

BEPS 2.0 - Pillar 2

February 2022



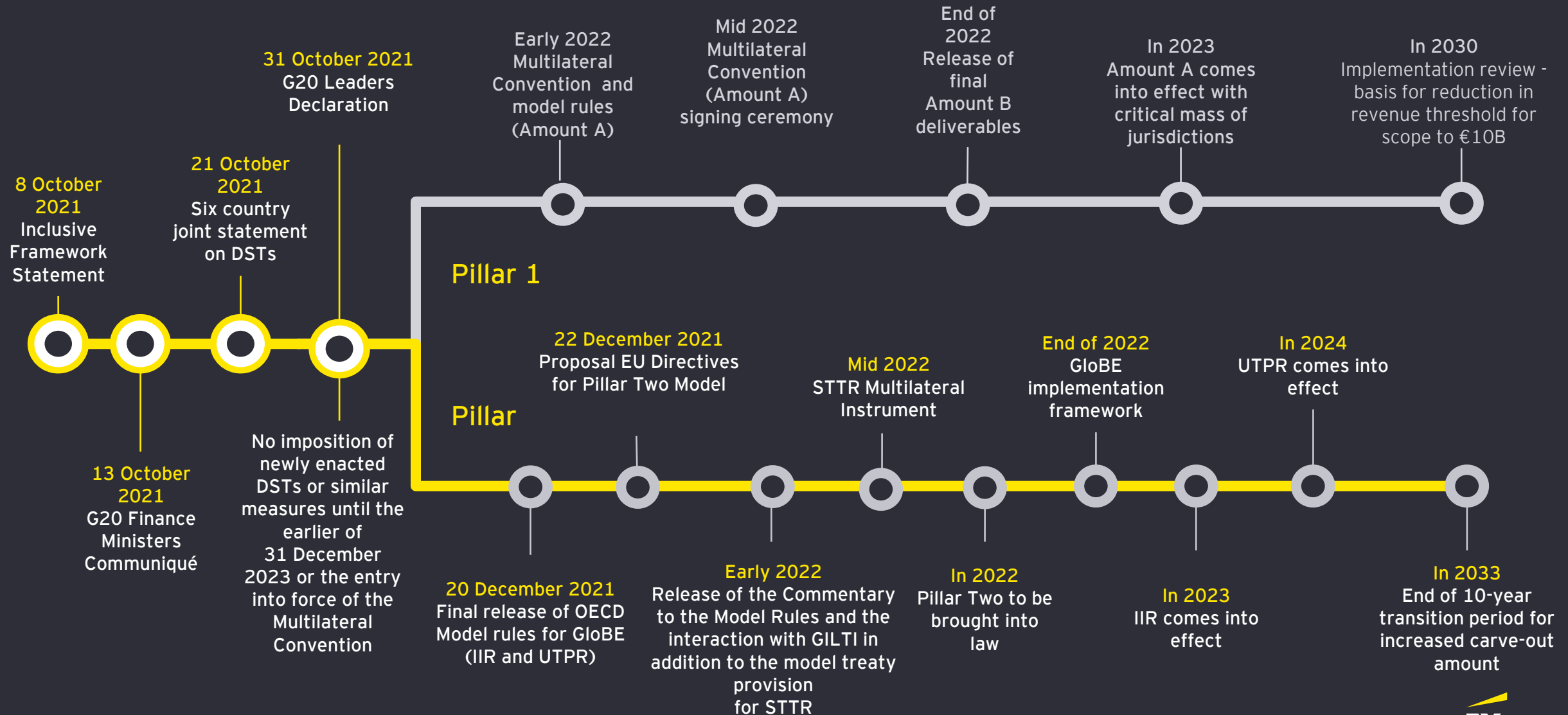
The better the question. The better the answer.
The better the world works.

