OPINION STATEMENT

Opinion Statement CFE/1/2025: CFE Tax Advisers Europe Response to the OECD/IF BEPS Package Stocktake

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CFE Tax Advisers Europe is the European association of tax institutes and associations of tax advisers. Founded in 1959, CFE brings together 33 national tax institutes, associations and tax advisers' chambers from 24 European countries. CFE was the initiator of the Global Tax Advisers Platform through which it is associated with more than 600,000 tax advisers worldwide. CFE is part of the EU Transparency Register no. 3543183647-05.

We would be pleased to answer any questions you may have regarding our Opinion Statement. For further information, please contact Piergiorgio Valente, President of CFE, Jeremy Woolf, Chairman of the CFE Fiscal Committee, Eduardo Gracia Espinar, Chairman of the CFE Professional Affairs Committee or Dr. Aleksandar Ivanovski, Director of CFE at info@taxadviserseurope.org. For further information regarding CFE Tax Advisers Europe please visit our web page http://www.taxadviserseurope.org/

Executive Summary

1. **Acknowledgment of the Lasting and Transformative Impact of BEPS**: CFE Tax Advisers Europe acknowledges that the OECD/G20 BEPS project has significantly reshaped the international corporate tax landscape over the past decade. Widespread implementation of the BEPS measures, especially in the EU, have contributed to aligning profits more closely with real economic activity, and improved transparency in tax matters. Anecdotal evidence suggests reduced opportunities for profit shifting (e.g. via excessive interest or hybrid arrangements) and less aggressive tax competition among states.

2. **EU Leadership in Implementation:** In addition to the states that have implemented the proposals the European Union has played a significant role in giving practical effect to BEPS in the European Union. Through directives like ATAD 1 & 2 (covering Actions 2 - 4, 6 and related measures) and the series of DAC 1-6 directives (covering Actions 5, 12, 13, etc.), the EU ensured a coordinated, Europe-wide adoption of anti-BEPS rules. The EU Anti-Tax Avoidance framework introduced common standards on hybrid mismatches, interest limitation, controlled foreign companies (CFCs), general anti-abuse rules (GAAR), and mandatory information exchange, creating a more level playing field across Member States. However, it should be noted that such pioneering roles in the international context, especially with third countries, do not lead to general simplifications, as no international consensus has yet been reached with key trading partners.

3. **Transparency and Tax Certainty:** Improved tax transparency marks the post-BEPS tax environment. Measures such as country-by-country reporting (CbCR), automatic exchange of tax rulings, and mandatory disclosure of aggressive tax planning arrangements have given tax administrations a deeper understanding of cross-border arrangements; improved tax compliance and enabled better risk assessment. While enhanced dispute resolution mechanisms (Action 14, also implemented in the EU) have resulted in more efficient resolution of double taxation and improved tax certainty, there remains room for further improvements and work in this area.

4. **Compliance Burden and Complexity**: CFE Tax Advisers Europe supports the BEPS project objectives but notes the high complexity and compliance costs of some measures. The proliferation of detailed anti-avoidance rules (e.g. intricate hybrid mismatch rules and broad DAC6 reporting hallmarks) has created significant administrative burdens for taxpayers and advisers. There is evidence of “compliance fatigue” and potential overreporting due to unclear thresholds in disclosure rules. Unnecessarily complex or overlapping requirements risk undermining the

competitiveness of businesses without commensurate tax compliance benefits, especially between third countries that apply different standards. These issues are material even before the implications of Pillar One and Pillar Two implementatiion are considered and are therefore are not addressed in this paper. These concerns become even more significant if the Two-Pillar Agreement is taken into account.

5. **Call for Simplification and Balance:** CFE advocates for simplification, proportionality, and review of the BEPS-inspired rules. We urge policymakers, both at the national, the EU and OECD level, to streamline and consolidate legislation (e.g. a recast and unified DAC framework in the EU), reconsideration of overly broad rules (such as certain DAC6 hallmarks), and ensure new initiatives complement rather than duplicate existing ones. CFE considers there should be a greater focus on striking the right balance between transparency and anti-avoidance measures and placing undue administrative burdens on compliant taxpayers. Overall, CFE remains supportive of the BEPS project's objectives and related proposals at the EU level, to improve the effectiveness and fairness of the international tax system.

