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Commission Notice

The OECD Inclusive Framework Agreement on Safe Harbors and the Pillar Two Directive

(C/2026/253)

1. General remarks

The European Commission acknowledges the Organisation for Economic Co-operation and Development (OECD) Inclusive Framework Agreement on Safe Harbors adopted on 5 January 2026 ([1]), and confirms its application in the context of Council Directive (EU) 2022/2523 ([2]) (hereinafter: the Pillar Two Directive).

2. The Pillar 2 Directive and Inclusive Framework Agreements on Safe Harbors

Article 32 of Directive (EU) 2022/2523 provides that:

'By way of derogation from Articles 26 to 31, Member States shall ensure that, at the election of the filing constituent entity, the top-up tax due by a group in a jurisdiction shall be deemed to be zero for a fiscal year if the effective level of taxation of the constituent entities located in that jurisdiction fulfils the conditions of a qualifying international agreement on safe harbours.

For the purposes of the first paragraph, "qualifying international agreement on safe harbours" means an international set of rules and conditions which all Member States have consented to and which grants groups in the scope of this Directive the possibility of electing to benefit from one or more safe harbours for a jurisdiction.'

3. Safe Harbors adopted in January 2026

On 5 January 2026, the following Safe Harbours were agreed in the OECD Inclusive Framework and all the Member States consented to them:

— Simplified ETR Safe Harbour;

— Extension of the Transitional CbCR Safe Harbour;

— Substance-based Tax Incentive Safe Harbour;

— Side-by-Side System (comprising the Side-by-Side Safe Harbour and the Ultimate Parent Entity (UPE) Safe Harbour).

([1]) https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/side-by-side-package.pdf.

([2]) Council Directive (EU) 2022/2523 of 14 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union (OJ L 328, 22.12.2022, p. 1, ELI: http://data.europa.eu/eli/dir/2022/2523/oj).