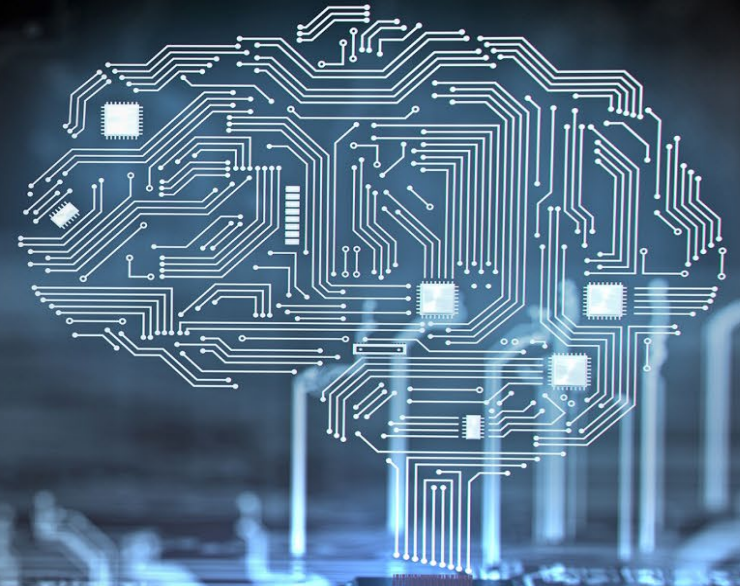


# Taxation of Digitised Economy under Pillar 1 & Pillar 2 by OECD

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# Agenda



## Pillar 1 and Pillar 2

01 Introduction

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02 Pillar 1

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03 Pillar 2

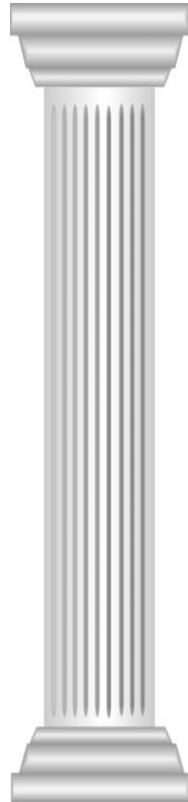
# Introduction



# Introduction

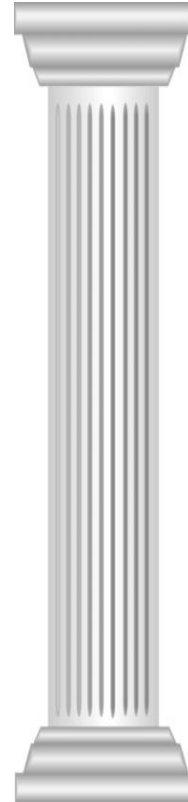
## Pillar 1

- Focuses on allocation of taxing rights between jurisdictions, new profit allocation and nexus rules
- Approach seeks to accommodate new business models and expand taxing rights of market jurisdictions (e.g., location of users)
- OECD statement indicates that the regulated financial services sector, including insurance, and extractive industries are scoped out of Pillar 1