I. Introduction

The Base Erosion and Profit Shifting (BEPS) initiative launched by the OECD/G20 has, ten years on, led to significant changes in international tax policy. The 15 BEPS Actions, finalised in 2015, aimed at closing gaps and mismatches in tax rules that allowed multinationals to minimise taxation artificially. In the decade since, these measures have been implemented to varying degrees worldwide, with particularly robust implementation in the EU and other European states. The Inclusive Framework's preliminary stocktake finds "important progress" as numerous countries have adopted BEPS measures, especially the minimum standards, and early evidence points to behavioural change by both taxpayers and governments. For example, instances of excessive interest deductions and hybrid mismatch arrangements have been reduced, and profits are now better aligned with substance in many cases. Tax authorities also report improved transparency and certainty because of information-sharing and disclosure tools introduced by the BEPS package, as indicated by the preliminary report.

CFE Tax Advisers Europe, as the European umbrella organization of the tax profession, supports the BEPS project's objectives of combating tax evasion and aggressive tax planning. We have contributed to technical consultations on BEPS measures since their inception and provided extensive feedback on the EU's efforts to implement them. Our members have observed first-hand the impact of these changes on tax practice, taxpayer behaviour, and compliance processes. In this response, we offer a perspective on how the BEPS Actions, particularly those most relevant to our member organisations (Actions 2-6 and 12-14), have changed the international tax system. We highlight the success in increasing tax fairness and transparency, as well as areas where complexity and compliance costs present ongoing challenges. Our comments draw on CFE's public positions on OECD and EU initiatives, including responses to consultations and opinion statements on the Anti-Tax Avoidance Directives (ATAD 1 & 2), the Directive on Administrative Cooperation (DAC 1-6), and related OECD guidance. While expressing overall support for the BEPS achievements, we provide constructive recommendations to inform the Inclusive Framework's stocktake and future policy development.

i. **Addressing Tax Avoidance**: Implementation of BEPS Actions 2–6 in the EU

- **BEPS Actions 2-4 & 6 (ATAD 1 & 2)**: The EU implemented key anti-avoidance measures via the Anti- Tax Avoidance Directive (ATAD) in 2016 and its extension, ATAD 2, in 2017. These directives translated several BEPS recommendations into binding EU law. As a result, all Member States now enforce a common rulebook on interest limitation, CFC rules, GAAR and exit taxation.

- **Hybrid Mismatches** (Action 2): ATAD 2 neutralizes hybrid mismatch outcomes (double deductions, deduction without inclusion, etc.) both within the EU and with third countries. This addresses structures exploiting differences in legal characterisations of entities or instruments between jurisdictions. Previously common tax planning strategies, such as using hybrid loans or entities to achieve deductions in two countries or a deduction with no taxable pickup elsewhere, have been rendered ineffective in the EU. CFE acknowledges the policy importance of these rules in preventing double non-taxation. Many multinationals have restructured financing arrangements to comply with the new rules, contributing to fairer taxation of cross-border activities. Similar developments have occurred in states that are not members of the EU.

However, we must note that the technical complexity of the hybrid mismatch provisions is considerable. The rules require detailed analysis of foreign tax treatment and have posed interpretational challenges for taxpayers. Having consistent rules is desirable to avoid unintended double taxation. Simplification or clearer guidance in this area would be welcome, as overly complex anti-hybrid rules can increase compliance costs and uncertainty without proportionate benefit. A balanced approach is needed to ensure tax abuse is targeted while genuine commercial arrangements are not.

- **Interest Limitation Rules** (Action 4): The ATAD's interest limitation rule (earnings-stripping rule, generally limiting net interest deductions to 30% of EBITDA) directly stems from BEPS Action 4's recommendations. This measure has addressed the practice of using excessive debt in high-tax countries to erode the tax base. All EU Member States now limit interest deductions, which has led to reduced "excessive leverage" in intra-group financing, a trend also noted in the OECD's emerging findings. Similar measures have also been adopted in other European states. CFE supports the policy intention of this rule as a safeguard against abusive profit shifting through debt. Many businesses have adjusted and a positive effect of more equitable tax outcomes is noticeable, as purely tax-driven financing structures are discouraged. That said, the interest limitation rule's calibration and carve-outs (such as the 30% benchmark, group ratio escape, and SME exemptions) require ongoing review. Striking the right balance is key: the rule should catch artificial arrangements but not unduly hinder ordinary business borrowing or investment. Some States initially faced transitional difficulties integrating this rule with domestic regimes. Over time, greater consistency and clarity, possibly via updated guidance or examples, would help both tax administrations and taxpayers apply the rules with certainty. We encourage monitoring of the economic impact (e.g. on the cost of capital for businesses) to ensure the limitation remains proportionate and does not inadvertently disadvantage European companies in global markets.

