OECD Pillars 1 & 2: tax policy reflections

APRIL 2022

Government of JERSEY

Ministerial Foreword

Jersey has a thriving international financial services industry with more than six decades of experience in providing a transparent, well-regulated and business-friendly environment both for residents, and for our customers around the world. The Government of Jersey has a clear vision for the future of the industry, as recently set out in the December 2021 Financial Services Policy Framework. That vision is to create the environment required to enable the continued success of Jersey's financial services industry by facilitating its digital transformation, its continued compliance with global standards, and its transition into being a leading centre for sustainable finance.

We are committed to maintaining the stability and attractiveness of the Island's business environment, as it is essential for jobs, economic growth and our long-term prosperity. This is reflected in our longstanding alignment with a series of international standards set by the OECD and a wide range of other global bodies. For many years, we have been at the forefront of adopting OECD standards and best practices in a manner that respects the principle of a level playing field among tax jurisdictions, while also safeguarding Jersey's long-term interests.

The OECD is currently developing a two-pillar initiative to address the tax challenges arising from the increasing digitalisation of the economy. Under the OECD proposals, Pillar 1 will allocate some of the profits of the biggest multinationals to countries where their customers are located. Meanwhile, Pillar 2 - which comprises the Subject to Tax Rule (STTR) and the Global Anti-Base Erosion (GloBE) rules - effectively ensures that a minimum level of tax is paid.

Jersey is a founding member of the OECD Inclusive Framework on Base Erosion and Profit Shifting (BEPS) and has actively participated in the discussions on this two-pillar initiative. Jersey joined the international consensus of 137 Inclusive Framework member jurisdictions on the OECD two-pillar initiative in an October 2021 statement, committing the Island to implementing the minimum standards contained within both pillars.

The GloBE rules are not part of those minimum standards and therefore Jersey has a choice of several options for possible GloBE implementation. There are two features of the proposed framework that are particularly significant for Jersey. First, the GloBE framework has an intentionally limited scope, which means it targets only the largest multinational businesses. Second, the GloBE rules are designed to function alongside domestic tax rules, enabling Jersey's current domestic corporate tax regime to remain in place.

This paper offers policy reflections on these OECD initiatives from the Government. It provides information about our intended approach to both pillars. It also sets out the factors that Jersey will take into consideration when determining its final decision on its approach to GloBE.

Jersey is committed to protecting the success of our thriving financial services sector, which makes a significant contribution to the Island's economic output. We have therefore actively engaged with the business community throughout this process so far, and we will continue to do so.

The Government is also committed to providing as much information as possible to ensure that the Island's policy in this important area is developed in a transparent, collaborative, and well-informed manner. Decisions will be made based on the need to remain competitive for the future, and not on short-term revenue raising measures. With that in mind, please contact our International Tax Policy Team with either a written submission or to seek a bilateral discussion on a confidential basis.

In addition, the Government recognises that businesses value close co-operation between the Crown Dependencies in order to achieve consistency, and as a result we have worked in close consultation with Guernsey and the Isle of Man.

The new OECD two-pillar framework is an important step in helping tax administrators and large corporate taxpayers respond to the tax challenges of today's increasingly digitalised world. With your help, Jersey is determined to play its part in ensuring the framework is implemented effectively, and will continue to provide a secure foundation for a thriving financial services industry on the Island.

Senator Ian Gorst
Minister for External Relations & Financial
Services and Assistant Treasury Minister

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Jersey's 10 key principles on the OECD two-pillar initiative

1. **Our commitment to maintaining an attractive business environment, based on certainty and simplicity, is unchanged.** Jersey will seek to implement the new rules in the most business-friendly manner and timeframe possible.
2. **Most companies in Jersey will be outside the scope of the OECD two-pillar initiative.** The only companies in Jersey that will be subject to the new OECD rules are those in the largest multinational groups. The large majority of companies in Jersey will be outside the scope of both Pillar 1 and Pillar 2 and should therefore see no change to their corporate tax rate.
3. **Jersey will implement the minimum standards in the OECD two-pillar solution.** We are committed to implementing the OECD minimum standards in both Pillar 1 and in the Pillar 2 Subject to Tax Rule, within the same broad timeframe as other jurisdictions around the world.
4. **When it comes to implementing the GloBE rules, the best choice for Jersey may be to implement GloBE with a 15% domestic minimum tax for companies that are part of in-scope GloBE groups. This is likely to offer the greatest certainty and simplicity to business.** The exact approach which Jersey will take when it comes to GloBE has not yet been decided. However, the Government's analysis to date indicates that the best policy could be to implement GloBE with a 15% domestic minimum tax sitting alongside the existing corporate tax framework.
5. **If Jersey decides to implement GloBE, that implementation is not likely to take place before 1 January 2024.**
6. **Jersey would be well-placed to implement GloBE if it chooses to do so, since the Island has a trusted and well-resourced tax authority administering an existing corporate tax regime.** That tax regime is already well developed, and we have the experience and tax infrastructure to implement any of the GloBE policy options.
7. **Jersey's domestic corporate tax regime would remain unchanged for those companies outside the scope of GloBE.** GloBE is designed to be implemented alongside a jurisdiction's domestic tax regime. Jersey would therefore retain its domestic corporate tax regime if GloBE and a new 15% domestic minimum tax were introduced for the largest in-scope multinational groups. As a result, the corporate tax position of all but the very largest companies operating in Jersey would remain unchanged.

