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International Tax Reform – Pillar Two Model Rules
Proposed amendments to IAS 12 (IASB/ED/2023/1)

Dear Mr Klinz

On behalf of the German Insurance Association (GDV) we appreciate the opportunity to provide our comments on EFRAG's draft comment letter (the 'DCL') in response to the IASB' Exposure Draft "International Tax Reform – Pillar Two Model Rules, Proposed amendments to IAS 12" (the 'ED'), published by EFRAG for comments on the 30 January 2023.

In general, we are supportive of the EFRAG's tentative assessment in the DCL. Like EFRAG, we welcome the IASB's responsiveness and support the proposal in the ED to include a temporary mandatory exception to the accounting for deferred taxes potentially arising from the implementation of the Pillar Two model rules. We also agree that the timely finalisation of the project - as envisaged by the IASB - is primarily important.

As a matter of principle, we fully agree that the deferred tax accounting implications of the relevant Pillar Two legislations adopting the OECD global taxation rules are not obvious in context of the principles and requirements in IAS 12 (paragraph BC10 of the ED). Hence, it is highly appreciated that the IASB envisages to provide a **timely pragmatic remedy** in this regard to support preparers and to avoid development of inconsistent accounting policies. As we agree that it is not feasible for the IASB at this stage to provide a robust forecast how much time a potential project to clarify these challenges might require, we support the IASB's proposal not to specify how long the temporary exception will be in place (paragraph BC17 of the ED).

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Overall, we believe that the IASB should finalise the proposal in the ED as quickly as possible, but still **fine-tune the disclosure proposals** in line with the outcome of the consultation and align them with stakeholders' recommendations. Subsequently the IASB should consider a thorough evaluation whether conceptual and cost-benefit considerations would justify to withdraw the exception or to make it permanent if reasonable.

With regard to the specific **Questions to Constituents** raised in the DCL of EFRAG, we would like to provide the following comments and recommendations:

Question in paragraph 18 of the DCL

Yes, we strongly support the IASB's proposal to introduce a temporary mandatory exception to the accounting for deferred taxes potentially arising from the implementation of the Pillar Two model rules, including the qualified domestic minimum top-up tax. We also fully back the Board's approach to not propose a sunset clause for the application of the temporary exception. We agree that further significant work would be needed, but its magnitude and its timeline are not predictable.

Question in paragraph 19 of the DCL

Yes, we fully agree with the IASB's proposal to apply the exception also to the disclosures about potential deferred taxes arising from the implementation of the Pillar Two model rules. From our perspective the same valid rationale applies for potential disclosures in the notes as for the exception envisaged by the IASB for recognition and measurement of deferred taxes related to Pillar Two income taxes. The same treatment for the primary financial statements and the notes should apply in this regard. Consequently, we suggest to amend paragraph 13 of the DCL in this regard or to remove it altogether.

Question in paragraph 20 of the DCL

We acknowledge and fully support the IASB's intention to proceed expeditiously with the amendment proposed in the ED to implement the proposed scope exception in IAS 12 as quickly as possible. And, as a matter of principle, we do not have the view that it is indispensable to incorporate into the proposed general paragraph 4A of IAS 12 specific details or guidelines how it should be applied in situations outside the context of consolidated financial statements of the ultimate parent entity. The priority must be to conclude the amendment without undue delay.

Question in paragraph 38 of the DCL

We acknowledge and fully support the IASB's efforts to accompany the envisaged scope exception in the ED with some relevant disclosure requirements to enable investors and other users of financial statements to gain "some indication of an entity's potential exposure to paying top-up tax" (paragraph BC23 of the ED) coming from the adoption of Pillar Two legislations in jurisdictions in which the reporting entity operates.

However, we are not fully convinced yet that the drafted disclosure requirements in paragraph 88C (b) of IAS 12, as proposed in the ED, are best capable of achieving this intended objective. In particular, from the cost-benefit perspective we are concerned that the proposed disclosures might be of limited value for users, while they would still cause significant operational efforts for preparers and auditors, and this solely for the reporting period(s) before the relevant legistlation is in effect. Moreover, we are afraid that the mandatory disclosures envisaged in the drafted paragraph 88C (b) of IAS 12 would not provide decision-useful information to stakeholders. Hence, it would in fact oblige reporting entities to provide additional supplementary explanations to clarify the entity's real exposure to paying top-up taxes as this is the objective the IASB is trying to address.