- **Controlled Foreign Company (CFC) Rules** (Action 3): ATAD also mandated that all Member States adopt CFC rules, which taxes certain income of foreign subsidiaries in low-tax jurisdictions in the parent company's country. This was a significant step, as prior to BEPS not all EU countries had CFC legislation. Now, with a common minimum standard, profits artificially diverted to offshore entities (with no substantive economic activity) can be taxed by the home state, removing the incentive to shift income purely for tax reasons. CFE recognises CFC rules are a crucial tool to counter profit-shifting, and their broader adoption in Europe has helped ensure that the foreign profits of European businesses face at least a minimum level of taxation. These rules, however, can be complex to administer and to comply with the correct attribution of profits requiring detailed analysis. Differences in implementation (e.g. definitions of control, exemptions for substance or high-tax, etc.) persist between states, which can create uneven outcomes. We encourage continued evaluation and convergence towards best practices in CFC rule design, guided by OECD principles, to enhance clarity and uniformity. It is also important that CFC rules include adequate substance carve-outs to avoid penalising genuine economic activities abroad. The goal must remain as targeting shell or conduit entities set up for tax avoidance, in line with the intention of BEPS, while keeping European businesses competitive internationally.

- **General Anti-Abuse Rule,** GAAR (Action 6): As part of Action 6 on preventing treaty abuse and general tax avoidance, ATAD requires every Member State to implement a general anti-abuse rule in domestic law. This GAAR acts as a wide-net safeguard, allowing tax authorities to ignore artificial arrangements put in place for the primary purpose of obtaining a tax advantage that defeats the object of the law. The presence of a GAAR across the EU provides a baseline defence against aggressive tax planning, complementing specific rules (TAARs or case-law derived doctrine etc). We note that the EU GAAR is formulated in a manner consistent with established abuse of law doctrine of the Court of Justice, and importantly, it cannot be used to challenge arrangements with valid commercial rationale and that reflect economic reality. This limitation is crucial to preserve certainty for *bona fide* business transactions. The GAAR's effectiveness will depend on its proportionate application: tax authorities must apply it sensibly, targeting clear abuses, and the courts play a key role in delineating its scope. As with other anti- abuse tools, consistent application and guidance is needed so that businesses know the boundaries of acceptable tax planning. CFE stands ready to assist in developing examples or criteria to clarify the GAAR's use, ensuring it deters abusive schemes without adversely affecting legitimate commercial structures.

- **Treaty Abuse Measures** (Action 6 & MLI): Beyond the domestic GAAR, BEPS Action 6 addressed treaty shopping and abuses of double tax treaties. A major outcome was the Multilateral Instrument (MLI), which many European jurisdictions ratified to swiftly update their tax treaty networks with anti-abuse provisions (such as the Principal Purpose Test (PPT) and/or limitation-on-benefits clauses). Today, most treaties entered into by European states include a PPT standard: treaty benefits will be denied if one of the principal purposes of a transaction is to obtain that benefit, unless granting it is consistent with the treaty's purpose. This has directly changed behaviour: holding company locations, financing conduits, and similar arrangements are now chosen with careful consideration of genuine business purpose rather than solely treaty arbitrage. CFE and its members have actively engaged in the refinement of these treaty abuse rules. For instance, we contributed to the OECD's consultations on how the PPT should apply to investment funds and other non-CIV funds, acknowledging the difficulty of distinguishing tax-driven setups from ordinary investment structures. We welcomed the OECD's efforts to include practical examples in the Commentary to clarify PPT application, as it helped both taxpayers and tax administrators interpret the rules consistently. At the same time, we cautioned that the examples need to be applied with care: real-life situations may not mirror the model examples exactly, and competent authorities should consider all relevant facts (including genuine commercial justifications) before denying treaty benefits. On balance, the introduction of treaty anti-abuse tests has been positive as direct treaty shopping is much more difficult now, but it remains important to maintain certainty for legitimate cross-border investment. Going forward, dialogue and guidance (perhaps via the OECD Forum on Tax Administrations or re-introduction of the EU Joint Transfer Pricing Forum, as appropriate) should continue to address borderline cases and ensure alignment in how different jurisdictions apply PPT-based denials. This will prevent double taxation and foster the "tax certainty" that is needed for cross-border business confidence.

