International Banking Federation

5th Floor, 1 Angel Court
London EC2R 7HJ
United Kingdom
+44 7725 350 259
www.ibfed.org

2 December 2019

Tax Policy and Statistics Division
Centre for Tax Policy and Administration, OECD
Email: TFDE@oecd.org

OECD Public Consultation - Tax Challenges Arising from the Digitisation of the Economy - Global Anti-Base Erosion Proposal - Pillar 2

Dear Sir/Madam

We refer to The OECD's recent public consultation document *"Global Anti-Base Erosion Proposal ("GloBE") (Pillar Two)"* (the Consultation Document), and we are pleased to respond to it.

We further refer our submission in relation to Pillar One dated 11 November 2019, in which we set out our policy, technical and practical arguments for why banks should be excluded from those set of proposals. We appreciate your consideration of the concerns raised by our members and efforts to address these as part of the ongoing Programme of Work. We have summarised our position in relation to Pillar Two below.

We understand from the Consultation Document that there are four component parts of the GLoBE proposal, being:

a. An income inclusion rule;
b. An undertaxed payments rule;
c. A switch-over rule;
d. A subject to tax rule.

To reiterate the argument in our previous submissions, banks are taxed in the appropriate jurisdictions based on where they have a regulated, taxable presence. Accordingly, although we do not have any significant objections to the general principles set out in the Consultation Document in relation to the GLoBE proposal, we believe there is much work to be done to address complexity and integration of various tax regimes.

We also make the following general observations in response to the Consultation Document:

Use of financial accounts as a tax base

With reference to section 2 of the Consultation Document, regulated banks are required to prepare their accounts in accordance with the standards accepted by the regulators in the jurisdictions in which they operate. Global banks must consolidate their accounting results and often accommodate differences in principles applied based on the different jurisdictions in which they are operate. Use of differing accounting standards to determine an appropriate income base for the GloBE proposal would be a concern, and the use of consolidated accounts prepared at the parent level would appear more reasonable. This approach should also align with reporting requirements that parent entities face from prudential, financial and tax regulators. Many global banks also report along divisional/business lines as a grouping rather than strictly on jurisdictional bases. Therefore, information on the identification and delineation of tax bases per jurisdiction is not always readily available from consolidated reported accounting information.

Allocating income between branches and head office

With reference to section 3.3 of the Consultation Document, many global banks utilise branches as part of their group structure. Many jurisdictions have applied the OECD's Report on the Attribution of Profits to Permanent Establishments (2010), which is well accepted guidance for banks on the attribution of profit between their head office and offshore branch operations, within their tax and transfer pricing laws.

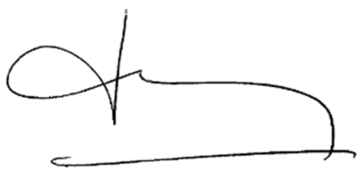
In relation to the "blending" of income referred to in the Consultation Document, any revision to the rules currently applicable to the allocation of profits between a bank's head office and branch will be of relevance and we would be interested to understand further the mechanics of such a proposal.

Compliance costs

Global banks are already subject to significant reporting, compliance, regulatory and taxation requirements. The GloBE proposals should seek to complement existing reporting and not add additional material compliance costs for global banks either in the computation of their own tax liability or in facilitating their customer's compliance with new rules.

Further information

As the principles on Pillar Two progress, we would be happy to engage further with you and to answer any specific questions you have.



Hedwige Nuyens
Managing Director IBFed [1]

Michael Barbour
Chair of the IBFed Tax WG

[1] *The International Banking Federation (IBFed) was formed in 2004 to represent the combined views of our national banking associations. The IBFed collectively represents more than 18,000 banks, including more than two thirds of the largest 1000 banks in the world. IBFed member banks play a crucial role in supporting and promoting economic growth by managing worldwide assets of over 75 trillion Euros, by extending consumer and business credit of over 40 trillion Euros across the globe, and by collectively employing over 6 million people. The IBFed represents every major financial centre and members' activities take place globally. This worldwide reach enables the IBFed to function as a key international forum for considering regulatory and other issues of interest to the global banking industry.*