
STATES OF JERSEY



OECD PILLAR 2 REVIEW (S.R.7/2024): RESPONSE OF THE MINISTER FOR TREASURY AND RESOURCES

Presented to the States on 29th November 2024
by the Minister for Treasury and Resources

STATES GREFFE

**OECD PILLAR 2 REVIEW.(S.R.7/2024): RESPONSE OF THE MINISTER
FOR TREASURY AND RESOURCES**

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| Ministerial Response to: | S.R.7/2024 |
| Ministerial Response required by: | 28th November 2024 |
| Review title: | OECD Pillar 2 Review |
| Scrutiny Panel: | Corporate Services Scrutiny Panel |

INTRODUCTION

The Treasury Ministerial Team would like to express our thanks to the Scrutiny Sub-Panel for its comprehensive review of the Organisation for Economic Co-operation and Development (OECD) Pillar 2 proposals presented by the Government of Jersey.

We appreciate the significant effort involved in evaluating such a complex framework. As you have noted, the careful implementation of Pillar 2 is pivotal, not only for maintaining Jersey's compliance with the OECD Common Approach, but also for safeguarding our global competitiveness and enhancing our reputation as a well-regulated jurisdiction.

The Government remains committed to ensuring that the implementation of Pillar 2 is robust, pragmatic, and aligned with the objectives of fairness, economic stability, and international cooperation. Below, we provide responses to each of the key findings and recommendations detailed in your report:

FINDINGS

| | Findings | Comments |
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| 1 | The reputational risk associated with non-implementation was a key factor in Government's decision-making process. | Pillar 2 is an OECD Common Approach and not a Minimum Standard with the attached reputational risks of non-compliance. Members of the OECD Inclusive Framework on Base Erosion and Profit Shifting (including Jersey) are free to choose whether to implement Pillar 2 themselves or allow other members to top up the profits in their jurisdiction of in-scope MNEs. The Government determined that implementation in Jersey was in our best interests. |
| 2 | The Sub-Panel have identified that a primary objective of the draft legislation is to prevent Jersey from being used as a conduit for base erosion and profit shifting. By | The finding is noted. The introduction of the Pillar 2 minimum tax is part of a wider programme of OECD measures to address base erosion and profit shifting. It ensures that a minimum effective corporate income tax rate of |

| | Findings | Comments |
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| | implementing both the Income Inclusion Rule (IIR) and the Multinational Corporate Income Tax (MCIT), Jersey ensures comprehensive coverage against tax avoidance strategies. | 15% is paid by in-scope groups. A primary objective of Jersey's legislation is to ensure that tax due under Pillar 2 on Jersey profits is paid in Jersey and not elsewhere. Jersey's Income Inclusion Rule and the Multinational Corporate Income Tax are designed to ensure they are consistent with the OECD Common Approach. |
| 3 | The design of the legislation aims to safeguard Jersey from any possible criticism by extensively leveraging the model rules and terminology used by Organisation for Economic Co-operation and Development (OECD), rather than designing its own system. | The finding is noted. |
| 4 | Government has displayed a commitment to aligning closely with the model rules whilst ensuring provisions are in place that allow Jersey to remain competitive internationally. However, such an approach presents both opportunity and challenges. While tailored adjustments may enhance Jersey's attractiveness to certain multinational enterprises (MNEs), using the flexibility within the common approach could invite scrutiny and affect international perceptions of the jurisdiction's tax regime. | Jersey's Income Inclusion Rule and the Multinational Corporate Income Tax are designed to ensure they are consistent with the OECD Common Approach. |
| 5 | Effective implementation of Pillar 2 requires substantial investment in resources, infrastructure, and guidance. The establishment of a dedicated international tax policy team within Revenue Jersey, the development of tailored IT systems, and the creation of a customer service unit specifically for Pillar 2 taxpayers are positive steps toward meeting these needs. | The finding is noted. |
| 6 | Government's approach has developed to provide a greater sense of caution as an Amendment to P.53/2024, lodged on 8th October, removed its initial intention to produce guidance independently from the Pillar 2 Model Rules and Commentary. The Sub- | The Government does not agree with this finding. The purpose of the Amendment was to bring the Government's proposed legislation further in-line with the OECD Model Rules and ensure it reflected the latest OECD guidance available at the date of lodging. |