- **Harmful Tax Practices** (Action 5): While not explicitly specified in the questions on Actions 2–6, it is worth noting the EU's role in carrying out BEPS Action 5 on countering harmful tax practices. The OECD's work under Action 5 led to the requirement that preferential regimes (like patent box regimes) include substantial activity requirements, and the commencement of information exchange on tax rulings. The EU, through its Code of Conduct Group and related initiatives, has been very active in this area. All Member States adapted their intellectual property (IP) regimes to conform to the "nexus approach/modified approach" to link tax benefits to real R&D activity. The EU took it a step further by creating an EU-wide exchange of tax rulings system (DAC3 in 2015). This means that if one Member State gives a tax ruling (e.g. APA) which could affect the tax base of another country, that ruling is now shared across the EU. Such transparency discourages the use of non-transparent or 'sweetheart' deals as part of tax avoidance strategies and allows peer scrutiny of potential harmful regimes. CFE supports these moves towards fair tax competition, as our organisation has long advocated for measures which deter harmful tax competition while respecting the tax sovereignty of Member States. We believe the EU's cooperative mechanisms, including the Platform for Tax Good Governance which the CFE is a member of, are valuable for monitoring and addressing harmful tax practices. It is notable that since BEPS, several zero- or low-tax jurisdictions outside the EU have also committed to transparency and substantive requirements under EU and OECD pressure (e.g. via the EU's listing process of non-cooperative jurisdictions). These developments highlight the EU's influence in raising global tax governance standards, consistent with the objectives of BEPS Action 5.

In summary, the EU's implementation of Actions 2–6 has been comprehensive and largely effective in closing avenues of corporate tax avoidance within the Single Market. The Anti-Tax Avoidance Directive framework is a key instrument that harmonised previously differing national rules. From hybrid mismatches to interest stripping, CFC inclusion, and treaty shopping, the common rules have reduced the instances of double non-taxation and profit-shifting. Tax advisers in Europe have witnessed this change: certain cross-border tax planning techniques that were once routine are now either explicitly counteracted or subject to general anti-abuse principles. This has led to a more straightforward alignment of taxable profits with actual economic activity and value creation, a key goal of the BEPS project.

However, with these achievements come practical challenges. The new rules are often technical and interlocking, which can complicate compliance. CFE's view is that effective implementation and administration are as important as the rules themselves. We stress the need for clear guidance, consistency among jurisdictions, and proportional application. Moreover, policymakers should remain alert to the cumulative impact of these measures on the business environment: anti-avoidance rules must not unduly hinder normal commercial transactions or create unattractive locations for investment due to excessive regulation.

II. Enhancing Transparency and Reporting: BEPS Actions 12 & 13 and EU Measures (DAC 1–6)

One of the most significant shifts in the international tax system since the BEPS project has been the drive towards tax transparency.

Country-by-Country Reporting (Action 13): BEPS Action 13 introduced a requirement that large MNEs report annually key financial and tax information for each country of operation (revenue, profits, taxes paid, employees, assets, etc.) to the tax authorities,. This CbC report aimed to give authorities a high-level risk assessment tool to detect profit shifting. The EU implemented this by amending the Directive on Administrative Cooperation (DAC4, 2016), requiring all Member States to compel MNEs above the €750m threshold to file CbC reports and share them automatically with other EU tax administrations. This has been a cornerstone of tax transparency: tax authorities across Europe (and indeed globally) now have access to consistent data on where multinationals' profits and taxes arise. The value of this transparency is evident, as tax authorities report that they can better identify anomalies (like profits that are disproportionately located in low-tax jurisdictions) and select cases for tax inspection or audit. The data exchange also puts pressure on outlier jurisdictions to justify their tax outcomes, subtly encouraging a convergence towards fair taxation.

