Record of Meeting

Meeting	TALC BEPS Sub-Committee		
Location	Revenue Offices, Dublin Castle	**Meeting Date**	27 February 2026
ITI	Anne Gunnell; David Fennell; Gareth Bryan; Emma Arlow^; Stephen Ruane^		
Accounting Bodies	Enda Faughnan^; Gearóid O'Sullivan^; Paschal Comerford^; Ronan Costello^, Joe Walsh^		
Law Society	Philip Tully; Andrew Quinn^; Elaine Mooney^; Amelia O'Beirne^; Susan Lynch^		
Revenue	Jeanette Doonan (Chairperson); John Quigley; Keith Noonan; Alan Carey; David Macauley; Deirdre Ní Alluráin; Shane Daly; Geroge Prizeman^; Máirín Barron^; Michael Cantwell^; Irene Clancy^; Ross McCooey^; Rory Noone (Secretary)		
^Attended remotely via Dial-in			

Minutes

The Chairperson welcomed attendees.

1. **Minutes**

The draft minutes of the meeting of 22 October 2025 were agreed without amendment.

2. **International Tax Updates**

Tax Omnibus Proposal
The EU's 2024–29 Strategic Agenda and the March 2025 Council Conclusions have launched a tax simplification/decluttering workstream aimed at reducing administrative and reporting burdens, eliminating outdated or overlapping rules and improving legal certainty, with a particular focus on the Interest and Royalties Directive, the Parent-Subsidiary Directive, the Mergers Directive, the DACs and ATAD. The Commission has been invited to bring forward an action plan and roadmap, with regular progress reporting, and the forthcoming "Tax Omnibus" proposal, expected shortly before the start of the Irish Council Presidency in the second half of 2026, is being positioned as a key vehicle for this work.

FASTER
The FASTER Directive was formally adopted at ECOFIN in December 2024. The Commission has already commenced work in preparation for implementation of FASTER, where much of the detail of the operation of FASTER from a practical perspective will be worked out. In 2025 there were a few Working Party IV meetings where the Commission has provided updates on this work and we expect further throughout 2026. Work has also continued through FISCALIS with two meetings taking place so far in 2026 for Member States to discuss issues related to implementation.

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UNSHELL

The UNSHELL proposal was formally withdrawn in 2025 (confirmed by ECOFIN in June 2025 and reflected in the EU Commission's 2026 Work Program). Instead of adopting UNSHELL separately, elements of it are being considered for integration into revisions of the DAC framework.

Transfer Pricing Proposal (TOP)

The European Commission announced, in their 2026 work programme, that the proposal for a Transfer Pricing Directive will be withdrawn and no further work on the legislative proposal is envisaged.

DAC2/CRS 2.O

International Tax Division would like to remind attendees that from 1 January 2026 the Amendment to the Common Reporting Standard commonly known as CRS2.0 came into effect.

The amendment will affect DAC2/CRS registered Financial Institutions from the reporting period beginning 1 January 2026, which will be reported by 30 June 2027.

Summary of changes:

- The inclusion of digital money products.
- The inclusion of Crypto Asset derivatives.
- Certain additional details are to be reported.
- Entity Account Due Diligence to be in line with 2012 Financial Action Task Force recommendations.
- Incorporation of OECD CRS FAQs.

DAC3

International Tax Division would like to remind attendees that from 1 January 2026, under DAC3, which is provided for domestically in section 891GA TCA 1997, certain cross-border tax rulings pertaining to natural persons (individuals) will now be exchangeable under the Automatic Exchange of Information provisions with other European jurisdictions.

DAC8/CARF

International Tax Division would like to remind attendees that from 1 January 2026 the Crypto-Asset Reporting Framework, commonly known as CARF, came into effect.

The amendment will affect reportable crypto-asset service providers (RCASPs), who will be obliged to register with Revenue and report certain details in relation to their reportable users.

CARF/DAC8 obliges RCASPs who facilitate the purchase, sale, or transfer of crypto-assets, or carry out reportable retail payment transactions, to collect and automatically report information on certain crypto-assets users for whom they carry out these transactions.

Action Point: Circulate to stakeholders the full updates on DAC2/CRS 2.0, DAC3 and DAC8/CARF. [Update: These were circulated to stakeholders on 11 March 2026.]

3. Participation Exemption – TDM Update

A copy of a draft update to Tax and Duty Manual 35-02-11 was shared with members in advance of the meeting, containing updates for Finance Act 2025 amendments to section 831B. Revenue noted that a minor amendment will be made to Example 1 on page 19 to reflect recent changes to the EU list of non-cooperative jurisdictions and that it is expected the revised manual will be published on the Revenue website in the coming days.

4. Loss-making Branches and Double-deduction Rules (Hybrid Rules)

Feedback had been provided by stakeholders to Revenue. The feedback is still under consideration and it is expected that an update would be provided at the next meeting of the Sub-Committee.

Action Point: Revenue to consider feedback received.

5. Outbound Payments

Revenue noted that no comments had been received from stakeholders following the circulation of the proposed updates to TDM 33-05-01 on 18 December 2025.

