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Organisation for Economic Co-operation and Development
Centre for Tax Policy and Administration
International Co-operation and Tax Administration Division

Sent via email: taxpublicconsultation@oecd.org

Subject: Comments on OECD Public Consultation Document – *Pillar Two - GloBE Information Return*

Ladies and Gentlemen:

We appreciate the opportunity to submit these comments on behalf of EY on the OECD's public consultation document, *Pillar Two - GloBE Information Return*, and to engage with the OECD on this important topic.

As an initial matter, we would like to stress the significant role that the GloBE information return will play in the administration of and companies' compliance with GloBE Rules around the world. Developing the systems needed to maintain, gather and report the huge volume of data required for GloBE calculations will necessitate substantial upfront investment of resources by companies, together with the ongoing deployment of resources for annual compliance. The Inclusive Framework's continuing focus on areas for simplification is most welcome, as any meaningful simplifying changes that are made will free up resources, not just for companies but also for tax administrations. We would further note that the data involved includes highly sensitive business information, which heightens the importance of any possible reductions in the information required to be reported and underscores the necessity of ensuring strict confidentiality protections with respect to the information that is received and exchanged in connection with the GloBE information return.

Given the lead time that will be required for necessary changes in systems and processes, early certainty with respect to the GloBE information return, including the exact electronic format, is critically important. Moreover, consistency across jurisdictions and stability over time also are essential to minimize the need for complex tailoring of systems to accommodate divergent requirements across

jurisdictions and costly system updates to reflect changes in the requirements from year to year. We therefore urge the Inclusive Framework to complete its work on the GloBE information return expeditiously. At the same time, we encourage the Inclusive Framework to continue the approach reflected with this Consultation Document so that it can incorporate input from stakeholders on practical considerations with respect to the GloBE information return and associated processes and procedures.

Against this backdrop, our comments focus on the key areas of centralized and local filing, development of segmentation of information, application of penalty and confidentiality rules, timing of required filings, peer review of implementation of filing requirements and further simplification.

Coordination of centralized and local filing

As noted in the Consultation Document, the discussion at the April 2022 consultation on GloBE implementation matters reflected strong support for a single point of filing for the GloBE information return followed by exchange of this information among tax administrations. The availability of a centralized filing approach that operates to eliminate the need for a separate filing in any jurisdiction that has an information exchange agreement in place with the jurisdiction that receives the centralized filing is a critically important part of the GloBE information reporting structure.

In this regard, it should be made clear that a company could choose to make more than one centralized filing. It also should be made clear that jurisdictions cannot refuse to receive centralized filings.

Given the importance of centralized filing, it is essential that the Inclusive Framework develop a model Qualifying Competent Authority Agreement covering the exchange of GloBE information and establish a process for getting these agreements executed in order to support the centralized filing approach. In addition, the OECD should publish and regularly update the list of Qualifying Competent Authority Agreement relationships. Companies should be able to rely on this publication to determine those jurisdictions where they have no separate filing obligations in addition to their centralized filings.

With respect to the ongoing work to produce a dedicated XML schema to facilitate the exchange of GloBE information, we stress the importance of completing this work as soon as possible. In addition, companies should be able to file the GloBE information return in the form of an .xml file using this same dedicated XML schema. Global consistency in this area is necessary as differences creating the need for conversion would mean significant additional systems burdens for both companies and tax administrations.

It should be made clear that jurisdictions for which local filing is not required because of their access to the GloBE information through a company's centralized filing cannot require the company to provide a copy of the centralized filing or to make a domestic filing of a different nature covering the same information.

In addition, a company's filing of the form of GloBE information return agreed by the Inclusive Framework, through centralized filing and/or local filing, should be sufficient to satisfy every relevant jurisdiction's information reporting requirements with respect to GloBE. Jurisdictions should not require additional information that is not required for the GloBE information return. Moreover, there should not be any local language requirements with respect to the GloBE information return and jurisdictions should not request any translation of information on the return.

Finally, to the extent that consideration is being given to requiring that companies provide advance notification to jurisdictions regarding where they intend to file their GloBE information return, we urge the Inclusive Framework to develop a notification approach that is not a stand-alone filing obligation as is currently the case with respect to country-by-country reports in many jurisdictions. One approach that could be considered would be to include any such notification in the regular corporate income tax filing in jurisdictions. In this regard, given the uncertainties that will be present in the first years of the GloBE rules as jurisdictions implement the filing requirements and Qualifying Competent Authority Agreements are put in place, we strongly encourage the Inclusive Framework to provide that notification of the place of filing for the initial years is not required any earlier than the actual filing the GloBE information return for such years in order to avoid any need to amend earlier notifications to reflect the actual filing locations.