## Pillar 2

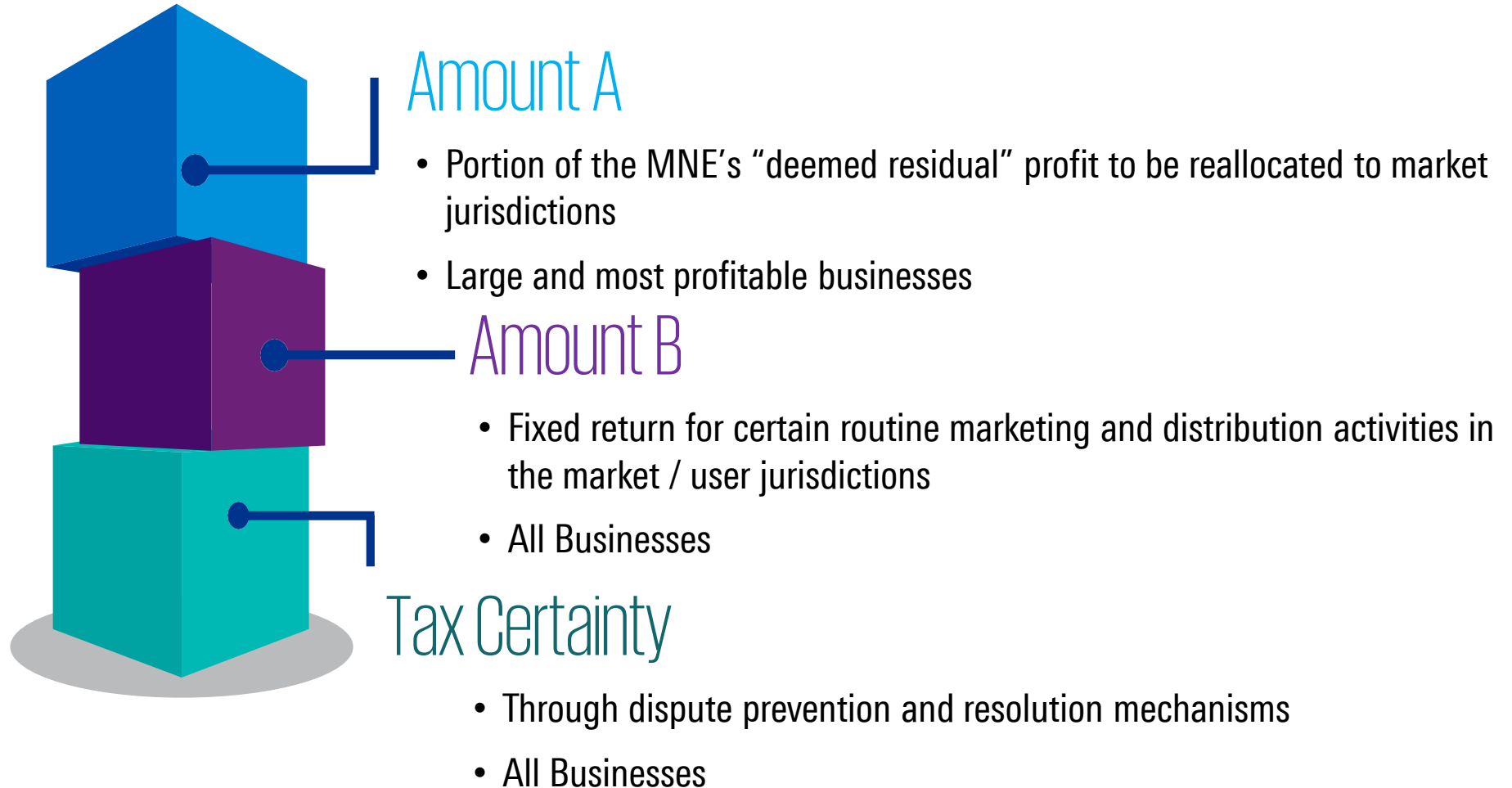
- Also called Global Anti-Base Erosion (“GloBE”) proposal - seeks to address remaining BEPS issues
- Co-ordinated set of rules to address profit shifting and unhealthy tax competition by providing jurisdictions with right to “tax back” where other jurisdictions have not exercised their primary taxing rights or income is subject to low rate of tax
- Proposed as a “top-up” tax to a minimum effective tax rate (“ETR”) to provide a level playing field for jurisdictions and taxpayers



# Pillar 1



# Elements of Pillar One Proposal (Blueprint and IF Statement)



# OECD / G20 Inclusive Framework Statement – Pillar One



## In Scope MNEs

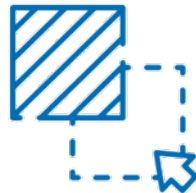


MNEs with both:

- Global turnover above EUR 20 billion
- Profitability above 10% (measured as profits before tax to revenue, on an accounting basis)



Threshold to reduce to EUR 10 billion 7 years after Pillar One enters into force



Excluded: Extractive and Regulated Financial Services



# OECD / G20 Inclusive Framework Statement - Pillar One



## Calculation of taxing right



Who will pay Amount A?

