



AMOUNT B

INTERNATIONAL TAX FORUM

BALI, 24-26 SEPTEMBER 2024



Amount B – Mandate

*The application of the arm's length principle to **in-country baseline marketing and distribution** activities will be **simplified and streamlined**, with a particular **focus on the needs of low capacity countries***

- AIM: Reduce and prevent disputes on pricing of common marketing and distribution arrangements



Goals and intended benefits

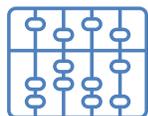
- **Distribution arrangements constitute an area of concern** for tax administrations and taxpayers alike and are a frequent focus of transfer pricing controversy and are often the subject of dispute and require settlement under the MAP.
- Many governments and businesses view improvements in this area as a **key deliverable of Pillar One**.
- Amount B aims to **standardise the remuneration of related party distributors** that perform baseline distribution activities in a manner that is aligned with the arm's length principle;
- Amount B is being designed to:
 - **simplify the administration** of transfer pricing rules for Tax Admins and reduce compliance costs for Taxpayers;
 - **enhance tax certainty** and reduce controversy between Tax admins and Taxpayers;
 - **assist low-capacity jurisdictions** that often face difficulties given a lack of local market comparables.



Overview of the work



Amount B guidance was **approved and published** by the Inclusive Framework (140+ members) in February 2024 and **incorporated into the OECD Transfer Pricing Guidelines**.



A **pricing matrix** is established to price in-scope baseline distribution transactions **with adjustments in specific cases**.



Available to jurisdictions as an **optional framework** from January 2025, coupled with binding IF political commitment for covered jurisdictions.

The definition of **covered jurisdictions** was published in June 2024, thereby concluding the work on **Phase 1**

A **model competent authority agreement (MCAA)** was approved by the IF in September 2024.



Political commitment on implementation

Political commitment by IF members to respect the outcome determined under the simplified and streamlined approach (Amount B) to in-scope transactions where applied by a covered jurisdiction

- and to relieve potential double taxation that may arise where there is a bilateral tax treaty in effect

- **Covered jurisdictions:**
 - Low- and middle-income IF jurisdictions using the World Bank Group country classifications by income level, excluding EU, OECD, and G20 member countries.
 - Extend to low- and middle-income IF jurisdictions that are OECD and G20 member countries that otherwise satisfy the first criterion and that expressed to the Inclusive Framework a willingness to apply Amount B by March 2024*
 - Argentina, Brazil, Costa Rica, Mexico and South Africa have expressed that willingness
 - Any non-IF member that meets the first criterion and expresses to the Inclusive Framework a willingness to apply Amount B will be added to the list of covered jurisdictions (upon request and approval by the IF)

* Some jurisdictions have indicated they may review their political commitment as it relates to the extension to low and middle-income OECD and G20 member countries at the 5-year review point before agreeing to re-extend that element of the political commitment, or if such countries are not signatories of the Amount A MLC by the end of 2025.



Overview of Amount B

Scope applies to wholesale distributors

- Including buy/sell entities, commissionaires, sales agents
- Should not own unique and valuable intangibles nor assume economically significant risks
- Segmentation and de minimis retail sales permitted
- Excludes distribution of services, commodities & digital goods
- OPEX/sales quantitative filter

Priced using a pricing matrix

- Takes account of industry, operating asset intensity (OAS) and operating expense intensity (OES)
- Pricing is adjusted in cases of very low & high functionality
- Includes a geographic adjustment mechanism to address specific country risk differences

Implementation

- Amount B is now incorporated into OECD TPG as an optional approach
- Adopting jurisdictions can choose to apply Amount B as a rule or taxpayer safe harbour
- While non-binding on counterparty jurisdictions, specific measures & guidance provide tax certainty



SCOPE



Scope



KEY FEATURES

Applies to wholesale distributors including, buy/sell, commissionaires and sales agents

- No unique and valuable intangibles
- No assumption of economically significant risks
- No distribution of commodities or services or digital goods
- No retail above de minimis (20%)
- No non-distribution activities unless segmentable
- **Can be reliably priced using a one-sided method, with the distributor as the tested party**
- No below-baseline activities, measured quantitatively as $\text{OpEx/sales} < 3\%$
- No distributors with $\text{OpEx/sales} > [20\% - 30\%]$ (set by implementing jurisdiction)



