



**Mr Paolo Gentiloni**  
Commissioner for Economy  
European Commission  
Rue de la Loi/Wetstraat 200  
1049 Brussels  
Belgium

30 November 2021

Dear Commissioner,

## EU Implementation of Global Tax Reforms

I am contacting you regarding the upcoming EU-implementation of the OECD corporate tax reforms, regarding the re-allocation of taxing rights ('Pillar 1') and the minimum effective corporate tax rate ('Pillar 2').

We welcome the historic agreement reached at the OECD, and we agree with your assessment that this is 'nothing less than a tax revolution'. By addressing a global issue at global level, the new rules can provide stability and coherence to the international corporate tax system. However, while the to-be-published OECD model rules are expected to offer some further clarity, we want to underline that the implementation of the package is enormously complex for MNEs of all sizes and **will require further detailed rules and administrative guidance from the OECD to ensure legal certainty and workability**, if a successful implementation at EU and global level is to be achieved.

During the implementation phase, an overarching priority should be the protection of European competitiveness. Whilst recognising that certain changes will inevitably need to be made to ensure EU-law compatibility, we believe **it is essential that the EU 'Pillar-directives' align with the OECD rules in full**. Any 'goldplating' to the OECD reforms can only disrupt the implementation process amongst Member States and undermine the difficult choices all countries, EU and non-EU, made in the spirit of compromise throughout the negotiations. In particular, any unilateral approach by the EU, now or in the future, may put European companies at a competitive disadvantage and cause double taxation. This not only applies to the minimum rate itself, but also to the substance-based carve out, the use of pre-regime losses and several other parts of the reform. The Commission proposed directive, scheduled to be published on 22<sup>nd</sup> December should also take into account that some elements of the Pillars still need to be further developed at OECD level, and thus full alignment will not, and cannot yet, be guaranteed in the immediate future.

Similarly, the Commission and Member States should carefully follow the implementation process by non-EU partners. Considering the 'package' nature of the OECD agreement, we believe it is logical and essential that **any measure can become effective in the EU only if and when it can be established with certainty that our major trading partners implement both Pillars into domestic law at the same time in a manner consistent with the global agreement**.

Not only could a rushed implementation in the EU be exploited by third countries to gain advantage, **any deviation of the rules outside the EU, now or in the future, could have a significant impact on EU-competitiveness and the fairness of the system as a whole.** We should of course allow non-EU partners reasonable opportunity and time to enact the reforms in a spirit of trust and cooperation, in particular by not introducing any unilateral measure - such as a digital levy. However, to ensure a level-playing field for EU-businesses, it is essential the Commission's directives ensure that implementation at EU-level is strictly dependent on the full implementation of both Pillars by our key trading partners.

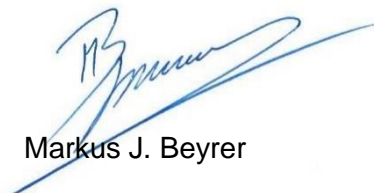
As part of the introduction of a broad-based minimum effective corporate tax rate for the world's largest companies, the Commission should consider, in line with its own Better Regulation Agenda, **how previous specific and targeted anti-avoidance measures, such as the ATAD, will interact with the Pillars** and whether these are still fit-for-purpose or even necessary. Such an evaluation, which can be part of the impact assessment of the Pillar-directives, should assess whether some rules, in particular CFC rules, would need to be simplified or even removed when their purpose has been overridden by the OECD minimum tax.

In addition, the Commission should ensure that the upcoming proposal on publishing effective tax rates (ETRs), according to the Pillar 2 method, **does not increase compliance costs for businesses and avoids providing sensitive commercial information to third country competitors**, as well as explaining how it will provide further transparency and understanding on ETRs to the general public, bearing in mind the recent agreement on public country-by-country reporting, already in place. In common with all Commission proposals, it will be essential that these arguments are fully supported by a thorough impact assessment.

More generally, with bottlenecks and disruptions in supply chains weighing on activity in the EU, it is important that the Commission pursues a strong pro-growth agenda. In light of the digital and green challenges, more consideration should be given to how the tax system in Europe can continue to spur innovation and the creation of valuable intangibles. We are in particular looking forward to your upcoming initiatives on the Debt-Equity Bias Reduction Allowance (DEBRA) and the Business in Europe – Framework for Income Tax (BEFIT) which, dependent on their final design, can provide an important boost towards increased business investments across Europe and lowered compliance costs.

My staff and I remain at your disposal to discuss any aspects of these issues in more detail.

Yours sincerely,



Markus J. Beyrer