Amount B

- Profitability > 10% (measured as profits before tax to revenue on an accounting basis), deemed as residual profit
- Between 20% - 30% of residual profit will be allocated to market jurisdictions with nexus using revenue-based allocation keys
- Profits will be based on financial accounting income, subject to:
  - Minimal adjustments
  - Carry forward of losses
- Nexus exists if country sourced revenue threshold is met. At least EUR 1 million in jurisdiction (EUR 250,000 if market GDP less than EUR 40 billion)
- Detailed revenue sourcing rules for specific categories of transactions will be developed
- Simplification of application of arm's length standard to baseline marketing and distribution activities – To be simplified and streamlined by end of 2022



# OECD/G20 Inclusive Framework Statement – Pillar One (contd..)



## Tax Certainty and Implementation



### Tax Certainty

- Commitment to binding dispute prevention and resolution mechanisms for issues relating to Amount A
- These would generally be mandatory on countries
- However, consideration will be given to making them elective for certain developing countries



### Unilateral Measures

- Removal of Digital Service Taxes and other relevant measures on all companies



### Implementation

- Amount A distribution to be implemented by a multilateral instrument (“MLI”)
- MLI will be developed and open for signature in 2022, with Amount A coming into effect in 2023

# Pillar 2



# Pillar 2 – Concept and Framework

## Objective

To ensure that large internationally operating businesses pay a minimum level of tax

