

OECD releases Multilateral Convention to implement Amount A of Pillar One

12 October 2022

In brief

The OECD on 11 October 2023 [released](#) a package of guidance in relation to Amount A of Pillar One: the text of a consensus-based [Multilateral Convention \(MLC\)](#) and accompanying [explanatory statement](#), an [Understanding on the Application of Certainty for Amount A of Pillar One](#) (UAC), and an update to the [economic impact assessment](#) of Pillar One. Notably absent from the package is any further guidance on Amount B (i.e., transfer pricing for routine distribution and marketing transactions), which the Inclusive Framework (IF) continues to work on, post-consultation, to provide final guidance by the early part of 2024.

Despite running to approximately 850 pages, the release does not open the MLC to countries for signing at this point, because there are still issues to be resolved. While it is spelled out how many countries are required to sign and containing what percentage of businesses covered by Amount A (note this cannot be met without the US), it is still unclear what it will actually take for individual countries to ratify and for enough of them to do so to bring the provisions of the MLC into force. So, while the MLC will be presented to G20 finance ministers at their meetings this week in Morocco, the path forward is still quite uncertain.

In addition to the MLC and related documents for Pillar One, the OECD also released a [Minimum Tax Implementation Handbook](#) that is intended to assist governments as they consider moving forward with the global minimum tax under Pillar Two. It provides an overview of the key provisions of the rules and the considerations to be taken into account by tax policy and administration officials and other stakeholders in assessing implementation options. It also highlights plans for a peer review process, exchange agreements and the development of technology tools designed to smooth the transition for filing and reviewing information returns.

The OECD previously released nine consultation documents on Amount A. Separate responses were requested in relation to each consultation document. The first release covered the [revenue sourcing and nexus rules](#), the second release covered the rules for [tax base determinations](#), the third release covered the [general scope rules](#), the fourth release covered the [exclusion for extractive industries](#), the fifth release covered the [exclusion for regulated financial services](#), and the sixth and seventh covered [tax certainty](#). The eighth covered [guidance on unilateral measures](#), and the ninth covered [administration and tax certainty aspects](#). While there have been developments in many of these areas, it is again important to note that some significant issues remain, and many of the rules remain very complex.

In detail

Notable details

In addition to the operative provisions of Amount A, the MLC will also contain provisions requiring the withdrawal of all existing digital service taxes (DSTs) and relevant similar measures with respect to all companies, as well as a commitment not to enter into such measures in the future. It lists nine specific measures to be withdrawn across eight different countries. It also requires a commitment not to apply Significant Economic Presence (or similar nexus) provisions to in-scope multinational enterprises (MNEs). However, this is clearly contingent on progress towards ratification of the MLC.

Some relief has been provided with regard to scoping. The conditions for falling (and staying) out of scope of the Amount A rules have been simplified for industries such as extractives (e.g., mining) and financial services. The defence industry is now completely out of scope of the Amount A rules. There is also a new autonomous domestic business exemption, which allows companies to exclude financial results that are derived from a particular jurisdiction. The UAC provides details on how aspects of the Amount A tax certainty framework will be implemented.

Agreement has largely been reached for withholding taxes (WHTs) to be taken into account in the marketing and distribution safe harbour (MDSH) and elimination of double tax. However, this is another of the areas on which certain countries continue to raise objections, as reflected in the outstanding issues highlighted in the footnotes.

The takeaway

The 140 IF countries have agreed to the text of the MLC for release to the public, but there is not yet a formal opportunity to sign. While the MLC demonstrates continuity in many key technical areas such as revenue sourcing, nexus, and tax base, some jurisdictions have presented different views on other items as noted in the footnotes. The US has opened a 60-day public [consultation](#) on the MLC, and is especially interested in stakeholder comments around “novel issues identified by a review of the complete text, implementation and administrability issues (including the balance between simplification and technical precision), and technical adjustments to address errors or clarify the operation of the Pillar One MLC provisions.” However, in all likelihood we will not see consultations for the vast majority of other countries, beyond some key stakeholder conversations, nor is it clear that the MLC would be reopened to take into account comments raised in individual countries. New revenue estimates seek to show that developing countries would do better than previously assumed, but that relies on the consistent application by countries of complex formulas. Developing countries are shown to gain most when such revenue gains are expressed as a percentage of *current revenues*. What is not shown is how much of the total revenue *gains* from Amount A will go to such countries (e.g., as compared to developed countries).

PwC will follow up with further detail on the content and operation of the MLC issues in a forthcoming alert.

Let's talk

For a deeper discussion of how Amount A might affect your business, please contact:

Tax policy leadership

Will Morris, Washington
+1 202 213 2372
william.h.morris@pwc.com

Edwin Visser, Amsterdam
+31 0 88 7923 611
edwin.visser@pwc.com

Tax policy contributors

Stewart Brant, United States
+1 (415) 328 7455
stewart.brant@pwc.com

Phil Greenfield, United Kingdom
+44 (0) 7973 414 521
philip.greenfield@pwc.com

Chloe O'Hara, Ireland
+353 (0) 87 7211 577
chloe.ohara@pwc.com