| | Findings | Comments |
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| | Panel welcomes this intention to provide a greater depth of alignment with the Model Rules. | |
| 7 | From discussions with stakeholders, the Sub-Panel understands that Government's stakeholder feedback process has been consulted in a manner that was both professional and considerate of industry, with its implementation generally viewed positively. This level of engagement must continue throughout implementation as the Sub-Panel has identified that providing clear, accessible guidance and support to businesses is crucial, particularly given the complexity of the new tax framework. | The finding is noted. |
| 8 | The anticipated fiscal impact of Pillar 2 on Jersey is significant but uncertain. Government's prudent approach to revenue forecasting, focusing on strengthening reserves rather than committing Pillar 2 revenue to recurring expenditures, is appropriate given the unpredictability of multinational enterprises' future behaviour and global implementation patterns. | The finding is noted. |
| 9 | Jersey has adopted a more proactive approach to its ambitious implementation of the Pillar 2 framework compared to Guernsey and the Isle of Man, demonstrating a willingness to differentiate itself to maintain its competitive position. | Every jurisdiction must decide on its approach to Pillar 2 implementation based on its own economic context and circumstances. The three Crown Dependencies worked very closely together throughout the entire process and all have implemented an Income Inclusion Rule and a domestic Pillar 2 minimum tax with effect from 2025. |
| 10 | Government has made maintaining Jersey as a financial centre a central aim of its approach to Pillar 2. Strategies such as developing tax credits, enhancing customer service for in-scope groups, and investing in initiatives to boost productivity, digital capacity, and skills within the financial | The Government is very focused on the need to remain competitive in a post Pillar 2 world. Any tax credits or other incentives that are introduced to support competitiveness will be designed to ensure they comply with the evolving OECD Pillar Administrative Guidance and the Common Approach. |

| | Findings | Comments |
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| | services sector are crucial to ensure the government meets its aims. | |
| 11 | The development of incentives in the form of tax credits aims to strengthen Jersey's position as a competitive and attractive international finance centre. While there is uncertainty as to what the impact will be, it provides Government with the ability to develop unique elements that can drive its competitiveness. | The Government is very focused on the need to remain competitive in a post Pillar 2 world. Any tax credits or other incentives that are introduced to support competitiveness will be designed to ensure they comply with the evolving OECD Pillar Administrative Guidance and the Common Approach. |
| 12 | The potential for international disagreement is fuelled by the current lack of a fully developed dispute resolution mechanism within the Organisation for Economic Co-operation and Development (OECD) framework. Differing interpretations and implementations of Pillar 2 rules across jurisdictions could lead to conflicts involving Jersey. Without clear mechanisms to resolve such disputes, Jersey may find itself embroiled in international tax controversies that could be damaging to its financial sector and broader economy. | The finding is noted. |

RECOMMENDATIONS

| | Recommendations | To | Accept/Reject | Comments | Target date of action/ completion |
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| 1 | The Minister for Treasury and Resources should closely monitor the impact of the Multinational Corporate Income Tax (MCIT) to ensure compliance with global standards and make timely adjustments if required. The review of the MCIT should be | TRM & MER/ATR M | Reject (existing mechanisms in place) | The recommendation is noted. It is important to highlight that the activities proposed in the recommendation are already embedded within existing processes. The Minister for Treasury and Resources oversees the close monitoring of the Multinational Corporate Income Tax (MCIT). This includes ensuring continued compliance | |

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| | undertaken annually, with consideration given to new developments that may impact the robustness of the legislation as well as its suitability for Jersey, with a formal report on compliance and impact to be submitted by Q1 each year to the Council of Ministers. | | | with global standards and, where necessary, readiness to make any necessary adjustments in a timely manner. Continued work on the impact of MCIT will also be conducted as part of the annual Income Forecasting process. This established process will incorporate a detailed analysis of the MCIT's performance into the forecast of States revenues overall. Updates on Pillar 2 (including MCIT) have been prepared and presented to the Council of Ministers regularly over the past two years to support decision-making and accountability. This will continue to happen and ensures that all relevant considerations are documented and reviewed within the existing governance framework and well-established practices. | |
| 2 | To monitor the impact of the taxation changes on non-financial sectors as implementation of the Pillar 2 regime progresses, the Minister for Treasury and Resources should initiate an impact assessment and reporting function specifically for the in scope non-financial sectors by Q2 2025, followed by biannual reporting to identify any emerging issues. | TRM & MER/ATR M | Reject (existing mechanisms in place) | The recommendation is noted. However, we do not believe that the proposed approach is appropriate. Revenue Jersey maintains regular, active and ongoing engagement with in-scope multinational groups across both the financial and non-financial sectors. This ensures that pre-existing and emerging issues relevant to all sectors are consistently considered as part of the policy development and implementation of the Pillar 2 regime. Jersey's policy framework for Pillar 2 has been designed to address all in-scope multinational groups holistically, regardless of sector. This integrated approach ensures that the implications of the regime are assessed | |

