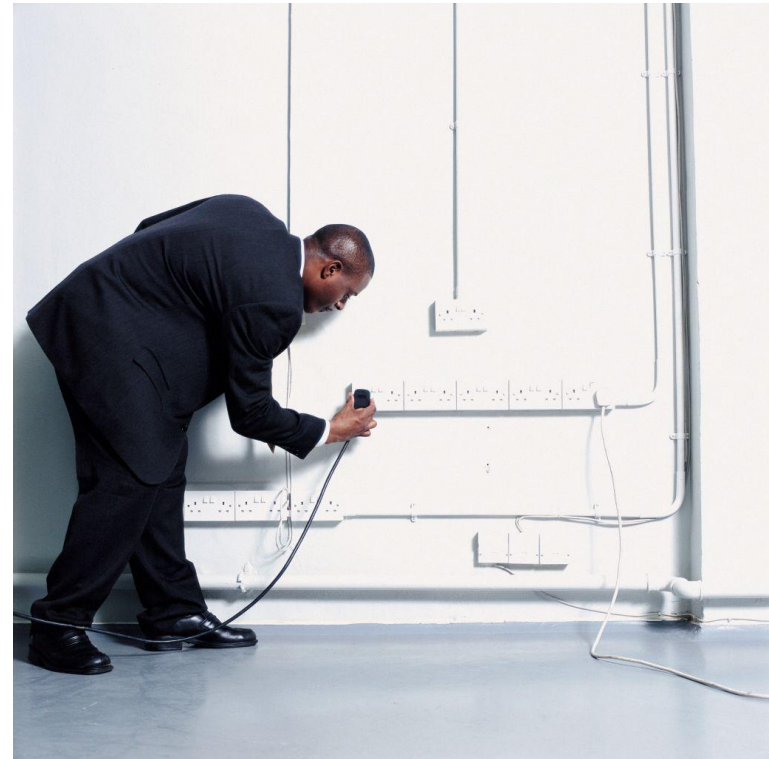


BEPS: The New Tax and Transfer Pricing Environment – What you need to know

CFO Forum 27 March 2015



Agenda

- The Global Tax [r]Evolution – Introduction to BEPS
- New Transfer Pricing Documentation Standards
- Country by Country Report
- Master File
- Intangible Property
- BEPS Actions on Risk, Recharacterization, and Special Measures
- Global Value Chains and Profit Splits
- CFO Program Announcements

The Global Tax [r]Evolution

The Global Tax [r]Evolution

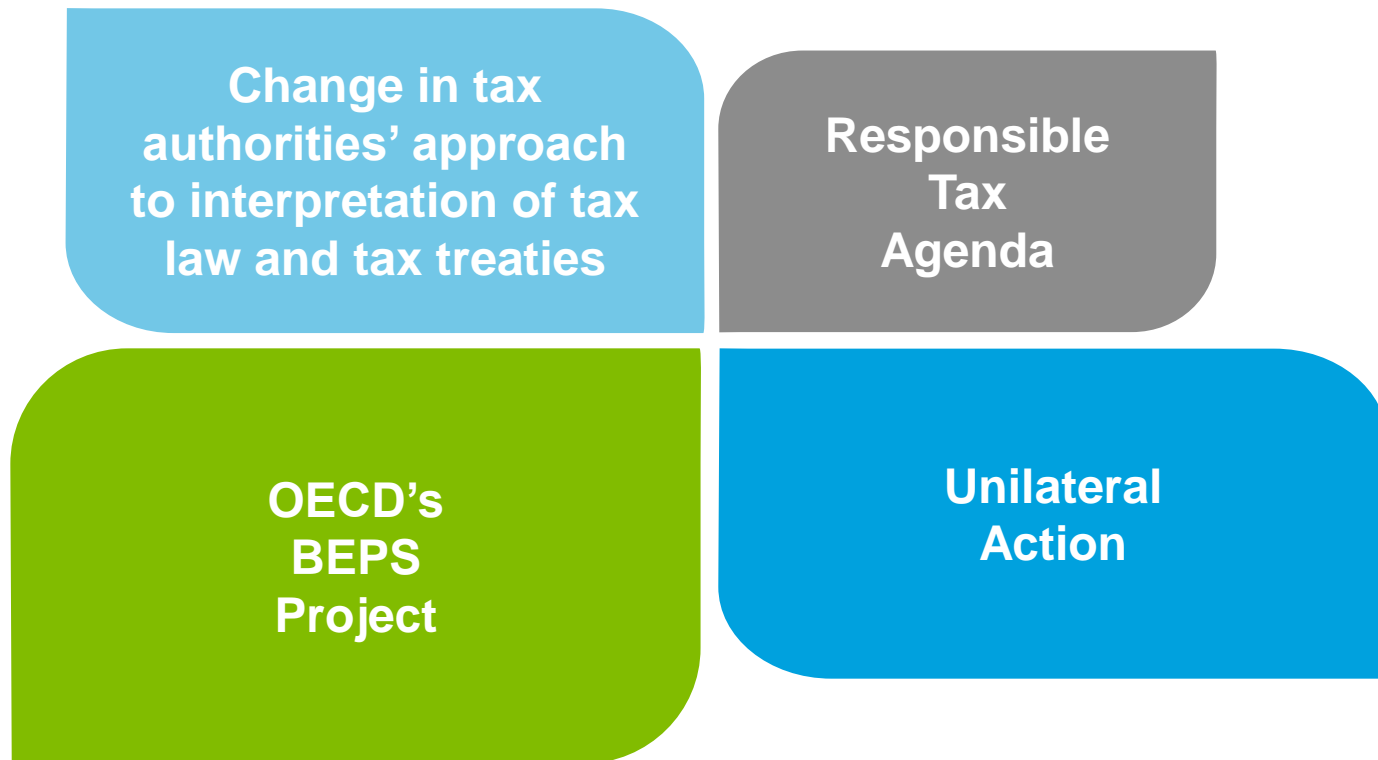
Multinational companies are facing a number of new tax-related challenges:



