INVESTMENT COMPANY INSTITUTE

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October 13, 2021

OECD Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy

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TO: ICI Members
ICI Global Members
Global Tax Committee
Tax Committee SUBJECTS: International/Global
Tax RE: OECD Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy

The OECD[1]/G20 Inclusive Framework on BEPS (Inclusive Framework or "IF") has announced agreement on a "two-pillar" solution for addressing the tax challenges arising from the digitalization of the economy.[2] These pillars are crafted to exempt small and medium-size enterprises. Many details must be agreed before this agreement can be implemented.

Pillar One, among other things, provides market jurisdictions with a new right to tax a portion of allocable residual profits (Amount A) of the largest multinational enterprises (MNEs)[3] regardless of whether the taxpayer is physically present in that jurisdiction. We are pleased to inform you that, as we requested,[4] Pillar One exempts "regulated financial services" from Amount A.

The Inclusive Framework intends for Pillar One Amount A to be implemented through a Multilateral Convention (MLC) and, as needed, changes to countries' domestic laws. The IF envisions that several documents, including the MLC text and Explanatory Statement, along with model rules for domestic legislation (with commentary), will be agreed by the IF's members by early 2022. This timetable will allow for a high-level signing ceremony of the MLC and Explanatory Statement to be held by mid-2022.

Pillar Two is designed to ensure that MNE profits are taxed at a minimum rate of 15 percent under the Global anti-Base Erosion (GloBE) rules.[5] We are pleased to inform you that, as we requested,[6] investment funds that are the Ultimate Parent Entity of a MNE group and any holding vehicles used by such funds are exempt from the GloBE rules.

The Inclusive Framework intends for the GloBE rules to be effected through model rules, with commentary, that will be crafted by the end of November 2021. The IF further envisions an implementation framework to facilitate coordinated implementation of the GloBE rules by the end of 2022.

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Assistant General Counsel

endnotes

[1] OECD is the acronym for the Organisation for Economic Co-operation and Development. The OECD consists of 37 member countries. The Inclusive Framework involves 140 members participating on an equal footing.

[2] This agreement is the product of the Inclusive Framework's efforts to implement their January 2020 statement regarding these tax challenges. *See* Institute Memorandum No. 32199, dated February 7, 2020.

[3] The agreement initially will apply only to MNEs with global turnover above 20 billion Euros, although at least one reduction in the threshold is envisioned.

[4] *See* Institute Memorandum No. 32049, dated November 12, 2019. *See also* Institute Memorandum No. 32981, dated December 14, 2020.

[5] Pillar Two also provides related rules (such as a Subject to Tax Rule (STTR)).

[6] *See*Institute Memorandum No. 32072, dated December 2, 2019. *See also* Institute Memoranda No. 32981, dated December 14, 2020, and No. 33749, dated September 1, 2021.
