Record of Meeting

Meeting	TALC BEPS Sub-Committee		
Location	Revenue Offices, Dublin Castle	**Meeting Date**	15 July 2024
ITI	Anne Gunnell; David Fennell; Gareth Bryan; Paul McKenna; Emma Arlow.		
CCAB_I	Enda Faughnan^; Gearóid O'Sullivan^;		
Law Society	Andrew Quinn; Aidan Fahy^;		
Dept. of Finance	Michael Cantwell		
Revenue	Jeanette Doonan (Chairperson); John Quigley; Keith Noonan; Catherine Duffy; Máirín, Kane^; Diarmúid Kelly^;		
^Attended remotely via Dial-in			

Minutes

The Chairperson welcomed attendees and explained that the focus of the meeting would be the two draft TDMs circulated to the group prior to the meeting in relation to the application of Part 4A TCA. For ease of reference TDM 04A-01-02 would be referred to as the "Main TDM" and TDM 04A-01-01 would be referred to as the "Administration TDM". In addition, it was stated that the two TDMs were living documents and they would be updated over time. The TDMs are not intended to provide guidance on agreed OECD Administrative Guidance, hence the cross referring to the OECD Commentary and Administrative Guidance (found in Appendix A of the Main TDM).

1. **Minutes**

The minutes which were circulated in advance of the meeting in relation to the meeting held on the 8th of March 2024 were agreed.

2. **CCABI**

In advance of the meeting the CCABI submitted queries to Revenue for inclusion in guidance. These items were discussed during the meeting. The queries/requests and responses provided in the meeting are included below.

i) **Section 3 of the Administration TDM contains information on the obligation to register under section 111AAH TCA 1997. The guidance needs to address what Revenue's expectation is for in-scope entities who have NIL liabilities under the Pillar Two rules.**

Revenue noted that this item was dealt with at the TALC BEPS meeting on 24 October 2023.

Action Point: Revenue to update the Administration TDM to reflect this.

ii) **Section 10 of the Administration TDM discusses QDTT groups. The guidance needs to address Revenue's expectations where the composition of an MNE Group changes and the impact of such changes on existing Irish QDTT Groups (e.g., Irish entities are acquired, disposed, incorporated, liquidated, etc. during a fiscal year).**

Revenue stated that section 111AM outlines the implications of a CE joining and leaving a group. If an entity is a member of the group (MNE Group or large scale domestic group) for a fiscal year it can be a member of the QDTT group for that year. If it is not a member of the group for a fiscal year it cannot be a member of the QDTT group for that year.

If the member is no longer a member of the group and all other members of the group remain within the QDTT group, the QDTT group remains in place albeit less the member that has left. If a member leaves a QDTT group it will be required to notify Revenue.

Action Point: Revenue to update the Administration TDM to provide more details on this.

iii) Clear guidance is sought on the applicable "local accounting standard" as defined in section 111AAA TCA 1997, specifically guidance on the operation of the tie-breaker test that applies where a qualifying entity prepares accounts under more than one local financial accounting standard (section 111AAD(2)(e) refers),

Revenue asked whether there was a specific uncertainty which required guidance. CCABI to consider further.

Action Point: The CCABI will send on a specific example.

iv) Confirmation is sought in the guidance that the local accounting standard can be applied (without the need to apply the tie-breaker test) in circumstances where different local accounting standards are used by different qualifying entities (see AOB from TALC BEPS Sub-committee meeting on 4 September 2023).

Revenue sought clarification on the point to be included in the TDM and it was confirmed by the CCABI that confirmation of the point above would be sufficient for now. Practitioners confirmed that this does arise in practice for various reasons.

Action Point: Revenue to provide confirmation in the Main TDM.

v) The application of the Pillar Two Directive to fund structures where there are multiple sub-funds and an overarching umbrella fund.

This was discussed later in the meeting – please see section 9 below.

vi) Concerns specifically impacting 'Section 110' companies, were raised including:

Whether a Section 110 company may meet the definition of an investment entity for the purposes of section 111A(1) TCA 1997 where its management is subject to a regulatory regime.

Revenue stated that if a company meets the requirements to be an investment entity as set out in section 111A it will be considered an investment entity for the purposes of Part 4A.

