

10 March 2023

Dr. Andreas Barckow
Chair
International Accounting Standards Board
7 Westferry Circus
Canary Wharf
London E14 4HD
United Kingdom

Dear Dr. Barckow,

The Asian-Oceanian Standard-Setters Group (AOSSG) is pleased to provide comments on the International Accounting Standards Board's ('the IASB's') Exposure Draft (ED) *International Tax Reform—Pillar Two Model Rules (Proposed amendments to IAS 12)*. In formulating these comments, the views of the constituents within each jurisdiction were sought and considered.

The AOSSG currently has 28 member standard-setters from the Asian-Oceanian region: Australia, Bangladesh, Brunei, Cambodia, China, Dubai, Hong Kong, India, Indonesia, Iraq, Japan, Kazakhstan, Korea, Macao, Malaysia, Maldives, Mongolia, Nepal, New Zealand, Pakistan, Philippines, Saudi Arabia, Singapore, Sri Lanka, Syria, Thailand, Uzbekistan and Vietnam. To the extent feasible, this submission to the IASB reflects in broad terms the collective views of AOSSG members. The intention of the AOSSG is to enhance the input to the IASB from the Asia-Oceania region and not to prevent the IASB from receiving the variety of views that individual member standard-setters may hold. This submission has been circulated to all AOSSG members for their comment. In responding to the ED, AOSSG members have provided their responses to the questions in the ED as described in Appendix of this submission.

AOSSG highly appreciates the IASB's significant efforts in addressing temporary exception to the accounting for deferred taxes and disclosure for International tax reform – pillar two model rules. Overall, the AOSSG supports the proposed amendments to IAS 12. If you have any questions regarding this submission, please contact us.

Yours sincerely



Nishan Fernando
Chair of the AOSSG
Leader of the Revenues, Expenses, and others Working Group

Appendix – Comments from AOSSG members

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.

Comments:

[China]

Overall, we agree with this proposal.

Besides, we suggest that the IASB further clarify the proposed scope amendment in paragraph 4A, i.e. whether top-up tax meets the definition of income tax in IAS 12 in the financial statements other than the consolidated financial statements of ultimate parent entity when an reporting entity is liable to pay such tax with respect to the profits of entities that are not part of its reporting group. We also recommend the IASB further clarify that if the Pillar Two legislation is not enacted or substantively enacted in jurisdictions in which the entity operates, whether the entity needs to comply with the relevant requirements of the Exposure Draft.

[Hong Kong]

We agree with the IASB’s proposal to provide a mandatory temporary exception to the requirements in IAS 12 under which an entity should neither recognise nor disclose information about deferred tax assets and liabilities related to Pillar Two income taxes.

We acknowledge that entities need time to determine how to apply the principles and requirements in IAS 12 to account for deferred taxes related to top-up tax, which in turn depends on how jurisdictions implement the Pillar Two model rules. The IASB also needs time to engage further with stakeholders and consider whether any action is needed to support the consistent application of IAS 12. Consequently, we agree with the IASB’s proposal for not specifying how long the temporary exception would be in place in view of the time needed to monitor the development of the issue.

Having said that, we recommend that the IASB schedule for activities in its work plan, including monitoring the enactment process of the Pillar Two model rules in different jurisdictions, analysing their impact and assessing whether additional standard-setting activities are required, so that the temporary exception could be terminated at the appropriate time and that the accounting for income taxes arising from the Pillar Two model rules could be clarified.

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 disclose 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.

Comments:

[China]

We generally agree with the proposed disclosure requirements. We understand the effort the IASB has made to balance cost and benefit, and these requirements are useful to users of financial statements.

