

MEMO# 34594

December 16, 2022

EU Agreement on Pillar 2 Directive

[34594]

December 19, 2022

TO: ICI Members
ICI Global Members
Global Tax Committee
Management Company Tax Subcommittee
Tax Committee SUBJECTS: International/Global
Tax RE: EU Agreement on Pillar 2 Directive

EU Member States reached an [agreement](#) to implement the OECD Pillar Two proposal through the adoption of the EU Minimum Tax Directive. The Directive was adopted as part of a package along with aid to Ukraine and the disbursement of EU funding to [Hungary](#).

Pillar Two is designed to ensure that multinational enterprise (MNE) profits are taxed at a minimum rate of 15 percent under the Global anti-Base Erosion (GloBE) rules. The [Directive's text](#) generally follows the OECD Pillar Two proposal, including the carve out for investment funds.^[1] Specifically, the Directive excludes investment funds that are at the top of the ownership chain (an ultimate parent entity). An investment fund is defined as an entity or arrangement that meets all the following conditions:

- (a) it is designed to pool financial or non-financial assets from a number of investors, some of which are non-connected;
- (b) it invests in accordance with a defined investment policy;
- (c) it allows investors to reduce transaction, research, and analytical costs or to spread risk collectively;
- (d) it is primarily designed to generate investment income or gains, or protection against a particular or general event or outcome;
- (e) its investors have a right to return from the assets of the fund or income earned on those assets, based on the contribution they made;
- (f) it, or its management, is subject to the regulatory regime, including appropriate anti-money laundering and investor protection regulation, for investment funds in the jurisdiction in which it is established or managed; and

(g) it is managed by investment fund management professionals on behalf of the investors;

The Directive will enter into force once it is published in the Official Journal of the European Union. EU Member States will be required to implement the Directive into domestic laws by the end of 2023 as originally agreed in the [Inclusive Framework October 2021 Statement](#).

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Notes

[1] See Institute Memorandum [No. 32072](#), dated December 2, 2019. See also Institute Memoranda [No. 32981](#), dated December 14, 2020, [No. 33749](#), dated September 1, 2021, [No. 33819](#), dated October 13, 2021.

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