What was the interaction of the arm's length requirements of section 111P TCA 1997 with the carve outs contained in sections 110 & 835E TCA 1997.

Revenue stated that there is no interaction between (i) the transfer pricing provisions set out for the purposes of calculating corporation tax and (ii) the arm's length principle contained in section 111P for the purposes of top-up taxes. Practitioners noted that it would be helpful if this was confirmed in the TDM.

Action Point: Revenue to outline position in the Main TDM.

3. ITI Points

In advance of the meeting the ITI submitted queries to Revenue regarding the administration of Pillar Two which were discussed during the meeting. The queries/requests and responses provided in the meeting are included below.

i) **It was requested that guidance on "relevant parent entity", "relevant UTPR entity", and Section 111AAH TCA 1997 should be expanded to give taxpayers clarity regarding their registration and deregistration obligations for the IIR and UTPR top-up taxes. Section 111AAH(1) defines a relevant parent entity and relevant UTPR entity as an entity that is subject to the IIR or UTPR top-up taxes, respectively. Taxpayers should be provided specific guidance on the meaning of "subject to tax" in this context, particularly in circumstances where the entity is potentially subject to top-up tax in Ireland, but no liability actually arises for a particular fiscal year**.

This point was dealt with above, noting the action point for Revenue.

ii) **It was requested that the guidance clarifies the deregistration obligations on taxpayers where they have registered for a top-up tax but a nil liability arises for a particular fiscal year. At a minimum, the ITI asked that Revenue's comments at the TALC BEPS Sub-committee meeting on 24 October 2023 in relation to the above matter, are reflected in the published TDM.**

This point was dealt with above, noting the action point for Revenue.

iii) **It was requested that specific guidance should be provided on scenarios where the composition of an MNE Group changes and the impact of such changes on existing Irish QDTT Groups (e.g., Irish entities are acquired, disposed, incorporated, liquidated, etc. during a fiscal year) in relation to section 111AAO -QDTT Group.**

This point was dealt with above, noting the action point for Revenue.

iv) **Members are seeking guidance on how to register entities for Pillar Two on ROS. We welcome an update from Revenue on its plans to provide published guidance including screen-shots etc to be included in the TDM in due course. Members have queried whether a registration can be amended after the fact (for instance, if an entity registered but did not elect into a QDTT group on Day 1 but then wants to elect in at a later date).**

Revenue will provide guidance on how to register etc. in due course as systems are developed. Screenshots and the relevant steps will be included in the Administration TDM.

In addition Revenue noted that it would be possible to amend a registration, noting that the election to be made into a QDTT group needs to be made before the specified return date.

4. ITI – "Minor comments" on the Main TDM:

The following page numbers refer to the Main TDM which was circulated to the group in advance of the meeting. The ITI submitted comments in relation to minor changes to the wording of the Main TDM. The queries/requests and responses provided in the meeting are included below.

i) Page 11- Two additional references to the consolidated version of the OECD Consolidated Commentary released in April 2024 were requested.

Revenue stated that the OECD Administrative Guidance is currently referred to in Section 2 of the Main TDM rather than the OECD Consolidated Commentary on the basis that the OECD Administrative Guidance is the documentation referred to in section 111B TCA and it also provides more background to the issues being addressed by the guidance. However, Revenue will update section 2 of the Main TDM to mention the OECD Consolidated Commentary.

Action point: Revenue will update Section 2 of the Main TDM to mention the OECD Consolidated Commentary.

ii) Page 12- Reference to the June 2024 Administrative Guidance was sought.

Revenue stated the June 2024 Administrative Guidance cannot be referred to in the Main TDM until it forms part of Irish law.

iii) Page 14 – A reference to "standalone entities" in relation to the date the IIR and QDTT came into effect in Ireland was sought.