01

Pillar Two – Status update and path forward



BEPS 2.0 - Announced Pillar 2 timeline



02

Pillar Two – Basic design principles



BEPS 2.0 - Pillar 2

Basic Design

1. Subject to tax rule

2. GloBE*

a. Income inclusion rule

Switch-over rule

b. Undertaxed payments rule

1

Subject to tax rule (new treaty limitation rule)

- ▶ Subject to tax rule is the first rule applicable
- ▶ Payer country denies treaty benefits for covered payments to the extent they are not subject to a **nominal** tax rate of $\geq 9\%$ (standalone treaty provision)
- ▶ In practice expected to broaden the scope of withholding taxes and limit treaty benefits

2

GloBE* (minimum tax rules)

Two interlocking domestic rules:

- ▶ **The income inclusion rule ('IIR')**: Top-up tax at the Ultimate Parent Company/Intermediate Parent Company level for low-taxed constituent entities (**ETR** below 15%)
- ▶ **Undertaxed payments rule** (backstop to IIR): Minimum tax calculated for purposes of the IIR is allocated to countries that have *base eroding payments* to low-taxed constituent entities (**ETR** below 15%)
- ▶ **Switch-over rule**: IIR to apply to foreign branch income – credit method instead of exemption method

Pillar Two in a nutshell

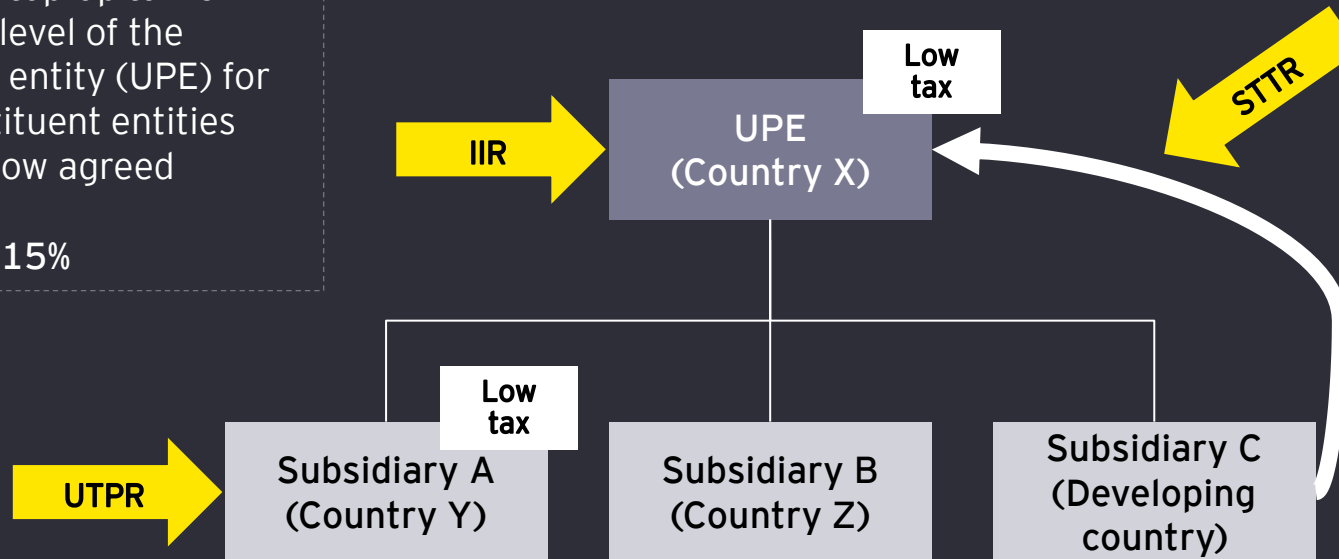
- ▶ **Scope:** MNCs with global revenue of at least €750M (but a jurisdiction can opt to impose an IIR on its headquartered MNEs regardless of the threshold)
- ▶ **Minimum rate:** 15% for income inclusion rule (IIR) and undertaxed payments rule (UTPR), applied based on effective tax rate in each jurisdiction
- ▶ **Substance-based carve-outs:** 8% of carrying value of tangible assets and 10% of payroll costs, both phasing down to 5% over 10 years
- ▶ **De minimis exclusion:** Jurisdictions where MNC has global revenues below €10M and profits below €1M
- ▶ **Subject to tax rule (STTR) rate:** 9%, applied based on nominal tax rate in each jurisdiction
- ▶ **Implementation:** Optional for countries, through changes to domestic law (and treaty provision for STTR)
 - ▶ Effective date of UTPR delayed to 2024s