CFE Tax Advisers Europe has supported the CbCR initiative as a means to improve tax compliance and trust in the system, but we have consistently advocated for appropriate safeguards and balance. In our 2014 opinion on Action 13, we agreed with the BEPS outcome that struck a balance between transparency and concerns over inappropriate use of information and compliance costs. Going forward, CFE encourages monitoring of the effects of public CbCR: whether it truly leads to informed debate and responsible tax behaviour, or if there are unintended consequences such as misinterpretation or impact on investment. Nonetheless, the principle that tax authorities have the information needed to assess BEPS risks is firmly established, and we commend the cooperation among tax administrations facilitated by the Inclusive Framework and the EU's DAC in this regard.

Mandatory Disclosure of Tax Planning Arrangements (Action 12 / DAC6): Another pillar of transparency is BEPS Action 12, DAC6, related to reporting on aggressive tax planning arrangements *ex ante*. Action 12 recommended that countries implement mandatory disclosure rules (MDR) requiring taxpayers or their advisers to report certain schemes or transactions that bear the "hallmarks" of tax avoidance. The EU implemented this via DAC6 (Directive 2018/822), which took effect in mid-2020. Under DAC6, intermediaries (and in some cases taxpayers) must disclose to their national authorities any cross-border arrangement meeting specific hallmarks suggesting potential avoidance (for example, use of loss-buying, deductible cross-border payments to low-tax entities, certain transfer pricing anomalies, etc.). The national authority then exchanges this information with all other EU Member States. The goal is to give tax authorities timely intelligence on emerging tax schemes so they can respond (via audits or closing loopholes) and to deter advisers and companies from engaging in aggressive planning in the first place. Similar rules have been adopted in other European countries such as the United Kingdom.

CFE recognises the tax policy intention and value of having such early-warning mechanisms. Indeed, transparency can change behaviour: the knowledge that a scheme will be reported and scrutinised has likely dissuaded some from entering dubious transactions. However, our experience with DAC6 in practice has raised some concerns about its complexity and efficacy. In CFE's submission to the European Commission's 2023 evaluation of DAC6, we pointed out that the "broad and complex hallmarks" used to define reportable arrangements may not be the most effective design and have urged a recast and simplification/revisiting of redundant hallmarks.

Moreover, because the hallmarks were interpreted and implemented slightly differently by various Member States (despite an EU directive, some leeway in implementation and penalties was observed), there is a fragmented approach across the EU. This inconsistency adds to the compliance burden, as firms operating in multiple Member States faced different guidance and forms for reporting. In the initial phase, many taxpayers and intermediaries engaged in defensive "overreporting" by reporting transactions even if the risk was low, just to be safe – which speaks of the uncertainty and breadth of the rules. Such overreporting, alongside possible underreporting in other cases, suggests that the design of DAC6 may not be fully fit for purpose. CFE has highlighted "compliance fatigue" among practitioners as a consequence of dealing with these onerous and sometimes unclear obligations.

Importantly, CFE has underscored that reporting obligations must be proportionate. The CFE has accordingly recommended that the European Commission use the DAC evaluation as an opportunity to simplify and unify the rules. One immediate step we advocate for is a recast of the DAC – consolidating the multiple amendments into a single coherent instrument. We also suggest a thorough cost-benefit analysis of each disclosure requirement: for example, if certain DAC6 hallmarks have resulted in a large volume of reports but yielded little actionable risk information, these should be reconsidered or narrowed. The aim should be to focus on truly abusive schemes and avoid swamping tax authorities in low-value data.