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| | | | | comprehensively. Introducing a separate impact assessment and reporting function specifically for the non-financial sector would duplicate existing efforts. For these reasons, a sector-specific assessment for the non-financial sector by the Minister for Treasury and Resources is not deemed necessary. | |
| 3 | To produce clear and accessible guidance and support for businesses, stakeholder engagement throughout the implementation process for the Pillar 2 regime should be upheld. The Minister for Treasury and Resources jointly with the Minister for External Relations should undertake quarterly forums with in-scope stakeholders to review the Pillar 2 implementation progress to deliver updated guidance. Stakeholder forums should commence as soon as possible, by the latest Q1 2025, and guidance documents based on the feedback received should be updated by the end of each quarter. | TRM & MER/ATR M | Reject (existing mechanisms in place) | The recommendation is noted, but we believe that the proposal to undertake quarterly Ministerial fora with in-scope stakeholders would duplicate existing engagement mechanisms that have worked very well to date with this taxpayer population - as has been acknowledged by the sub-panel. Current engagement efforts are conducted through personal relationship management and one-to-one discussions with impacted groups, where issues can be raised and discussed in a confidential setting. Government also works closely with dedicated stakeholder working groups, which bring together advisors, accountants, lawyers, industry bodies, and multinational enterprises (MNEs). These working groups serve as a vital platform for identifying stakeholder needs, addressing technical and administrative questions, and ensuring ongoing dialogue. Feedback gathered from these interactions is already informing the development and publication of Frequently Asked Questions and will form part of comprehensive guidance that | |

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| | | | | <p>Revenue Jersey is committed to providing.</p> <p>Revenue Jersey's stakeholder engagement strategy is designed to remain agile, responsive, and inclusive, with feedback from both group discussions and one-on-one engagements continuously integrated into our guidance and support materials. This ensures that stakeholders receive timely and relevant updates - including regularly updated Frequently Asked Questions here. For these reasons, the recommendation to establish quarterly Ministerial forums is not accepted. Instead, the Government will continue to rely on and strengthen its existing framework of stakeholder engagement to ensure the successful implementation of the Pillar 2 regime.</p> | |
| 4 | The Minister for Treasury and Resources should consider how to ensure additional tax revenues are used to strengthen reserves, as recommended by the Fiscal Policy Panel. | TRM & MER/ATR M | Accept | <p>The recommendation is noted and agreed. The Government recognises the importance of prudent fiscal management and the need to consider how additional tax revenues can contribute to strengthening reserves, in line with the recommendations of the Fiscal Policy Panel.</p> <p>As Treasury Minister, I remain committed to ensuring that fiscal policy decisions support long-term economic stability and resilience. Strengthening reserves is a key element of this approach and will be carefully evaluated within the context of the broader fiscal strategy, economic conditions, and competing policy priorities.</p> | |

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| | | | | Any decisions regarding the allocation of additional tax revenues will be made with a balanced consideration of the advice from the Ministerial Working Group on Competitiveness, the Fiscal Policy Panel's advice, ongoing economic developments, and the need to address strategic public investment, competitiveness post Pillar 2 and service delivery commitments. | |
| 5 | Minister for Treasury and Resources should ensure that implementation of the Pillar 2 regime is monitored closely, with periodic support provided to multinational enterprises (MNEs), and establish a helpdesk for MNEs by Q1 2025 to provide tailored assistance during the transition and review the effectiveness of support services annually. | TRM & MER/ATR M | Accept (except the specific Helpdesk recommendation which is rejected because existing mechanisms are in place) | <p>The recommendation to provide ongoing and tailored assistance to in-scope MNEs is noted and accepted.</p> <p>A Pillar 2 implementation team is in the process of being established by Revenue Jersey and it will be based on a customer relationship model. In the meantime, questions from Pillar 2 groups are being dealt with quickly and effectively by Revenue Jersey through one-to-one engagement. Senior and specialist relationship officers are available to provide targeted assistance to impacted MNEs, offering a high level of personalised support. This open-door policy being adopted by Revenue Jersey has proven effective in addressing company-specific and business-specific impacts, ensuring tailored solutions are already in place. We believe this is a more appropriate model for dealing with the needs of large multi-national groups than a standard helpdesk and we do not agree with this element of the recommendation.</p> | |

