BUSINESSEUROPE

International Acccounting Standards
Board (IASB)
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London E14 4HD
United Kingdom

C.c. EFRAG

27 February 2023

Dear Board Member,

Re: IASB Exposure Draft International Tax Reform - Pillar Two Model Rules Supplier Finance Arrangements - Proposed amendments to IAS 12

BUSINESSEUROPE is pleased to have the opportunity to respond to the IASB Exposure Draft International Tax Reform - Pillar Two Model Rules (the "ED").

BUSINESSEUROPE supports the proposal to introduce a temporary exception in IAS 12 for accounting of deferred taxes related to Pillar Two taxes.

BUSINESSEUROPE appreciates the efforts made by the IASB to achieve well-balanced disclosure requirements that meet the information needs for users while also considering the costs for preparers.

Our understanding is that users want information about how Pillar Two taxes might affect future cash flows and profits of the reporting entity. We strongly believe in a principles-based approach to address such needs. We consider that applying the general requirements in IAS 1 to disclose information about circumstances that might have a material effect on the consolidated accounts of the reporting entity is sufficient to ensure that users are well informed about the impact of Pillar Two taxes.

Therefore, we do not support the proposed disclosure requirements in paragraph 88C (a). We consider that information in the current period about Pillar Two legislation in jurisdictions where the entity operates is available from other open sources.

As for the proposed disclosure requirements in paragraph 88C (b) and (c), we consider that this information is not useful and potentially misleading. Some of the disclosure requirements are similar to specific tax reporting, e.g. Country-by-Country reporting. This type of information might be more interesting for tax authorities than for users of information in general-purpose financial reports.

As for the requirement in paragraph 88B, we wonder what the added value is of separate information about Pillar Two taxes in current tax expense (income) in periods when Pillar Two legislation is in effect.

Responses to the individual questions are included in the appendix. If you require further information upon these matters, please do not hesitate to contact us.

Yours sincerely,

Erik Berggren
Senior Adviser

ANNEX

Question 1—Temporary exception to the accounting for deferred taxes (paragraphs 4A and 88A)

IAS 12 applies to income taxes arising from tax law enacted or substantively enacted to implement the Pillar Two model rules published by the OECD, including tax law that implements qualified domestic minimum top-up taxes described in those rules.

The IASB proposes that, as an exception to the requirements in IAS 12, an entity neither recognise nor disclose information about deferred tax assets and liabilities related to Pillar Two income taxes.

The IASB also proposes that an entity disclose that it has applied the exception.

Paragraphs BC13–BC17 of the Basis for Conclusions explain the IASB's rationale for this proposal.

Do you agree with this proposal? Why or why not? If you disagree with the proposal, please explain what you would suggest instead and why.

Pillar Two is a very complex tax regime. We therefore agree with the proposal to provide a temporary exception from accounting for deferred taxes resulting from Pillar Two rules.

The IASB proposes that the temporary exception should be mandatory instead of optional. This means that there is no option for entities to account for or to disclose the estimated effects of deferred tax assets or liabilities due to Pillar Two.

Even though the exception is mandatory, the entity shall disclose that it has applied the exception. This disclosure requirement seems not to be necessary since it is a mandatory exception, not an option for entities. Adding such a disclosure will not add any new information since an entity may not state that it is compliant with IFRSs unless it complies with all requirements of IFRSs (IAS 1.16).

The Board in BC 17 states that further work is needed to determine how entities should account for deferred taxes related to Pillar Two and that at present it is not possible to determine how much time is needed to assess this. Consequently, it is not specified in the ED for how long the temporary exception would be in place. In relation to this, we would like to draw the Board's attention to the view expressed by the FASB staff at the FASB meeting 1 February 2023 that under US GAAP, GloBE is considered a minimum tax. Based on this, entities would not recognize deferred tax assets or liabilities for the estimated future effects of Pillar Two taxes. We believe that it is important for comparability and consistency that US GAAP and IFRS take a similar approach to this issue, when coming to a long-term solution.

