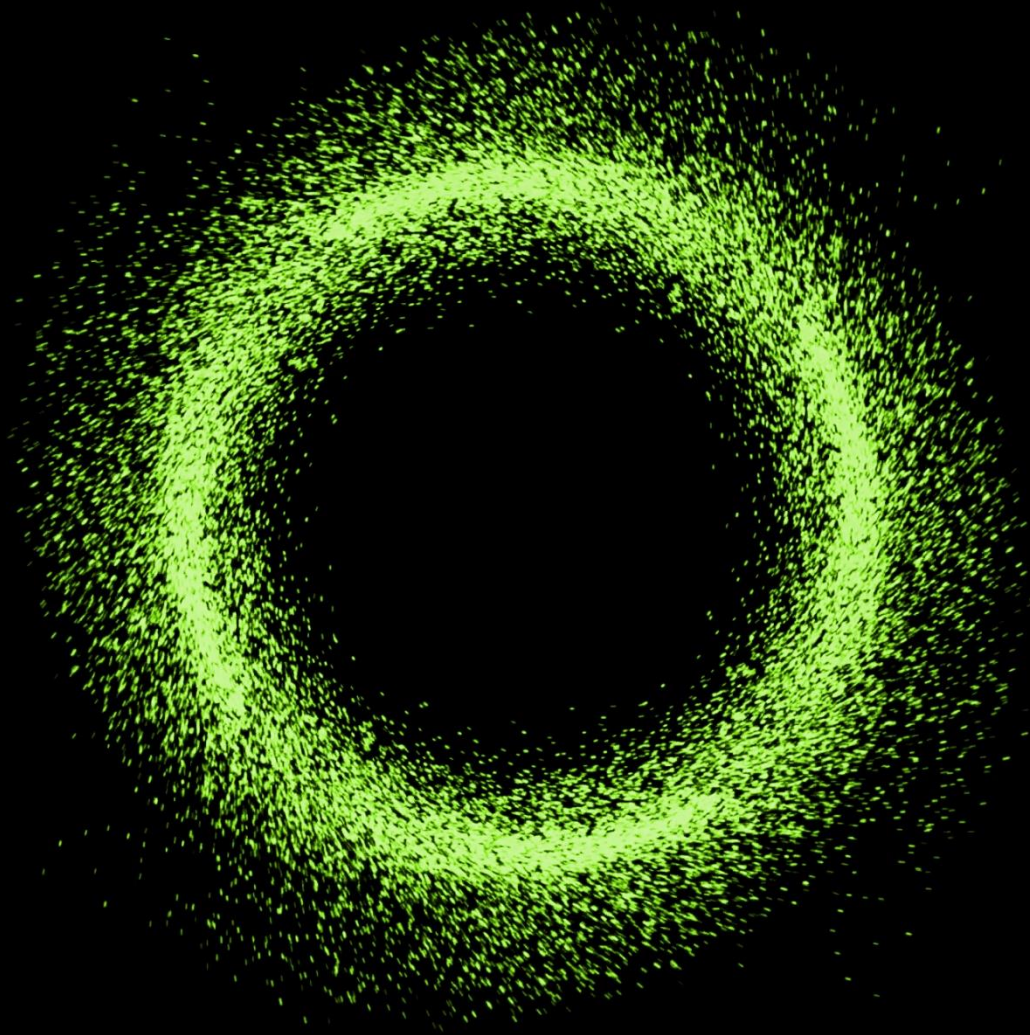


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Banking Risk & Regulatory Academy  
2021 December

6-10 December 2021

5 WEBINARS

18 SUBJECT MATTER EXPERTS

9 COUNTRIES  
from Central and Western Europe

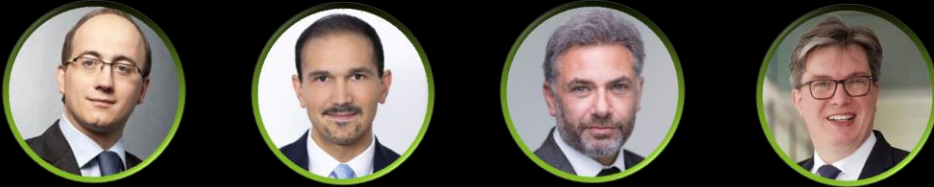
DAY1 | 6-DEC, 10:00-11:00 CET

What's new on the regulatory and supervisory agenda?