Government deficits and related cut-backs, media attention and activist group interest has resulted in political interest in tax reform

Global Tax [r]Evolution

This new global tax environment has resulted in the following actions -
A Global Tax [r]Evolution



BEPS is part of the bigger picture

Key focus areas of the OECD's BEPS action plan

Co-ordinated international action

Updating tax regimes to deal with the modern/digital economy

Preventing profits being artificially transferred to low tax locations

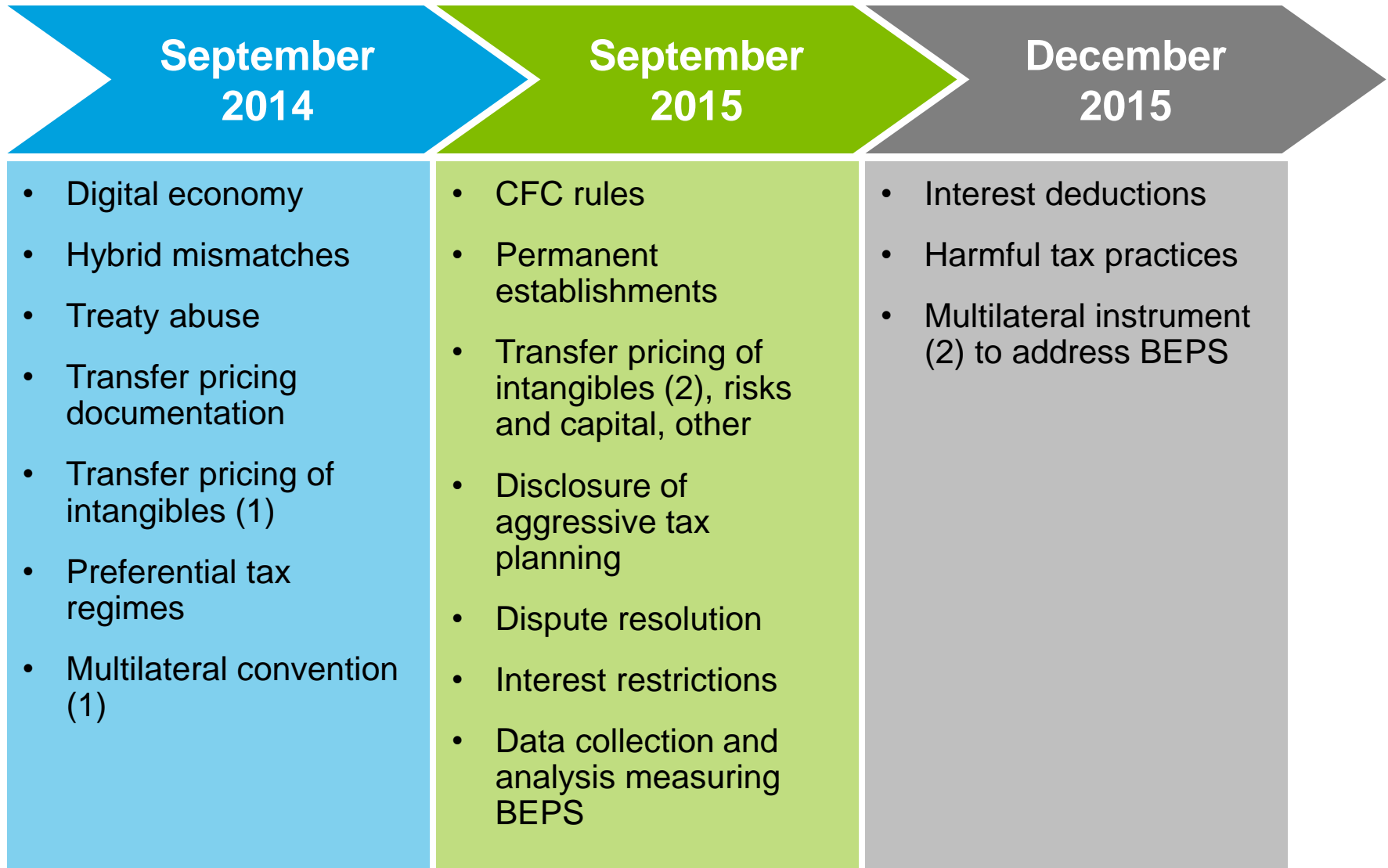
Increasing transparency and standardization of documentation