Prior to the meeting, the ITI had provided a submission with an example relating to the application of the outbound payment defensive measures legislation to Investment Limited Partnerships. Revenue had circulated a response to that example to stakeholders and included further examples. Following discussion of the examples it was agreed that two of the examples would be included in an update to the TDM.

Separately, Revenue agreed to update example 3.4.3 regarding associated entities and partnerships, to confirm the position in teat example where there is no direct shareholding in Irish Co by one of the partners.

Action Point: Revenue to update the TDM as agreed at the meeting.

The Law Society enquired as to policy rationale for not applying section 817U(3A)(b) to partners in an ILP, as this could give rise to a more favourable outcome for foreign partnerships.

Revenue noted the point and stated that it would be a policy matter.

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6. <u>Pillar Two</u>

6.1. TDM Update

Revenue noted that no comments had been received in relation to the proposed updates to the Pillar Two TDMs circulated in advance of the meeting. Stakeholders were given an opportunity to ask any questions and provide observations, no matters raised.

Updates agreed.

6.2. Stakeholders Queries

<u>ITI Submission – 19 December 2025:</u>

Consolidated Loss Groups Example

An MNE group has two Irish companies: Company A and Company B. Both companies earn net profit (FANIL) for 2024 of €100,000. Both companies pay corporation tax of €13,000 giving an effective rate of 13% (of FANIL). This results in total Irish QDTT of €4,000.

Company A has an asset on its balance sheet which it purchased for €40,000 has been depreciating for accounting periods purposes on a straight-line basis over 8 years. By the end of 2024, it has owned the asset for two years and so, its net profit (FANIL) for the year of €100,000 was after deducting €5,000 of accounting depreciation. The net book value of the asset on the balance sheet of company A at the end of 2024 was €30,000.

Assume that both companies will have the same net result (FANIL) for 2025 except for the following: At the start of 2025 Company A sells the asset to Company B for €36,000.

As a result, the 2025 results for Company A will be higher than in respect of 2024 in two respects: firstly, the company will not have a €5,000 accounting depreciation charge in respect of the asset; and secondly, it will recognise a gain on sale of the asset of €6,000. Consequently, its net profit (FANIL) for the year should be €111,000.

Company B's net profit (FANIL) for 2025 will be lower than its 2024 results by an amount equal to the accounting depreciation charge on the asset it purchased from company A. Assuming that the remaining useful life is kept at six years then the depreciation charge would be €6,000, leaving a net profit (FANIL) in 2025 of €94,000. The aggregate profit (FANIL) of both companies for 2024 was €200,000 whereas the aggregate profit (FANIL) of both companies for 2025 will be €205,000. This additional €5,000 of FANIL comprises the gain of €6,000 in Company A and the additional depreciation expense of €1,000 in Company B. (The consolidated results would eliminate these differences, however, let us assume that the local accounting results are used for QDTT purposes.[1])

Assume that the asset did not qualify for capital allowances and its transfer was effected for no gain/no loss for capital gains tax purposes. Consequently, its transfer does not affect the corporation tax liability of either the buyer or the seller. Therefore, both companies pay corporation tax of €13,000 for 2025 giving an effective rate of 12.7% (of FANIL). This results in total Irish QDTT of €4,750 in 2024. The additional €750 of Irish QDTT relates to the additional FANIL of €5,000 in 2024, which is fully subject to an effective 15% top-up tax charge.

It is therefore possible that treating the transfer as a no gain/no loss transfer can generate a 15% upfront QDTT cash tax cost in the year of transfer, negating the effectiveness of this long-standing CGT relief.

In future years, the additional depreciation will reduce FANIL (€1,000 per annum for the remaining 5 years), which would increase the group's Irish ETR. While this may mean that the impact of the transfer balances out over time, there are a range of circumstances where the upfront would not be recovered over time, including:

- *The group has sufficient SBIE available in Ireland in a future period to reduce the Excess Profit amount to zero.*

- *The group has other permanent differences in Ireland that increase the group's Irish ETR above 15%.*

In these scenarios, the additional depreciation arising on the step-up in accounting value has an immaterial impact on the group's QDTT position, notwithstanding that the group suffered an upfront 15% cash tax cost on the transfer.

While for simplicity the above example assumes that the asset concerned would not qualify for capital allowances, a similar outcome can arise where capital allowances are claimed and the transfer is done at tax written down value by means of an election under Section 312.[2]

Moreover, even where a spreading election could be made under section 111P(7) – which can only be made in respect of immovable property, this would not eliminate the impact but merely spread it over a longer period.)

[ITI Footnotes:

[1]Even if the group consolidated financial statements were used, the relevant data should be the constituent entity results that flow into the consolidated financial statements, before any eliminations for intra-group transactions. It is only if Article 3.2.8 applies that intra-group transactions can be ignored (essentially allowing the consol adjustment to flow through). Thus, where the transfer is for FMV consideration (i.e., the €36k) and is accounted for using MV consideration in the CFS, the position should be the same irrespective of whether CFS or local accounts figures are used.