Action point: Revenue agreed to update the TDM to reflect this point.

iv) Page 39 – A replacement of the word "an" with "the" was sought as follows:

Firstly, the FANIL of a constituent entity that is a flow through entity is reduced by the amount allocable to the owners that are not part of ~~***an***~~ ***the*** *in scope group and that hold their interest in the flow through entity either directly or via another tax transparent entity or entities unless the flow through entity is a UPE or is held directly or indirectly through tax transparent entities by a UPE that is a flow-through entity.*

Revenue stated that the guidance is in line with existing legislation and the proposed change would require a legislative basis. Revenue has made the Department of Finance aware of this.

v) **Page 50 – An additional comment to be inserted in the Main TDM in relation to Section 111Z which stated that the rules (within section 111Z) apply for the IIR and UTPR purposes and that differences may arise under Irish and foreign QDTTs was requested.**

Revenue stated that a cross reference to the guidance on section 111AAD can be included to highlight that there are exceptions to the rules in section 111Z for the purposes of the domestic top-up tax.

Action point: Revenue will update the TDM to reflect this point.

vi) **Page 52 – A request to add the word "material" in relation to a decrease in covered taxes was requested in relation to section 111AAB.**

Revenue stated that this change was not appropriate as the legislation does not refer to a material decrease. In addition, there are specific rules covered in the following paragraphs of the Main TDM which deals with situations where the aggregate decrease to covered taxes is less than €1m.

vii) **Page 52 – A request to change the wording from "is" to "must be" regarding the recalculation of the effective tax rate and top-up tax was made.**

Action point: Revenue will update the TDM to reflect this point.

viii) **Page 55 – A request was made to refer to share based remuneration when discussing eligible payroll costs.**

Revenue stated that the TDM refers the reader to the OECD Commentary for Article 5.3 which lists, amongst other things, stock based compensation.

ix) **Page 61- A request was made to change "profits before tax" to "substance based income exclusion" in the sentence "*In addition, the profits before tax of constituent entities located and resident in jurisdiction A for the purposes of the CbC report is €3m, which is in excess of the profit before income tax of €2.5m for the jurisdiction".***

Action point: Revenue will update the TDM to reflect this point.

x) **Page 61- It was stated that it would be helpful if the guidance could reflect the OECD Commentary regarding the source of data to be used in respect of joint ventures and joint venture affiliates when performing the CbCR safe harbour tests.**

Action point: Revenue will update the TDM to reflect this point.

xi) **Page 62- A suggestion was made to add the words "constituent entity" to the end of the sentence *"all the constituent entity owners of the entity are resident in the same jurisdiction as the entity".***

Action point: Revenue will update the TDM to reflect this point.

xii) Page 62- A request for additional wording to provide clarity that the provisions of section 111AK applied to the UTPR was made.

Action point: Revenue will update the TDM to reflect this point.

5. ITI – Other Comments on the Main TDM.

In advance of the meeting the ITI submitted queries to Revenue relating to the Main TDM which were discussed during the meeting. The queries/requests and responses provided in the meeting are included below.

i) The following points were raised by the ITI in relation to the Main TDM but they have all been covered above.

- Section 2 to be updated to reflect the release of the consolidated version of the OECD's Commentary on the GloBE Rules and Safe Harbour and Penalty Relief Guidance on 25 April 2024.
- Section 2 to be updated to reflect the release of the latest OECD Administrative Guidance in June 2024.
- Section 8.7 regarding section 111Z to be updated to clarify that the that guidance included therein on section 111Z is for IIR/UTPR purposes and not domestic top-up tax purposes.
- Section 9.3 regarding section 111AE to specify that eligible payroll costs include benefits such as health insurance, pension contributions and stock based compensation.
- Section 9.9 regarding section 111AK to be updated to note that the safe harbour applies only for the purposes of collection of top-up tax under the UTPR under Section 111N.

ii) In relation to section 12.1 regarding section 111AW, a suggestion was made to refer readers to further OECD Commentary and illustrative examples.

Action point: Revenue will update the TDM to reflect this point.

iii) In relation to the substance based income exclusion and the definition of eligible tangible assets in section 111AE, a request for an example of what is meant by "immovable property" was sought and in particular in relation to different types of licenses.

Revenue sought further details on the issues that stakeholders would like to see covered. Stakeholders raised the point that the example they were looking for was in relation to spectrum licenses regarding 4G and 5G.

Action point: Revenue to consider further and discuss at the next TALC BEPS meeting.

