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Swiss Pillar Two compliance and reporting guide

A practical overview for foreign-headed MNE groups

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ABSTRACT

This publication provides a practical overview of the compliance and reporting obligations applicable to Swiss constituent entities of foreign-headed multinational groups under Pillar Two. Particular attention is given to the interaction between international reporting obligations, Swiss notification requirements and domestic filing obligations administered through OMTax.

01 Introduction

The implementation of OECD Pillar Two has significantly expanded the compliance obligations of multinational enterprises (“MNEs”). While considerable attention has been devoted to the calculation of top-up taxes under the Global Anti-Base Erosion (“GloBE”) Rules, compliance and reporting obligations constitute an equally important aspect of the new framework.

Switzerland is of particular relevance in this context because it hosts a significant number of constituent entities (“CEs”) belonging to foreign-headed MNE groups. Similar to jurisdictions such as Ireland and the Netherlands, Switzerland has historically attracted holding companies, financing entities, principal structures and regional headquarters serving international operations¹. As a result, many

¹ Xavier Oberson, International Taxation in Switzerland, 5th ed., Stämpfli, Bern, 2024, discussing Switzerland's attractiveness as a location for holding, financing and principal structures in multinational

Swiss CEs occupy strategically important positions within multinational groups and may therefore be more directly affected by Pillar Two compliance and reporting obligations than a typical operating subsidiary established primarily for local commercial activities.

The practical significance of Pillar Two in Switzerland was amplified by the fact that several cantons, including Zug, Schwyz and Lucerne², historically applied corporate income tax rates below the 15 per cent minimum rate established under the GloBE Rules. Consequently, the introduction of the Swiss complementary tax was expected to affect a significant number of multinational groups with operations in Switzerland, particularly foreign-headed MNE groups with entities located in low-tax cantons.

Following the approval of a constitutional amendment by Swiss voters in a mandatory popular referendum on 18 June 2023³, the Federal Council was granted authority to implement the global minimum tax framework through an ordinance pending the adoption of permanent legislation. Switzerland's implementation of Pillar Two was distinctive from an international perspective. Unlike most jurisdictions, where implementation occurred through parliamentary or administrative processes, Swiss voters directly approved the constitutional basis for the new regime. This reflects a unique feature of the Swiss political system and illustrates the broader significance of Pillar Two beyond the field of international taxation.

This paper does not address the detailed calculation of GloBE income, effective tax rates or top-up taxes, nor does it analyse the substantive operation of the Income Inclusion Rule ("IIR"), Undertaxed Profits Rule ("UTPR") or related charging mechanisms. Instead, the focus is limited to the practical compliance and reporting obligations applicable to Swiss constituent entities of foreign-headed MNE groups.

groups.

² See OECD, Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two), 2021; see also cantonal corporate income tax rates published by the Swiss Conference of Cantonal Finance Directors prior to the implementation of Pillar Two.

³ Federal Constitution of the Swiss Confederation, amendment approved by popular vote on 18 June 2023 concerning the implementation of the OECD/G20 minimum taxation framework.

This paper provides a practical overview of the Swiss compliance and reporting obligations applicable to Swiss constituent entities of foreign-headed MNE groups. Particular attention is given to the interaction between international reporting obligations and domestic compliance requirements within the Swiss Pillar Two framework.

02 International reporting obligations

The OECD Pillar Two framework relies not only on substantive charging mechanisms but also on a comprehensive reporting framework designed to facilitate the collection and exchange of information between participating jurisdictions. The cornerstone of this framework is the GloBE Information Return (“GIR”),⁴ which serves as the standardised reporting mechanism for information relating to the application of the GloBE Rules.

For foreign-headed MNE groups, an important characteristic of the GIR framework is the possibility of centralised filing. Rather than requiring each constituent entity to prepare and submit a separate GIR, the OECD framework permits a qualifying filing entity⁵ to file the GIR on behalf of the group. Participating jurisdictions may then obtain the relevant information through international information exchange mechanisms.⁶

As a result, a Swiss constituent entity will not necessarily prepare and submit a GIR itself. In many cases, the filing obligation may be fulfilled by another entity within the group, such as the Ultimate Parent Entity (“UPE”) or another qualifying filing entity designated for reporting purposes. Swiss constituent entities should therefore determine whether a GIR will be filed elsewhere within the group and understand how reporting responsibilities are allocated within the group.

