Dear Ms Lindholm,

We trust this email finds you well and we would like to take this opportunity to show appreciation for all the efforts undertaken by Sweden within the OECD Inclusive Framework for the Global Tax Reform.

As part of the international network of the International Chamber of Commerce (ICC), we have actively engaged in the OECD public consultation process on the Two-Pillar solution and have constructively contributed to the policy intent and overall success of the global minimum tax.

However, the proposed level of compliance associated with the GloBE Information Return (GIR) remains very concerning for our members. This is particularly relevant for the overwhelming majority of MNEs which operate in countries where the GloBE tax rates are much higher than the 15%. We would thus encourage you to consider and support a simplified compliance approach for the benefit of tax authorities and taxpayers alike and most importantly for the overall success of the OECD Global Tax Reform.

The major point of concern in relation to the proposed compliance level related to the Constituent Entity by Constituent Entity (CE-by-CE) disclosure in the GIR is that it could be requested in all countries of implementation. This type of disclosure does not take into account that the majority of consolidation reporting systems used by MNEs are not based and do not work on a CE-by-CE basis.

The development of a CE-by-CE reporting system for each country would require millions of euros of investments and resources and will not provide additional information.
In fact, this proposed overly burdensome and expensive approach does not consider that current reporting systems operate in such a way that they will still be able to provide the base information needed for the Pillar 2 top up tax calculations. MNEs already attribute the accounting data to a specific country in order to determine deferred tax assets and liabilities based on the tax rate of each country.
Moreover, from our membership, we understand that for the overwhelming majority of MNEs, less than 5 countries would be concerned by a potential top up tax situation, and for amounts which are generally not material compared to the overall tax charge of the group.
Implementing a CE-by-CE reporting system would require heavy investment and resources, potentially yielding no additional information. Such investments would thus be disproportionate and unreasonable in light of the policy intent at stake.

Furthermore, we strongly believe that **a more simplified approach from a compliance point of view is a goal that is shared and in the best interests of tax authorities as well**. The proposed CE-by-CE disclosure would imply the analysis of thousands of pages of return for each MNE given the high number of entities and data points required. This entails a difficult and time-consuming review process from tax authorities.
Consequently, if a CE-by-CE approach is maintained, we are concerned about the **high risk of compromising the success of the P2 project, due to the fact that both MNE and tax authorities will not be able to cope with the amount of data produced.**

An additional critical issue arising from the proposed compliance system relates to the need to ensure that sufficient safeguards are in place regarding the confidentiality and sensitivity of the data provided to countries: the need for segmentation and centralisation of the GIR are also key features for business.

For all these reasons, we urge the Swedish government and its OECD Inclusive Framework delegates to support a simplified approach, consistent with the feedback from the public consultation, **whereby only the jurisdictional GloBE calculation would be disclosed on the GIR.**

In the attached annex, we would like to provide you with a more detailed overview of the reasons why it is critical to adopt a simplified compliance system for the success of the global reform. We also provide further constructive suggestions to make sure that the new system can be effective while not representing an element of risk for the tax authorities. After all these efforts and work in the past months it would be a pity if the success of the reform is jeopardised due to the inability to provide an efficient and effective compliance mechanism for both tax authorities and taxpayers.

We are grateful for your consideration and would welcome the opportunity to further engage with you on this matter. We remain at your full disposal for any clarification of the points raised and to provide any further information you may need.

Annex

The need for simplified compliance for the GloBE Information Return – Pillar Two

The adoption of a simple, robust, common reporting mechanism that is capable of being accurately complied with by businesses, and more easily administered (including targeted risk assessment) by tax authorities, represents the best way to make the OECD Pillar Two Global Anti-Base Erosion Rules (GloBE) rules more manageable for all stakeholders. The success of the OECD Global Tax Reform depends on the feasibility of its compliance and this why the business community is particularly concerned by a Constituent Entity by Constituent Entity (CE-by-CE) reporting. Consequently, the business community strongly encourages considering a simplified compliance system, whereby only the jurisdictional GloBE calculation would be disclosed on the GloBe Information Return.

Is CE-by-CE reporting really needed and effective?

The public consultation document released by the OECD in December 2022 seems to outline that a Constituent Entity by Constituent Entity (CE) disclosure in the GIR could be requested in all countries of implementation. However, many consolidation reporting systems used by MNEs are not based and do not work on a CE-by-CE basis. Instead, the central reporting packages currently in use are based on sub-layers, with the aim to harmonise the data coming from multiple ERP systems and the reporting is often undertaken at the country, region or business line level. Moreover, from our membership, we also understand that for the overwhelming majority of MNEs, less than 5 countries would be concerned by a potential top up tax situation, and for amounts which are generally not material compared to the overall tax charge of the group.
Given the complexity of the GloBE rules and the significant amount of manual adjustments required, providing CE by CE level information may only provide a 'perceived' level of accuracy.

A CE-by-CE reporting does not consider that MNEs have dozens of different ERP systems producing the source data before the information is harmonised in consolidation layers. Moreover, in the case of business acquisitions which take place frequently in our global and intertwined economy, the acquired company/group may remain under its own

original data/reporting system for a significant time frame and thus, be dealt with separately.

Additionally, in the case of CEs which are part of a tax consolidation group in a jurisdiction, the GloBE rules already allow an election pursuant to Article 3.2.8 to make consolidation adjustments for transactions within the tax group. As such, it may be more practical to treat the tax consolidation group as a single CE for the purpose of the GIR given that the MNE can leverage the existing reporting systems to make adjustments at the tax consolidation group level.

We believe that the current reporting systems operate in such a way that they will still be able to provide the base information needed for the Pillar 2 top up tax calculations. MNEs already attribute the accounting data to a specific country in order to determine deferred tax assets and liabilities based on the tax rate of each country.