[2]In this scenario, a DTL would be created as a result of the transfer, as the accounting NBV of the asset would be €36k while the TWDV would be €30k. The creation of the DTL would be helpful in Year 1, but if booked at a rate of 12.5%, it would mean that the upfront cash tax cost would be 2.5%. However, in future years, the unwind of this DTL would be unhelpful to the ETR, partially offsetting the impact of having additional depreciation expenses hitting FANIL. Thus, the position should net out again over time (albeit with a 2.5% difference compared to 15% in the example above). However, it may not always net out if there are other factors in Ireland that drive Excess Profits to zero or drive the Irish ETR above 15%.]

Revenue Response:

The additional top-up tax shown in the example arises because there is an increase in the value of the asset transferred from Company A to Company B. Taking the group as a whole, the amount of depreciation claimed over the life of the asset will now be €46,000 (€10,000 for company A and €36,000 for company B) whereas the cost of the asset to the group was €40,000.

The Pillar Two rules only provide for no-gain/no-loss scenarios where there is a GloBE reorganisation[1]. Outside of those specific rules, gains on transfers of assets are potentially subject to top-up tax. In this example, because the asset does not qualify for capital allowances, the depreciation expense is a permanent difference. The increase in value of the asset increases the amount of the depreciation. The increase in the depreciation, being a permanent difference, may result in increased ETR in future periods, reducing the amount of top-up tax to be paid.

As pointed out in the example, if capital allowances were available at 12.5%, top-up tax at 2.5% over time should result (albeit this could be impacted by other factors such as the SBIE). On this basis Revenue does not consider that the example demonstrates that consolidated accounting treatment should be applied, it demonstrates that gains that are taxed below the minimum rate potentially results in top-up tax being applied. In addition, it is possible that a deferred tax liability may arise for the difference in accounting versus tax value of the asset such the recognition of the DTL would give rise to a deferred tax adjustment to covered taxes. More generally, Revenue does not see how the example demonstrates an interpretation of the Model Rule 3.2.8[2] and Commentary that would mean members of an Irish loss group should be considered to be in a tax consolidation group.

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[1] **GloBE Reorganisation** means a transformation or transfer of assets and liabilities such as in a merger, demerger, liquidation, or similar transaction where:
(a) the consideration for the transfer is, in whole or in significant part, equity interests issued by the acquiring Constituent Entity or by a person connected with the acquiring Constituent Entity, or, in the case of a liquidation, equity interests of the target (or, when no consideration is provided, where the issuance of an equity interest would have no economic significance);
(b) the disposing Constituent Entity's gain or loss on those assets is not subject to tax, in whole or in part; and
(c) the tax laws of the jurisdiction in which the acquiring Constituent Entity is located require the acquiring Constituent Entity to compute taxable income after the disposition or acquisition using the disposing Constituent Entity's tax basis in the assets, adjusted for any Non-qualifying Gain or Loss on the disposition or acquisition.

[2] 3.2.8: An Ultimate Parent Entity may elect to apply its consolidated accounting treatment to eliminate income, expense, gains, and losses from transactions between Constituent Entities that are located, and included **in a tax consolidation group**, in the same jurisdiction for purposes of computing each such Constituent Entity's Net GloBE Income or Loss. The election under this Article is a Five-Year Election. Upon making or revoking such election, appropriate adjustments shall be made for GloBE purposes such that there shall not be duplications or omissions of items of GloBE

A brief discussion then took place noting that if other jurisdictions take a different approach then it might be a matter for Working Party 11.

Intra-group Financing - Article 3.2.7

Section 111P(8) TCA 1997 provides that any expense related to an intra-group financing arrangement shall not be taken into consideration in the calculation of qualifying income or loss of a constituent entity for a fiscal year where:

• the constituent entity is located in a low-tax jurisdiction or in a jurisdiction that would have been low-taxed if the expenses had not accrued to the constituent entity,

• it is reasonable to assume that, over the expected duration of the arrangement, the arrangement will increase the amount of expenses taken into account for the calculation of the qualifying income of loss of that constituent entity, without resulting in a commensurate increase in the taxable income of the constituent entity providing the credit (the 'counterparty'), and

• the counterparty is located in a jurisdiction that is not a low-tax jurisdiction or in a jurisdiction that would not have been low-taxed if the income related to the expense had not been accrued to the counterparty.

The purpose of Article 3.2.7 is to avoid the level of GloBE Income being reduced in a low-taxed jurisdiction as this reduces the total amount of Excess Profit subject to top up tax. As elaborated on further below, it does not matter if the interest is deductible or non-deductible (albeit non-deductible interest has the additional benefit of increasing the group's ETR in the jurisdiction).

Where GloBE Income is reduced, there needs to be a commensurate increase in taxable income in the high-tax jurisdiction – otherwise, there is a risk that top-up tax is reduced in the low-tax jurisdiction but, due to jurisdictional blending or other high tax income in the lender jurisdiction, no equivalent tax/top-up tax arises.

