SIMPLIFIED CHECKLIST ON PILLAR 1 AND PILLAR 2 OF THE OECD

You all would have heard about the Two-Pillar ("Pillar 1" and "Pillar 2") solution to address the tax challenges arising from the digitisation of the economy, commonly known as BEPS 2.0.

But what should you do about it?

If anything at all, DFDL has prepared a simplified checklist to help you identify what you need to be aware of!

PILLAR 1

	AMOUNT A	AMOUNT B
SCOPE	Simplified threshold - Revenues exceeding EUR 20 billion and a profitability greater than 10%. *Extractives and Regulated Financial Services are excluded.*	• Focusses on "baseline" wholesale distribution of goods, including commissionaires and sales agents (i.e., marketing entities). • There are no amount-based thresholds. *Provision of services and distribution of commodities are excluded.*
WHAT NEEDS TO BE DONE?	MNEs are to reallocate 25% of the profit above 10% of its revenues (i.e., 25% of the residual profits) to the jurisdictions where the markets are.	• Transactions within the scope will be priced based on the pricing matrix (i.e., arm's length returns based on sales), except when internal CUPs are available. • Adjustments are to be made to account for geographical differences, gaps in data availability, etc.

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PILLAR 2

WHAT IS PILLAR 2?

It is a global minimum tax directive under the OECD. Goal is to avoid tax erosion and profit shifting in MNEs globally.

SCOPE

- MNEs with consolidated group revenue equal to or exceeding EUR 750 million.
- Certain industries and entity types (e.g., pension funds) may be excluded.

EFFECTIVE DATE

Some jurisdictions have accounting periods starting on or after 1 January 2024:

This includes Germany, Netherlands, Sweden, Switzerland, the UK, Japan, and South Korea. The remaining countries intend to enforce in 2024 or by 2025, and some countries have yet to announce enforcement.

WHAT NEEDS TO BE DONE?

Broadly, top-up tax will be payable if MNEs' in-scope income and profits are subject to an effective tax rate of less than 15%. Various mechanisms (e.g., the Income Inclusion Rule and the Qualified Domestic Minimum Top-up Tax) have been discussed. The exact methodology adopted will vary by country.

De minimis exemption can be elected by MNEs with an average GloBE revenue of less than EUR 10 million and an average GloBE income/ loss of less than EUR 1 million. If an exemption applies, the top-up tax is deemed to be zero.

IMPACT IN CERTAIN COUNTRIES

Countries such as Vietnam, Thailand, Malaysia, Indonesia, Singapore, Philippines, and Cambodia that offer certain tax incentives and tax holidays to MNEs are at risk, as the Global Minimum Tax could lead to significant top-up tax. In addition, and perhaps most importantly, they could see a decline in FDI and potentially see existing FDI moving elsewhere.

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