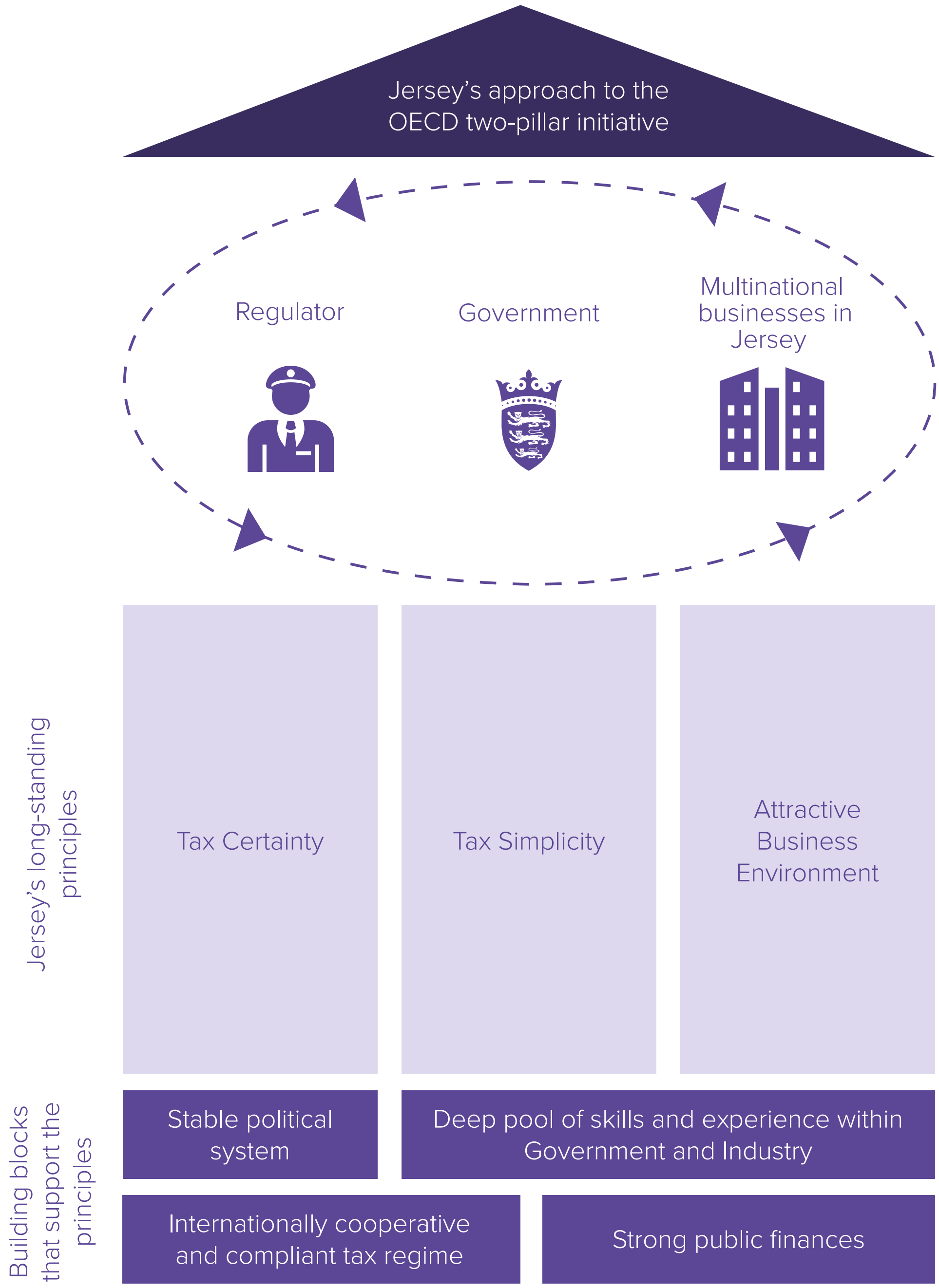
8. **Careful consideration will be given to any final decision on GloBE.** The final choice made by Jersey will be based on a number of key factors, including the Island's commitment to providing an attractive business environment, and clear visibility of implementation decisions taken by a critical mass of jurisdictions around the world.

9. **The decision on GloBE will not be based on short-term revenue-raising considerations.** Jersey's finances are stable and well-established, reflecting our strategic approach to fiscal decision making. The Government will therefore take decisions based on the long-term interests of the Island, taking into account its business environment and the overall benefit to people who live here.

10. **Jersey will continue to work with Guernsey and the Isle of Man to align approaches to implementation of Pillar 1 and Pillar 2.** Jersey is working closely with the other Crown Dependencies, the UK and other like-minded jurisdictions on the implementation of the OECD's two-pillar initiative.

Jersey will decide the best approach on implementation of the two pillars based on our longstanding principles of providing certainty, simplicity, and an attractive business environment.

Principles guiding Jersey's approach to the OECD two-pillar initiative.



1. Objectives of this paper

1.1 The main objectives of this policy reflections paper are:

- To provide an insight into Jersey's policy thinking to date on the OECD two-pillar initiative
- To gather the views of stakeholders, particularly on the GloBE policy options for Jersey, and on any significant implementation issues that might arise should GloBE be introduced here

Insight

1.2 The primary audience for this paper is the global community of multinational groups operating in Jersey, together with their advisers, service providers and investors. For this reason, there is a level of assumed knowledge in the paper about the background to the OECD two-pillar initiative.

1.3 An overview of the OECD two-pillar initiative is outlined in Chapter 2 below, and readers requiring further background information can find it on the dedicated OECD webpage, as well as the detailed UK Consultation Paper on Pillar 2. [1]

Stakeholder views

1.4 A range of questions are contained throughout the paper. They are also replicated in list form in Appendix 1, together with instructions on how to submit your responses, and information on how the information will be held and used by the Government of Jersey.