The OECD Administrative Guidance on Pillar Two, which was published in June 2024, provides for the purposes of a QDTT, a hybrid entity is allocated the amount of any covered taxes included in the financial accounts of its owner where the taxes relate to the qualifying income of the hybrid entity and imposed by the jurisdiction in which the hybrid entity is located.

As discussed previously, the question arises as to how to interpret these rules when the US federal income tax rules applicable to foreign entities treated as partnerships or disregarded entities apply.

We have set out three examples below. In all three cases:

• the total Irish members' PBT (FANIL) is the same;

• there is one Irish company which is treated as a corporation (blocker) for US federal income tax purposes and another that is treated as a disregarded entity (DRE); and

• the DRE borrows from the US parent and pays interest on that loan which is, putatively, not separately included in the tax computation of the US parent due to the DRE status of the Irish company.

In Example 1, the interest on the loan from the US parent is tax deductible for the Irish DRE company. As a result, the effective tax rate of the Irish members is 12.5% and QDTT is payable at an amount equal to 2.5% of the FANIL.

Example 1

	IrCo1 [Blocker]	**IrCo2 [DRE]**	**Ireland**
EBIT	1,000,000	1,200,000	2,200,000
Interest on Loan from US parent	0	-200,000	-200,000
PBT / FANIL	1,000,000	1,000,000	2,000,000
Tax Computation			
PBT	1,000,000	1,000,000	2,000,000
Add: non-deductible interest	0	0	0
Taxable Profit	1,000,000	1,000,000	2,000,000
Tax at 12.5%	125,000	125,000	250,000
ETR (% of FANIL)	12.5%	12.5%	12.5%
QDTT			50,000

In Example 2, the interest on the loan from the US parent is not tax deductible in Ireland. As a result, while the effective tax rate of the Irish blocker remains at 12.5%, the effective tax rate for the DRE increases to 15% giving an overall blended rate of 13.8%. This results in a lower QDTT liability.

Example 2

	IrCo1 [Blocker]	IrCo2 [DRE]	Ireland
EBIT	1,000,000	1,200,000	2,200,000
Interest on Loan from US parent	0	-200,000	-200,000
PBT / FANIL	1,000,000	1,000,000	2,000,000
Tax Computation			
PBT	1,000,000	1,000,000	2,000,000
Add: non-deductible interest	0	200,000	200,000
Taxable Profit	1,000,000	1,200,000	2,200,000
Tax at 12.5%	125,000	150,000	275,000
ETR (% of FANIL)	12.5%	15.0%	13.8%
QDTT			25,000

Note that in both Example 1 and Example 2, the features referenced in Article 3.2.7 are all present i.e., there is an interest expense that reduces the FANIL of the Irish group which is not included in the US federal income tax computation of the parent. Article 3.2.7 does not at any time consider the deductibility of the interest for Irish corporation tax purposes. As such, reading the provisions of Article 3.2.7 narrowly, both of these examples are in scope.

The third example is essentially a different presentation of the second example but is closer to that used by way of illustration by the Revenue at the last TALC meeting. In this example, all the income of the Irish members is recorded in the blocker, but the interest expense is in the DRE. It is a non-deductible interest expense in this example so while the Irish members FANIL is similarly reduced as in Examples 1 and 2, the taxable income is not reduced (as in Example 2). The overall result is the same as in Example 2 in that there is a similar reduction in the QDTT payable. (We note that in the example given at TALC previously, the loan was not directly from the US parent but from a US DRE of that parent; however, we do not think that arrangement results in a different outcome to that presented here.)

Example 3

	IrCo1 [Blocker]	IrCo2 [DRE]	Ireland
EBIT	2,200,000		2,200,000
Interest on Loan from US parent	0	-200,000	-200,000
PBT / FANIL	2,200,000	-200,000	2,000,000
Tax Computation			
PBT	2,200,000	-200,000	2,000,000
Add: non-deductible interest	0	200,000	200,000
Taxable Profit	2,200,000	0	2,200,000
Tax at 12.5%	275,000	0	275,000
ETR (% of FANIL)	12.5%	0.0%	13.8%
QDTT			25,000

In considering Example 2 and Example 3, the fact that the interest is not tax deductible is the only reason why the QDTT liability decreases and while the loan in the examples is from another group member, the impact on the ETR is not dependent on the loan being from a group member or the US federal income tax treatment. The non-deductible interest could arise on a loan from a third party, and it might be non-deductible because it contains convertibility features or exceeds the amounts deductible under the interest limitation rule or is incurred by a company which is not entitled to interest deductions in respect of its activities such as activities taxable under Case III.

As a result, the fact that the loan is advanced by the US parent is not actually relevant to the question of the amount of QDTT payable by the Irish members and all three examples are equivalent in this regard.

The critical issue which needs to be considered from the perspective or Article 3.2.7 is the putative non-inclusion of the income in the hands of the US parent due to the fact that the Irish borrower is a DRE.

As discussed previously, the US taxation system is unique in its peculiar treatment of foreign entities which are treated as DREs. The US rules effectively seek to tax the totality of the profits of the foreign DRE as they arise to the DRE rather than waiting for their distribution (equivalent to Irish taxation of foreign branch income).