Question 2—Disclosure (paragraphs 88B–88C)

The IASB proposes that, in periods in which Pillar Two legislation is enacted or substantively enacted, but not yet in effect, an entity discloses for the current period only:

a) information about such legislation enacted or substantively enacted in jurisdictions in which the entity operates.

b) the jurisdictions in which the entity's average effective tax rate (calculated as specified in paragraph 86 of IAS 12) for the current period is below 15%. The entity would also disclose the accounting profit and tax expense (income) for these jurisdictions in aggregate, as well as the resulting weighted average effective tax rate.

c) whether assessments the entity has made in preparing to comply with Pillar Two legislation indicate that there are jurisdictions:

i. identified in applying the proposed requirement in (b) but in relation to which the entity might not be exposed to paying Pillar Two income taxes; or

ii. not identified in applying the proposed requirement in (b) but in relation to which the entity might be exposed to paying Pillar Two income taxes.

The IASB also proposes that, in periods in which Pillar Two legislation is in effect, an entity disclose separately its current tax expense (income) related to Pillar Two income taxes.

Paragraphs BC18–BC25 of the Basis for Conclusions explain the IASB's rationale for this proposal.

Do you agree with this proposal? Why or why not? If you disagree with the proposal, please explain what you would suggest instead and why.

General comments on the disclosure requirements
The IASB considers that users of financial statements need information about the impact on entities of Pillar Two legislation when it is enacted or substantially enacted, but not yet in effect, and when it is in effect.

We agree that users are well served by understanding what the implications of Pillar Two legislation might be. We have doubts, however, about whether the proposal for specific disclosures fulfils this objective.

The proposed disclosure requirements are broad in scope as well as rather detailed.

An entity is required by IAS 1 to communicate on any significant event that might be material. Pillar Two legislation is in this sense no different from other (tax) legislation or other circumstances that might have a material impact on the consolidated accounts of the reporting entity. Therefore, it does not seem necessary for the IASB to require detailed disclosures on Pillar Two taxes. This also seems to be line with disclosure requirements in the US (SEC Regulation S-K, Item 303(a)) related to Pillar Two taxes.

We also consider that some of the disclosure requirements contain elements that have some similarity with specific tax reporting for jurisdictions and/or specific entities (e.g. Country-by-Country reporting) rather than focusing on the impact of Pillar Two taxes on the consolidated accounts. We believe that this type of information is redundant and/or too detailed for general purpose financial statements. Adding to this, we consider that the proposed disclosures might be commercially sensitive. Disclosures based on jurisdictions might be more interesting for tax authorities rather than for users of information in general purpose financial reporting accounts, and this may put reporting entities in jeopardy.

Further, we are concerned that the required information might not be very useful or, in the worst case, mislead users of information. We explain these concerns below for each of the specific requirements.

a) **information about such legislation enacted or substantively enacted in jurisdictions in which the entity operates**

Entities would be obliged to disclose information about Pillar Two legislation in jurisdictions in which they operate. Pillar Two is applicable and especially designed for large multinational enterprises (MNEs). Typically, these entities operate in many jurisdictions.

Information about the Pillar Two legislation status is publicly available and therefore not entity specific. Information about the countries and regions in which an entity operates is usually presented as an integral part of the financial reporting to users of financial statements. Such users have the possibility to get the information by alternative ways and with the necessary level of detail. We therefore do not support this disclosure requirement.

Further, it should be noted that information about legislative implementation procedures of jurisdictions outside the jurisdiction where the Ultimate Parent Entity (UPE) is located is only relevant for those constituent entities of MNE Groups that must apply the Undertaxed Payment Rule (UTPR). For MNE Groups that are obliged to apply the Income Inclusion Rule (IIR), information about the legislation of the jurisdiction where the UPE is located is relevant and determines the details of the applicability of the GloBE rules. In such a case, information about legislation outside that jurisdiction is generally not relevant. Many MNE Groups will apply the IIR. It is not necessary to provide information according to paragraph 88C (a) for those groups. The same is the situation for a pure domestic group that might be impacted by a domestic Pillar Two type tax in a jurisdiction.

b) the jurisdictions in which the entity's average effective tax rate (calculated as specified in paragraph 86 of IAS 12) for the current period is below 15%. The entity would also disclose the accounting profit and tax expense (income) for these jurisdictions in aggregate, as well as the resulting weighted average effective tax rate.