DAY2 | 7-DEC, 10:00-11:00 CET

Living with CRR3 – How the new rules will affect banking?



DAY3 | 8-DEC, 10:00-11:00 CET

How to prepare for the 2022 ECB Climate Risk Stress Test?



DAY4 | 9-DEC, 10:00-11:00 CET

Digital transformation in credit process



DAYS5 | 10-DEC, 10:00-11:00 CET

Transfer pricing and the digital banking business model



Austria



Belgium



France



Germany



Hungary



Ireland



Luxembourg



Poland



Romania

# DAY 5

## Transfer pricing and the digital banking business model

# Agenda

Key regulatory and transfer pricing trends

1

Digital banking - tax challenges

2




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The image features a large, solid black circle in the center. The background is a dark field filled with a dense, swirling pattern of small, bright green particles or light trails, creating a sense of motion and depth. The text is centered within the black circle.

Key regulatory and transfer  
pricing trends

# Post-Brexit EU banking models

## Impact on transfer pricing

01

Consolidation of post-Brexit banking models in EU with centralization of activities in new post-Brexit hubs

02

Alignment of regulatory and tax view on necessary substance, delegation, control over risk, ...

03

Location of so-called „KERT“ functions impacting attribution of assets, risks, capital and profits for tax purposes

04

Trigger of potential exit taxes and scrutiny by tax authorities



# Banking regulations

## Impact on transfer pricing

### REGULATIONS



Intermediate  
EU parent  
undertaking (IPU)