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| 6 | The Minister for Treasury and Resources should consider providing clarity and consultation regarding any spending on "increasing competitiveness," especially given the global sensitivity on this issue. This should include the requirement for public consultation before allocating funds towards increasing competitiveness initiatives. This should result in the publishing of an annual spending breakdown starting in 2025, explaining the purpose and expected impact of each expenditure. | TRM & MER/ATR M | Reject | <p>We do not agree with the proposed recommendation to publish a separate, annual spending breakdown of competitiveness initiatives, detailing the purpose and expected impact of each expenditure, nor with the appropriateness of a public consultation before allocating funds to competitiveness initiatives. All Government expenditures, including those related to competitiveness measures, are already evidenced, fully considered during the annual budget process and reflected in the published Annual Accounts. The Accounts and accompanying governance processes provide transparency and accountability, ensuring that spending decisions are subject to rigorous scrutiny. The Government has also established a Ministerial Working Group on Competitiveness, comprising Ministers, senior Government officials, as well as representatives from the Regulator and industry. This group is tasked with critically evaluating and determining the appropriateness of competitiveness measures for Jersey, ensuring a well-informed and balanced approach.</p> <p>For these reasons, we do not support the recommendation as stated. We are content that the current framework is sufficient to ensure effective and transparent decision-making in this area.</p> | |
| 7 | The Minister for Treasury and Resources should proactively | TRM & MER/ | Reject (existing mechanis | The Government is taking comprehensive steps to transition from Pillar 2 policy development | |

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| | <p>identify and address potential risks associated with the new Pillar 2 framework by monitoring multinational enterprises' behaviour, preventing tax avoidance strategies, and preparing for possible international disputes and dispute resolution. Additionally, it is crucial for Jersey to offer a favourable business environment, which includes not only competitive tax rates but also ease of doing business, efficient regulatory processes, and high-quality support services. The Minister should progress these considerations and identify a team to take on the responsibility to develop a risk assessment analysis by Q1 2025, and further publish an annual risk report to identify emerging challenges and provide recommendations for mitigation.</p> | ATR M | ms in place) | <p>to Pillar 2 implementation. This includes bolstering the Revenue Jersey team with a dedicated mix of technical international tax and accounting specialists to support MNEs and ensure effective administration. The development of a sophisticated IT system for the Pillar 2 portal further enhances these efforts by streamlining regulatory processes and delivering high-quality support services tailored to the needs of stakeholders.</p> <p>Revenue Jersey is also closely engaged with the OECD on policy development work to prevent Pillar 2 tax avoidance. In an international tax framework, such measures must be addressed at a global level. Furthermore, all jurisdictions are in the process of preparing for potential future global Pillar 2 disputes. Plans to deal with Pillar 2 disputes in Jersey are integral to the Government's ongoing Pillar 2 implementation work.</p> <p>We do not agree with the recommendation to publish an annual risk report or establish a dedicated team solely for risk assessment analysis by Q1 2025. The Government is actively monitoring Pillar 2 implementation and any associated risks through the Government's existing risk assessment framework. As part of the Pillar 2 risk assessment process, the Government ensures that emerging challenges are identified and addressed proactively through well-established working groups and</p> | |

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| | | | | ongoing dialogue with impacted stakeholders. These working groups, which include representatives from industry, advisors, and MNEs, serve as a mechanism for understanding stakeholder needs, easing the process of doing business, and maintaining Jersey's competitiveness as a favourable business environment. | |

CONCLUSION

We look forward to continued engagement with the Panel as the Government moves forward with Pillar 2 implementation.