Another critical aspect CFE has championed is the respect for legal professional privilege (LPP) within mandatory disclosure regimes. Many CFE member organisations are in countries where tax advisers (especially when legally qualified) have duties of confidentiality to their clients. We were pleased that DAC6 included provisions (Article 8ab(5)) allowing Member States to uphold LPP by waiving the reporting requirement for advisers in such cases, shifting the obligation to others (e.g., another intermediary or the taxpayer). CFE issued an opinion in 2018 making clear our expectation that EU countries fully respect the LPP waiver in transposition and implementation. We strongly believe that confidentiality and transparency can go hand in hand - i.e., one can achieve tax transparency objectives without forcing breaches of fundamental professional ethics. In practice, most Member States incorporated

LPP exceptions, though some divergences remain in scope. We continue to monitor this area closely, as it is vital to maintain taxpayers' rights (like the right to seek legal advice) while implementing disclosure rules. The key is that if one party (e.g., a promoter) is exempt due to privilege, the obligation should shift effectively to another party, ensuring the arrangement is still disclosed to authorities. This way, transparency is achieved without undermining legal protections. Thus far, this balance seems to be working: reportable arrangements are disclosed either by advisers or by taxpayers themselves, and the principle of client confidentiality in those jurisdictions has been upheld.

Beyond DAC6 and CbCR, the EU's broader transparency agenda has included measures like automatic exchange of financial account information (DAC2, implementing the OECD Common Reporting Standard) and exchange of beneficial ownership information (DAC5). These complement the BEPS transparency ethos by attacking evasion and opacity. CFE generally supports these initiatives as tools against tax fraud and opaque aggressive tax structures. At the same time, we emphasise the need for coherent implementation. With each new transparency tool, it is essential to avoid duplication and ensure data is put to effective use.

The transparency and reporting measures inspired by BEPS have materially changed the operating environment for tax advisers and taxpayers. Tax planning is now subject to a much brighter spotlight. This greater transparency is yielding benefits: it has improved trust in tax systems, armed tax authorities with better information, and likely deterred many aggressive schemes from ever being conceived. For the public, transparency initiatives like public CbCR, promote corporate accountability, although their full impact depends on careful interpretation of the data.

CFE wholly agrees that transparency, when well-designed, adds value to tax compliance and good governance. Our constructive criticism is aimed at ensuring these measures remain effective and proportionate without over-burdening those who must comply. In the spirit of constructive engagement, we recommend periodic reviews of transparency regimes to refine them, for example by simplifying definitions, using technology to ease reporting (i.e. harnessing IT tools can make compliance more efficient as noted by the OECD), and eliminating redundant processes. By doing so, tax authorities will obtain quality information, and businesses can channel resources into productive economic activity rather than excessive paperwork.

III. Improving Dispute Resolution and Tax Certainty: BEPS Action 14 and the EU's Response

Even as anti-avoidance rules and transparency measures tighten up the tax system, there is an equally important need to ensure that double taxation is resolved and that taxpayers have access to fair and timely dispute resolution. BEPS Action 14 recognised that preventing tax avoidance should not come at the cost of creating unrelieved double taxation or endless tax uncertainty for businesses. With more stringent rules and more audits possible post-BEPS, the risk of cross-border tax disputes increased, making efficient dispute resolution mechanisms critical. This is an area where the EU has added considerable value by supplementing the OECD's minimum standard on dispute resolution with a binding EU framework.

In 2017, the EU adopted the Tax Dispute Resolution Mechanisms Directive (Council Directive (EU) 2017/1852), which implements many of the Action 14 principles and goes further in some respects. This Directive requires Member States to attempt to resolve double taxation disputes (typically arising from transfer pricing or other allocation of income between jurisdictions) within a defined timeline, and crucially, it provides that if mutual agreement procedures (MAP) between tax authorities do not reach a result, the case must be submitted to binding arbitration at the taxpayer's request. The decision of the arbitration panel will then resolve the issue if the authorities cannot. This effectively makes dispute resolution mandatory and binding for a broad range of cases within the EU, which is a significant improvement over the prior EU Arbitration Convention that had a more limited scope and lacked robust enforcement in some instances.

CFE Tax Advisers Europe has welcomed this Directive as a very positive development, noting that it greatly strengthens taxpayers' rights and improves the investment environment in the single market. In our view, double taxation is a serious impediment to cross-border business, and it is fundamentally unfair and economically distortive when companies are taxed twice on the same income. An accessible, efficient dispute resolution system is therefore essential to complement the anti-avoidance push. We especially appreciate several aspects of the EU approach that align with what CFE had long advocated: the expanded scope (covering more taxes and scenarios than the old convention), clear timelines (giving taxpayers certainty that a resolution will be reached, generally within 2–3 years), and the use of independent arbitration to guarantee an outcome. These features should increase both the efficiency and effectiveness of resolving disputes, as well as provide greater tax certainty for businesses operating in Europe.

