

Tokyo, 12 November 2019

**Re: Comments on Secretariat Proposal for a “Unified Approach” under Pillar One**

Dear Sir or Madam,

It is our great pleasure to submit our positive opinion on the OECD Secretariat proposal for a “unified approach” under Pillar One. The proposal represents important progress to answering the critical question of how to reform global taxation rules and to make them fit for boosting economic growth in the new Internet era.

Established in 2012, the Japan Association of New Economy represents the fast-growing, dynamic digital sector of the Japanese economy. Most of our members are innovative and entrepreneurial, selling borderless services.

We welcome the proposed OECD approach for Pillar One.

The need for reform is clear: we are now seeing unilateral tax measures against digital service providers spread in several countries. These divergent and unilateral tax measures pose heavy administrative burdens for industry, undermine innovation and competitiveness. The OECD/G20 initiative to establish new rules represents the correct response to address this fragmentation. Any new global tax rules should avoid posing a complicated administrative burden and expensive compliance costs. The more complicated the rules, the harder for business and government to properly and effectively implement them. An explanatory note would help buttress the new framework and ensure a uniform interpretation and implementation. Although this note would be non-binding, it will play a valuable role in preventing diverging interpretations and fragmentation.

In the era of cross-border services utilizing digital tools, it is an important economic policy for governments to ensure level playing field on taxation between domestic and foreign companies. Hence, members of the Inclusive Framework should accelerate the discussion on the new international taxation rules in coming

months.

The new rules should be ready as soon as possible, hopefully by the end of 2020. Unilateral measures in several jurisdictions will end only if the OECD agrees on a new corporate tax framework. Success is critical to ensure certainty for business and industry.

## **1. Scope**

We should be careful about signaling out the “digital” sector for specific taxes. The entire economy is going digital, blurring the boundary between “digital” and “non-digital.” It will be unwise, impractical and soon outdated to draw a line between taxing digital and non-digital sectors.

We agree with the OECD secretariat’s approach to broaden the reform’s scope to cover all consumer-facing business. The definition of consumer-facing business should be clarified as much as possible to prevent divergent interpretations in each jurisdiction. A clear definition will increase the effectiveness of the new rules. In establishing definitions of the scope, more attention should be paid to current business practice. In addition, carve outs should be limited to highly regulated industries such as financial services.

The new rules should touch upon how to address cases where an MNE operates several types of businesses, only some of them being consumer-facing. The segments within the MNE that do not deal with consumers should be carved out as it would be unfair to subject the whole MNE profit to tax if only a portion of this profit stems from consumer-related business.

## **2. Nexus**

The proposal calls for a new formula on nexus for corporate taxation which no longer is dependent on physical presence. Instead, a threshold for revenues will become the primary indicator for corporate taxation in each country. This formula still needs to be defined.

We support the proposed neutral business model. Well-designed, it would capture all forms of remote involvement in a market jurisdiction.

**Hello, Future!**



### **3. Calculation of group profits/determination of Amount A**

Rules and definitions on revenue and the calculation method of revenue should be clearly set. It should be noted that the more granular segmentation is required, the more complexity it would bring, and the higher potential for disputes regarding allocation of overheads, use of Net operating losses (NOLs) etc.

When calculating group profits, the treatment of losses should be one of key issues incorporated in the rules. Net operating losses should be taken into account on global consolidated level rather than on local country level to prevent unnecessary distortions.

Adjustment for different accounting standards should be made but be limited to minimum in order to reduce complexity.

### **4. Elimination of double taxation/dispute prevention and resolution**

An effective dispute prevention and resolution mechanism needs to be established to deal with disputes on profit allocation and double taxation. This will limit the potential risks of tax disputes among jurisdictions and double taxation. This mechanism should be legally binding and will help resolve these disputes in a timely and fair manner.

A single global reporting and payment system would help ensuring that all tax payments made in each country (including payments in relation to amounts B and C) are captured and any overpayments are easily identified. The country of MNE headquarter could perform the function of consolidating the information, receiving tax refunds from local countries and redistributing them to the appropriate recipients.

### **5. Implementation**

New rules would need to be implemented simultaneously by all jurisdictions, to ensure a level playing field. The huge risk for industry will be the divergent implementation at different times based on different interpretations in each jurisdiction.



### **About Japan Association of New Economy**

The Japan Association of New Economy (JANE) is dedicated to provide policy advocacy from a private sector perspective to help contribute to addressing the establishment of policies and systems while also providing a platform for information sharing and networking among members.

To that end, JANE works to achieve the triple objectives of promoting innovation, globalization and entrepreneurship. As an organization with a responsibility towards the socioeconomic future of Japan, JANE, with its member companies pioneering tomorrow's technologies and services, continues to challenge the status quo and advocates a vision of the future beyond conventional thinking.