1.5 Stakeholder feedback obtained through this process will assist the Government in developing Jersey's policy on the OECD two-pillar initiative over the coming months.

1.6 While we would welcome feedback from all stakeholders interested in the subject, we are particularly keen to hear from the global community of multinational groups operating in Jersey, together with their advisers, service providers and investors.

[1] See also UK Consultation Paper on Pillar 2

2. Overview of the two OECD pillars

2.1 In order to address the tax challenges arising from the increasing digitalisation of the economy, the OECD Inclusive Framework has arrived at a two-pillar initiative to help bring clarity to the issue. While each pillar has very distinct rules and serves a different policy purpose, they are being presented as a single package aimed at achieving international tax reform.

2.2 Pillar 1 is targeted at the largest global multinational groups and will deal with the allocation across jurisdictions of residual profits[2], taking account of the location of the group's customers. Importantly from Jersey's point of view, an exclusion for certain regulated financial services will be part of the final design of Pillar 1. At the time of writing, the exclusion is the subject of ongoing discussions at the OECD, and Jersey will continue to advocate for a sensible principles-based approach to this exclusion.

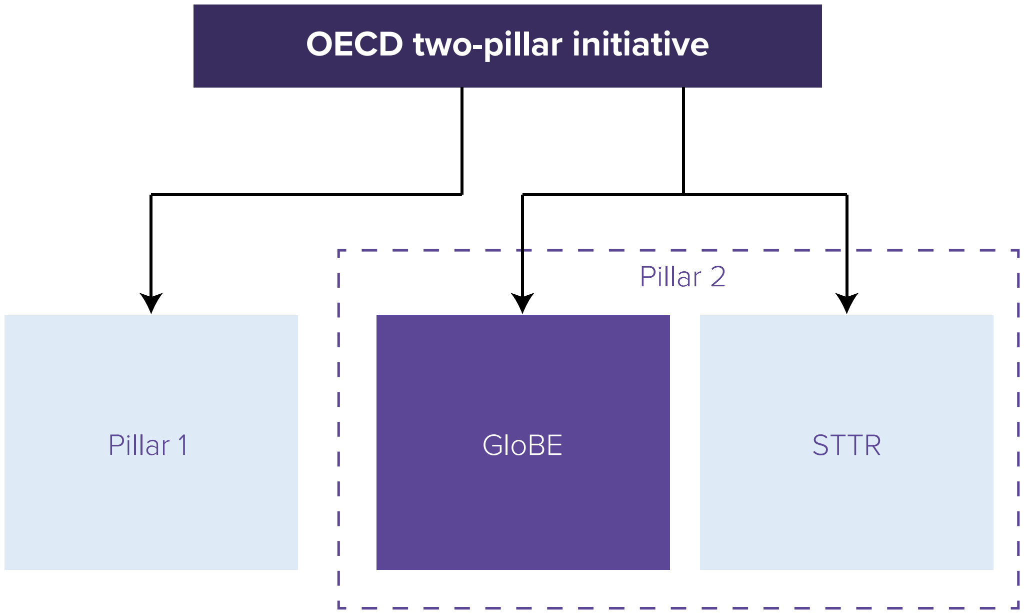
2.3 Pillar 2 meanwhile comprises two elements:

1. The GloBE regime is a new set of international tax rules that will require in-scope multinational groups to pay a 15% minimum effective rate of tax in every jurisdiction in which they operate. The rules include a €750 million global annual revenue threshold with an exclusion for certain investment entities, including investment funds. The starting point for the determination of GloBE income or loss will be the group's consolidated financial accounting position, to which adjustments will be made to calculate the final defined GloBE income. This will include the exclusion of certain passive income.

2. The Subject to Tax Rule (STTR) applies to double taxation treaties, to ensure that these cannot be used to extract certain types of payments from developing countries without a minimum rate of tax applying there.

[2] Defined as "profit in excess of 10% of revenue " in the Pillar 1 "Quantum" section of the OECD 8 October 2021 "Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy".

This diagram is to visualise the component parts of the OECD two-pillar initiative. The components are described in Sections 2.2 and 2.3 respectively.



*Key technical terms and definitions are outlined in Appendix II.

Minimum Standards — Pillar 1 and Subject to Tax Rule (STTR) are minimum standards as outlined in Section 3.

Common Approach — Global Anti-Base Erosion Rules (GloBE) rules are a common approach as outlined in Section 4.

3. The minimum standards - Pillar I and the Pillar 2 Subject to Tax Rule

3.1 Pillar 1 and the Subject to Tax Rule of Pillar 2 are both 'minimum standards,' and Jersey has already agreed to implement them.

3.2 The detailed frameworks for Pillar 1 and the Pillar 2 STTR are expected to be published by the OECD by the middle of this year.

3.3 Pillar 1 and the Pillar 2 STTR element are minimum standards. Jersey has always implemented relevant international standards such as these, in line with our 'good neighbour' policy. Domestic legislation will be required to implement Pillar 1, once it is clear that a significant number of jurisdictions around the world will be doing so. Provided the OECD timetable progresses as expected, this legislative process may take place in 2022, in order to be effective from 2023.

3.4 However, much work remains outstanding to finalise the detail of Pillar 1 and the Pillar 2 STTR. Jersey continues to engage closely with this process at the relevant OECD working parties.

> Jersey has agreed to implement the minimum standards that are contained within the two OECD pillars – Pillar 1 and the Pillar 2 Subject to Tax Rule.