CFE provided input to the development of this policy. In fact, even before the Directive, we participated in the OECD's BEPS consultation on Action 14 and later commented on the EU's draft proposal in 2016–2017. We emphasised that Action 14 was a "unique opportunity" to improve MAP and that a truly effective mechanism needed to ensure final, binding decisions within an acceptable timeframe. We argued for mandatory binding arbitration as a cornerstone to prevent protracted disputes and unrelieved double taxation. We are pleased that the EU took this path.

CFE also pointed out that the taxpayer's role in the process should be enhanced. Under traditional MAP, taxpayers are passive, the dispute is between states, which can be frustrating if competent authorities are slow or reluctant to compromise. Globally, we observe that the

BEPS Action 14 minimum standard (which includes peer reviews of countries' MAP practices) has also brought improvements. Many countries (including several in the EU) have hired more MAP personnel and updated their tax treaties to allow arbitration (often via the BEPS MLI). The EU's approach can serve as a model for the Inclusive Framework, demonstrating that binding arbitration can be implemented in a multilateral setting effectively. In our 2016 joint opinion statement (with AOTCA) on Action 14, CFE advocated for exploring a more systematic multilateral solution, such as a permanent international tax court or arbitrational panel system, to resolve disputes consistently. While that remains a longer-term vision, the EU's framework is a step in that direction within a regional context. It proves that concerns over sovereignty or administrative complexity can be overcome when there is collective agreement on the importance of eliminating double taxation. However, there remains room for further enhancements and a need to improve the position when the dispute does not just involve EU Member States.

From a taxpayer (and tax adviser) perspective, the improvements in dispute resolution are a critical counterbalance to the stricter enforcement environment post-BEPS. Additionally, we encourage training and capacity building for tax authorities as not all countries are equally experienced in MAP, so sharing expertise (an area where the EU's Platform for Tax Good Governance or the OECD Forum on Tax Administration could help) will raise standards across the board.

CFE Tax Advisers Europe would welcome the introduction of coordination rules governing the access to the arbitration phase when penalties are imposed, given the current reference to the national penalty systems in fact leaves the accessibility to arbitration in the hands of national tax inspectors. As a result a "serious" or "very serious" penalty, under each national tax system, can prevent the access to the second stage of the MAP (arbitration). Hence, a common definition about what kind of behaviours should prevent the access, rather than a broad reference to the national tax penalty system, would restrict the current subjectivity impacting access to the arbitration.[1]

Effective dispute resolution mechanisms are essential to accompany anti-BEPS measures. The EU's adoption of a binding arbitration mechanism operationalises the spirit of BEPS Action 14 in a practical way, providing relief and certainty to taxpayers facing double taxation. CFE supports these developments as they ensure that the fight against BEPS does not unintentionally result in unfair double tax outcomes. The overall trend is positive: more disputes are being resolved, and taxpayers' rights in cross-border settings are stronger than a decade ago. We will continue to advocate for further improvements, such as expanding arbitration acceptance globally and ensuring taxpayer involvement, to build on this foundation.

[1] For instance, in France, “bad faith” penalties of 40% are commonly applied and, in such case, the FTA can refuse arbitration. If for instance, tax inspector makes a transfer pricing adjustment, adding 40% penalties, the company cannot as a result get access to arbitration.

IV. Conclusion and Recommendations

Ten years after the BEPS project began, the international tax system is undeniably in a better place in terms of fairness and transparency. Profit-shifting strategies that previously eroded national tax bases have been addressed and limited by a combination of targeted rules and information-exchange. The EU has been at the forefront of this transformation, translating OECD recommendations into concrete legislative measures that Member States apply in unison. This concerted action not only amplified the impact of the BEPS measures in Europe but also set examples internationally. The Inclusive Framework's preliminary findings confirm that BEPS measures have had real effects: companies are adjusting their tax planning behaviour, and governments are less constrained by harmful tax competition pressures. These are achievements that CFE Tax Advisers Europe welcomes as they align with our profession's commitment to a tax system that is robust, equitable, and trusted by the general public.

