



**10 March 2023**

IFRS Foundation  
Columbus Building  
7 Westferry Circus  
Canary Wharf  
London E14 4HD

Via: [commentletters@ifrs.org](mailto:commentletters@ifrs.org)

Dear Dr Barckow,

**Exposure Draft: International Tax Reform – Pillar Two Model Rules: Proposed amendments to IAS 12**

The Corporate Reporting Users' Forum (CRUF) welcomes the opportunity to provide the International Accounting Standards Board our comments regarding the proposed amendments to IAS 12 Income Taxes.

The CRUF was established in 2005 and we have been holding regular meetings since. CRUF have prepared this comment letter based on discussions in CRUF meetings and a global survey across all CRUF participants. As always, we do not seek to reach a consensus within the CRUF but to reflect a broad spectrum of users' views. We have highlighted any contrasting views in our response. Our comments are based on our professional experience as users of corporate reporting.

**The urgent need for a quantitative estimate of the potential “top-up tax”**

The limitations of IAS 12 have been discussed by the CRUF for many years. Tax is one of the biggest expenses for most companies, but it is also one of the most difficult to analyse due to very limited disclosure. This makes it very hard for users to gauge the sustainability of tax rates. Better transparency is needed urgently.

A low tax rate is often considered a “low quality” component of earnings because of the perceived risks that this rate is unsustainable. Better transparency around the tax structures and strategy would help users understand which low tax rates are genuinely sustainable and can indeed be a source of competitive advantage. The forthcoming “top-up tax” is a real-life test of which companies have sustainable tax structures, and which don't. It may render a formerly sustainable low-tax strategy unsustainable due to regulatory change.

The CRUF also notes that there is a strong link to governance: if a management team is aggressive in their tax planning, then they may well be aggressive in other areas too.

Users urgently need to identify which companies are most at risk from the “top-up tax”, but under current disclosure this is impossible to do.

Users can only screen for companies with an aggregate effective tax rate below 15%, but this will miss a lot of companies exposed to a “top-up tax” because it does not differentiate between a company paying tax in a single jurisdiction with a 15% tax rate which is not at risk, and a company

paying tax in two jurisdictions, one with a 30% tax rate and one with a zero tax rate, which is at risk.

The proposed disclosure described in paragraph 88C (b) is an elegant temporary solution to this information gap, allowing users to estimate the potential “top-up tax”. These quantitative requirements should be considered the absolute minimum information required. Without this quantitative disclosure there is a grave risk of a misallocation of capital as investors make ill-informed decisions.

The CRUF appreciates that preparers will be cautious in disclosing these aggregate numbers, due to their uncertainty. However, there are lots of other areas in the financial reports which necessarily deal with uncertainty, such as pension obligations and provisions, and in all cases disclosing and discussing the key assumptions is important so that users can flex the reported estimate with their own assumptions.

The CRUF also understands the large potential for mitigating actions, by both countries and companies, which means that any estimate of the potential “top-up tax”, based on the aggregate accounting profits multiplied by the difference between the average effective tax rate and 15% is likely to be significantly larger than the estimate of the most likely “top-up tax” after all mitigating actions are taken into account.

### **Future areas to be considered**

The CRUF appreciates the very urgent nature of this narrow scope amendment and would not want to delay implementation in any way. However, we would like to note some further points to be considered for future amendments to IAS 12.

- Analysis of cash taxes paid by country and period.

Users need to see where the group pays tax and what period it relates to. This will help us understand the sustainability of the tax structures in place.

- Taxes paid within associates and joint ventures.

This currently falls outside of the scope of IAS 12 but if the “top-up tax” is material for a material joint venture then this should be disclosed too, as per IAS 1, if it is material to the overall investment decision.

- Impact on minority interest.

Equity investors want to model the potential impact on EPS. If the “top-up tax” relates to a 100% owned subsidiary the impact is greater than if the “top-up tax” relates to an 80% owned subsidiary.

- Impact on large tax losses carried forward where the minimum tax might increase the value of these losses.

The CRUF notes that there is no proposal to require disclosure of tax losses by country, which would be interesting, but only material in a minority of cases.

**Question 1—Temporary exception to the accounting for deferred taxes (paragraphs 4A and 88A)**

IAS 12 applies to income taxes arising from tax law enacted or substantively enacted to implement the Pillar Two model rules published by the OECD, including tax law that implements qualified domestic minimum top-up taxes described in those rules.

The IASB proposes that, as an exception to the requirements in IAS 12, an entity neither recognise nor disclose information about deferred tax assets and liabilities related to Pillar Two income taxes. The IASB also proposes that an entity disclose that it has applied the exception.

Paragraphs BC13–BC17 of the Basis for Conclusions explain the IASB’s rationale for this proposal.

Do you agree with this proposal? Why or why not? If you disagree with the proposal, please explain what you would suggest instead and why.

The CRUF agrees with a mandatory temporary exception as it will increase consistency and comparability between entities’ financial statements. As stated in the exposure document, more research and due process is needed to develop a deferred tax model for Pillar II exposures.