Increased liquidity  
and capital  
requirements



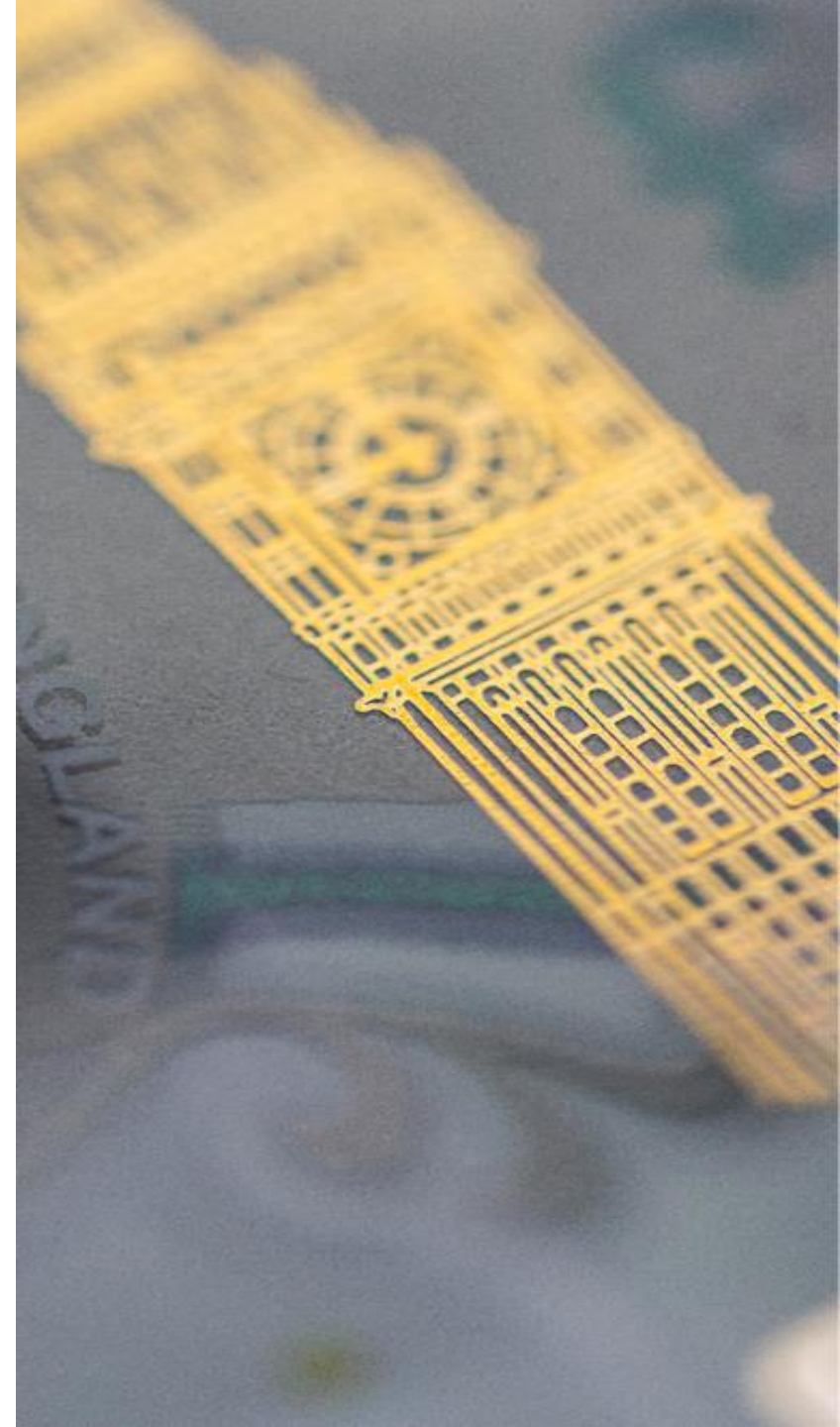
Endowment vs.  
dotation capital



Concentration /  
counterparty risk and  
guarantees



Funds Transfer  
Pricing / Guarantees



# Rethinking global employee mobility

## Impact on transfer pricing

- Tax impact of remote / mobile working
- What constitutes a taxable presence / permanent establishment?
- Impact on transfer pricing models
- Impact on substance and effective place of management





# IBOR transition

## Impact on transfer pricing



### Alternative Reference Rates

Alternative Reference Rates (“ARRs”) and IBORs are distinctly different. ARR do not have a term rate structure or yield curve. They also don’t contain a dynamic credit component and are thus lower than IBORs. As such, the risk profile and valuation of financial contracts will likely change once they’re benchmarked by ARR.

### Recalibration of Models

IBORs are a proxy for general interest rate risks and discount factor in valuation and financial modelling and thus affect a wide range of models such as FTP (Funds Transfer Pricing). FTP is used to determine how funding is adding to the profitability of a firm or product line.