4. GloBE: A common approach

4.1 GloBE by contrast is not a minimum standard, but a 'common approach.' It is therefore not mandatory for Jersey to implement it

4.2 While Pillar 1 and the Pillar 2 Subject to Tax Rule are minimum standards, the GloBE framework is different, and has been designed as a common approach. This is explained by the OECD in the Model Rules:

> *"The GloBE rules are not mandatory but have been agreed as a 'common approach'. This means that jurisdictions are not required to adopt the GloBE rules, but if they choose to do so, they agree to implement and administer them in a way that is consistent with the agreed outcomes set out under those rules. Even if they do not implement the rules, agreement on a common approach means that one jurisdiction accepts the application of the GloBE Rules by another in respect of MNEs operating in its jurisdiction."* [3]

4.3 GloBE has been designed with two mechanisms for allocating any top-up tax within the multinational group so that it meets the jurisdictional 15% minimum effective rate. The primary allocation rule is called the Income Inclusion Rule (IIR), while the secondary rule (the 'backstop rule') is generally referred to as the Undertaxed Payments Rule (UTPR).

4.4 The primary IIR rule applies in a top-down manner. In the first instance, it requires that the total top-up tax due by the group across all jurisdictions is payable by the Ultimate Parent Entity (UPE) to the tax authority in that UPE jurisdiction. If the UPE jurisdiction has not implemented a qualifying IIR,[4] then the IIR is payable in the jurisdiction of the next intermediate parent entity to top up the tax of the constituent entities (CEs) of that intermediate parent. This would occur so on down the group chain.

4.5 Any top-up tax remaining after the application of the IIR is exhausted is collected by means of the backstop UTPR. The UTPR is levied across the group, based on the proportion of tangible assets and employees in each jurisdiction that has implemented a UTPR.

4.6 However, the GloBE Model Rules also envisage that the 15% jurisdictional minimum effective rate can be achieved in a different way, through a minimum domestic tax charge levied by a jurisdiction on its CEs. This would negate the requirement for a top-up in the jurisdiction of the IIR or UTPR.

4.7 The GloBE Model Rules and Commentary have now been published by the OECD, and work is progressing throughout 2022 on its Implementation Framework.

[3] Global Anti-Base Erosion Model Rules (Pillar Two) – Frequently Asked Questions (OECD, December 2021)
[4] Or if the low taxed entity is more than 20% owned by minority investors

5. The GloBE policy options

5.1 The elements that form the GloBE common approach are thus the IIR, the UTPR, and the possibility of a domestic minimum tax to achieve an outcome consistent with GloBE. There are therefore three available options for Jersey:

Policy Option 1: No implementation of GloBE

Policy Option 2: Implementation of GloBE, either IIR only, or with both IIR and UTPR

Policy Option 3: Introduction of a domestic minimum tax in addition to GloBE

5.2 Each of these policy options is considered below, and the Government of Jersey is keen to hear stakeholder views on which would be most appropriate both for the jurisdiction and for the multinational groups that operate here.

5.3 Policy Option 1: No implementation of GloBE in Jersey

5.3.1 On the face of it, the simplest option might appear to be refraining from implementing GloBE at all, since there is no requirement to do so. However, it is important to note that we have joined the political consensus supporting the two OECD pillars, which means we have accepted the application of the GloBE rules by other jurisdictions in relation to the Jersey profits of in-scope multinational groups, even if Jersey itself chooses not to implement them.

5.3.2 The rules have been designed in such a way that any taxes which are due in respect of Jersey GloBE profits would almost certainly be collected in another jurisdiction which has implemented GloBE if the tax is not collected here. For in-scope multinational groups, a 15% minimum effective rate of tax will be payable on Jersey GloBE income, regardless of whether we implement the rules. Therefore, the option not to implement GloBE in Jersey does not appear to be immediately attractive.

5.3.3 Another important consideration in this policy decision is the opportunity it affords us to reinforce Jersey's commitment to supporting the highest global tax standards. While GloBE is not of itself an OECD minimum standard, implementing the rules could bolster existing perceptions of the Island's robust commitment to international standards, and provide greater certainty to cross-border businesses.

5.3.4 In this context, the Government of Jersey invites stakeholder responses to the following questions:

Question 1* Can you foresee any business risks that might be created if Jersey decides not to implement GloBE?

Question 2 Please outline any positive or negative factors that you consider important in assessing the issue of implementation versus non-implementation.

*All questions are summarised in Appendix I

5.4 Policy Option 2: Implementation of GloBE IIR only, or both IIR and UTPR

5.4.1 If Jersey implements the GloBE IIR, then it would apply to in-scope groups headquartered here. In strict technical terms, it would apply to groups with annual GloBE revenues of more than €750 million, whose UPE is in Jersey. Jersey would then apply the top-up rules to that UPE in respect of any GloBE income in the group's overseas jurisdictions where the overall effective tax rate of the UPE's subsidiaries and branches in those jurisdictions falls below 15%.

5.4.2 If the IIR is implemented in Jersey, it would also apply to Jersey intermediate parent entities within a global group where the jurisdiction of its ultimate entity, the UPE, has not implemented a qualifying IIR.

5.4.3 The Model Rules also permit jurisdictions to decide whether to extend the IIR down to the local CEs of the parent company. If we are implementing the IIR in Jersey, it would appear logical to extend it to local CEs of Jersey UPEs in this way, particularly as the UTPR would be collected by other jurisdictions anyway if there were insufficiently-taxed profits in the local subsidiaries and branches of Jersey UPEs.