6. ITI – Other queries for clarification.

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In advance of the meeting the ITI submitted queries to Revenue seeking clarification on some matters which were discussed during the meeting. The queries/requests and responses provided in the meeting are included below.

i) Clarification was sought from Revenue that taxpayers and their advisers can consider the OECD June 2024 Administrative Guidance as being applicable now in the absence of it being specifically referred to in domestic legislation.

Revenue stated that The OECD June 2024 Administrative Guidance is still being reviewed by Revenue and the Department of Finance and until such time as the Minister has designated this guidance as being comprised in the OECD Pillar Two guidance referred to in legislation it is not yet applicable. However, Revenue noted that all previous administrative guidance has been adopted and it is expected that this guidance will need to be adopted to obtain and retain qualifying status for Ireland's top-up taxes.

ii) Clarification was sought on the varying degrees of optionality within the OECD June 2024 Administrative Guidance and Revenues approach to the guidance. For example, the Deferred Tax Liability (DTL) recapture rule may apply using LIFO or FIFO basis, which seems to be at the choice of the taxpayer.

Revenue stated that they are still reviewing the OECD June 2024 Administrative Guidance and as such cannot provide a definitive answer at this time. However, it should be noted that while there is an element of optionality with regard to the DTL recapture rule contained in the June 2024 Administrative Guidance, the guidance does state that certain conditions must be satisfied in order to be in a position to choose the FIFO Method. The guidance provides that for any aggregate deferred tax liability category for which the constituent entity does not choose to use the first in first out methodology or for which it cannot demonstrate that certain conditions are satisfied, the last in first out methodology must be used.

iii) Clarification was sought regarding the OECD June 2024 Administrative Guidance which appears to provide for a push down of deferred taxes, while the domestic legislation currently envisages the allocation of covered taxes only (i.e. current taxes to other entities).

Revenue stated that the covered taxes of a constituent entity include taxes recorded in the financial accounts of a constituent entity with respect to its income or profits, or its share of the income or profits of a constituent entity in which it owns an ownership interest (section 111T). The definition of covered taxes does not make a distinction as between current and deferred taxes. The adjusted covered taxes are determined, for the purposes of the ETR calculation, by adjusting the sum of the current tax expense accrued in the financial accounting net income or loss with respect to covered taxes by, amongst others, the total deferred tax adjustment amount (111U). Therefore, where there is a reference to the allocation of covered taxes in section 111Z it is a reference to both current and deferred taxes that are covered taxes. Once allocated the adjusted covered taxes of the jurisdiction are calculated by aggregating the sum of current covered taxes and adjusting by the deferred tax adjustment (which takes the allocated deferred taxes and then adjusts that amount in accordance with section 111U).

The June 2024 Admin Guidance provides instruction as to how to allocate certain deferred taxes but does not introduce a rule to allocate deferred taxes, which is already provided for in existing Model Rules and Irish legislation.

iv) Clarification was sought regarding the OECD June 2024 Administrative Guidance (paragraph 57, replacing paragraph 89 in the overall OECD guidance) which notes that, "The term 'payment' in Article 4.4.4 and Article 4.4.2(b) refers to the accounting reversal of the DTL or of the recaptured DTL. However the DTL recapture rules apply (Section 111X(9) TCA 1997) where the DTL does not reverse and is not paid within 5 years.

Revenue stated that The OECD June 2024 Administrative Guidance is still being reviewed by Revenue and the Department of Finance and as such will provide confirmation as to our view in due course. Where the guidance is adopted for the purposes of interpreting the Irish legislation then the interpretation per the guidance will be followed.

v) An update was sought from Revenue on considerations in relation to the effective date of the CbCR Safe Harbour anti-arbitrage provisions.

Revenue stated that the effective date of the CBCR Safe Harbour anti-arbitrage provisions is being considered by the Department of Finance and Attorney General's Office.

7. Net investment loan arrangements

Under IFRS, certain long-term loans receivable by a parent company from a foreign subsidiary may be accounted for in the same manner as a foreign exchange hedge of that investment. For accounting purposes, in the appropriate fact pattern, the loans are regarded as an extension of the parent's net investment in that foreign subsidiary. This means that in the Group's consolidated financial statements, FX movements on such a loan are initially recognised through the OCI rather than in the income statement. On disposal of the foreign subsidiary, these exchange differences are recognised within the group's consolidated income statement as part of the profit or loss on disposal.