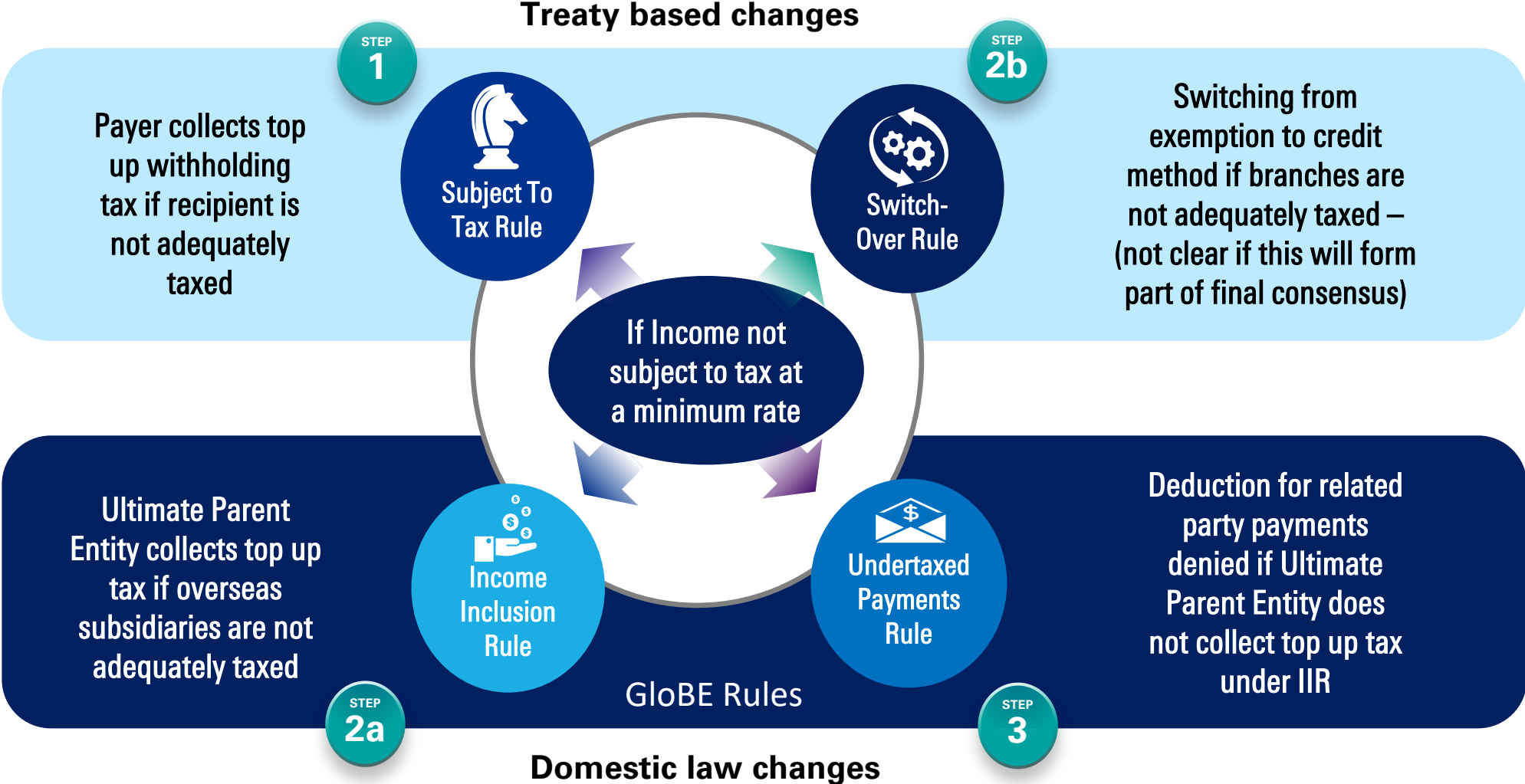
## Design considerations

- Disincentivising tax-driven profit shifting
- Addressing tax competition
- Avoiding double taxation or taxation where there is no economic profit
- Minimizing administrative and compliance costs

## Framework

- Rules to give countries a right to 'tax back'
- Collection of Top-up tax envisaged where income is not adequately taxed
- Rules implemented through changes to domestic law and tax treaties

# Components of Pillar 2 – High Level Overview



# Subject to Tax Rule (STTR) – The Concept

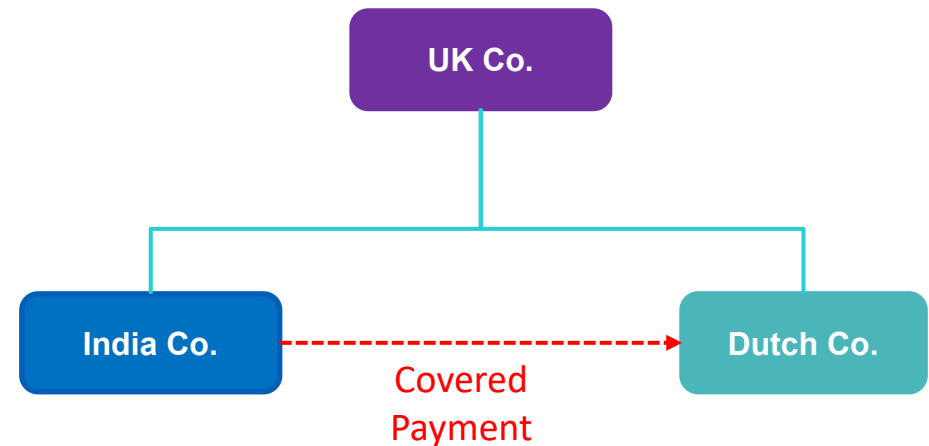
Allows countries to levy a top up withholding tax on covered related party payments if taxed below minimum rate in related party's country

## Covered Payments

- Interest
- Royalties
- Franchise fee or payments to use or right to use intangibles in combination with services
- Insurance or reinsurance premiums
- Guarantee, brokerage or financing fee
- Rent or other payment for the use of or right to use moveable property
- Consideration for supply of marketing, procurement, agency or other intermediary services

Under consideration:

- Other covered payments
- Gains not subject to tax in either country due to treaty protection (may not require connected persons test)