### Interbank Offered Rates (IBOR)

IBORs as EURIBOR, LIBOR and TIBOR are interest rate benchmarks. They contain a risk-free rate and a credit risk premium that reflects the perceived credit risk of the contributing panel banks. In 2014, the Financial Stability Board (FSB) recommended a reform of IBORs and a replacement by ARR

### Challenges

The IBOR transition is characterized by a variety of issues such as regulatory uncertainty, operational upgrades, lagging liquidity, renegotiation of existing contracts and international coordination



### Tax Authorities

The proposals published so far address whether the change in reference rate triggers an exchange of debt instrument / non-debt contracts that results in a tax-related realization event.



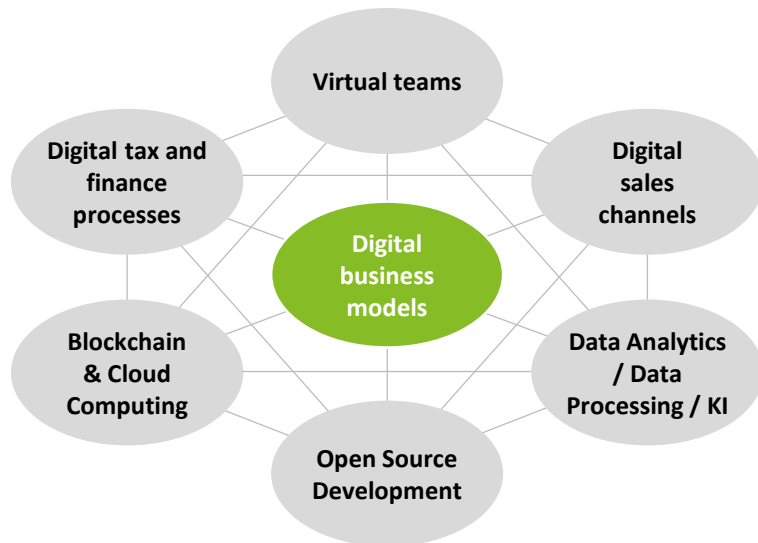
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Digital banking - tax  
challenges

# Interaction of Digital and Traditional Business Units

## DIGITAL TRANSFORMATION

As the digital economy becomes the norm, typical non-digital firms develop innovations and are creating new commercial offerings