An example of this treatment is set out below:

- **An MNE Group prepares Euro-denominated IFRS consolidated financial statements.**
- **An intermediate parent entity of the group, IrishCo, lends in USD to its direct subsidiary, US Sub.**
- **Under IFRS (IAS 21), the loan arrangement is treated as a part of IrishCo's net investment in US Sub and therefore, FX movements on the USD loan are booked through the OCI in the IFRS consolidated accounts (and not in the income statement).**
- **In Year 5, IrishCo sells its shares in US Sub and the loan is repaid. As a result, under IFRS, aggregate FX movements on the loan to US Sub are recycled to the P&L in the IFRS consolidated financial statements.**

Where IrishCo is not carrying on a treasury trade and the loan is not a debt on security, no Irish corporation tax/ CGT should arise on the repayment of the loan and, as a result, no deferred tax should be recognised on the unrealised FX movements. The accounting treatment of such loans is equivalent to that applicable to effective hedges, with FX movements on both instruments being reflected in OCI while the arrangements are in place, with these amounts being recycled to the P&L on disposal of the foreign subsidiary.

Paragraphs 57.2 - 57.3 of the OECD Commentary on Article 3.2.1 states that the treatment of a net investment hedge should follow the treatment of the investment it is hedging. This guidance and related paragraphs are reflected in Section 111P(13) TCA 1997.

Confirmation is sought from Revenue that Section 111P(13) can apply to foreign exchange gains and losses on long-terms loans that are treated as part of a parent's net investment in a foreign subsidiary under IFRS.

Revenue stated that under IAS 21, a parent's loan receivable from a subsidiary may be included in the parent's net investment in the subsidiary where the settlement of the loan is neither planned nor likely to occur. FX gains or losses on such a receivable may be accounted for through P&L in the individual financial statements of the entities, but may be accounted for through OCI in the consolidated financial statements until the receivable is disposed of, when it is unwound through the P&L.

In calculating the qualifying income or loss of an entity for Pillar Two, adjustment is made for excluded equity gains or losses. 'Excluded equity gain or loss' means a gain or loss, included in the financial accounting net income or loss of a constituent entity, arising from—

(a) changes in the fair value of an ownership interest, other than a portfolio shareholding,

(b) an ownership interest that is included under the equity method of accounting, or

(c) the disposal of an ownership interest, other than the disposal of a portfolio shareholding.

An 'ownership interest' means any equity interest that carries rights to the profits, capital or reserves of an entity or of a permanent establishment.

In addition, under section 111P(13), on the making of an election by a filing constituent entity, foreign exchange gains or losses included in a constituent entity's financial accounting net income or loss shall be treated as an excluded equity gain or loss to the extent that—

(a) such foreign exchange gains or losses are attributable to hedging instruments that hedge the currency risk in ownership interests other than portfolio shareholdings,

(b) such foreign exchange gains or losses are recognised in other comprehensive income in the consolidated financial statements,

and

(c) the hedging instrument is considered an effective hedge under the acceptable or authorised financial accounting standard used in the preparation of the consolidated financial statements.

The question arises as to whether the loan receivable is either an ownership interest, such that on its disposal it could meet the conditions of the excluded equity gain or loss adjustment, or whether it is a hedging instrument that meets the requirements of section 111P(13), such that any FX gains or losses may be treated as excluded equity gains or losses.

The answer to both questions appears to be no. The receivable is not an ownership interest where it is not an equity interest that carries rights to the profits, capital or reserves of an entity. The receivable does not meet the requirements of section 111P(13) unless it is an effective hedge under, in this example, IFRS9. Revenue's understanding is that intercompany borrowing cannot be designated as a qualifying hedging instrument under IFRS9 and therefore an intercompany loan receivable cannot meet the standard of an effective hedge. The receivable is a monetary item that is accounted for as part of the net investment in the subsidiary and not a hedge of the net investment.