- Updating definitions of taxable presence
- Reinforcing the need to match economic reward with substance
- Fair transfer pricing of intangibles, risk and capital

- Targeting mismatched tax outcomes
- Addressing treaty abuse
- Limit interest deductions
- Focus on jurisdictions employing harmful tax practices

- Country-by-country reporting of tax data
- Developing conformity in transfer pricing documentation
- Co-operative dispute resolution

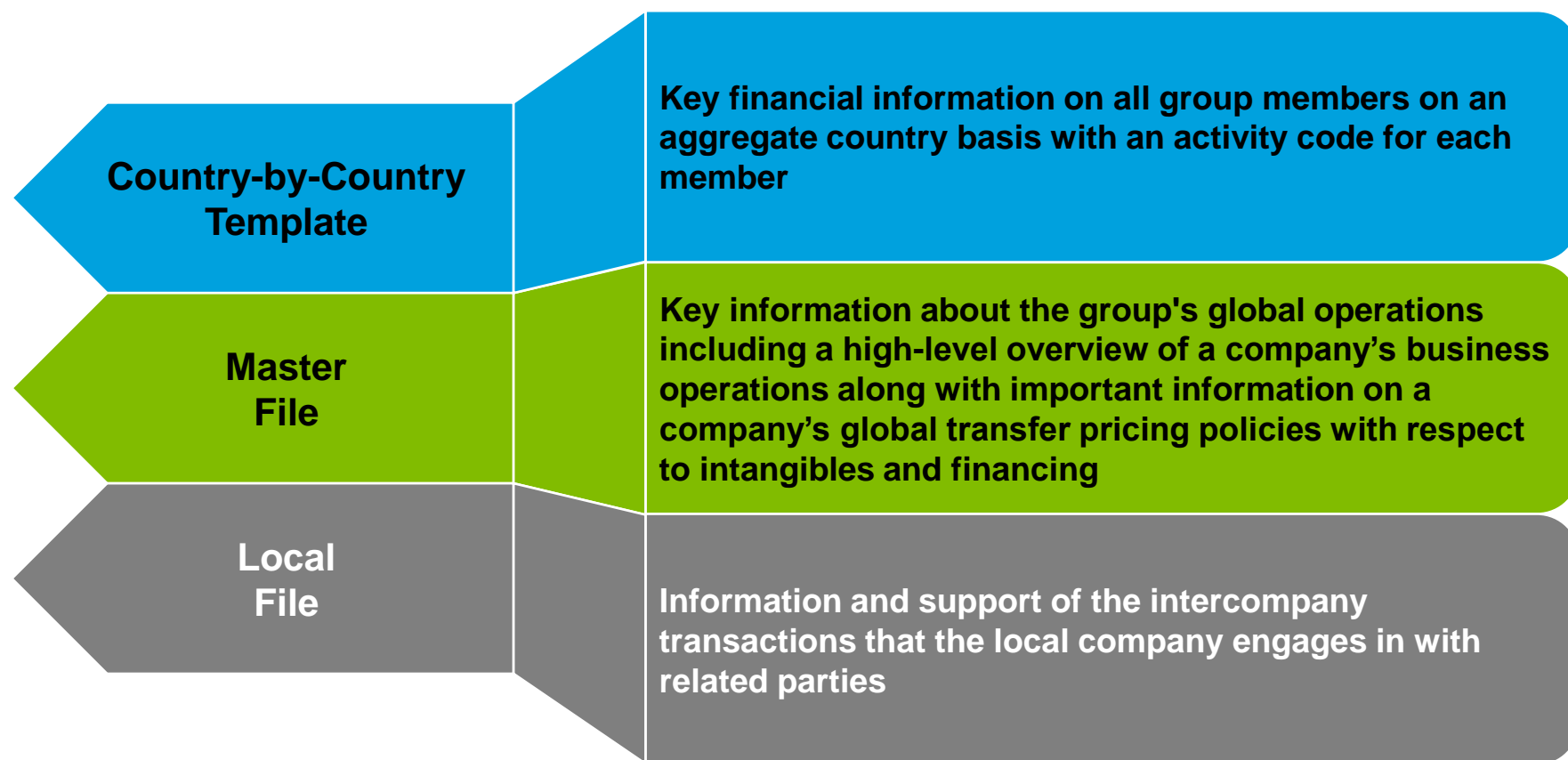
BEPS Timeline



New Transfer Pricing Documentation Standards

New guidelines adopt 3-tiered approach

Local law will determine the language in which the documentation must be submitted. Countries are encouraged to permit filing in commonly used languages and request translation after submission.



Country by Country Report

Country-by-country (“CbC”) Report

Information required by tax jurisdiction (aggregate for all entities incl. PEs):

- Revenues (related, unrelated, total)
- Profit/loss before income tax
- Income tax paid (cash)
- Income tax accrued
- Stated capital
- Accumulated earnings
- Number of employees
- Tangible assets other than cash and cash equivalents
- Last part of the CbC template requires information on constituent entities by tax jurisdiction, along with an indication of the jurisdiction of organization or incorporation if different from tax and relevant business activity code(s) for each entity

Country-by-country Report

Sources of financial data

- Flexibility to choose organized sources as long as source is consistently used from year to year
 - If using statutory P&L, amounts should be translated to functional currency of the reporting company at average exchange rate for the year
- Include description of source and explanation for changes in sources
- Not necessary to reconcile revenue, profit and tax reporting in the CbC template to the consolidated P&L
- Not necessary to make adjustments for differences in accounting principles applied among tax jurisdictions

Application and Effective Date

- Only to MNEs with revenue in excess of € 750 million
- First year beginning after January 1, 2016
- First report due within 12 months after year-end
- Filed with the tax authority of headquarters company.
- Exchanged with other tax authorities by filing country.

Master File

Master File

Should be available to all tax jurisdictions

Five sections

- Organizational Chart
- Description of the Company's Business
- Company's Intangibles
- Intercompany Financial Activities
- Financial and Tax Position

Intended to present: global operations and policies for IP and financing

Materiality standards should be objective and commonly understood in commercial practice

Can be prepared on an overall company basis or products group basis.

- All product group files need to be submitted even if subsidiary only operates in one product group