The identification of the filing entity is important because Swiss notification obligations may depend on the reporting framework adopted by the group. Consequently, Swiss constituent entities should ensure that they understand where the GIR will be filed and

⁴ OECD, GloBE Information Return (GIR), OECD/G20 Inclusive Framework on BEPS.

⁵ OECD, GloBE Information Return (GIR), sections concerning centralised filing and filing entities.

⁶ OECD, Tax Challenges Arising from the Digitalisation of the Economy – Administrative Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two).

which entity is responsible for fulfilling the relevant reporting obligations.

The existence of a centralised filing framework should not, however, be interpreted as eliminating all Swiss reporting obligations. Depending on the circumstances, a Swiss constituent entity may remain subject to notification requirements relating to the identity of the filing entity and the jurisdiction in which the GIR is submitted. Accordingly, the Swiss entity must be able to identify the relevant filing entity and maintain sufficient information regarding the group's reporting arrangements.

The centralised filing mechanism seeks to reduce administrative burdens while preserving transparency through international information exchange. Through this framework, information may be exchanged between participating jurisdictions, reducing the need for taxpayers to provide the same information repeatedly to multiple tax authorities.

From a practical perspective, foreign-headed MNE groups should ensure that reporting responsibilities are clearly identified and that any remaining Swiss notification obligations are properly monitored and fulfilled.

03 Swiss administrative architecture

While the OECD framework establishes the international reporting architecture applicable to Pillar Two, the administration of the regime ultimately depends on domestic implementation. In Switzerland, Pillar Two is characterised by a division of responsibilities between federal and cantonal authorities. Understanding this administrative architecture is essential for foreign-headed MNE groups, as compliance obligations may involve multiple authorities, legal obligations and reporting platforms.

Switzerland implemented Pillar Two through the Swiss Minimum Tax Ordinance (MindStV / OIMin)⁷, which entered into force on 1 January

⁷ Ordinance on the Minimum Taxation of Large Corporate Groups (MindStV / OIMin), SR 642.161.

2024.⁸ A central element of the Swiss implementation is the Swiss complementary tax (Ergänzungssteuer in German and impôt complémentaire in French)⁹, which seeks to ensure that constituent entities located in Switzerland are subject to the minimum effective tax rate required under the GloBE Rules.

The Swiss Pillar Two framework should be understood as a combination of legal obligations, administrative authorities and reporting platforms. While the relevant obligations arise under the OECD framework and Swiss implementing legislation, their administration is divided between the Federal Tax Administration and the Cantonal Tax Authorities and supported by dedicated digital platforms.



FIGURE 1 — SWISS PILLAR TWO REPORTING ARCHITECTURE

Figure 1 illustrates the distinction between international reporting obligations and domestic compliance obligations within the Swiss Pillar Two framework. While GloBE Information Returns (“GIRs”) may be filed centrally within the multinational enterprise (“MNE”) group and administered through the Federal Tax Administration (“FTA”), Swiss constituent entities (“CEs”) remain responsible for domestic filing obligations through OMTax and the corresponding assessment process administered by the competent Cantonal Tax Authority (“CTA”). Source: author’s illustration based on the Swiss Pillar Two administrative framework.

The administration of the regime is divided between the Federal Tax Administration (“FTA”) and the Cantonal Tax Authorities (“CTAs”).¹⁰

⁸ MindStV / OIMin, entered into force on 1 January 2024.

⁹ Arts. 1 para. 1 lit. A, 8 MindStV / OIMin.

¹⁰ Arts. 15–16, MindStV / OIMin.

The FTA is responsible for Switzerland's participation in the international Pillar Two reporting framework.¹¹ Its responsibilities include the receipt of GloBE Information Returns ("GIRs"), the administration of notification obligations¹² and the exchange of information with partner jurisdictions.

The CTAs are responsible for the domestic administration of the Swiss complementary tax. This includes the review of tax returns, requests for additional information, the assessment of the taxpayer's position and the issuance of tax assessments.

Switzerland relies on two principal digital platforms for the administration of Pillar Two compliance obligations. International reporting obligations are administered through the FTA's ePortal,¹³ which is available in English and may be accessed by authorised users located outside Switzerland. Domestic Pillar Two returns are administered through OMTax,¹⁴ the platform designated for the Swiss Pillar Two top-up tax return.¹⁵

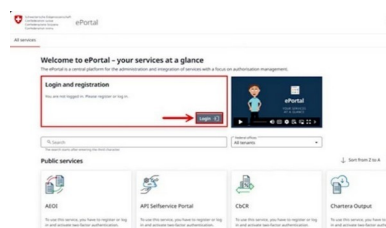


FIGURE 2 — FTA EPORTAL

The FTA ePortal serves as the entry point for international Pillar Two reporting obligations and related compliance services. Source: Federal Tax Administration, screenshot reproduced by the author.