### Automation and Data Collection

Using technology and automation to streamline workstreams through the implementing of for example a technology-enabled processes and reducing manual efforts to customize reports for various countries. Furthermore, big data and robotics can assist in managing the possible data overlap or even real-time reporting could become a reality. Utilizing blockchain and AI-technology can help track, trace and authenticate products or record contracts and using them as strategic decision makers based on meaningful data



### Supply Chain

Digitalization has significantly changed the end-to-end value chain and the creation of more robust supply chains came into sharp focus. Especially, against the background of the pandemic, supply chains need to become more resilient. The digitalization of supply chain has been pointed out as a solution to streamline the supplier selection process, the facilitation and management of supplier relationship and logistic and shipping processes. Thus, the TP policies have to be designed on go-forward value chain analysis and value creation

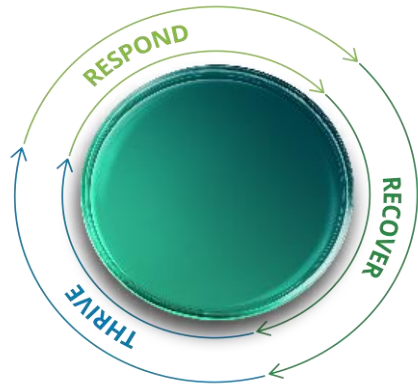


### Intangibles

When creating new business models, value creating can differ from traditional business and thus understanding the role of technology, brand intangibles as well data and networking effect (transferring value from the physical to the functions of data)

# Value Chain Alignment

## Regulatory, economic and technical developments



- Sharp fall in bond, equity and commodity markets combined with significant volatility
- Technical developments as well as new market players, such as FinTechs, require a change of business models and processes
- Massive pressure on firms operations and IT infrastructure due to disrupted work processes

## Transfer pricing implications

Arm's length principle Art. 9  
OECD MTC

[Where] conditions are made or imposed between the two [associated] enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

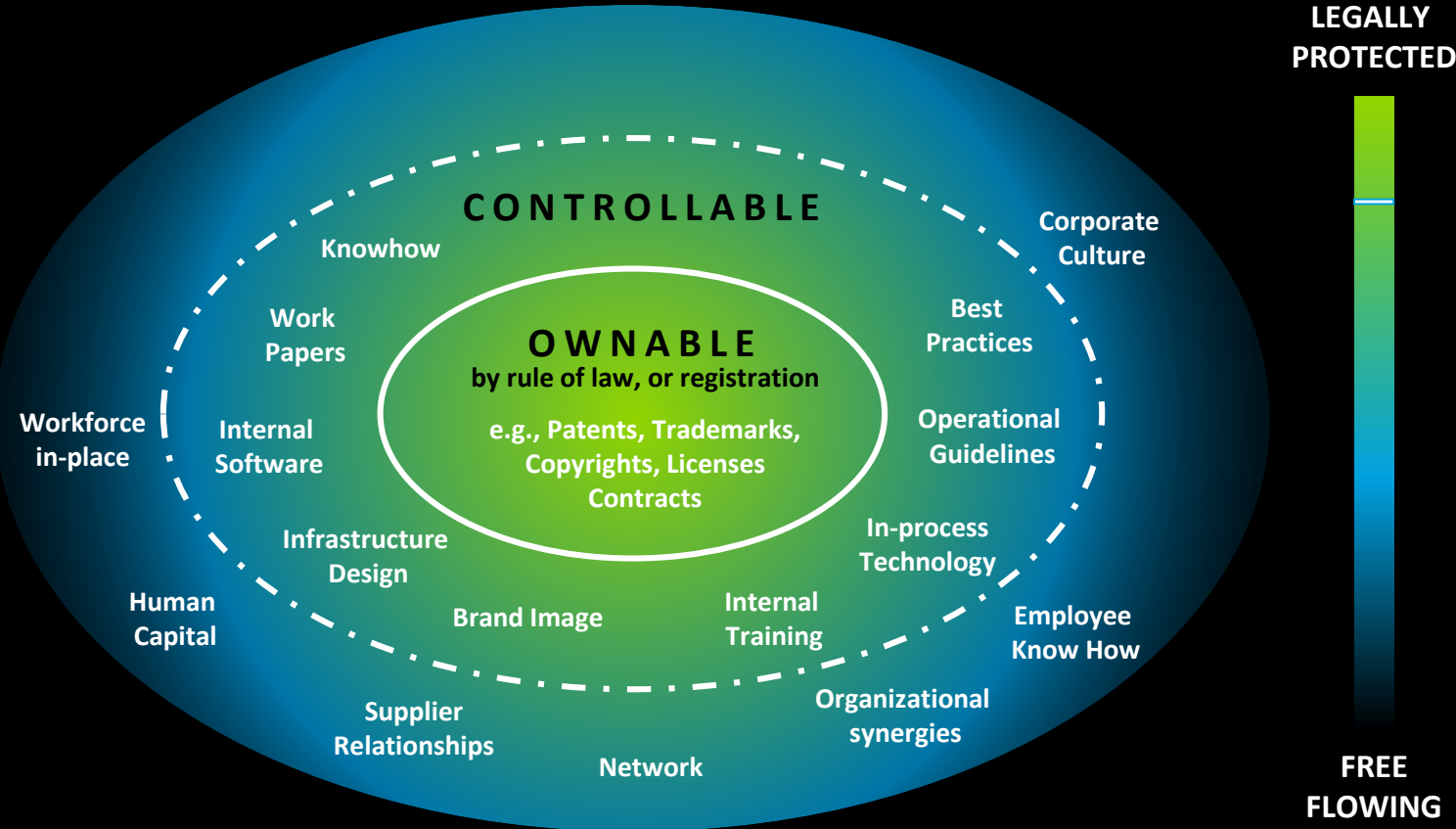
OECD transfer pricing guidelines  
on intangibles