To prevent and avoid such an unfortune outcome, we would like to recommend instead to require the reporting entities to disclose those jurisdictions in which the **nominal income tax rate** of less than 15% in the current period is applied as specifically these jurisdictions are the ones representing a risk of causing top-up taxes based on the Pillar Two legislation. We have the strong view that it would be a more reasonable, target-oriented and less burdensome approach, leading at the same time to more decision useful information for users of financial statements.

For all these reasons above, we would like to recommend EFRAG to consider its support for this constructive alternative disclosure requirement which would be less burdensome for reporting entities and also more robust for users. This is why we would like to suggest to amend paragraph 32 of the DCL accordingly. It should suggest the IASB to reconsider the disclosure requirements proposed in paragraph 88C (b) of the ED altogether and to focus them solely on the nominal income tax rate, i.e., the disclosure of the "tax expense (income) and accounting profit for these jurisdictions in aggregate, as well as the resulting weighted average effective tax rate" would not be required.

Question in paragraph 44 of the DCL

With regard to the tentative EFRAG's recommendation in paragraph 43 of the DCL we would suggest not to focus solely on the potential terminantion of the proposed temporary scope exception. Indeed, we would like EFRAG rather to recommend to the IASB to conduct subsequently a thorough targeted evaluation whether the scope exception provided in IAS 12 should be withdrawn or retained as a permanent one. Conceptual arguments, costs and benefits balance, and level playing field perspective have to be properly assessed in this regard.

Summing up, we agree that timely standard-setting is necessary and we are fully supportive of the IASB's proposed mandatory exception to IAS 12. Some further pragmatic fine-tuning of the disclosure package proposed in the ED would however still be useful and helpful.

Finally, we would like to refer to our detailed comments we have provided in our comment letter submitted to the IASB (attached hereafter).

We would appreciate if our comments and suggestions would be considered when finalising the EFRAG's comment letter on the amendments to IAS 12 proposed in the IASB's ED.

If you would like to discuss our comments further, please do not hesitate to contact us.

Yours sincerely,

German Insurance Association (GDV)

Appendix

The comments of the German insurance industry on the Exposure Draft "International Tax Reform – Pillar Two Model Rules, Proposed amendments to IAS 12", issued by the IASB on 9 January 2023 for public consultation, and the respective rationale are provided in the GDV's comment letter as submitted to the IASB (attached hereafter).

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International Tax Reform – Pillar Two Model Rules
Proposed amendments to IAS 12 (IASB/ED/2023/1)

Dear Mr Barckow

On behalf of the German Insurance Association (GDV) we greatly appreciate the opportunity to comment on the Exposure Draft "International Tax Reform – Pillar Two Model Rules, Proposed amendments to IAS 12" (the 'ED'), as released by the IASB for public consultation on the 9 January 2023.

We greatly appreciate the IASB's responsiveness and fully **support the proposal** in the ED to amend the scope of IAS 12 Income Taxes to include a temporary mandatory exception to the accounting for deferred taxes arising from the implementation of the OECD Pillar Two model rules. We **back the rationale** provided in the ED in this regard (BC15). And we agree that the timely finalisation of the project - as envisaged by the IASB - is indeed very important.

As a matter of fact, the discussions about the legal implementations and operative adoption of the Pillar Two model rules in the committed jurisdictions are intensively ongoing and are progressing fast. Nevertheless, the complexity of these new global taxation rules still needs to be fully understood, also by tax experts, before they can be implemented and complied with towards the local tax authorities. At the same time, reporting entities applying IFRS would need to deal already with the respective implications with regard to the accounting for deferred taxes arising from those challenging tax rules. As these accounting implications are not obvious in context of the principles and requirements

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in IAS 12 (BC10), it is absolutely an appropriate response of the IASB and a valid approach **to provide a temporary pragmatic remedy** in this regard to avoid development and an occurrence of inconsistent accounting policies. It would be also reasonable for the IASB to allocate a dedicated project to provide for clarifications in this regard subsequently. As it is not possible for the IASB at this stage to assess and to provide a robust forecast how much time this work might require (BC17), we fully support the IASB's proposal **not** to specify how long the temporary exception will be in place.

Overall, we fully agree that there is an **urgent need** for a pragmatic remedy to provide clarity for reporting entites on a **timely basis** for how to approach the issue of concern. Hence, we are fully supportive of the envisaged (mandatory) exception to the accounting for deferred taxes (in line with the rationale provided in BC16).