5.4.5 If implemented, a GloBE IIR could be brought into effect here through a separate IIR charge in a Jersey GloBE tax regime, which would likely sit outside the Income Tax (Jersey) Law 1961.

5.4.6 On this basis, it would appear reasonable for Jersey to implement GloBE, at least to the extent of the IIR. This is because top-up taxes due by an in-scope group would be payable somewhere, regardless of Jersey's decision on whether to implement GloBE. The implementation of an IIR in Jersey would have the effect of switching off the complex UTPR backstop rules for the group, and would provide greater certainty and administrative ease for Jersey UPEs and intermediate parent entities.

5.4.7 If Jersey decided to implement a GloBE IIR, the question then arises as to whether the backstop UTPR rule should be implemented as well. If implemented, a Jersey UTPR would apply to the Jersey subsidiaries and branches of overseas-headquartered groups if the top-up tax was not otherwise collected through the IIR in another jurisdiction.

5.4.8 If Jersey implements a UTPR, then the amount of top-up tax that could be collected by Jersey when the backstop rule is in play would be determined by the proportion of assets and employees here.

5.4.9 If implemented, the UTPR would be brought into effect in Jersey through a separate UTPR charge in the newly designed GloBE regime.

5.4.10 The Government of Jersey's analysis of the UTPR is that it will rarely arise in practice for groups operating here. Thus, there would not appear to be any specific policy rationale for excluding the UTPR from a Jersey GloBE regime. If the intent is to implement GloBE in Jersey then, on balance, it may be preferable to implement GloBE fully, with both the IIR and UTPR collection mechanisms in place.

[5] Note that GloBE income, as defined in the Model Rules, excludes certain dividends and gains. See Article 3.2.1 of the OECD GloBE Model Rules
[6] The term Constituent Entities (CEs) is used throughout the OECD GloBE Model Rules; it covers subsidiaries and branches of in-scope Group groups

Question 3	Would the implementation of a Jersey IIR be useful to protect Jersey UPEs from the operation of the complex UTPR elsewhere?
Question 4	Do you agree that a UTPR should be included in any Jersey implementation of GloBE? If not, please explain your analysis.
Question 5	Are there any other considerations that need to be taken into account before Jersey reaches a conclusion on the UTPR?

5.5 Policy Option 3: Introduction of a domestic minimum tax in addition to GloBE

5.5.1 One further option open to governments implementing GloBE is whether to introduce a domestic minimum tax alongside it. The domestic minimum tax would not actually form part of the GloBE regime, but would duplicate the GloBE Model Rules in terms of the tax base and rate calculation. The effect would be to generate a local minimum effective tax rate of 15% on the profits of an in-scope group's subsidiaries and branches in Jersey, rather than making it necessary for a top-up tax to occur on these profits elsewhere under GloBE.

> **A Jersey domestic minimum tax would only apply to the Jersey subsidiaries and branches of in-scope GloBE groups which would otherwise be required to pay a top-up tax elsewhere on Jersey GloBE profits.**

5.5.2 If Jersey was to introduce a domestic minimum tax, the result would be that in-scope GloBE groups with subsidiaries and branches in the Island would pay an effective tax rate of 15% here on their combined Jersey GloBE profits. They would not be required to pay a top-up amount on these profits elsewhere – either through an overseas IIR or UTPR.

5.5.3 Importantly, the Government does not foresee a set of circumstances in which a Jersey domestic minimum tax would lead to an increase in the global effective tax rate of any in-scope GloBE group under the GloBE rules. The application of the GloBE rules in other jurisdictions means that the overall tax payable by an in-scope group on its Jersey profits would be the same, whether or not a Jersey domestic minimum tax is introduced.

> **Any Jersey domestic minimum tax would not apply to any entities operating in Jersey that are not in-scope of the GloBE rules.**

5.5.4 There may be administrative advantages from enabling an in-scope GloBE group to pay the 15% effective minimum tax rate through a domestic minimum tax in the jurisdiction where the profits are generated. Some groups may also prefer to pay the 15% effective rate on the profits in the jurisdiction where they are earned, for reputational reasons.

5.5.5 The GloBE Model Rules allow jurisdictions, if they wish, to apply an IIR to UPEs of groups with a consolidated revenue threshold of less than €750m. That could result in smaller groups paying a 15% effective tax rate on their Jersey profits. It is therefore possible that groups with global revenues below €750m may wish Jersey to consider whether they can be brought into the scope of a Jersey domestic minimum tax to avoid being impacted by a lower IIR threshold in another jurisdiction. Moreover, the US system for minimum tax (GILTI and BEAT) is foreseen to be a separate but co-existent framework provided certain reforms are made by its Congress. How it will eventually interact with GloBE, and any domestic minimum taxes remains to be worked out in practice.

5.5.6 In summary, it would appear logical to implement a domestic minimum tax in Jersey. In accordance with the spirit of the Model Rules, Jersey would envision introducing such a domestic minimum tax only if the Island were also implementing the GloBE regime here, and would do so within the same timeframe.

Question 6 What are your views on the introduction of a Jersey domestic minimum tax for in-scope GloBE CEs?

Question 7 Would you consider it preferable to pay tax on your Jersey profits in Jersey through a Jersey domestic minimum tax – rather than paying a top-up tax on Jersey GloBE income elsewhere through an IIR or UTPR?

Question 8 Are there any circumstances in which a Jersey 15% domestic minimum tax rate would actually increase your group's overall global tax liability?