Therefore, unless the taxpayer can demonstrate that the loan receivable is an effective hedge under the accounting standard used to prepare the consolidated financial statements, Revenue cannot provide the confirmation requested. This is in line with the Commentary to Article 3.2.1. para 57-57.3 which only provides for the exclusion of FX gains and losses on effective hedging instruments that hedge the currency risk in ownership interests.

8. Items not yet addressed in the TDM

The following topics were raised as items which are currently not included in the Main TDM and the question was asked as to whether or not guidance would be produced in relation to each item. The requests and responses provided in the meeting are included below.

i) QDMTT - Local Accounting Standard and use of Different Fiscal Year

Revenue stated that on the basis that OECD guidance is expected on this topic shortly, it is not intended to include a change to the Main TDM in advance of the issuance of OECD guidance on the topic.

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ii) **Pre-Pillar Two Tax Credits – QRTC v Non-QRTC - Issue arises where a tax credit (e.g. for R&D) is claimed in a pre-Pillar Two year but carries over into a Pillar Two year, and that credit is accounted by reducing the carrying value of an asset or treating the credit as deferred income over the life of the asset.**

Revenue stated that on the basis that OECD guidance on this topic is not anticipated shortly, it proposes to include guidance in the next draft of the Main TDM that will be shared with the subcommittee.

Action point: Revenue will update the next draft of Main TDM to be shared with the subcommittee to address this point.

iii) **Interaction of Article 3.2.7 and the CbCR SH – Where a group qualifies for the CbCR SH in a jurisdiction, should that jurisdiction be treated as a high-tax counterparty for the purposes of applying the rule in Article 3.2.7.**

Revenue stated that on the basis that OECD guidance on this topic is not anticipated shortly, it proposes to include guidance in the next draft of the Main TDM that will be shared with the subcommittee.

Action point: Revenue will update the next draft of Main TDM to be shared with the subcommittee to address this point.

iv) **Interaction of Article 3.2.7 with Hybrid Entities - Assume a borrower is Hybrid Entity, i.e. treated as a separate taxable person in the jurisdiction it is located but fiscally transparent in the jurisdiction in which its owner is located. Borrower pays interest on a debt instrument issued by its CE-owner. As the borrower is fiscally transparent from the lender's perspective, the lender is taxed on the income of the borrower without deduction of the relevant interest expense. As the borrower's income would be included by the lender (or perhaps another group company), it seems that the application of Article 3.2.7 should not arise. However, this outcome is not strictly clear from the wording of the Model Rules and Commentary.**

Revenue stated that on the basis that OECD guidance on this topic is not anticipated shortly, it proposes to include guidance in the next draft of the Main TDM that will be shared with the subcommittee.

Action point: Revenue will update the next draft of Main TDM to be shared with the subcommittee to address this point.

v) **Article 3.2.7 – Determining if High-Tax Counterparty - Hypothetical ETR calculation must be performed without regard to the income or expense accrued regarding the Intragroup Financing Arrangement. When applying this hypothetical ETR test, is it necessary to also make an equivalent adjustment to covered taxes?**

Revenue stated that on the basis that OECD guidance on this topic is not anticipated shortly, it proposes to include guidance in the next draft of the Main TDM that will be shared with the subcommittee.

Action point: Revenue will update the next draft of Main TDM to be shared with the subcommittee to address this point.

vi) **Article 3.2.7 – More than One Intragroup Financing Arrangement - When applying the definitions of Low-Tax Entity and High-Tax Counterparty, how is the rule applied where there is more than one intragroup financing arrangement entered into by an entity or entities in the jurisdiction?**

Revenue stated that while OECD guidance on this topic is not anticipated shortly, Revenue are not in a position to include guidance on this point in the TDM. Revenue and the Department will continue to engage with the OECD and other implementing jurisdictions for clarification on this point.

vii) **Refresh rule and QDMTT Safe Harbour – Question raised as to whether this rule (section 111AAD(5)) is necessary for QDMTT SH instances. Understand point where there is no Safe Harbour, i.e. the need to ensure that (for example) the UPE jurisdiction sees deferred tax the same way as QDMTT jurisdiction. However, should the rule apply where a jurisdiction has a QDMTT Safe Harbour?**

Revenue stated that OECD guidance on this topic is not anticipated shortly, however Revenue do not propose to include guidance in the Main TDM on this as the refresh rule must be applied until there is agreement otherwise with regard to QDMTTs that obtain safe harbour status.

viii) **Determination of the status of POPEs/JVs where there are preference shares which carry a fixed return.**

Revenue stated that OECD guidance in this area is clear that if there is an ownership interest which carries a right to a fixed return then the calculation to determine whether the entity is a POPE or JV must have regard to that ownership interest Therefore, Revenue propose not to address this further in the Main TDM.