Summing up, the principles and requirements provided in IAS 12 have not been developed to deal with taxes like the top-up tax developed by the OECD (BC9-BC10). At the same time reporting entities would need urgently clarity about how to consistently apply them in this context, to provide useful information to investors and other users of financial statements (BC12). Hence, we strongly agree that the timely standard-setting activity of the IASB is necessary and we are fully supportive of the mandatory scope exception to IAS 12 as proposed in the ED.

In the annex to this letter we provide our detailed responses to the specific Questions set out in the ED. We would highly appreciate if our comments would be considered when taking ultimate decisions on the way forward with the proposed amendments to IAS 12.

If you would like to discuss our comments further, please do not hesitate to contact us.

Yours sincerely,

German Insurance Association (GDV)

<u>Annex:</u> The GDV's comments on the Questions asked in the ED

As mentioned in the cover note above, we appreciate and fully support the IASB's proposal to introduce a temporary mandatory scope exception to IAS 12 Income Taxes with regard to the accounting for deferred taxes arising from the implementation of the Pillar Two model rules. We back the proposed scope amendment to IAS 12 in the ED in this regard as it is suitable to properly address the complexities and challenges related to the ongoing implementation of the OECD global tax reform in the respective jurisdictions.

In the following we provide our detailed comments on all the specific Questions set out in the ED, including our recommendations how the package with the targeted disclosure requirements proposed in the ED could be fine-tuned futher to achieve a better cost-benefit balance.

Question 1: Temporary exception to the accounting for deferred taxes (paragraphs 4A und 88A)

We agree that the **proposed scope amendment** in **paragraph 4A** to IAS 12 is finalised as soon as possible for the reasons provided in the ED. We support processing the pragmatic remedy proposed by the IASB as an **urgent** one (BC12). In addtion, we fully support that the scope of the envisaged amendment also covers the potential deferred tax implications of the qualified **domestic** minimum top-up taxes (BC7) if any. It ensures the internal consistency and the robustness of the proposed amendment.

With regard to the proposed disclosure requirement in the **pararagraph 88A** of IAS 12 we do not think that it is necessary. Our rationale is that the proposed temporary exception is a mandatory one, i.e. every reporting entity following IFRS needs to apply it. We are not aware that reporting entites generally need to refer to other scope exclusions in other standards if they are not optional.

Hence, we have the view that the **general statement of compliance** – as required by paragraph 16 of IAS 1 for the financial statements that are prepared in full accordance with IFRS – covers already the proposed mandatory scope exception in paragraph 4A of IAS 12 once finalised. An addtional duplicating disclosure requirement is not necessary. Finally, the information needs of investors and other users of financial statements are safeguarded also by the existing dislosure requirements in paragraph 28 of IAS 8.

Question 2: Disclosure (paragraphs 88B-88C)

Regarding the targeted disclosure requirements proposed in the ED we assess that they might not fully achieve the cost-benefit balance. We would therefore like to provide the following comments for careful consideration by the IASB when finalising the proposed amendments in the next steps of the process, without risking of delaying its finalisation.

- The proposed disclosure in **paragraph 88B** of IAS 12

  We acknowledge that it might provide additional information to investors and other users of financial statements when the **current tax expense (income)** related to Pillar Two income taxes is to be disclosed separately. But we do not think that it is necessary. If the top-up tax is considered to be an income tax, it can and should be be combined with the usual current income taxes of the entity.

  We agree that this requirement only applies to reporting periods in which Pillar Two legislation is enacted and in effect. Finally, we understand that this information is required to be disclosed in an **aggregate** way only, i.e. as the sum of the top-up taxes incurred in all jurisdictions in which the reporting entity operates.

- The proposed disclosures in **paragraph 88C (a)** of IAS 12

  In **subparagraph (a)** the proposal in the ED is that reporting entities should provide information about Pillar Two Model Rules related legislations enacted or substantively enacted in jurisdictions in which “the entity operates”.

  We are concernd that this requirement might lead to voluminous narrative disclosures in the notes without providing a significant added value for users. Specifically, in case of reporting entities operating truly on a global basis with hundreds of subsidiaries in almost all jurisdictions worldwide it might be a burdensome and costly exercise to include into the notes the descriptions of related legislations in all respective jurisdictions. We are not convinced yet that investors or other users of financial statements are really going to evaluate all these information, being costly to be provided, audited and kept updated.