Question 9 If a domestic minimum tax is your preferred policy approach in Jersey, please help us to understand the reasons for this conclusion – for administrative ease, in order to ensure that the group pays taxes on GloBE profits where they arise, a combination of these, or for other reasons?

Question 10 Would you support a domestic minimum tax which covers all Jersey CEs that are within scope of the GloBE rules, or one limited to CEs in €750m consolidated global revenue groups only?

Question 11 Are there specific concerns with US GILTI / BEAT and its interaction with GloBE that need to be examined?

6. Factors guiding Jersey's final position on GloBE

Jersey will take into account a number of factors in making a final decision on the implementation of GloBE.

6.1 Jersey's commitment to the principle of international co-operation

Jersey is committed to maintaining a sustainable tax regime, and we value our reputation for contributing to the development and upholding of international tax standards. Our tax and regulatory regimes are subject to regular external independent assessments, which demonstrate that Jersey meets all the requirements of international bodies on the implementation of global tax standards.

Jersey participates in a number of international forums, including the OECD Inclusive Framework on BEPS. We fully support the development of its two-pillar initiative on the tax challenges arising from the increasing digitalisation of the economy. Jersey has always maintained that international tax standards should be developed on a global, rather than on a domestic, basis, and by organisations such as the OECD. This ensures that the principle of a level playing field is maintained among tax jurisdictions globally, which is critical to balancing the interests of small or developing jurisdictions with those that are larger or more developed.

The Government of Jersey works very closely with industry, supported by Jersey Finance Limited, to ensure that the Island continues to adhere to international tax standards and to assert the principle of a level playing field among jurisdictions.

6.2 The importance of maintaining an attractive business environment

Jersey has long provided a stable environment for businesses. This has underpinned the development of a thriving international finance centre, bringing long-term economic growth.

Jersey offers specialisation in a number of financial services areas, boasts a world-class professional workforce, and ensures alignment with international standards so that business done here has substance and provides local value creation.

Jersey's tax framework has been a key driver of our success as a finance centre. This has been based on tax certainty, political stability, and policy approaches that are straightforward for businesses to comply with.

The December 2021 Policy Framework for the Jersey Financial Services Industry [7] said:

> **Taxation**
>
> *"We will ensure our fiscal policies support Jersey as a business-friendly environment with attractive business and personal tax rules, and a user-friendly, digitalised modern and accessible tax service."*

Jersey recognises that policy should support the long-term success of business and ensure as much certainty as possible for businesses and investors. This long-standing commitment will guide our approach to the two-pillar initiative.

[7] Policy Framework for Jersey Financial Services Industry, published December 2021

6.3 Prioritisation of strategic objectives rather than short-term revenue raising considerations

Jersey's finances are stable and well-established, reflecting our long-held strategic approach to fiscal decision making. Our initial assessment of the potential impact that Pillars 1 and 2 would have on the Government of Jersey's financial position is that there may be some positive effect in the shorter-term if GloBE and a domestic minimum tax are implemented. However, the overall position is not completely clear, as the exact details of both regimes continue to evolve. Furthermore, the potential longer-term impact of the combination of the two pillars is not possible to quantify for the following reasons:

(i) The effects of different policy choices made by other Inclusive Framework members given the common approach nature of GloBE

(ii) The unfolding pattern of domestic minimum taxes implemented by other jurisdictions

(iii) Longer-term behavioural changes by both multinational groups and jurisdictions in response to the GloBE framework.

Whatever the outcome, Jersey is in a strong position to decide on any GloBE implementation, based on the long-term interests of the Island rather than the attraction of potential short-term revenue gains. The final decision on GloBE will **not** be taken based on any desire or need to raise revenues from its introduction.

6.4 The advantages of an experienced and competent tax authority

Jersey has a mature tax regime and is well positioned to implement whatever policy choices are ultimately taken. If required, Jersey can facilitate a smooth transition to a GloBE regime for in-scope taxpayers.

6.5. Jersey's commitment to ease of administration

Jersey's tax system remains free of the complexity that exists in many other jurisdictions. We have a longstanding political commitment to keeping taxes low, broad and simple. While acknowledging the complexity that the OECD's two-pillar initiative will bring to all 137 jurisdictions that have joined the political consensus, Revenue Jersey (Jersey's tax authority) has extensive experience in streamlining tax filing and compliance processes, as well as working across Government to deliver good customer service to business and investors. Revenue Jersey will work with multinational groups as they analyse the practical compliance obligations that will arise from the OECD initiative.

6.6 The position of a broad mass of other jurisdictions

Jersey is a small, but stable and successful international finance centre. It operates as part of a global international business and tax ecosystem, and any decisions on the Island's approach to the implementation of GloBE should take account of the decisions taken in other jurisdictions. With a new global tax framework which involves a range of options, it is prudent for Jersey to understand the position being taken by a critical mass of larger jurisdictions before finalising the Island's position.

The international response from other jurisdictions on GloBE implementation is beginning to emerge. The European Commission published a draft Directive in late December 2021 setting out a text for discussion with Member States. Originally geared towards adoption by the beginning of 2023, the EU Commission subsequently published a 'Compromise Text' with a later suggested transposition date of 31 December 2023. However, at the time of writing, no commencement date for EU implementation of GloBE has been agreed.

For its part, the UK has launched a public consultation on Pillar 2 aimed at implementation in the UK from an effective date of April 2023. Meanwhile the US legislative timetable for making tax changes responding to the GloBE framework remains, at the time of writing, unclear, but its participation is critical to the overall success of the two pillars.

Jersey is monitoring the responses of these and other jurisdictions – including the Crown Dependencies and Overseas Territories.