Besides, we have suggestions for some specific disclosure requirements:

- (a) For the requirement of determining disclosures according to the periods before or when Pillar Two legislation is in effect, we suggest the IASB further clarify for the “transition period”, i.e. in the periods when Pillar Two legislation is in effect in some jurisdictions, while in other jurisdictions legislation has enacted or substantively enacted, but not yet in effect, whether the entity needs to follow all the proposed disclosure requirements in paragraphs 88B–88C.
- (b) In perspective of paragraph 88C, we recommend the IASB consider:
 - (i) further clarifying how detailed information shall be provided according to paragraph 88C(a), to ensure practical feasibility.
 - (ii) providing more guidance about the calculation of average effective tax rate in paragraph 88C(b), for example, whether the “aggregate” used in this paragraph means “in sum of” or “amount in consolidated financial statements”.
 - (iii) allowing entities to be exempt from disclosure requirement in paragraph 88C(c) but disclosing the fact and reasons when it is impracticable for entities to quantify the impact of Pillar Two rules due to uncertainties existed in the legislation and relevant complicated calculations.
- (c) We also suggest that the IASB consider the protection of sensitive information for entities (e.g. commercial confidentiality, investment in political sensitive areas), and give entities exemption from disclosure requirements above for the protection of sensitive information.

[Hong Kong]

Most of our respondents agree with the proposed new disclosures. A few respondents questioned the reliability and usefulness of the information to be provided under the proposals. These respondents are concerned that any impact assessment entities make at this stage could only be based on information that is not yet certain (for example, profit forecasts of different operations, the evolving Pillar Two model rules and how different jurisdictions enact the legislation). Hence, they are concerned that the disclosures under paragraph 88C could be misleading and there could be legal implications to the entities if the disclosures made by them are not the same as the actual outcome.

Furthermore, we consider that the following areas can be clarified by means of guidance or illustrative examples to avoid inconsistent application of the proposals:

- (i) We understand that the ED focuses on addressing the stakeholders’ concerns on the accounting for deferred taxes in the consolidated financial statements of the ultimate parent entity of a group subject to the Pillar Two model rules. However, this is not clear to our respondents. We consider that the IASB should clarify the scope of the ED if it intends to focus on addressing the issue in the context of consolidated financial statements.

In addition, our respondents questioned whether and how IAS 12 applies to top-up tax arising from the Pillar Two model rules outside the context of consolidated financial statements of the ultimate parent entity. For example, in the separate financial statements of the ultimate parent entity where the ultimate parent is liable to pay the top-up tax, but the tax was triggered by another entity of the group, the ED is not clear as to whether IAS

12 would apply to such case, and if so, which entity should make the proposed disclosures. Should they be made in the separate financial statements of the ultimate parent entity, the group entity that triggered the top-up tax or both? We suggest the IASB clarify this.

- (ii) Paragraph 88C(a) requires the disclosure of information about Pillar Two legislation enacted or substantively enacted in jurisdictions in which the entity operates. Our respondents consider that the ED is unclear as to the level of detail required for such proposal. Particularly, in respect of ‘information about the Pillar Two legislation’, it is not clear whether a detailed description of the mechanism through which the legislation works is required or whether disclosing a list of jurisdictions where the Pillar Two legislation has come into effect would suffice.
- (iii) A few respondents considered that there may be a practical difficulty in determining which jurisdictions should be disclosed under the proposed disclosure in paragraph 88C(b). Take for example an entity that is incorporated in the Cayman Islands and which does not have any operations there. The entity has an office in Hong Kong but the profit is not subject to tax in any jurisdiction in the world due to the application of double tax agreements and therefore has an effective tax rate of zero. It is not clear whether the entity should disclose Hong Kong or Cayman Islands under the proposed paragraph 88C(b) in this situation.
- (iv) Paragraph BC24(c) of the ED implies that the proposed disclosure in paragraph 88C(c) would be required only if entities have made the assessments in preparing to comply with the Pillar Two legislation. However, our respondents considered that clarification on the requirement is necessary, particularly whether a statement of fact is needed if entities have not made any assessments, and the level of detail expected for entities that have made the assessments (e.g. bases for the assessment and assumptions).

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.

Comments

[China]

We agree with this proposal.

[Hong Kong]

We agree with the proposed effective date and transition requirements for the reasons stated in paragraphs 27 – 28 of the Basis for Conclusions.