This means that distributions are not taxed as otherwise the same profits would be effectively taxed twice. Of course, if the foreign DRE paid amounts to the US parent and, unlike paying a dividend, those amounts reduced the profits which are to be taxed under the US rules then there would be a risk of base erosion unless the US parent either:

(i) included in its taxable income those amounts paid by the DRE to it that reduced its profits (e.g., interest on an intra-group loan to the DRE) along with the net profits of the DRE; or

(ii) adjusted the profits of the foreign DRE to be included in the US tax computation to add back any expenses paid to the US parent which would otherwise have reduced those profits.

You will note that both approaches result in the same outcome: the total amount that is taxable in the US in the hands of the US parent is adjusted by the amount of the expenditure deducted by the foreign DRE. Applying the approach in (i) above, to the first example above, the expense is simply included as taxable income in the hands of the US parent alongside the net income of the foreign DRE whereas following the approach in (ii) above, the expense is not included directly as income of the US parent but instead an equivalent amount is added on to the net profits of the foreign DRE. The outcome is identical in both cases. As such, these approaches should be seen as equivalent.

In considering how these US specific rules might interact with Article 3.2.7, one way of interpreting the rules would be to say that if you take the second approach discussed above, the interest expense in our examples is not included in the taxable income of the US parent and, therefore, the anti-avoidance provisions in the Article are triggered. However, consider that if the US parent included both the adjusted (i.e., grossed up) profits of the Irish DRE and included the income on the intra-group loan then it would be taxing more than 100% of the Irish DREs profits. This is clearly not what is intended by Article 3.2.7. As outlined above, the other way of thinking about the US rules clearly indicates that there would be no contravention of Article 3.2.7 i.e., view the US rules as taxing the net profit of the Irish DRE (i.e., after deducting the interest on the loan from the US parent) and also tax the interest on that loan. As explained above, this gives an identical outcome to one where the US parent does not tax the interest on the loan but taxes a grossed-up amount of the Irish DRE's profits.

In all three examples above, the key issue is not the deductibility or otherwise of the interest expense in Ireland, but rather one needs to consider whether, in substance, a mismatch arises as a result of how the US federal income tax rules work. In our view, all three examples support the position that there is no mismatch in substance. Instead, by definition the totality of the Irish profits of the DRE are included in the federal income tax computation of the US parent and one can either consider this amount to equal the net profits of the Irish DRE plus the interest on the intragroup loan or the grossed-up profits of the Irish DRE without doubly taxing the interest on the intragroup loan.

Even in Example 3, one can consider that either the US is picking up the net profits of the Irish DRE of minus €200,000 and adding to that the interest on the intragroup loan of €200,000 (resulting in a nil overall profit) or is simply picking up the adjusted profits of the Irish DRE (being zero).

It is clear that the purpose of Article 3.2.7 is to deal with mismatches that can arise due to differences in tax laws in the jurisdiction of the lender and the borrower. It is intended to pick up situations where, for example, certain characteristics of the loan mean that its interest is reducing the FANIL of the borrower but is not taxable in the hands of the lender due to some particular aspect of their tax rules such as a participation exemption that might apply to certain classes of loan note or due to a super abundance of tax losses or other tax attributes for which the lender has no other use.

That clearly cannot arise in the examples outlined above because in these examples the totality of all of the profits of the subsidiaries will be included in the US federal income tax computation viewed either as the taxation of the interest on the loan plus the net profits of the DRE or, in the alternative, the grossed-up profits of the DRE. Therefore, no mismatch actually arises in these circumstances.

It may be worth noting that the ongoing negotiations on a "Side-by-Side" exemption from IIR/UTPR for the US are predicated on the proposition that the US has a sufficiently robust system for taxing the income of foreign entities/income. In short, regardless of whether the entity is a blocker or a DRE, the same amount of income makes its way into the US tax net.

Finally, while the focus of the above and the discussions at TALC have been focused on the particular features of the US federal income tax system, as noted above, the US system is similar to how Ireland treats foreign branches which are treated as separate constituent entities for Pillar Two purposes.

Take a situation where an Irish company has a foreign branch (and assume that in this example Ireland is not a low tax jurisdiction but the branch jurisdiction is). Consider a situation where the financial results used for QDTT purposes (which for the head office must exclude the branch results), reflect arm's length charges for services between the head office and the branch (that is more than just a reallocation of external costs but, in line with the arm's length requirement for Pillar Two purposes, an arm's length charge for services rendered). These charges may be non-deductible in the branch jurisdiction and would be ignored in Ireland given the principal of worldwide taxation.

Nevertheless, if these charges are reflected in the financial results of both the head office and the branch, then they would have the effect of reducing the FANIL of the branch and would not be separately included as taxable income in the corporation tax return filed by the company in respect of its worldwide profits. This is essentially the same situation as that described under the US examples above (because under Pillar Two, a branch is a separate constituent entity just like a DRE).

