

MEMO# 34264

August 18, 2022

ICI Submission to OECD Requesting Clarifications to Asset Manager Exclusion from Pillar One Amount A

[34264]

August 19, 2022

TO: ICI Members
ICI Global Members
Global Tax Committee
Management Company Tax Subcommittee
Tax Committee SUBJECTS: International/Global
Tax RE: ICI Submission to OECD Requesting Clarifications to Asset Manager Exclusion from Pillar One Amount A

The ICI has submitted the attached response to the OECD's [Progress Report on Amount A of Pillar One](#) ("Progress Report").^[1] Pillar One, among other things, would provide market jurisdictions with a new right to tax a portion of the allocable "residual profits" (Amount A) of large multinational entities (MNEs); this right would apply regardless of whether the MNE is physically present in that jurisdiction.^[2]

This submission supplements comments that we filed in May^[3] to a [Public Consultation Document](#) that defined an asset manager excluded from Pillar One Amount A as one that meets, among other things, a capital adequacy requirement. Our May comments urged that the capital adequacy requirement be replaced. We noted that the United States, following the principles developed by the International Organization of Securities Commissions (IOSCO), protects investors without imposing minimum capital requirements.

We are pleased to report that the Progress Report adopts our suggestion and has replaced the capital adequacy requirement for asset managers with one based upon the IOSCO principles. Specifically, the definition now provides in part that an excluded asset manager is one "subject to regulation reflecting the Objectives and Principles of Securities Regulation as adopted by IOSCO and the related implementing methodology."

This submission addresses two issues. First, we request that the requirement that an asset manager be "licensed" be expanded to include managers that are "authorized or registered." While these three terms may be viewed as interchangeable, modifying the definition to include all three terms will provide asset managers with tax certainty.

Second, the submission explains why the Commentary should focus on the IOSCO principles as ensuring that asset managers have sufficient substance in market jurisdictions for tax purposes. A capital requirement, as evidenced by the robust securities regime in the United States, is not necessary so long as the IOSCO principles are followed.

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endnotes

[1] OECD is the acronym for the Organisation for Economic Co-operation and Development. The OECD consists of 37 member jurisdictions. This initiative is being conducted by the OECD/G20 Inclusive Framework on BEPS, which involves 137 members, including the OECD members, participating on an equal footing.

[2] Pillar One is described in detail in [Institute Memorandum No. 34163](#), dated May 27, 2022.

[3] [Institute Memorandum No. 34163](#), dated May 27, 2022.

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