

OECD – Organisation for Economic Co-operation and Development

International Cooperation and Tax Administration Division

Centre for Tax Policy and Administration

Submitted by e-mail to: cfa@oecd.org

14 December 2020

SUBJECT:

Comments on the OECD Global Anti-Base Erosion ('GloBE') Report on the Pillar Two Blueprint

Dear Ladies and Gentlemen,

On behalf of the undersigned real estate organisations, we would like to submit this letter in response to the Public Consultation Document on the Reports on the Pillar One and Pillar Two Blueprints which were released by the OECD on 12 October 2020. More specifically, we are bringing forth our joint comments with regard to the Pillar Two Blueprint.

The members of the undersigned organisations represent together the vast majority of constituent companies included in the FTSE EPRA/Nareit Global Real Estate Index and represent major listed property investment companies (including REITs) which are companies that own, develop and sell investment property.

Our organisations have worked with the OECD for almost 20 years on various tax proposals and issues. We particularly highlight and appreciate the report on Tax Treaty Issues Related to REITs adopted by the OECD Committee on Fiscal Affairs on 20 June 2008. The importance and the globalisation of investments in and through REITs have led the OECD to specifically examine the cross-border tax issues that such investments raise for tax treaties. The specific guidance on REITs that the OECD has provided over the years has been invaluable in providing clarity with respect to cross-border investment in this important sector. We wish to remind the OECD of this past recognition and call for its extension in the current OECD GloBE Pillar Two Blueprint.

The undersigned organisations value the assessment which led the OECD to propose a list of excluded entities. We too are convinced that the tax policy objectives of domestic REIT regimes neither are inconsistent with the tax policy objective of the GloBE rules, nor create a competitive distortion that would undermine the tax policy objectives of the GloBE proposal. To the contrary, subjecting the income of REITs to tax under the GloBE rules would undermine the policy objectives that domestic REIT regimes are seeking to achieve.

We therefore appreciate the OECD recognition of the above.

However, we point out that domestic REIT regimes vary in some respects from jurisdiction to jurisdiction, e.g., some countries require REITs to be externally managed while other countries permit REITs to be either externally or internally managed¹. They could partially meet criteria set for tax transparency regimes, but mostly they would fit the description of the tax distribution model. Such specificities could raise questions in the application of the exclusion by member states who intend to adopt the GloBE rules.

To ensure clarity, **we call on the OECD to refer to REIT regimes directly and as a stand-alone category of excluded entities and to use the definition of REITs contained in the 2008 OECD report on REITs**. This approach would be consistent with the past OECD actions in relation to REITs and would bring a sought after clarity on the exclusion of REITs, as entities adhering to a qualifying REIT regime.²

Some of the undersigned real estate organisations provide more detailed comments in their respective submissions.

We appreciate the opportunity to provide comments on this important issue and remain at your disposal to either discuss our comments further or to provide additional information that would be useful. Please contact Dominique Moerenhout, EPRA CEO, at d.moerenhout@epra.com if you would like to discuss this letter in greater detail.

Respectfully submitted,

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¹ EPRA Global REIT Survey 2020 as available: [here](#)

² Referring to the Tax Treaty Issues Related to REITs as adopted by the OECD Committee on Fiscal Affairs on 20 June 2008.

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