Intangible property

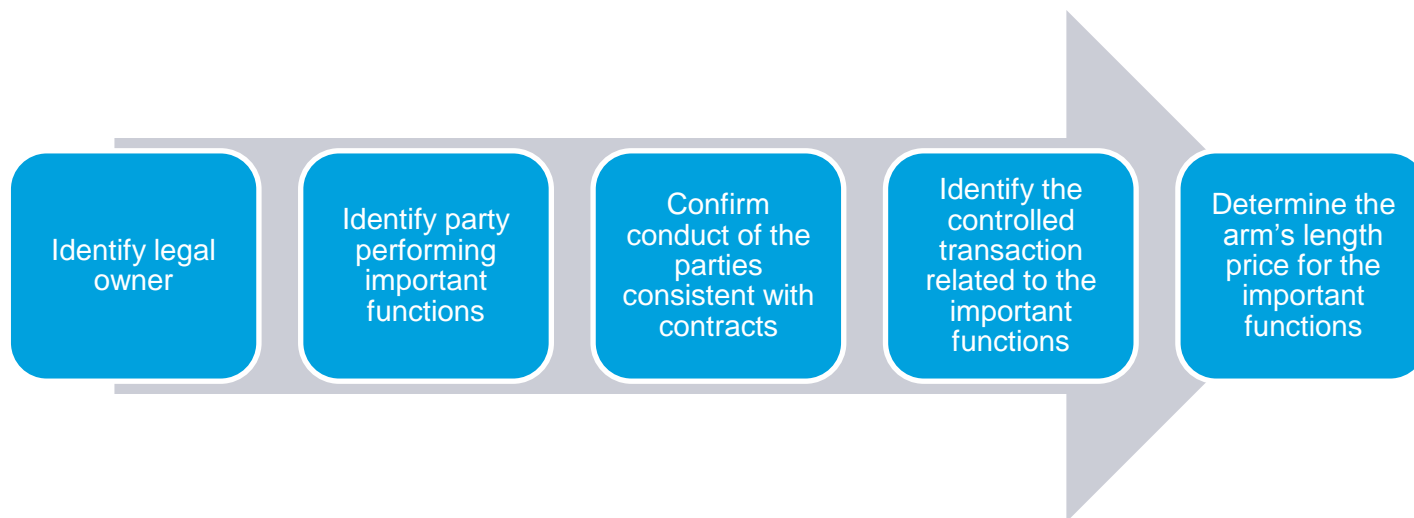
Definition of intangibles

- Broad definition of assets that are not physical or financial if transfer would be compensated in arm's length transactions
- Goodwill and going concern included
- Location specific advantages and group synergies are not intangibles
- Definition is specific to transfer pricing and does not control definition under other provisions
- Accounting definitions not controlling
- Broad definition is similar to the positions taken by many countries when valuing transfers

Rights to returns for the development and exploitation of intangibles

- Controversial and could cause a significant change in transfer pricing outcomes
- Emphasis on functions performed, assets used, and risk incurred
- Transfer pricing outcomes in line with value creation

Steps in determining intangible returns



Important functions



Risk, Recharacterization, and Special Measures (BEPS Actions 8, 9 & 10)

Risk, Recharacterization, and Special Measures

Risk

- Decreases the importance of contractual allocations of risk
- Increases emphasis on substance of a transaction and how the parties functions generate value for the MNE
- Focuses on managing and controlling risk
- Questions whether risk can be shifted within a MNE

Recharacterization

- New requirement that the transaction must possess the fundamental attributes of arrangements between unrelated parties
- Example of transaction that leaves the group worse off on a pre-tax basis and concludes that the transaction lacks fundamental attributes of an arrangement between unrelated parties

Special Measures

- Discussion of five options when the the arm's-length principle is considered not to cause the desired allocation of profit