BEPS 2.0 - Pillar 2

Basic Design

GloBE: Income Inclusion Rule (IIR)

- **Primary rule:** a top-up tax is imposed at the level of the ultimate parent entity (UPE) for low-taxed constituent entities with an ETR below agreed minimum rate
- **Minimum ETR: 15%**



Subject to Tax Rule (STTR)

- A treaty-based rule that allows source countries to impose limited source taxation on certain covered related party payments subject to a tax below agreed minimum nominal rate
- Applies to interest, royalties and a defined set of other payments
- STTR will be creditable as covered tax under GloBE rules
- **Minimum nominal tax rate: 9%**

GloBE: Undertaxed Payment Rule (UTPR)

- **Secondary rule:** serves as a backstop rule to the IIR by limiting or denying deductions on intra-group payments or requiring an equivalent adjustment to the extent the low-taxed income of a constituent entity is not subject to tax under an IIR
- **Minimum ETR: 15%**

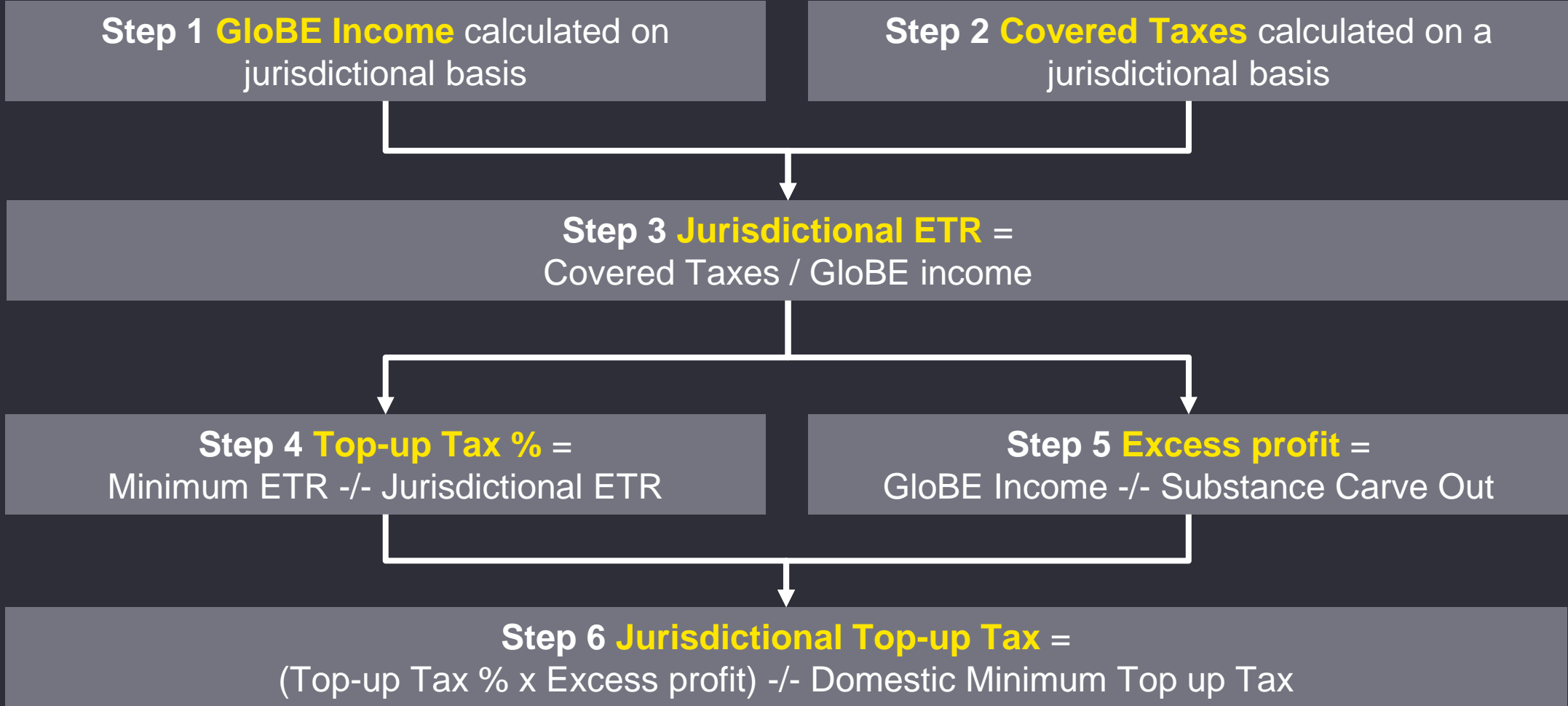
03

Pillar Two - Examples of key mechanisms



BEPS 2.0 - Pillar 2

Top-up tax calculation under the GloBE rules



Net Globe Income

- ▶ Starting point is **net income or loss** as reported in **financial accounts** used in preparing the consolidated financial statements of the UPE
 - ▶ Before consolidation adjustments
 - ▶ Determined based on the accounting standard used by the UPE in such statements

Adjusted for

- ▶ Net amount of certain **tax expenses** (including tax credits)
- ▶ Excluded **Dividends**
- ▶ Excluded **Equity Gains or Losses**
- ▶ Included **Revaluation Method Gains or Losses**
- ▶ **Gains or losses from disposition of certain assets and liabilities**
- ▶ **Asymmetric Foreign Currency Gains or Losses**
- ▶ **Policy Disallowed Expenses**
- ▶ **Prior Period Errors and Changes in Accounting Principles**
- ▶ **Accrued Pension Expenses**

Additional considerations: transfer pricing, excluded income, fair value accounting, ...

Adjusted Covered Taxes

- ▶ Starting point is **current tax expense accrued** in its Financial Accounting Net Income or Loss

Adjusted for:

- ▶ **Net amount of Additions and Reductions** to Covered Taxes
 - + Covered Taxes accrued as an expense in the profit before taxation in the financial accounts
 - + **GloBE Loss DTA** that is used under the GloBE Loss Election