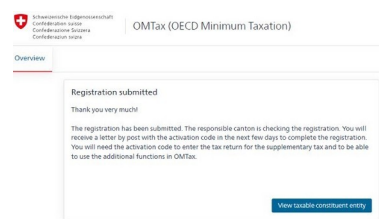


FIGURE 3 — OMTAX PLATFORM

OMTax is the dedicated platform used for the filing of the Swiss Pillar Two top-up tax return and related compliance procedures. Source: Federal Tax Administration, screenshot reproduced by the author.

¹¹ Art. 28f MindStV / OIMin (transmission of GIRs to partner jurisdictions) and Art. 28i MindStV / OIMin (FTA responsible for application of the treaty and ordinance).

¹² Art. 28c para. 3 MindStV / OIMin.

¹³ Federal Tax Administration, ePortal, available at the FTA website.

¹⁴ Federal Tax Administration, OMTax (OECD Minimum Taxation) platform.

¹⁵ Arts. 17, 19 and 20 MindStV / OIMin.

04 Swiss domestic compliance obligations

While international reporting obligations may in many cases be fulfilled through a centralised GIR filing, Swiss constituent entities may nevertheless remain subject to domestic compliance obligations in Switzerland. Accordingly, the completion of international reporting obligations does not necessarily conclude the compliance process from a Swiss perspective.

The principal domestic compliance obligation is the filing of the Swiss Pillar Two top-up tax return.¹⁶ This return serves as the basis for the assessment of the Swiss complementary tax and is administered through OMTax. Unlike the GIR, which primarily supports international information exchange, the Swiss return forms part of the domestic tax assessment process.

The Swiss Pillar Two top-up tax return requires taxpayers to provide information necessary for the administration and assessment of the Swiss complementary tax. This generally includes information relating to the reporting group, the relevant constituent entities, the applicable jurisdictional position and the determination of any Swiss complementary tax liability. The return may also require taxpayers to identify the entity responsible for GIR filing, indicate whether reporting has been performed elsewhere within the group and disclose whether any applicable safe harbour provisions have been relied upon.

The administration of the Swiss return falls within the competence of the relevant CTA. Following the filing of the return, the CTA reviews the information submitted and may request additional information¹⁷ where considered necessary. Upon completion of its review, the CTA issues the corresponding tax assessment.¹⁸

Documentation plays an important role within the Swiss compliance framework. Taxpayers should be capable of explaining the information contained in their filings and supporting the positions adopted where requested by the competent authorities.¹⁹ This may

¹⁶ Federal Tax Administration, guidance concerning the Swiss complementary tax return (OMTax).

¹⁷ Arts. 20–22 MindStV / OIMin.

¹⁸ Arts. 21–22 MindStV / OIMin.

¹⁹ Art. 21 MindStV / OIMin.

require coordination between Swiss personnel, group tax functions and external advisers where relevant information originates outside Switzerland. Consequently, compliance extends beyond the timely submission of returns and includes the ability to provide supporting information during the assessment process.

In addition to filing and documentation obligations, taxpayers should consider whether any available simplification mechanisms may reduce the compliance burden associated with Pillar Two.

Transitional CbCR safe harbour

The OECD Pillar Two framework includes a number of safe harbour provisions intended to reduce the compliance burden associated with the application of the GloBE Rules. Of particular relevance during the initial years of implementation is the Transitional Country-by-Country Reporting (“CbCR”) Safe Harbour.²⁰

The Transitional CbCR Safe Harbour allows qualifying MNE groups to rely on information derived from existing Country-by-Country Reporting (“CbCR”) data rather than performing the full GloBE calculations otherwise required under the Pillar Two framework. CbCR was introduced under Action 13²¹ of the OECD/G20 Base Erosion and Profit Shifting (“BEPS”) Project. For eligible jurisdictions, the safe harbour may significantly reduce the compliance burden associated with the determination of top-up tax liabilities.