It is difficult to see how one could draw a distinction between treatment that should be applied for intra-group financing transactions in those US examples and head office to branch transactions such as that described here. As stated above, it is clear that it is not the purpose of Article 3.2.7 to apply in situations described in the examples outlined above because in these examples the totality of all of the profits of the subsidiaries or foreign branches will be included in the taxable income of the parent/head-office jurisdiction (viewed either as the taxation of the income from the intra-group supply plus the net profits of the DRE/branch or, in the alternative, the grossed-up profits of the DRE/branch). Therefore, no mismatch actually arises in these circumstances.

Revenue Response:

- The significance in the example presented of the deductibility, or otherwise, of the interest expense for CT purposes is not clear. It is agreed that a non-deductible expense results in a higher ETR and therefore potentially less top-up tax arising. This does not impact the application of article 3.2.7[3].

- The rule in Article 3.2.7 applies where the entity in the low-taxed jurisdiction has an interest expense that reduces GloBE income without a commensurate increase in the taxable income of the high-tax counterparty. Article 3.2.7 appears to apply where the taxable income of a US parent stays the same, but the Irish disregarded entity (DRE) GloBE income is reduced as a result of a loan from the US parent to the Irish DRE.

- For example, a trading DRE has financial accounting net income or loss (FANIL) of 100 and tax of 12.5, and its US parent is taxable on 100 in the US with credit for Irish tax. The US parent then grants a loan to Irish DRE and interest of 20 arises. Irish DRE FANIL reduces to 80.

  (1) If the interest is non-deductible for Irish corporation tax purposes (CT), CT remains at 12.5. Because the loan is disregarded, the US parent is still taxable on 100 with credit for Irish taxes. Top up tax reduces from 2.5 to nil (12.5 covered tax/80 qualifying income = 15.6% > 15% minimum rate).

  (2) If the interest is tax deductible, CT goes to 10 (80 taxable income*12.5%) and the top-up tax reduces from 2.5 to 2 (80*2.5%).

  In both scenarios there is no increase in the taxable income the high-tax jurisdiction (US) and there is a decrease in the qualifying income of the low-tax jurisdiction because of an increase in the amount of expenses taken into account in calculating qualifying income.

- In this example top-up tax is reduced by the granting of a new loan from the US parent to the Irish DRE without any increase in the taxable income of the counterparty.

On this basis Revenue confirmed that they are not in a position to provide confirmation that a payment of interest from an Irish DRE to its US parent would not trigger the application of Article 3.2.7. ITI queried if the same analysis would apply for any similar CFC rules or equivalent, such as the Canadian CFC rules. Revenue confirmed that this could be considered further put the underlying principles should be the same.

[3] 3.2.7 The computation of a Low-Tax Entity's GloBE Income or Loss shall exclude any expense attributable to an Intragroup Financing Arrangement that can reasonably be anticipated, over the expected duration of the arrangement to:

(a) increase the amount of expenses taken into account in calculating the GloBE Income or Loss of the Low-Tax Entity;
(b) without resulting in a commensurate increase in the taxable income of the High-Tax Counterparty.

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ITI Queries – 25 February 2026

1. ***Pillar Two – Elections on the GIR***

There are number of elections which must be disclosed in the GloBE Information Return (GIR) e.g. safe harbours. At the TALC BEPS – Pillar Two Administration Subgroup meeting on 17 February, the possibility to make such an election in a late or an amended GIR return was discussed.

Revenue's preliminary view appeared to be that such elections could not be made in an amended/late return. However, it was recognised that particularly in the initial year the Pillar Two compliance will be extremely difficult, and perhaps in isolated cases there may be exceptions where Revenue may allow elections to be made post the filing deadline, on a case by case basis, where there is good reason for the election not having been made on time.

It has since come to our attention that HMRC have amended their legislation to allow for a transitional extension to the deadline for elections for returns in respect of accounting periods ending before 31 December 2025 i.e. in the first Pillar Two period. In this instance the amendment/late return must be filed within 12 months.

We would welcome if Revenue could consider allowing for a similar administrative practice in respect of elections.

Revenue Response:

This issue was raised by stakeholders at the Pillar Two Administration Subgroup and as such this question is referred back to that group.

2. ***Update to guidance in TDM on Section 111AB TCA 1997***

We note that the TDM (Part 04a-01-02) was updated in early January and that one of updates made related to the guidance on section 111AB TCA 1997. The previous version of the guidance noted that a decrease in covered taxes that related to a pre-transition fiscal year should be excluded from the computation of Adjusted Covered Taxes. However, the update made to the TDM now limits the scope of this guidance to a "decrease in current tax expense due to the refund of an overpayment of tax".

Our understanding is that this update was made following engagement at the BEPS TALC Sub-Committee meeting in October 2025. However, the query raised at this meeting related to Revenue guidance issued in respect of the Transitional CbCR Safe Harbour provisions in section 111AJ TCA 1997 (whereby the previous version of the guidance provided for an equivalent adjustment to the computation of Simplified Covered Taxes).