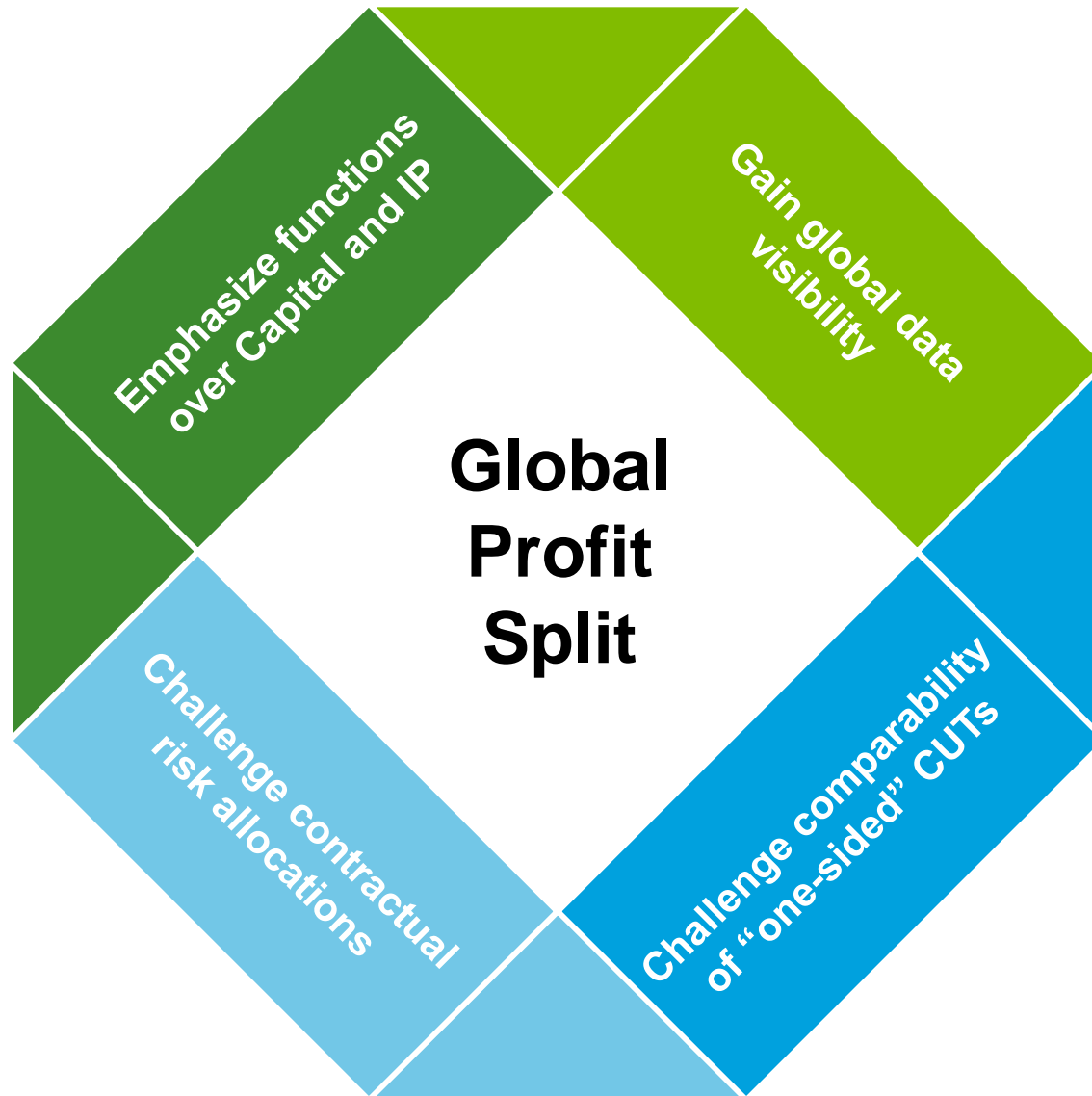
Risk

Guidance on Identifying Commercial and Financial Relations

- Emphasis is on conduct, not contracts
- Enhanced functional analysis that:
 - determines how value is generated by the group as a whole by focusing on each entities capabilities and contributions to value creation
 - identifies economically significant capabilities, activities and responsibilities undertaken, assets used, and risks assumed and managed
 - identifies the nature of group interdependencies and how group commercial activities are coordinated and what synergies this creates
- The enhanced functional analysis determines who bears risk and the characterization of the transaction
- Emphasizes options realistically available to the parties in deciding whether the transaction entered into (as opposed to the realistic alternative) best meets the commercial objectives of the parties

Global Value Chains and Profit Splits (BEPS Action 10)

Profit Splits: Where are We Headed?



Contacts

Contacts

Deloitte



Alan Shapiro

**Senior Advisor
Transfer Pricing**

alan.shapiro@tohmatu.co.jp



Arin Mitra

**Executive Officer
Transfer Pricing**

arindam.mitra@tohmatu.co.jp



Samuel Gordon

**Partner
Transfer pricing**

samuel.gordon@tohmatu.co.jp



Michael M. Laurer

**Manager
The CFO Program | Japan**

mlaurer@tohmatu.co.jp



Deloitte Touche Tohmatsu (Japan Group) is the name of the group consisting of member firms in Japan of Deloitte Touche Tohmatsu Limited (DTTL), a UK private company limited by guarantee, and Deloitte Touche Tohmatsu (Japan Group) provides services in Japan through Deloitte Touche Tohmatsu LLC, Deloitte Tohmatsu Consulting Co., Ltd., Deloitte Tohmatsu Financial Advisory Co., Ltd., Deloitte Tohmatsu Tax Co., and all of their respective subsidiaries and affiliates. Deloitte Touche Tohmatsu (Japan Group) is among the nation's leading professional services firms and each entity in Deloitte Touche Tohmatsu (Japan Group) provides services in accordance with applicable laws and regulations. The services include audit, tax, consulting, and financial advisory services which are delivered to many clients including multi-national enterprises and major Japanese business entities through nearly 7,900 professionals in almost 40 cities of Japan. For more information, please visit Deloitte Touche Tohmatsu (Japan Group)'s website at www.deloitte.com/jp/en.

Deloitte provides audit, consulting, financial advisory, risk management, tax and related services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries and territories, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte's more than 210,000 professionals are committed to becoming the standard of excellence.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

Member of
Deloitte Touche Tohmatsu Limited