From the perspective of Swiss constituent entities, the practical importance of the safe harbour lies in its ability to reduce the volume of data, calculations and documentation required during the transitional period for foreign-headed MNE groups operating in multiple jurisdictions.

Taxpayers must nevertheless determine whether the relevant conditions for the safe harbour are satisfied, as the application of a safe harbour does not eliminate reporting, notification or domestic filing obligations. Consequently, the availability of a safe harbour may

²⁰ OECD, Safe Harbours and Penalty Relief: Global Anti-Base Erosion Rules (Pillar Two), December 2022.

²¹ OECD/G20 Base Erosion and Profit Shifting Project, Action 13: Transfer Pricing Documentation and Country-by-Country Reporting.

reduce computational complexity without entirely removing the need for compliance procedures.

Furthermore, eligibility for a safe harbour should be assessed periodically, as the applicable conditions may change from year to year. Taxpayers should therefore avoid assuming that relief available in one reporting period will necessarily remain available in subsequent periods.

05 Practical compliance roadmap

For foreign-headed MNE groups, effective compliance with the Swiss Pillar Two framework requires a coordinated process extending beyond the calculation of any top-up tax liability. The following roadmap highlights key practical considerations for Swiss constituent entities.

The first step is to determine the group's reporting structure. Swiss constituent entities should identify whether a GIR will be filed by another group entity and whether any Swiss notification obligations remain applicable.

The second step is to establish responsibility for Swiss domestic compliance. Although Pillar Two calculations may be performed centrally by the UPE, another group entity or external advisers, responsibility for Swiss filing obligations should be clearly allocated.

The third step is to ensure access to the required reporting platforms. Taxpayers should confirm that authorised users have access to the FTA ePortal and OMTax and that appropriate internal procedures exist for the preparation, review and submission of filings.

The fourth step is the collection and retention of supporting documentation. Swiss constituent entities should be capable of explaining the information contained in their filings and providing supporting documentation where requested by the competent authorities.

The fifth step is to monitor the domestic assessment process. Following the submission of a Swiss Pillar Two return, the competent

CTA may request additional information before issuing a tax assessment.

Finally, taxpayers should continue to monitor developments in Swiss and international Pillar Two guidance. As the regime remains relatively new, administrative practice and interpretative guidance will continue to evolve.

The practical considerations discussed above are summarised in Table 1 below.

TABLE 1 — PRACTICAL COMPLIANCE ROADMAP

STEP	PRACTICAL ACTION
01	Determine the group's reporting structure and identify the entity responsible for GIR filing
02	Assess whether any Swiss notification obligations remain applicable
03	Allocate responsibility for Swiss Pillar Two compliance and establish internal reporting procedures
04	Obtain access to the FTA ePortal and OMTax
05	Collect, retain and be prepared to explain supporting documentation
06	Monitor CTA reviews, information requests and tax assessments
07	Monitor future OECD guidance, Swiss administrative practice and legislative developments

06 Conclusion

The implementation of OECD Pillar Two has introduced a new compliance framework for multinational groups operating in Switzerland. While the substantive rules governing the calculation of top-up taxes have received significant attention, compliance and

reporting obligations represent an equally important component of the regime.

For foreign-headed MNE groups, compliance with the Swiss Pillar Two framework extends beyond the determination of any top-up tax liability. Taxpayers must navigate both international reporting obligations and domestic compliance requirements, including GIR-related reporting, notification obligations, domestic filing requirements and the supporting documentation necessary to substantiate positions adopted in the relevant filings.

The Swiss framework combines international information exchange mechanisms with a domestic assessment process administered through a division of responsibilities between federal and cantonal authorities. As a result, effective compliance requires an understanding not only of the OECD reporting framework but also of the practical operation of the Swiss administrative system.

From a practical perspective, foreign-headed MNE groups should ensure that reporting responsibilities, domestic filing obligations and supporting documentation are managed in a coordinated manner. The timely allocation of responsibilities, access to the relevant reporting platforms and the retention of adequate supporting documentation remain important elements of an effective compliance strategy.

Switzerland implemented Pillar Two with effect from 1 January 2024. As a result, the regime remains relatively recent and practical experience with its administration is still developing. As taxpayers, cantonal authorities and the Federal Tax Administration gain experience with the new framework, additional guidance and administrative practice will continue to emerge. Consequently, Pillar Two compliance should be viewed not as a one-time implementation exercise but as an evolving process requiring ongoing monitoring and adaptation as the Swiss framework matures.

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