7. GloBE and Jersey's existing domestic corporate tax regime

7.1 The implementation of GloBE is fully compatible with Jersey's domestic corporate tax regime. This is because GloBE has been designed as a global set of rules that will be targeted at large multinational groups, and will overlay the domestic regime of a jurisdiction.

7.2 A GloBE regime with a domestic minimum tax would likely sit alongside the domestic corporate tax regime to ensure that in-scope GloBE entities would be subject to a jurisdictional effective tax rate of 15% on profits arising in Jersey.

7.3 Jersey has no plans to change our domestic corporate tax regime for companies or branches here that are outside the scope of GloBE.

8. Implementation and administration of GloBE

8.1 If GloBE and a minimum domestic tax are implemented here, Revenue Jersey would provide guidance in relation to practical compliance with Jersey tax obligations. Information and assistance would also be provided to support this population of companies in relation to:

- Technical support on the GloBE regime including scope, exemptions, split-ownership arrangements, the calculation of the jurisdictional ETR, and other matters
- The submission of GloBE and domestic corporate tax returns
- The payment of any tax under GloBE
- Practical issues that relate to communication with other tax authorities, exchange of information, and other issues
- The operation of penalties, where applicable
- Any transitional issues that arise based on the circumstances of individual groups

8.2 The OECD will be considering a number of these issues over the coming months to try - as far as possible - to achieve a consistent position across jurisdictions. Further clarification should be provided in the GloBE Implementation Framework, which is due to be published by the OECD before the end of 2022. The OECD is also holding a limited public consultation at the time of writing.

8.3 Jersey cannot address the issues of implementing and administering a global common approach alone. However, we can work with our stakeholders and learn from the OECD public consultation process to highlight areas of concern and possible solutions.

Question 12 Please identify the key pressure points that you foresee arising in the implementation of GloBE and through the transition period.

Question 13 Please identify any pressure points that could arise on an annual basis in complying with the GloBE requirements. These may include the collection of data, calculation of GloBE deferred taxes, completion and submission of the GloBE return, dealing with audits and disputes among other tax authorities, etc. If possible, please set out any suggestions which might mitigate these pressure points.

9. Jersey's expected timeline for implementing the OECD pillars

9.1 In addition to seeking feedback on the policy options available under GloBE, the Government of Jersey also wishes to provide clarity about the timeline in relation to the implementation of the OECD two-pillar initiative. The OECD has set an expectation that the minimum standards will come into force on 1 January 2023, so the time for domestic implementation may be short.

Elections to Jersey's parliament (the States Assembly) will be held on 22 June 2022, after which a new Council of Ministers will be formed, so the need for clarity is vital, since any future consultation period may be time-limited.

9.2 Timeline for the minimum standards – Pillar 1 and Pillar 2 STTR

9.2.1 Jersey has committed to implementing the Pillar 1 and Pillar 2 STTR minimum standards in a timely manner - as set out above. At present, the OECD ambition is for committed jurisdictions to implement domestic legislation and sign the relevant multilateral instruments in 2022, to enable implementation of the minimum standards from 1 January 2023.

9.2.2 This is an ambitious timeframe for a critical mass of jurisdictions to achieve, as the detailed design work on the minimum standards is not as advanced as with the GloBE rules. However, if this timetable can be achieved by that critical mass of jurisdictions, then Jersey stands ready to meet the agreed requirements to sign the multilateral instruments, as and when available, and will lodge the necessary legislative measures for the new States Assembly to debate and approve.

9.3 Timeline for GloBE (if implemented)

9.3.1 When it comes to GloBE, any final political decision on implementation will be taken by the States Assembly that is elected on 22 June 2022. This decision is likely to be made in the autumn of 2022. If the decision is to implement GloBE in Jersey, then domestic enabling legislation will be drafted, lodged, debated and then approved ahead of any commencement date.

9.3.2 In view of the important democratic process that must be followed in relation to any political decision on GloBE implementation, it is unlikely that any GloBE implementation could take place in Jersey before 1 January 2024. In relation to the IIR element of GloBE, 1 January 2024 may turn out to be later than the IIR implementation date of some (but by no means all) jurisdictions.[8] However, in any event, the Model Rules do not require implementation of the UTPR by any jurisdictions before 1 January 2024.

Question 14 Do you foresee any difficulty with an implementation date of 1 January 2024 for GloBE IIR and UTPR (if the final decision is to implement this regime in Jersey)?

[8] The draft EU Directive published on 22 December 2021 indicates a target IIR implementation date by EU Member States of 1 January 2023, although a subsequent compromise text suggests a possible commencement date of 31 December 2023 – at the time of writing, no timing has been agreed. The UK has indicated a target IIR implementation date of 1 April 2023 in its Public Consultation document of January 2022.

10. Conclusion and stakeholder response

10.1 Jersey is well placed to implement any of the range of possible GloBE policy options. Jersey has a well-developed domestic corporate tax regime, with a long-standing revenue administration experienced in providing tax certainty through clear administrative guidance. Jersey has developed unique capabilities as an international finance centre to respond to taxpayer concerns as quickly as possible, and address complex technical issues.

10.2 While no conclusive political decisions have been made on GloBE implementation, initial stakeholder feedback favours Policy Option 3 in Jersey: that is, full implementation of GloBE along with a 15% domestic minimum tax. The existing domestic corporate tax regime would remain unchanged for groups outside the scope of GloBE.

10.3 If GloBE and a domestic minimum tax are implemented in Jersey, all possible steps that are within the GloBE rules will be taken to ensure that the administration of this new regime is as streamlined and clear as can be for the impacted groups.