We consider that this information does not give a faithful representation of the potential impact of Pillar Two legislation on the consolidated financial accounts, and we therefore do not support the requirement. The required information seems to be a poor proxy for the future impact of Pillar Two legislation that is not useful. A reason for this is that the calculation of the effective tax rate according to IAS 12 is significantly different from Pillar Two legislation.

Disclosed information based on calculation procedures of IAS 12 typically do not reflect current income tax implications when Pillar Two Model Rules are applied in future periods. The calculation of the average effective tax rate according to IAS 12 paragraph 86 follows the underlying accounting approach of IAS 12, whereas the computation of the effective tax rate and the Top-up Tax for Pillar Two purposes differs significantly.

Tax expense (income) presented in the financial statements by applying IAS 12, as required by paragraph 88C (b), is just the starting point for Pillar Two purposes and must be adjusted by several items, resulting in figures that differ significantly from each other. Paragraph 88C (b) requires the disclosure of the accounting profit of the financial statements, whereas the accounting profit must be reconciled to the GloBE Income or Loss for Pillar Two purposes.

For example, dividend income is part of the accounting profit in the separate financial statements of an entity, whereas dividends must be eliminated for the calculation of the GloBE Income or Loss for the entity. The elimination of dividends may a have material impact on the calculation of the effective tax rate and the Top-up Tax for Pillar Two purposes. This clearly shows that the required information based on IAS 12 is not in line with the objective to provide useful information for users of financial statements.

Adding to this, the proposed disclosure may require many entities to implement additional reporting procedures. As reporting packages of consolidated entities are designed for consolidation purposes, they may vary between groups and may (or may not) contain specific information about jurisdictions. Information required by paragraph 88C (b) is as of today not available for many entities and would have to be calculated separately, resulting in an additional administrative burden for such preparers.

c) whether assessments the entity has made in preparing to comply with Pillar Two legislation indicate that there are jurisdictions:

iii. identified in applying the proposed requirement in (b) but in relation to which the entity might not be exposed to paying Pillar Two income taxes; or

iv. not identified in applying the proposed requirement in (b) but in relation to which the entity might be exposed to paying Pillar Two income taxes.

We do not support this disclosure requirement. The disclosure of complementary information according to paragraph 88C (c) requires the application of Pillar Two principles. This means that an entity must make two different calculations to comply with paragraph 88C (b) (based on IAS 12) and 88C (c) (based on Pillar Two rules), to provide the required information. This might be very confusing for users of financial information and potentially mislead them.

We are also concerned that the proposed requirement could create a major expectation gap between the required information set out in paragraph 88C (c) and the fact that entities might not be able to collect the necessary information and to make an assessment until later. Further, an assessment of the possible impact of Pillar Two in a jurisdiction might shift from year to year, which means that any forward-looking assessment is not very reliable. Adding to this, the disclosure requirement does not specify any time horizon for the assessment, which makes application of the requirement very difficult.

We note that the disclosure as drafted requires an entity to state only whether it has assessed if there are an indication of exposure to pay Pillar Two taxes. A literal reading of the requirement is that the entity must disclose if it has assessed the potential impact on jurisdictions, without providing any supporting information or calculations. If this is the intention of the Board, we believe that this should be clarified if the disclosure requirement is adopted.

The IASB also proposes that, in periods in which Pillar Two legislation is in effect, an entity disclose separately its current tax expense (income) related to Pillar Two income taxes (paragraph 88B).

We understand that this refers to that part of the current tax expense (income) presented in its financial statements that results solely from the effect of the Pillar Two rules in jurisdictions that have enacted these rules. We are not sure what the added value of this information for the consolidated accounts of an IFRS reporting entity would be when compared to the general information that it must provide about income taxes already.

Question 3—Effective date and transition (paragraph 98M)
The IASB proposes that an entity apply:

a) the exception—and the requirement to disclose that the entity has applied the exception—immediately upon issue of the amendments and retrospectively in accordance with IAS 8 *Accounting Policies, Changes in*

***Accounting Estimates and Errors*; and**

b) the disclosure requirements in paragraphs 88B–88C for annual reporting periods beginning on or after 1 January 2023.

Paragraphs BC27–BC28 of the Basis for Conclusions explain the IASB's rationale for this proposal.

Do you agree with this proposal? Why or why not? If you disagree with the proposal, please explain what you would suggest instead and why.

We agree with the proposal.