 - + Covered Taxes paid in the Fiscal Year in relation to an **uncertain tax position** that has reduced Covered Taxes in a previous Fiscal Year
 - + Credit or refund of a **Qualified Refundable Tax Credit** reducing the current tax expense
 - Current tax expense with respect to income excluded from the computation of GloBE Income or Loss
 - Credit or refund in respect of a Non-Qualified Refundable Tax Credit that is not recorded as a reduction to the current tax expense
 - Covered Taxes refunded or credited, except for any Qualified Refundable Tax Credit, that were not treated as an adjustment to current tax expense
 - Current tax expense that relates to an uncertain tax position
 - Current tax expense that is not expected to be paid within three years of the last day of the Fiscal Year Non-Qualified Refundable Tax Credit is treated as ordinary tax credits. If the credits are not deducted from the current tax expense, they are deducted at this item.
- ▶ The **Total Deferred Tax Adjustment** Amount
- ▶ Increase or decrease in Covered Taxes recorded in equity or Other Comprehensive Income relating to GloBE Income or Loss that is subject to tax under local tax rules

Contacts

Gustavo Carmona Sanches

Gustavo.Carmona@br.ey.com

Audrei Okada

Audrei.Okada@br.ey.com

Mariano Manente

Mariano.Manente@br.ey.com

Mark Conomy

Mark.Conomy@br.ey.com

Priscila Vergueiro

Priscila.Vergueiro@br.ey.com

Rita Martins

Rita.Martins@br.ey.com

EY | Assurance | Tax | Strategy and Transactions | Consulting

About EY

EY is a global leader in assurance, tax, strategy, transaction and consulting services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. For more information about our organization, please visit ey.com.

About EY's Tax Services

Your business will only succeed if you build it on a strong foundation and grow it in a sustainable way. At EY, we believe that managing your tax obligations responsibly and proactively can make a critical difference. Our 50,000 talented tax professionals, in more than 150 countries, give you technical knowledge, business experience, consistency and an unwavering commitment to quality service – wherever you are and whatever tax services you need.

© 2021 EYGM Limited.
All Rights Reserved.

ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, legal or other professional advice.

ey.com