**Question 2—Disclosure (paragraphs 88B–88C)**

The IASB proposes that, in periods in which Pillar Two legislation is enacted or substantively enacted, but not yet in effect, an entity disclose for the current period only:

(a) information about such legislation enacted or substantively enacted in jurisdictions in which the entity operates.

(b) 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%. The entity would also disclose the accounting profit and tax expense (income) for these jurisdictions in aggregate, as well as the resulting weighted average effective tax rate.

(c) whether assessments the entity has made in preparing to comply with Pillar Two legislation indicate that there are jurisdictions:

(i) identified in applying the proposed requirement in (b) but in relation to which the entity might not be exposed to paying Pillar Two income taxes; or

(ii) not identified in applying the proposed requirement in (b) but in relation to which the entity might be exposed to paying Pillar Two income taxes.

The IASB also proposes that, in periods in which Pillar Two legislation is in effect, an entity disclose separately its current tax expense (income) related to Pillar Two income taxes.

Paragraphs BC18–BC25 of the Basis for Conclusions explain the IASB’s rationale for this proposal.

Do you agree with this proposal? Why or why not? If you disagree with the proposal, please explain what you would suggest instead and why.

We agree with all the proposals as an elegant temporary solution to address an important information gap.

The CRUF would prefer (b) to be detailed country-by-country, rather than in aggregate, subject to the normal materiality test for any disclosure. The reason is that users could then assign probabilities and timescales on a country-by-country basis to get a better sense of the tax risks inherent in the current tax structures. We note that under the OECD's BEPS Action 13, all large multinational enterprises are required to prepare a country-by-country report.

Because tax estimates require a significant number of assumptions and companies are likely to take steps to reduce the impact of these tax changes, we are particularly interested in which companies might have issues in which country. Tax is paid on a country-by-country basis, not on a region-by-region basis, so aggregate information is not helpful in understanding the potential implications. Any company that cannot at least identify the potential tax risk in a particular country would be a concern.

#### **Question 3—Effective date and transition (paragraph 98M)**

The IASB proposes that an entity apply:

(a) the exception—and the requirement to disclose that the entity has applied the exception—immediately upon issue of the amendments and retrospectively in accordance with IAS 8 Accounting Policies, Changes in Accounting Estimates and Errors; and

(b) the disclosure requirements in paragraphs 88B–88C for annual reporting periods beginning on or after 1 January 2023.

Paragraphs BC27–BC28 of the Basis for Conclusions explain the IASB's rationale for this proposal.

Do you agree with this proposal? Why or why not? If you disagree with the proposal, please explain what you would suggest instead and why.

The CRUF agrees with this proposal. We expect jurisdictions to enact legislation as soon as the first half of 2023, so the amendment is urgently needed before interim accounts are released.

Participants in CRUF Japan note that Japan has been ahead of the rest of the world in revising its taxation system in response to Pillar 2, and these revisions are expected to be enacted in March 2023. Consequently, if the amendments to IAS 12 are not finalised by the end of this month, Japanese companies applying IFRS that close their books at the end of March (with a total market capitalisation of over 2 trillion euros) will be unclear about the treatment of tax effects. Therefore, CRUF Japan in particular hopes that the amendments will be finalised as soon as possible.



## About the Corporate Reporting Users' Forum (CRUF)

The [CRUF](#) was set up in 2005 by users of financial reports to be an open forum for learning about and responding to the many accounting and regulatory changes that affect corporate reporting. In particular, participants are keen to have a fuller input into the deliberations of accounting standard setters and regulators. CRUF participants include buy and sell-side analysts, credit ratings analysts, fund managers, investors and corporate governance professionals. Participants focus on equity and fixed income markets. The Forum includes individuals with global or regional responsibilities and from around the world, including Australia, Canada, France, Germany, Hong Kong, India, Japan, New Zealand, South Africa, UK and USA.

The CRUF is a discussion forum. Different individuals take leadership in discussions on different topics and in the initial drafting of representations depending on their area of interest or expertise. In our meetings around the world, we seek to explore and understand the differences in opinions of participants. The CRUF does not seek to achieve consensus views, but instead we focus on why reasonable participants can have different positions. Furthermore, it would not be correct to assume that those individuals who do not participate in a given initiative disagree with that initiative. Also, it would not be correct to assume that nonparticipants agree with the initiative. This response is a summary of the range of opinions discussed at the CRUF meetings held globally and provided by participants in drafting the response. Differences of opinion are noted where applicable.

Participants take part in CRUF discussions and joint representations as individuals, not as representatives of their employer or other organisations they are a member of or associated with. Accordingly, we sign this letter in our individual capacity as participants of the Corporate Reporting Users' Forum and not as representatives of our respective employer or other organisations. The participants in the CRUF that have specifically endorsed this response are listed below.

### Signatures

Jeremy Stuber

Masayuki Kubota

Charles Henderson

Peter Parry

Chie Mitsui

Robert Morgan

Jane Fuller

Jed Wrigley

Koei Otaki

Lothar Weniger