions 6, 7 and 8-10
- ▶ Evaluation, transparency and tax certainty

It also contains two annexes: the current list of members of the Inclusive Framework on BEPS (Annex A) and a copy of the January 2020 statement (and accompanying documents) by the OECD/G20 Inclusive Framework on BEPS on the Two-Pillar Approach to Address the Tax Challenges Arising from the Digitalization of the Economy (Annex B).

The Inclusive Framework progress report notes the significant increase in its membership – currently at 137 jurisdictions in total, including countries and jurisdictions from a range of geographic regions and reflecting economic diversity. The progress report notes

that all Inclusive Framework members, including developing countries, are expected to implement the four minimum standards of the BEPS package. According to the progress report, however, it is recognized that developing countries often face more fundamental challenges in addressing BEPS risks than developed countries, and addressing the concerns about these challenges is a top priority for the Inclusive Framework. The outreach being conducted to ensure that developing countries' concerns are being addressed as BEPS implementation continues to progress also is described in the Tax and Development annual report that was published on 9 July 2020.¹⁰

According to the Inclusive Framework progress report, the combined effect of the BEPS Actions has brought increased coherence, transparency, and substance to the international tax rules, and their implementation has produced tangible results. It is highlighted that the results of the ongoing 2020 BEPS minimum standards reviews and the outcomes from Pillar One and Pillar Two negotiations will allow for a complete stock-take in 2021 and further reform. In particular, the progress report indicates that the work on BEPS Action 2 (Hybrid mismatches) continues among Inclusive Framework members to share practical examples of hybrid structures to ensure consistent, comprehensive and coherent outcomes from the application of the new rules. Also, with respect to BEPS Action 5, the progress report notes that the postponement of the next Forum on Harmful Tax Practices meeting to October 2020 will allow the Forum to consider the implications of Pillar Two on its work on preferential regimes. In addition, the progress report states that the Forum will review the next phases of implementation of the new standard for substantial activities requirements in no or only nominal tax jurisdictions that was adopted in 2018, which will include an in-depth annual monitoring process to assess effectiveness in practice and the spontaneous exchange of information under the standard that is scheduled to begin in 2021.

The Inclusive Framework progress report also mentions that measures to enhance tax certainty that were discussed during the OED's first Tax Certainty Day in September 2019¹¹ continue to be under consideration as part of the ongoing work to achieve a multilateral consensus-based solution to the tax challenges arising from digitalization.

OECD tax talk

On 22 July 2020, the OECD hosted its 16th Tax Talk webcast, during which members of the OECD Secretariat provided updates on the OECD's international tax work. The webcast agenda included the following topics:

- ▶ Outcomes of G20 Finance Ministers' meeting and recent developments
- ▶ Update on tax and digitalization
- ▶ Corporate tax statistics
- ▶ Update on tax and development
- ▶ Forthcoming publications

On the topic of tax and digitalization, the speakers summarized the state of play on the two-pillar approach to the BEPS 2.0 project. The speakers also referred to the [communiqué](#) issued by the G20 Finance Ministers and Central Bank Governors at the conclusion of their meeting on 18 July 2020,¹² which reaffirmed the commitment to reach a global and consensus-based solution this year. The OECD is working on preparing reports on the blueprints for each pillar and a report on impact assessment. These documents will be discussed at the Inclusive Framework meeting in early October 2020, with a report to be provided to the G20 Finance Ministers for their next meeting on 15-16 October 2020 (which precedes the G20 Leaders Summit on 21-22 November 2020). It was noted during the webcast that the blueprints will leave room for discussion with stakeholders, including the potential for a public consultation.

The speakers also noted upcoming OECD publications, including the next set of BEPS Action 14 MAP Peer Review Reports (which was released on 27 July 2020 and will be covered in future Global Tax Alerts) and a toolkit for becoming a party to the Convention on Mutual Administrative Assistance in Tax Matters (which is expected to be released on 29 July 2020). They also indicated that the next tax talk webcast likely will be in September 2020.

Implications

The report provides a broad update on the full range of current and future G20/OECD tax work. The report makes clear that this is an important time in many areas of the tax activity, including the work on addressing the digitalization of the economy and the work on exchange of tax information around the world. The OECD webcast provided a further overview of all of the ongoing tax work.

It is recommended that tax professionals review the report and evaluate how the potential changes being developed could impact their companies. Also, companies may want to consider engaging with the OECD and policymakers at both national and multilateral levels on the business implications of the proposals on taxing the digital economy. Given the significant implications of the international tax changes under discussion, companies should monitor OECD developments closely over the coming months.

Endnotes

1. <http://www.oecd.org/tax/tax-policy/tax-and-fiscal-policy-in-response-to-the-coronavirus-crisis-strengthening-confidence-and-resilience.htm>.
2. <http://www.oecd.org/tax/covid-19-tax-policy-and-other-measures.xlsm>.
3. <http://www.oecd.org/economic-outlook/june-2020/>.
4. See EY Global Tax Alert, [*OECD releases model rules for data reporting by platform operators for sellers in the sharing economy*](#), dated 8 July 2020.
5. See EY Global Tax Alert, [*OECD documents on BEPS 2.0 include new details and identify issues under consideration on Pillar One and Pillar Two*](#), dated 7 February 2020.
6. See EY Global Tax Alert, [*OECD releases Consultation Document on the review of Country-by-Country Reporting*](#), dated 11 February 2020.
7. See EY Global Tax Alert, [*OECD holds public consultation on the 2020 review of country-by-country reporting*](#), dated 15 May 2020.
8. See EY Global Tax Alert, [*OECD launches International Compliance Assurance Programme pilot*](#), dated 26 January 2018; EY Global Tax Alert, [*OECD's Forum on Tax Administration announces International Compliance Assurance Programme \(ICAP\) 2.0 and publishes new Pilot Handbook*](#), dated 4 April 2020.
9. See EY Global Tax Alert, [*OECD releases the Platform for Collaboration on Tax toolkit on taxation of offshore indirect transfers of assets*](#), dated 8 June 2020.
10. <http://www.oecd.org/tax/tax-global/tax-co-operation-for-development-progress-report-2019.pdf>.
11. See EY Global Tax Alert, [*OECD holds first Tax Certainty Day and releases 2018 Mutual Agreement Procedure statistics*](#), dated 20 September 2019.
12. See EY Global Tax Alert, [*G20 Finance Ministers and Central Bank Governors' meeting communiqué reiterates commitment to addressing the tax challenges of digitalization of the economy*](#), dated 22 July 2020.

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EYG no. 005100-20GbI

1508-1600216 NY
ED None

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