DEMPE concept  
Guidance on hard to value intangibles

OECD transfer pricing guidelines  
on business restructuring

Accurate delineation of the transactions comprising the business restructuring: functions, assets and risks before and after the restructuring  
  
Transfer of something of value

# Intangibles - Overview

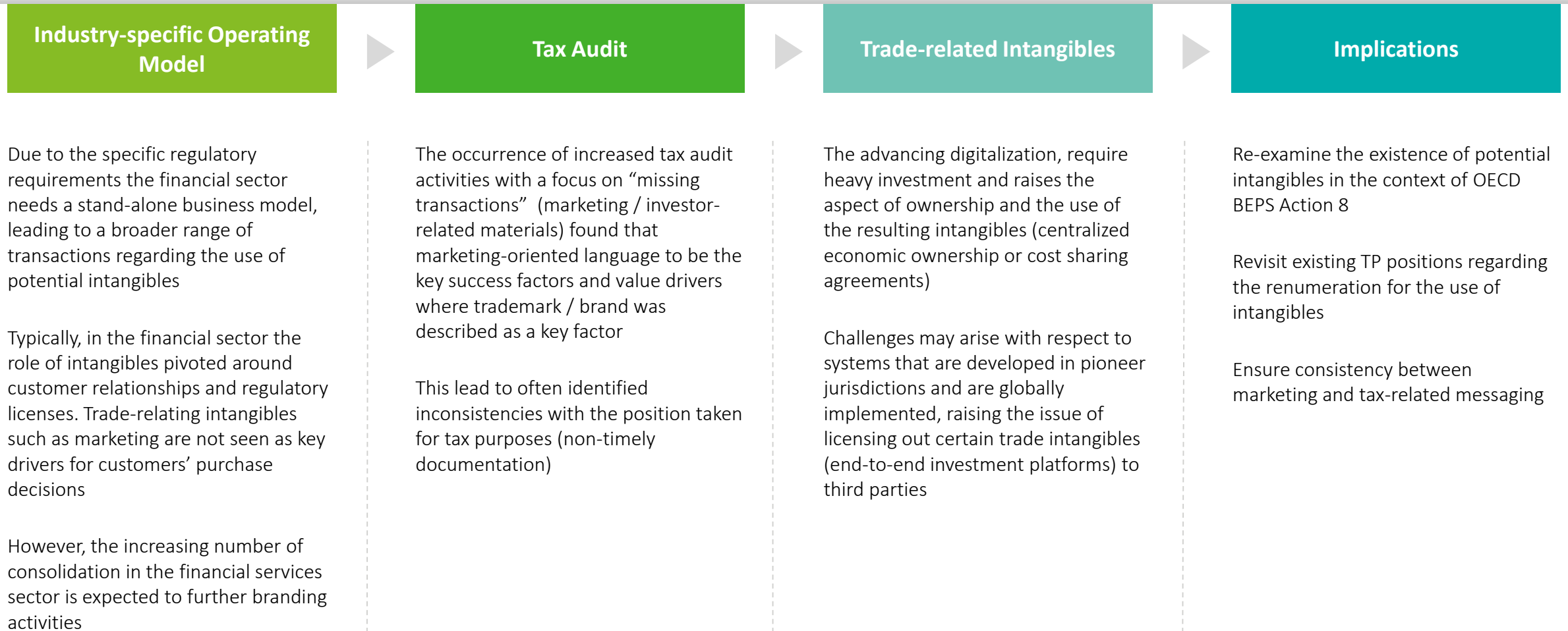


## OECD's DEMPE Concept

Under this guidance, members of the MNE group are to be compensated based on the value they create through functions performed, assets used and risks assumed in the development, enhancement, maintenance, protection and exploitation of intangibles

Focus on entities, which may not be the legal owner of an intangible but perform certain functions that are relevant for the creation of the intangibles and its value as well as the exploitation.

# Definition, Recognition and Treatment of Intangibles in the Banking Sector



# Digital Banking Business Models

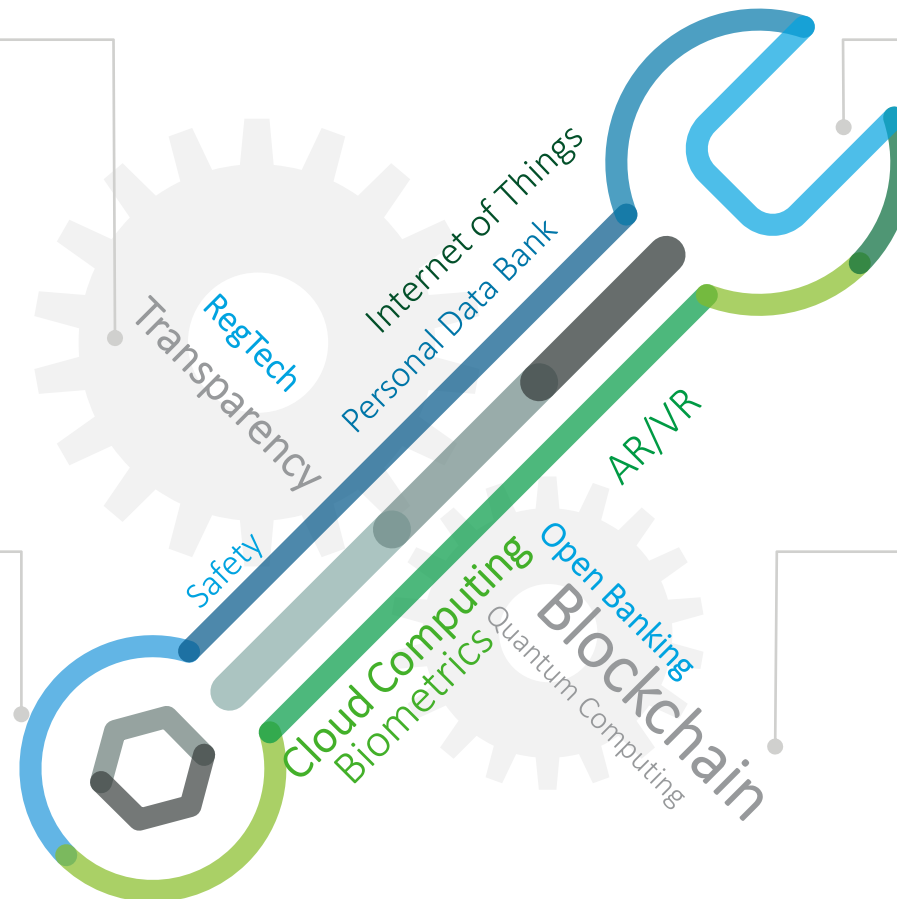
Digital business models are highly complex and are under significant scrutiny from tax authorities as operational changes usually lead tax considerations regarding profit sharing or value creation.