  We would therefore recommend to reconsider the proposal and to evaluate whether the sole focus on the jurisdiction in which the **ultimate parent entity** is located would be sufficient. At least

where the ultimate parent´s jurisdiction has enacted the Pillar Two legislation, detailed information on other jurisdictions in which the reporting entity operates would provide a limited added value and hence would be of little benefit for investors and other users of financial statements. It should be acknowledged that the Pillar Two legislations are going to be very similar to each other, with some nunaces understandable for tax experts only, as they are going to be based on the same Framework. Furhermore, the Pillar Two legislation of the jurisdictions in the EU wil be aligned by an EU directive. We don't think that it would be reasonable to provide duplicate information as many times as the subsidiaries are located in different jurisdictions, just to be compliant with the proposed disclosure requirement. We would expect that an aggregated format would be sufficient and encourage the IASB to provide an appropriate clarification in this regard.

- The proposed disclosures in **paragraph 88C (b)** of IAS 12

The IASB proposes in the ED that 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% shall be disclosed. The entity shall also disclose the tax expense (income) and accounting profit for these jurisdictions in aggregate, as well as the resulting weighted average effective tax rate.

As a matter of principle, we agree with the idea of disclosing information on the reporting entity's potential exposure to paying the top-up taxes based on the Pillar Two legislation. However, we are concerned that the disclosure requirements as proposed in the ED would **not** be decision useful to investors and other users of the financial statmements. In particular, the drafted parameters to determine the possibly affected jurisdictions are **not** in line with the Pillar Two model rules and in consequence might indicate wrongly an exposure to the top-up taxes based on the Pillar Two legislations.

Based on that reporting entities will be in fact **forced** to provide clarifying explanations, i.e. additional dislcosures based on the paragraph 88C (c) of IAS 12. It would lead to additional operational and audit efforts being necessary as the parameters having been prescribed in the paragraph 88C (b) of IAS 12 are not in line with the Pillar Two model rules.

Hence, in our firm view, it would be a more reasonable approach and more decision useful to require the reporting entities to disclose instead those jurisdictions with the **nominal income tax rate** of less than 15% in the current period as specifically these jurisdictions are definitely the ones representing a risk of causing top-up taxes based on the Pillar Two model rules.

Finally, and for the avoidance of any doubt, we fully agree with the assessment that the alternative discussed by the Board, i.e. to require all reporting enties to provide a disclosure of jurisdictions in which taxation level is effectively below 15%, according to the applicable Pillar Two model rules, and this already before local legislatons are in effect, would be difficult to achieve at a reasonable cost in the limited timeframe given (BC19).

- The proposed disclosures in **paragraph 88C (c)** of IAS 12

  The IASB proposes in the ED to require those reporting entities that have made respective assessments in preparing to comply with the relevant Pillar Two legislations to disclose an indication of whether there are additional or fewer jurisdictions in which the reporting entity might be exposed to paying top-up taxes compared to those disclosed under the proposed paragraph 88C (b) of IAS 12. We understand that it is not mandatory to conduct such an assessment (as clarified in BC24 (c)) and therefore any further disclosures are only expected in case a respective assessment has been made. We support this proposal in the ED as it gives the reporting entities the possibility to give more light to the disclosure according to paragraph 88C (b) of IAS 12. In case an entity has performed such an assessment, we believe that it will be more in line with the Pillar Two model rules than the indication currently envisaged by the (drafted) paragraph 88C (b) of IAS 12.

  Therefore, we encourage the IASB to reconsider whether the incremental benefits of disclosure requirements proposed in the ED for the paragraph 88C (b) of IAS 12 would justify the operational burden and efforts caused for preparers for the transitional period only.

For the reasons provided above, we respectfuly recommend the IASB to **further fine-tune the package of disclosures** proposed in the ED as suggested above. It would ensure that a more robust indication of the potential top-up tax exposure is provided to investors and other users of financial statements, being the explicit objective of the IASB (BC23).

Question 3: Efffective date and transition (paragraph 98M)

We agree that the proposed scope exception (paragraph 4A of IAS 12) shall be applied immediately upon the issuance of the amendments and retrospectively. Regarding the proposed disclosure requirements in the paragraph 88A of IAS 12 we refer to our suggestion above (**Question 1**) to abandon this proposal.

Finally, we fully support that the new discosure requirements (paragraphs 88B – 88C of IAS 12) need to be applied only to **annual** reporting periods beginning on or after 1 January 2023. It properly reflects that reporting entities need sufficient time to prepare the necessary information.

Berlin, 24 February 2023