Can the unreasonable investments costs due to CE-by-CE reporting be avoided?

Ensuring compliance with the minimum tax rules based on a CE-by-CE reporting will require heavy investment from businesses in means and resources needed to perform the GloBE calculations at jurisdictional level which are essential to determine the presence of a top-up tax liability.

This unnecessary CE-by-CE reporting will entail enormous investments for businesses to comply on, without delivering on the assumed promises.

Companies are already subject to incredible amounts of compliance costs that do not translate into more effective tax assessments or collection. A recent study conducted for the European Parliament, for instance, shows that Tax compliance costs faced by private enterprises in the European Single Market are sizable, most commonly ranging between 1% and 2% of turnover. In absolute value, compliance costs amount on average to about EUR 15,000 per year for enterprises located in the EU-27 countries plus the UK[1].

Thus, a simplified compliance system, whereby only the jurisdictional GloBE calculation would be disclosed on the GloBe Information Return, is more than sufficient to provide tax authorities with all the needed information without requiring companies to incur in disproportionate and unreasonable investments in light of the policy intent at stake.

[1] European Parliament, Overview on the tax compliance costs faced by European enterprises – with a focus on SMEs, STUDY ANALYSIS Requested by the FISC Subcommittee, February 2023, p.

Does CE-by-CE hinder confidentiality and data security of sensitive commercial data?

Yes. Given the incredible (and nonetheless unnecessary) amount of data to be disclosed due to CE-by-CE reporting, sensitive and confidential data will be put at serious risk of data breach and cyber-attacks. As addressed in several submissions during the OECD's public consultation earlier this year, there is a vital need for segmentation and centralisation of the GIR. It is notably to ensure that sufficient safeguards are in place regarding the confidentiality and sensitivity of the data provided to countries.

A CE-by-CE system will not be able to provide these safeguards and will be in breach of the data minimisation principle, one of the classic and basic principles in the realm of data confidentiality. According to this principle, the data collected and processed need to be limited to the necessary and not more than what needed for a specific purpose. A CE-by-CE system is disproportionate in the amount of personal data it collects to fulfil the stated purpose. Conversely, a simplified compliance system, whereby only the jurisdictional GloBE calculation would be disclosed would still be fit for purpose while protecting important and sensitive confidential data.

Will assessment and audit for tax authorities be compromised, if departing from a CE-by-CE reporting?

No. A simplified compliance system whereby only the jurisdictional GloBE calculation would be disclosed on the GIR will prevent this unnecessary and overwhelming flood of information while still ensuring that the tax authority will receive all the information needed during audits.

The GIR and reporting standards were never meant to be used as audit tools. Modern tax compliance systems around the world are framed around relying on self-assessment, coupled with reporting obligations that require sufficient (but not excessive) information to be provided by taxpayers to enable tax authorities to undertake a risk assessment. Tax authorities are able to target their review and audit activity based on risk profiles and then seek additional information from taxpayers to resolve their concerns or to enable an assessment. Due to the complexity of the GloBE rules, however, it would never be possible to design a GIR that provides every single piece of information that a tax administration might need to evaluate the correctness of every aspect of the GloBE rules. Any attempt to do so will result in excessive and unmanageable compliance requirements for businesses and will overwhelm tax administrations with the sheer quantum of data. For example, entity by entity disclosures for most groups will involve tens of thousands of data points, the majority of which will require manual calculation and intervention.

However, even if a simplified compliance system is implemented where only the jurisdictional GloBE calculation is revealed on the GIR, MNEs will still need to be prepared to furnish additional information during a tax audit or information request, in line with the existing requirements for tax audits based on the current corporate tax calculations.

Moreover, an additional level of assurance is provided by the statutory auditors of the group who will also review the GloBE calculations in order to assess that the top up tax estimate of the company in the published accounts are accurate.

A simplified approach will not jeopardize tax authorities' assessment activities nor undermine their auditing powers. A simplified system represents a win-win solution for all stakeholders.

Why there is also a need for a permanent jurisdictional Safe Harbours based on CbCR data?

The purpose of permanent jurisdictional safe harbours is to reduce the number and complexity of calculations MNEs are required to make. The benefits of permanent safe harbours will be eroded if their impact is not reflected in the GIR. The top-up tax calculation guidance in the GIR consultation document reflects this but needs to ensure safe harbour and GIR developments run in parallel. Permanent safe harbour measures have limited value in terms of compliance burden for MNEs, without limiting disclosure requirements in the GIR to a reasonable amount – especially the removal of CE-by-CE disclosure under 3.4. of GIR.

We thus also endorse the design and introduction of permanent jurisdictional Safe Harbours based on CbCR data which would represent an effective instrument allowing a simplified approach whilst still capturing top up tax situations.

We encourage the delegates to discuss this point further, and we stand ready to help design a Safe Harbour that is both effective while not representing an element of risk for the tax authorities.

Additional and final considerations

Furthermore, we welcome the acknowledgement in the consultation document that not all the data points and tax calculations proposed to be included in the GIR may be needed by all implementing jurisdictions. We believe that this clearly applies where an MNE Group is subject to a qualified domestic minimum top-up tax (QDMTT) in a jurisdiction. Where this is the case, it should be enough to simply note that fact (together with the name of the jurisdiction that imposes the QDMTT) in the GIR, without any requirement to share further

information for that jurisdiction with jurisdictions other than the jurisdiction imposing the QDMTT, particularly if there is no UTPR liability because the IIR of the UPE jurisdiction also applies to domestic entities. The GloBE Information Return could be pre-populated to include the list of rules that have been determined to be qualified rules under the planned peer review process.