Development of segmentation of information

The Consultation Document reflects a recognition that not all jurisdictions will need all the information contained on a company's GloBE information return. The ongoing work of the Inclusive Framework to explore segmentation of the information to be reported is critically important. This type of segmentation of information should be further developed and incorporated into the GloBE information return.

Under a segmentation approach, to provide certainty and consistency, the GloBE information return should clearly specify the circumstances for entitlement to each category of information contained on the return. In the case of centralized filing, the Qualifying Competent Authority Agreements should allow for delivery to a jurisdiction of only the segmented information to which such jurisdiction is entitled. In addition, in the case of local filing, a company should not be required to include on a locally filed GloBE information return any information beyond the segmented information to which such jurisdiction is entitled. Moreover, jurisdictions should not be permitted to request from companies, or require on a domestic filing, any information beyond the segmented information to which they are entitled.

Application of penalty and confidentiality rules

The Qualifying Competent Authority Agreement must clearly provide that a jurisdiction receiving GloBE information under such an agreement is bound by the confidentiality rules of the jurisdiction that received the centralized filing and shared the information pursuant to such agreement.

Similarly, it should be made clear that in the case of a centralized filing, penalties related to such filing can be imposed only by the jurisdiction in which such filing is made. Moreover, it should be made clear that a jurisdiction cannot impose penalties for failure to file segmented information to which it is not entitled.

Given the volume and complexity of the data required for the GloBE information return, we strongly encourage the Inclusive Framework to provide greater certainty by further developing the common understanding on transitional penalty relief with respect to the filing of the GloBE information return that is described in the agreed December 2022 document on safe harbors and penalty relief.

Timing of required filings

The GloBE information return will contain all the information that is needed for the GloBE calculations of a company's top-up tax liability, if any, with respect to a jurisdiction. While the Consultation Document indicates that the GloBE information return is separate from the GloBE tax return that will be required in a jurisdiction and that the requirements with respect to a GloBE tax return are to be determined by each jurisdiction, it is essential that the timing of the filing of such tax returns be coordinated with the timing for filing of the GloBE information return. In order to avoid what would otherwise be burdensome duplicative information reporting obligations, the date for filing the GloBE tax return in a jurisdiction should be no earlier than the agreed date for filing the GloBE information return. Moreover, the GloBE tax return should leverage the information included on the GloBE information return by cross-reference to eliminate the need to report the same information to a jurisdiction on multiple forms. In addition, rules are needed to clarify and coordinate the timing of filing obligations in situations that involve varying fiscal years.

Peer review of implementation of filing requirements

The development of a robust and expeditious peer review process with respect to the implementation of filing requirements for the GloBE information return will be vital, including the establishment of meaningful consequences for jurisdictions with practices that do not conform to the rules and procedures agreed in the Inclusive Framework. Consistency and conformity with respect to the information reporting and exchange procedures for GloBE are important to companies and tax administrations alike.

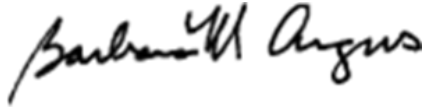
Further simplification

Finally, we appreciate the Inclusive Framework's commitment to continue work on developing additional safe harbors and other simplifications to help reduce the compliance and administration burdens associated with the GloBE Rules. Further simplification, including the permanent safe harbors being developed by the Inclusive Framework, is very much needed. Moreover, in order to fully achieve the objective of reduced compliance and administration burdens, such safe harbors and simplification will need to be reflected in the GloBE information return through corresponding reductions in the information required to be reported in circumstances where a safe harbor or other simplification is applicable. We urge the Inclusive Framework to proceed with this work as quickly as possible so that these important further developments can be reflected in the new systems that companies will need to develop for management of the data and reporting requirements associated with the GloBE Rules.

The global EY team that prepared this submission welcomes the opportunity to discuss these comments in greater detail and to continue to participate in the dialogue as the Inclusive Framework advances the work on this important project.

If there are questions regarding this submission or if further information would be useful, please contact Jano Bustos (joseantontio.bustos@ey.com), Ronald van den Brekel (ronald.van.den.brekel@nl.ey.com), or me (barbara.angus@ey.com).

Yours sincerely, on behalf of EY,

A handwritten signature in black ink that reads "Barbara M. Angus". The signature is written in a cursive style with a large initial 'B'.

Barbara M. Angus
EY Global Tax Policy Leader