PRICING FRAMEWORK



Pricing overview

- The Amount B pricing model is based on arm's length returns observed in an underlying global set of comparable independent companies drawn from publicly available information.
- Same principles as comparing independent companies on a case-by-case basis in the traditional transfer pricing approach to these transactions.
- Reduces resources needed in each case given the analysis has been done in advance to cover all companies in scope and is valid in all adopting jurisdictions
- More advance certainty and less disputes



Pricing approach



KEY FEATURES

Simplified and streamlined approach to pricing

- Supersedes most other TP methods - only internal CUPs can supersede Amount B pricing
- Application of common benchmarking search criteria and use of global data to inform the determination of arm's length ranges
- Designed as a pricing matrix which takes account of operating assets, operating expenses and industry as relevant profit driving factors
- Use of return on sales as the applicable net profit indicator
- Includes adjustments to address: (i) distortive returns on OPEX, (ii) country risk in higher risk markets
- Subject to periodic updates



Pricing matrix

Table 5.1. Pricing Matrix (return on sales %) derived from the global dataset

Industry Grouping	Industry Grouping 1	Industry Grouping 2	Industry Grouping 3
Factor Intensity			
(A) OAS 45% or more, any level of OES	3.50%	5.00%	5.50%
(B) OAS 30% to 44.99%, any level of OES	3.00%	3.75%	4.50%
(C) OAS 15% to 29.99%, any level of OES	2.50%	3.00%	4.50%
(D) OAS less than 15%, OES 10% or more	1.75%	2.00%	3.00%
(E) OAS less than 15%, OES less than 10%	1.50%	1.75%	2.25%



5.2: Operating expense cross-check

Applies to all in-scope transactions

1. Use ROS calculated under the pricing matrix and compute equivalent Return on OpEx
2. Determine the relevant cap-and-collar range (Table 5.2)
3. Compare results from Step 1 against results from Step 2
4. Make an adjustment to the nearest bound of Step 2 if necessary

Table 5.2. Operating expense cap-and-collar range

Factor intensity	Operating expense cap-and-collar range		
	Default cap rates	Alternative cap rates for qualifying jurisdictions	Collar rate
High OAS (A)	70%	80%	10%
Medium OAS (B+C)	60%	70%	
Low OAS (D+E)	40%	45%	



5.3: Data availability mechanism for qualifying jurisdictions

- Where there is no or insufficient data in the global dataset for a particular tested party jurisdiction and that jurisdiction is a qualifying jurisdiction,
- Make an adjustment to the 5.1 (and 5.2) return by **adding**:
Net Risk Adjustment % for the qualifying jurisdiction (Table 5.3)
multiplied by OAS of the taxpayer (limited to max 85%)



Application

- Where a jurisdiction has chosen to allow the application of Amount B
 - Taxpayers will apply and test the actual outcome of in-scope transactions on an *ex post* basis, typically at year-end
 - If Amount B is applied as a safe harbour in the jurisdiction and a taxpayer chooses to apply it, they must consent to having the Amount B approach applied for a minimum of 3 years (unless transactions are no longer in scope, or there is a significant change in the business)



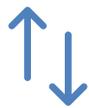
IMPLEMENTATION



Implementation



Incorporated into OECD TP Guidelines as an optional framework. Jurisdictions can choose to adopt Amount B from January 2025.



Adopting jurisdictions can apply Amount B domestically as a rule or as a taxpayer safe harbour.



Non-binding on counter-party jurisdictions, except in case of covered jurisdictions. IF political commitment to respect Amount B when applied by a covered jurisdiction.



Amount B can also be used to resolve MAP disputes where both Competent Authorities agree to do so.



Follow up implementation work

- **Administrative pricing guidance**

- WP6/FTA MAP Forum are considering whether additional pricing guidance should be developed to ensure consistent application of Amount B among jurisdictions
- Secretariat will gather inputs from stakeholders to identify issues and inform upcoming discussions.

- **Information gathering framework**

- IF will gather information on the practical application of the simplified and streamlined approach once it has been in operation for a period of time.
- The framework to gather such information will be developed in 2024.

- **Pricing Automation Tool**

- A Pricing Automation Tool has been developed to automatically compute the return with minimal data inputs, and it will be published in the OECD website in October



THANK YOU
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