While we understand why Revenue's guidance on the Transitional CbCR Safe Harbour (in Section 9.8 of the TDM) was updated, we would question the need for the update to also be made to the guidance on section 111AB (Section 8.9 of the TDM). Where deferred tax was booked incorrectly and overprovided for in a pre-transition fiscal year, it would seem appropriate that a correction of this deferred tax amount (via a prior-period adjustment) could be excluded from the current fiscal year calculations. The rationale for this exclusion would be that the over-provision of deferred tax related to a fiscal period to which Part 4A did not apply. We would welcome clarification from Revenue on this matter.

Revenue Response:

Deferred tax positions recognised on transition to Pillar Two, and their subsequent unwind or release, are generally included in covered taxes. Model rule 9.1.1 provides that "When determining the Effective Tax Rate for a jurisdiction in a Transition Year, **and for each subsequent year**, the MNE Group **shall take into account all of the deferred tax assets and deferred tax liabilities reflected or disclosed in the financial accounts** of all of the Constituent Entities in a jurisdiction for the Transition Year".

Therefore, it is not appropriate to exclude deferred tax debit or credits in a period subsequent to a transition year, with exceptions only for taxes that are not covered taxes, uncertain tax positions and amounts that are to be restricted related to governmental arrangements etc. that are above the grace period limitation amount.

3. Top-Up Tax Information Returns and Investment Entities

The registration difficulties being experienced by sub funds of umbrella funds was discussed at the TALC BEPS – Pillar Two Administration Subgroup meeting on 17 February. Revenue had agreed to check whether IUT is a standalone tax head in ROS and agreed to revert with via the Minutes of the subgroup meeting (not yet circulated) or at the TALC BEPS meeting on 27 February.

Revenue Response:

Regarding the minutes of the Subgroup; they are currently being reviewed and will be circulated in due course.

ITI asked whether the minutes of the Subgroup would be published.

Action Point: Revenue to clarify whether the minutes would be published.

[**Update:** The minutes of the Subgroup will be published on the Revenue website, a link to which will also be included on the Sub-Committee webpage in due course.]

A separate but related query has now arisen in respect of investment entities. While there is no legislative requirement for an investment entity to register for QDTT under section 111AAH TCA 1997, section 111AAI TCA 1997 does require each constituent entity to file a top-up-tax information return. This does not apply where a designated local entity files the top-up-tax information return instead but this requires a notification to Revenue which itself seems to require registration. This is causing considerable administrative difficult for investment entities, particularly sub-funds which do not have a tax reference number of their own.

Where group filer election will be made by the investment entity, could Revenue allow it to make that notification under their corporation tax or IUT registration number (e.g. via MyEnquiries) instead? This would remove the need to register to simply make the notification. The approach is similar to the dormant entity guidance Revenue published in the TDM.

Revenue Response:

Regarding dormant entity guidance; this is a matter of the Pillar Two Administration Subgroup.

<u>Law Society Query re TDM guidance on Article 3.2.7</u>

The Law Society would like to raise a topic for discussion at the next TALC BEPS meeting related to the intra-group financing rule and the use of losses in testing whether there is a 'commensurate increase' in taxable income in the high-tax jurisdiction, further details below.

Revenue's TDM currently contains the following statement:

"However, where the losses carried forward by the lender that are used to shelter the interest income from an intra-group financing become recognised for accounting purposes solely as a consequence of the intra-group financing arrangement taking place (and the recognition of income as a consequence of the arrangement) then it will not be considered as a commensurate increase in the taxable income of a high-tax counterparty."

Apparently, the decision to recognise (or not) losses may always be a function of the anticipated income / activity of a company. Our question relates to the situation where the 'high tax' lender carries-on a lending business in the normal course of its business (eg, a bank or group treasury company) and provides loans in that context. In that case, the recognition of tax losses may necessarily be linked to the expectation of an intra-group financing and the income arising from it. In this scenario, it would not seem reasonable that there would not be a 'commensurate increase' in the tax base of the lender, where it uses the losses generated in the normal course of its business (which includes the intra-group financing).

This of course contrasts with a financing that is not in the ordinary course of business of the lending entity or where the loan may be made with a view to using the tax capacity to manage Pillar II taxes. At the moment, the above extract from Revenue's TDM is arguably a problem for ordinary course intra-group treasury transactions.

Record of Meeting

Revenue Response:

The issue raised by the Law Society concerns the following paragraph in the TDM:

"However, where the losses carried forward by the lender that are used to shelter the interest income from an intra-group financing become recognised for accounting purposes solely as a consequence of the intra-group financing arrangement taking place (and the recognition of income as a consequence of the arrangement) then it will not be considered as a commensurate increase in the taxable income of a high-tax counterparty."

Immediately preceding that paragraph, the TDM says:

"*An example of scenarios where a commensurate increase in the taxable income of the high-tax counterparty would occur is set out below:.. where the lender has losses carried forward which are used to shelter the interest income."*

Therefore, it is clear that we are dealing with a situation where the losses carried forward are only useable because of the intra-group financing arrangement in question.

It is noted that this guidance may be causing difficulties for banks and other trading treasury companies in testing whether there is a 'commensurate increase' in taxable income in the high tax jurisdiction, where the 'high tax' lender carries on a lending business in the normal course of its business. The reason why the lender is routinely making losses and not in a position to recognise such losses as a deferred tax asset is unclear from the query raised.