9. Other issues still under consideration that may require referral to OECD Secretariat

i) **Umbrella fund/sub fund structure – can a sub-fund be a constituent entity?**

Revenue stated that on the basis that OECD guidance on this topic is not anticipated shortly, it proposes to include guidance in the next draft of the Main TDM that will be shared with the subcommittee.

Action point: Revenue will update the next draft of Main TDM to be shared with the subcommittee to address this point.

ii) **Master fund/feeder fund structures – can a master and feeder fund be treated as a single entity for the purposes of determining if the funds meet the conditions to be an investment fund as defined for the purposes of Pillar Two.**

Revenue stated that on the basis that OECD guidance on this topic is not anticipated shortly, it proposes to include guidance in the next draft of the Main TDM that will be shared with the subcommittee.

Action point: Revenue will update the next draft of Main TDM to be shared with the subcommittee to address this point.

iii) Election under section 111AU/Model Rule 7.5.1 – does the tax rate referred to in the election include domestic top-up tax?

Revenue are not in a position at this time to provide confirmation as to whether "tax" and "tax rate" in Article 7.5/Section 111AU include the DMTT. Revenue understands that this question came up in the context of a French FCP investment vehicle with an Irish parent. Revenue consulted on the question with the French delegate to Working Party 11. They expressed concerns with regard to an interpretation of Article 7.5 which included DMTT in "tax".

10. Other issues which may require legislative amendment:

i) Order of utilisation of losses (qualifying/non-qualifying) for deferred tax purposes.

Revenue stated that the Department of Finance has been made aware of this item and it will not be addressed in the Main TDM.

ii) Updating of references to consolidated financial statements in sections 111P/111AE/111AN where the calculations for domestic top-up tax purposes are prepared in accordance with financial statements prepared under a local accounting standard

Revenue stated that the Department of Finance has been made aware of this item and it will not be addressed in the Main TDM.

11. Other administrative issues

The top-up tax information return does not provide for the withdrawal of an annual election, rather just the making of an election. This matter is under consideration with the OECD and this manual will be updated in due course.

Revenue stated that when there is further OECD guidance on the matter, the Main TDM will be reviewed as to whether or not a change is needed.

12. ITI Proposal for legislative change regarding standalone investment undertakings and domestic top-up tax:

Revenue stated that policy matters are for the Department of Finance. However, it was noted that the proposed legislative amendment contained in the submission shared with Revenue and provided to the Department may be too broad and the exclusion, as proposed, would apply to consolidated funds in addition to standalone funds. If that is the intention of the proposed legislative change, there would be concerns as to whether or not such an exclusion would be in line with guidance on qualified status for domestic top-up taxes.

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13. Any other business:

- In example 6.3.1. within the Main TDM, there was reference to Ireland being a high tax jurisdiction. The question was asked as to what is a high tax jurisdiction and what if Ireland were a low tax jurisdiction?

  Action point: Revenue to review the example and consider if any change is required.

- Is there a plan for the processing of Pillar Two queries e.g. are they still within the remit of RLS?

  It was stated by Revenue that over time it is anticipated that technical queries on the application of Part 4A would migrate to LCD but this has not occurred yet.

- An update was sought in relation to the ongoing work around the participation exemption regime.

  It was stated by Revenue that a further feedback statement would be released in August.

- Revenue stated that the OECD had released a feedback statement on the XML schema for exchange of information in relation to Pillar Two and encouraged stakeholders to engage with the consultation.

- The updated Main and Administration TDM's would be published shortly. However, there will be another iteration of the two TDMs based on the updates arising from this meeting circulated to the group.