## DATA

- Increased data availability & data awareness
- Customer trust & data safety will be the key differentiator
- Data-driven customer services underpinned by AI and robotic automation
- **TP implications: Value of data, cross border use & exploitation**

## BUSINESS MODELS

- “Platformication”: Customers will be able to choose the personalized services to fit their individual needs
- Open banking, “over the top” banking and neo-banks will shape the competitive landscape
- **TI Implications: Evolution of existing business models require a review and possible amendment of TP approaches**



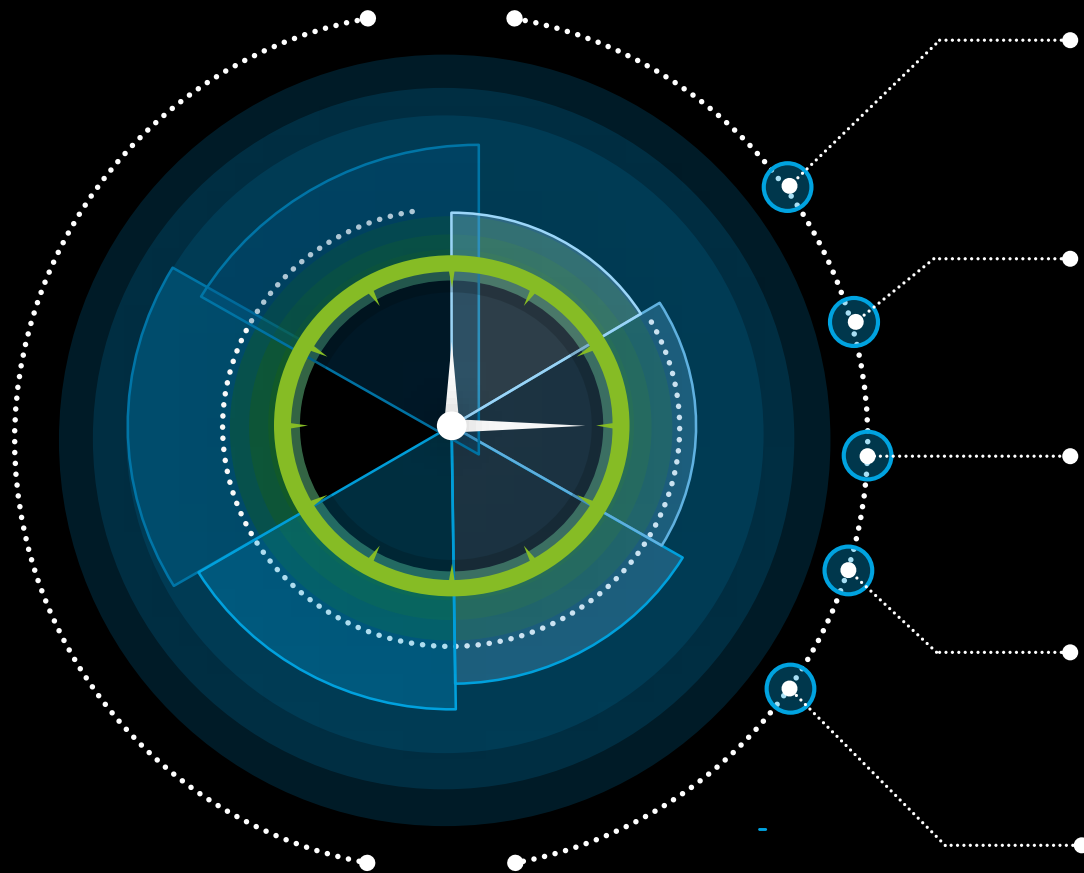
## TECHNOLOGY

- Hyper-connectiveness will become the norm
- Data, AI and machine learning will enable business to switch from financial service tool to “enabler of needs”
- Mass personalization and algorithms will be build around optimizing financial outcomes
- **TP implications: Cross border development, maintaine, exploitation, Legal and/or economic ownership**

## REGULATIONS

- Regulations will likely move towards monitoring activities of institutions & assessing whether or not firms / financial systems are safe
- “RegTech” tools, powered by AI will enable more efficient and effective supervision
- **TP Implication: Focus on intangibles, tax transparency and arm’s length allocation of profits**

# Digital banking an transfer pricing



## Joint development of software/applications

Location, involved parties, contributions, exploitation, ownership

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## Change of business model

Cross border transfer, valuation, profit potential

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## Digital sales channels

Impact on existing sales locations/teams

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## Substance requirements

Minimum requirements, taxable presence

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## Role of people

Transfer pricing focus on personnel functions and conduct of activities.

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