



Australian Government

**Australian Accounting
Standards Board**

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Dr Andreas Barckow
Chairman
International Accounting Standards Board
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UNITED KINGDOM

10 March 2023

Dear Andreas,

IASB Exposure Draft ED/2023/1 *International Tax Reform—Pillar Two Model Rules*

The Australian Accounting Standards Board (AASB) is pleased to have the opportunity to provide comments on International Accounting Standards Board (IASB) ED/2023/1 *International Tax Reform—Pillar Two Model Rules*, issued in January 2023. The views of Australian stakeholders were sought by issuing the Exposure Draft in Australia as AASB ED 322. The AASB received one formal comment letter.

Whilst Australia has committed to adopting the Pillar Two model rules, the operationalisation and effective date of the rules are still being considered.

Overall AASB view on the proposed amendments

The AASB agrees with the proposed amendments to IAS 12 *Income Taxes* to introduce a mandatory temporary exception to the accounting for deferred taxes arising from the implementation of the Pillar Two model rules. We consider the proposed mandatory temporary exception is required urgently.

Additional feedback

As outlined below, we suggest some clarifications and additional disclosure requirements may be useful. However, we consider the proposed mandatory temporary exception is required urgently and, therefore, would not like consideration of these matters to delay the issue of an amending Standard.

- In addition to the requirement to disclose current tax expense related to Pillar Two income taxes (paragraph 88B) at an entity level, we suggest the IASB also consider requiring entities to disclose current tax expense related to Pillar Two income taxes at the jurisdiction level.
- We suggest the application of the paragraph 88C disclosures requires clarification. As drafted, it is unclear that paragraph 88C only applies when an entity is subject to Pillar Two

income taxes. As entities not subject to Pillar Two income taxes may consider that they must also comply with these disclosure requirements, we suggest clarification is needed.

- As drafted, paragraph 88C(c) does not require an entity to disclose any information about the jurisdictions it identifies in preparing to comply with Pillar Two legislation where the average effective tax rate is below 15%, but an entity might not be exposed to paying Pillar Two income taxes or where the average effective tax rate is above 15%, but an entity might be exposed to paying Pillar Two income taxes. As drafted, an entity could disclose 'yes' or 'no' without providing additional/quantifying information. The AASB obtained limited feedback from users who suggested that information about which jurisdictions and why they have been identified would be useful. We suggest the IASB amend paragraph 88C(c) to require this additional information.

Observations on the OECD's use of accounting profit

Potential unintended consequences on IFRS Standards in common law countries

The AASB observes that the use of accounting profit as the basis for levying tax may compromise comparability between jurisdictions that apply IFRS Standards differently.

The AASB observes that if there is a legal dispute about the amount of minimum (top-up) tax due to be paid by an entity under the Pillar Two model rules, courts may interpret how they consider the requirements of accounting standards should be applied. In common law jurisdictions, such as Australia, where accounting standards have the force of law, these judicial interpretations are binding upon all participants in that jurisdiction. Critically, these interpretations are treated as part of the standards as they stand in that jurisdiction. This may also increase the likelihood of IFRS Standards being interpreted and applied differently across jurisdictions. The AASB considers this may be an unintended consequence of the Pillar Two model rules.

Potential unintended consequences for harmonisation of IFRS

The Pillar Two model rules clearly require some (predominantly) uniform basis on which the minimum tax liability needs to be measured. That accounting standards, predominantly the IFRS Standards, have been identified as that uniform basis is testament to the high regard in which world markets (and regulators) hold accounting standards.¹ However, we recommend that an alternative basis on which the proposed minimum tax liability should be calculated be identified to prevent common law courts from interpreting IFRS Standards for this purpose. One such basis could be using an IFRS accounting profit baseline adjusted for common tax differences.²

1 See Organisation for Economic Co-operation and Development (OECD) (2021), *Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS*.

2 An example of such a difference is the allowance as a deduction of a loss (as measured under local tax rules) incurred in a previous tax year.

Suggested IASB approach

We suggest the IASB engage with the OECD to discuss the effects of the Pillar Two model rules on IFRS Standards and financial markets worldwide. In particular, an alternative basis on which the minimum tax liability can be calculated.

If you have any questions regarding this letter, don't hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Kendall". The signature is written in a cursive style with a large initial 'K'.

Dr Keith Kendall
Chair – AASB