CFE's perspective, based on the experience of tax practitioners across Europe, highlights another important element: complexity poses the most significant problem for good compliance. Many BEPS measures have introduced layers of complexity that challenge even the most able and resourced taxpayers. We are concerned that if the pendulum swings too far, with continually more complex rules, the system could become counterproductive. Complexity breeds uncertainty, increases compliance costs, and can act as a barrier to investment and economic activity. It can also overwhelm tax administrations, particularly in smaller economies, which may struggle to enforce highly complicated rules. The BEPS stocktake exercise is therefore timely to identify areas where simplification is needed.

CFE makes the following key recommendations to build on the successes of BEPS while addressing its challenges:

- **Maintain Proportionality and Competitiveness**: We urge policymakers to remember that anti-avoidance measures should be proportionate to the risks and mindful of economic impacts. Rules that overreach or impose excessive administrative burdens can undermine the goals of BEPS by stifling legitimate business activity and hampering the investment environment. As we noted in our DAC6 evaluation comments, it is crucial to ensure that new reporting and compliance obligations are not over-burdensome, or they risk undermining the policy goals and the competitiveness of the Single Market. The Inclusive Framework should consider feedback from businesses on compliance costs; empirical studies already indicate that BEPS reforms, while curbing avoidance, have also resulted in increased compliance costs. Striking the right balance will maximise long-term success of the BEPS agenda.

- **Simplify and Consolidate Rules**: We welcome the EU's drive towards simplification in areas identified as overly complex or fragmented. CFE welcomes the idea of a comprehensive recast of the DAC to produce a single, clearer set of rules. Similarly, in the OECD context, countries might benefit from consolidated guidance that incorporates all post-BEPS clarifications to date, making it easier to follow.

- **Evaluate Effectiveness and Eliminate Redundancy**: Now that many BEPS measures have been in place for several years, it is timely to evaluate what is working and what is not. We encourage the OECD and EU to gather data on, for example, how many DAC6 reports have actually led to tax inspections/audits or closing of loopholes, or how interest limitation rules have impacted debt levels and investment. If certain rules or disclosures are yielding little benefit, they should be refined or even repealed.

- **Support Consistent Global Implementation**: The EU's comprehensive application of BEPS actions is commendable, but globally the picture is uneven. Not all Inclusive Framework members have the same level of resources or readiness to implement complex rules. CFE echoes the IF's finding that more work is needed on capacity building, especially for developing countries. This could include technical assistance, sharing of best practices, and perhaps phasing of implementation to allow countries to catch up.

- **Enhance Transparency with Collaboration**: Transparency should be a two-way street. Tax authorities have gained unprecedented access to taxpayer information so it is equally important that taxpayers and advisers gain insight into how that information is used and what outcomes it produces. For example, publishing summary statistics on DAC6 or CbCR and other directives usage can reassure stakeholders that these obligations are delivering value. It can also highlight areas for improvement (if, say, a particular hallmark generated thousands of reports but zero follow-up actions, etc.). Moreover, continuing dialogue through stakeholder platforms (like the EU's Platform for Tax Good Governance where CFE participates, or OECD consultations) is vital to fine-tune transparency tools. We also believe in promoting cooperative compliance programmes, where taxpayers voluntarily disclose planning in a collaborative arrangement with authorities, as a complement or alternative to some MDR regimes. Cooperative compliance can achieve similar transparency with less formality and more trust.

- **Continuous Support for Tax Certainty**: Finally, we reiterate the importance of tax certainty. We recommend that the success of the EU's binding arbitration Directive be shared and, where possible, replicated or expanded. The more countries that commit to binding dispute resolution, the less risk of protracted double taxation disputes globally. Additionally, as new rules (like those under Pillar One and Pillar Two) come into play, mechanisms for advance certainty (rulings, advance pricing agreements, multilateral APAs) should be scaled up to help taxpayers navigate uncharted waters. CFE has consistently championed improvements in taxpayer rights and certainty such as through our discussions on taxpayer rights. We will continue to push for measures that reduce uncertainty, because tax certainty is not just good for taxpayers, it also encourages investment and compliance, ultimately delivering the success of anti-avoidance efforts.

- **Improved Dispute Resolution Procedures.** As we have noted above, some moves have been taken by the EU. These are not perfect. As outlined, CFE has particular concerns that access is unduly restricted in cases where penalties are sought. The need for further action is even more evident in disputes involving third countries.