## Implementation

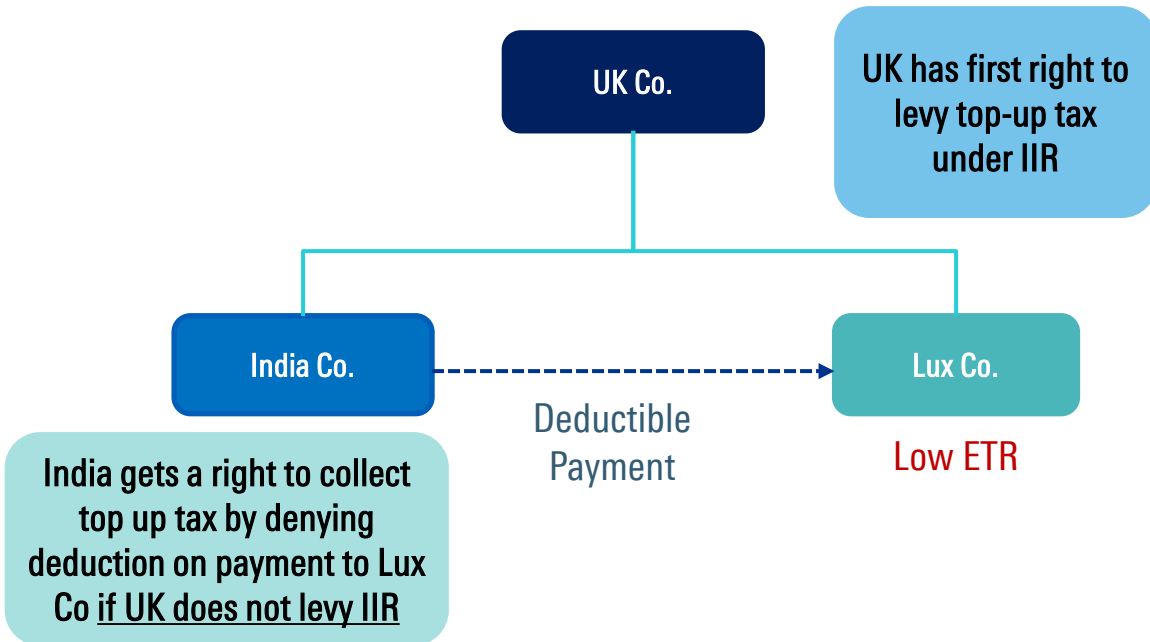
- Trigger Rate: Expected to be between 7.5% - 9%
- Based on tax rate applied to the payment, not the entity:
- Exclusions envisaged for investment funds, pension funds, not for profit org etc.

# GloBE Rules – The Concept

## Two Interlocking Rules:

- (i) **Income Inclusion Rule (IIR)** - imposes a top-up tax on the group's parent entity in respect of low taxed income of group entities; and
- (ii) **Undertaxed Payment Rule (UTPR)** – denies tax deductions if low tax income of group entity is not subject to tax in IRR

## Status of common approach



## Pre-requisites for trigger of GloBE Rules:

- A EUR 750m group revenue threshold is met - but countries can use lower threshold only for IIR
- Income of the group entity is taxed at below the minimum effective tax rate (not less than 15%) – Complex rules envisaged for ETR calculation
- The entities must not fall within the list of *excluded entities*

## **Excluded Entities**

- Investment and pension funds, governmental entities such as sovereign wealth funds and international non-profit bodies.
- International shipping
- MNE's in 'initial phase of their international activity' (under development)

# GLOBE Rules - ETR & Simplification options

## Simplified Calculation

1

Calculation of ETR - done at country level (consolidating all entities / branches in that country)

2

Compute covered taxes (*the numerator*) and the tax base (*the denominator*) and derive the ETR

3

Carry out adjustments for tax c/f, loss c/f and substance-based carve outs

4

Compute and allocate top-up tax to each entity in the jurisdiction (*if ETR is lower than Global Minimum ETR*)



NUMERATOR =

Local Taxes Paid\* (subsidiary and branch)+

WHT / CFC Tax + STTR Tax

DENOMINATOR =

Profit of all entities in the country (as per parent's Accounting Standard)

+ / - Permanent and Temporary differences

+ / - Consolidation adjustments

\* VAT, GST & DST excluded

## Potential simplification options under consideration

- CbCR ETR safe harbor
- De minimis profit exclusion
- Single ETR calculation over multiple years
- Tax administrative guidance

# Final package 2021 & beyond