10.4 With these elements in mind, your views are extremely valuable to us in continuing - and eventually concluding - the policy-making process.

10.5 Interested stakeholders may submit written comments by email to tax.policy@gov.je with a subject line of 'Input on the OECD two-pillars', preferably by 30 June 2022. Alternatively, key Revenue Jersey tax policy officials may be contacted for a private, confidential discussion. All questions and contact details are outlined in Appendix I.

APPENDIX I

A. Summary feedback sought on the GloBE policy implementation options

This paper outlines a range of policy implementation options for Jersey that are permitted under the OECD GloBE Model Rules. Please rank (1-5) which option would be your preferred choice and why.

1. There is no implementation of Pillar 2 GloBE in Jersey
2. GloBE is partially implemented in Jersey - implementation of the IIR only
3. GloBE is fully implemented in Jersey – both the IIR and UTPR
4. Jersey fully implements GloBE together with a domestic minimum tax
5. Other (please provide details)

B. Complete List of Stakeholder Questions

Question 1 Can you foresee any business risks that might be created for you if Jersey decided not to implement GloBE?

Question 2 Please outline any positive or negative factors that you consider important in assessing the issue of implementation versus non-implementation.

Question 3 Would the implementation of a Jersey IIR be useful to protect Jersey UPEs from the operation of the complex UTPR elsewhere?

Question 4 Do you agree that a UTPR should be included in any Jersey implementation of GloBE? If not, please explain your analysis.

Question 5 Are there any other considerations that need to be taken into account before Jersey reaches a conclusion on the UTPR?

Question 6 What are your views on the introduction of a Jersey domestic minimum tax for in-scope GloBE CEs?

Question 7 Would you consider it preferable to pay tax on your Jersey profits **in Jersey**, through a Jersey domestic minimum tax – rather than paying a top-up tax on Jersey GloBE income elsewhere through an IIR or UTPR?

Question 8 Are there any circumstances in which a Jersey 15% domestic minimum tax rate would actually increase your group's overall global tax liability?

Question 9 If a domestic minimum tax is your preferred policy approach in Jersey, please help us to understand the reasons for this conclusion – would it be for administrative ease, in order to ensure that the group pays taxes on GloBE profits where they arise, a combination of these, or other reasons?

Question 10 Would you support a domestic minimum tax which covers all Jersey CEs that are within scope of the GloBE rules, or one limited to CEs in €750m consolidated global revenue groups only?

Question 11 Are there specific concerns with US GILTI / BEAT and its interaction with GloBE that need to be examined?

Question 12 Please identify the key pressure points that you foresee arising in the implementation of GloBE and through the transition period.

Question 13 Please identify any pressure points that could arise on an annual basis in complying with the GloBE requirements. These may include the collection of data, calculation of GloBE deferred taxes, completion and submission of the GloBE return, dealing with audits and disputes among other tax authorities, etc. If possible, please set out any suggestions which might mitigate these pressure points.

Question 14 Do you foresee any difficulty with an implementation date of 1 January 2024 for GloBE IIR and UTPR (if the final decision is to implement this regime in Jersey)?

Question 15 Please provide any additional comments that may be helpful in respect to Jersey's implementation of the OECD two-pillar initiative.

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In respect to the stakeholder feedback provided, the information you provide will be processed in accordance with the Data Protection (Jersey) Law 2018 for the purposes of this report. To the extent necessary to collect and process any personal information you provide, the Government of Jersey may quote or publish responses to this request for feedback if necessary (including sharing with Scrutiny, referencing in a published report, reporting in the media, publishing a consultation summary on www.gov.je, etc.) but will not publish the name and addresses of individuals or organisations without consent. Confidential responses will still be included in any summary of statistical information received and views expressed.

Under the Freedom of Information (Jersey) Law 2011, information submitted for this report may be released if a Freedom of Information request requires it, but no personal data may be released. As this document is part of the Government’s policy under development process, feedback submissions are subject to a qualified exemption under Freedom of Information requirements. Revenue Jersey does not therefore intend to publish any individual submissions made under the request for stakeholder feedback. However, it does intend to publish a summary of key points arising out of the received stakeholder feedback.

Do you give your permission for your comments to be quoted?

No ☐ Yes, anonymously ☐ Yes, attributed ☐

Name to attribute comments to: __________

Organisation to attribute comments to, if applicable: __________

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APPENDIX II

Key technical terms and definitions:

Pillar 1: The Pillar 1 framework encompasses the separate but intertwined workstreams of Amount A profit reallocation, Amount B arm's length simplification for baseline marketing and distribution activities; and tax certainty.

Pillar 2: The Pillar 2 framework encompasses the separate GloBE and STTR workstreams.

STTR: A treaty-based rule (the Subject to Tax Rule (STTR)) that allows source jurisdictions to impose limited source taxation on certain related party payments subject to tax below a minimum rate.

GloBE: The Global anti-Base Erosion (GloBE) rules provide for a coordinated system of taxation intended to ensure large MNE groups pay a minimum level of tax on the income arising in each of the jurisdictions where they operate. It does so by imposing a top-up tax on profits arising in a jurisdiction whenever the effective tax rate, determined on a jurisdictional basis, is below the minimum rate.

IIR: the Income Inclusion Rule (IIR) in GLoBE imposes top-up tax on a parent entity in respect of the low taxed income of a constituent entity.

UTPR: The Undertaxed Payment Rule (UTPR) in GLoBE denies deductions or requires an equivalent adjustment to the extent the low tax income of a constituent entity is not subject to tax under an IIR.

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