The consolidated commentary to the model rules at page 90 para 127 provides that:

"A payment should not be treated as increasing the taxable income of a High-Tax Counterparty if it is eligible for an exclusion, exemption, deduction or credit or other tax benefit under local law and the amount of that benefit is calculated by reference to the amount of payment received. For example, assume that Jurisdiction A has introduced an interest limitation rule that limits a taxpayer's net interest deduction to a percentage of its earnings. The amount of interest expense denied under this interest limitation rule constitutes excess interest capacity that is eligible to be carried forward and set-off against interest income in a subsequent year. For example, a High-Tax Counterparty located in Jurisdiction A lends money to a Low-Tax Entity. At the time the loan is entered into, the High-Tax Counterparty has excess interest capacity from previous years that is not expected to be used over the expected term of the loan. In this case, the receipt of interest from the Low-Tax Entity under the loan will not be treated as giving rise to an increase in taxable income to the extent the High-Tax Counterparty can immediately set-off such interest income against the carry-forward of excess interest capacity."

If in the above example interest capacity carried forward were replaced with tax losses carried forward, and those tax losses are not expected to be used over the expected term of the loan, it can be seen that the receipt of interest from the Low-Tax Entity under the loan would not be treated as giving rise to an increase in taxable income, to the extent the High-Tax Counterparty can immediately set-off such interest income against the carry-forward of tax losses. A similar example is provided in Example 3.2.7-2 of the examples to the commentary to the model rules.

The TDM references the recognition of the losses for accounting purposes because, generally, such losses will not be recognised in the accounts if there is no sight of profits against which they can be used, i.e. non-recognition of the loss forward on the balance sheet as a DTA it is a clear indicator that those tax losses were not expected to be used and are only now used as a consequence of the intra-group financing arrangement taking place.

Further guidance on the term 'commensurate increase in its taxable income' comes from the commentary to the CbCR SH with regard to the treatment of hybrid arbitrage arrangements. For the purposes of determining whether a Tested Jurisdiction qualifies for the Transitional CbCR Safe Harbour, adjustments must be made to the Tested Jurisdiction's PBT and income tax expense with respect to any Hybrid Arbitrage Arrangements entered into after 15 December 2022. A Hybrid Arbitrage Arrangement is (i) a deduction / non-inclusion arrangement; (ii) a duplicate loss arrangement; or (iii) a duplicate tax recognition arrangement. A deduction / non-inclusion arrangement is an arrangement under which one Constituent Entity directly or indirectly provides credit or otherwise makes an investment in another Constituent Entity that results in an expense or loss in the financial statements of a Constituent Entity to the extent that:

a. there is no commensurate increase in the revenue or gain in the financial statements of the Constituent Entity counterparty; or
b. the Constituent Entity counterparty is not reasonably expected over the life of the arrangement to have a commensurate increase in its taxable income.

The commentary on the above rules specifies that a Constituent Entity will not be considered to have a commensurate increase in its taxable income to the extent that the amount included in taxable income is offset by a tax attribute, such as a loss carryforward or an unused interest carryforward, with respect to which a valuation adjustment or accounting recognition adjustment has been made (or would have been made if the adjustment determination were made without regard to the ability of a Constituent Entity to use the tax attribute with respect to any Hybrid Arbitrage Arrangement entered into after 15 December 2022.) While this is a different rule to 3.2.7, the commentary in relation to what is meant by a 'commensurate increase in its taxable income' is informative as to how the same phrase should be interpreted in article 3.2.7.

Revenue noted the concerns of business on this matter and agreed to consider the wording in the TDM and if it could be more aligned with the OECD Commentary.

Action Point: Revenue to share proposed text for update to the TDM.

[**Update:** Proposed text shared with stakeholders on 3 March 2026 for feedback and subsequently agreed for inclusion in the TDM.]

Pillar Two – Developments

Revenue highlighted two additional points regarding Pillar Two:

- in January new Administrative Guidance issued; and
- DFIN have scheduled a Business Tax Stakeholders Forum (BTSF) meeting for Friday, 6 March.

Revenue invited stakeholders to share, in advance of the meeting, any technical issues they wished to raise at the BTSF.

ITI raised the point that guidance on dormant entities would be helpful and whether they should expect a confirmation from Revenue after the notification or is it enough that the notification was provided.

Action Point: Revenue to raise this with the operational Division and the matter to be addressed by the Pillar Two Administration Subgroup.

7. Terms of Reference – Update

The Chairperson explained that the Terms of Reference of the Sub-Committee was updated to reflect the current work / focus of the Sub-Committee and invited comments from the attendees. The updated Terms of Reference were accepted without change.

Action Point: Revenue to circulate the work plan for the Sub-Committee which had been provided to Main TALC for its meeting on 3 March 2026 and the updated Terms of Reference.

[**Update:** Updated terms of reference shared with stakeholders on 8 June 2026.]

Any other business

The Chairperson indicated that the next meeting of the Sub-Committee would likely be scheduled for the coming months but it would be kept under review should an earlier meeting be required.