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BEPS Actions implementation by country

Action 2 – Hybrids

On 5 October 2015, the G20/OECD published 13 final reports and an explanatory statement outlining consensus actions under the base erosion and profit shifting (BEPS) project. The output under each of the BEPS actions is intended to form a complete and cohesive approach covering domestic law recommendations and international principles under the OECD model tax treaty and transfer pricing guidelines.

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It is now for governments to digest and introduce the necessary legislation. The table below sets out a summary of the expected implementation and timing of the proposals under Action 2 by territory.

Country	Notes on implementation	Expected timing	Last reviewed by Deloitte
Argentina	Not yet known.	Not yet known	August 2017
Australia	Following a consultation initiated by the Board of Taxation on the implementation of anti-hybrid rules, the government released a report on 3 May 2016 as part of the 2016-17 federal budget, and has confirmed that Australia will introduce anti-hybrid rules modelled on the OECD approach. However, legislation has not yet been drafted.	Payments made on or after 1 January 2018 or six months after the relevant law is enacted, whichever is later	July 2017
Austria	Austria has specific provisions to counter hybrid mismatch arrangements. These measures likely will be amended once the EU	31 December 2019	March 2017

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	anti-tax avoidance directive (ATAD) is transposed into domestic law.		
Belgium	The Finance Minister has stated that anti-hybrid rules should be developed within the context of the EU. Provisions countering (certain) hybrid mismatches have been agreed upon by the EU member states in the context of the amended parent-subsidiary directive, which Belgium has implemented, as well as in the ATAD and ATAD 2. As an EU member state, Belgium is subject to the two EU anti-tax avoidance directives (ATAD and ATAD 2) and, therefore, is required to implement the directives into its domestic law. The ATAD and ATAD 2 include anti-hybrid rules that cover hybrid mismatches between EU member states, and between EU member states and non-member states, respectively. Member states are required to adopt the domestic legislation necessary to comply with the directives by 31 December 2019 (with an extension until 31 December 2021 for the reverse hybrid provisions). In addition, Belgium is proposing to its tax treaty partners that the Action 2 recommendation that treaty benefits should not be available for items of income where neither of the contracting states allocates the income to one of its residents, should be included in the treaties.	1 January 2017 (transposition of amended parent-subsidiary directive) 1 January 2020 (1 January 2022 for reverse hybrid provisions)	May 2017
Brazil	The Brazilian tax authorities tried to introduce through a Provisional Measure (PM) a cap limit on the deductibility of interest on net equity (maximum interest rate limited to 5% per year). However, the Congress repealed the PM. No further changes on hybrids expected in the near future.	N/A	July 2017

Canada	There are no specific legislative changes to date as a result of the BEPS project.	N/A – no specific actions	July 2017
China	The tax treatment of hybrids is being reviewed by the SAT. China's provisional list of reservations and notifications at the time it signed the multilateral instrument (MLI) on 7 June 2017 indicates that China has reserved the right not to apply article 3 of the MLI, which deals with hybrid mismatches, to all China's tax treaties.	N/A	July 2017
Czech Republic	The Czech Republic has implemented the anti-hybrid rules in the amended EU parent-subsidiary directive (PSD) into its domestic law. This law denies an exemption for dividend income received where the dividends are tax deductible for the payer company. As an EU member state, the Czech Republic is subject to the two EU anti-tax avoidance directives (ATAD and ATAD 2) and, therefore, is required to implement the directives into its domestic law. The ATAD and ATAD 2 include anti-hybrid rules that cover hybrid mismatches between EU member states, and between EU member states and non-member states. Member states are required to adopt the domestic legislation necessary to comply with the directives by 31 December 2019 (with an extension until 31 December 2021 for the reverse hybrid provisions). On 9 March 2017, the parliament approved the draft EU Council Directive on hybrid mismatches.	Implementation of amended PSD as from 1 May 2016 1 January 2020 (1 January 2022 for reverse hybrid provisions)	April 2017
Denmark	As an EU member state, Denmark is subject to the two EU anti-tax avoidance directives (ATAD and ATAD 2) and, therefore, is required to implement the directives into its domestic law. The ATAD and ATAD 2 include anti-hybrid rules that cover hybrid mismatches between EU member states, and between EU member states and non-member states, respectively. Member states are required to adopt the domestic legislation necessary to comply	N/A	April 2017

	with the directives by 31 December 2019 (with an extension until 31 December 2021 for the reverse hybrid provisions). No changes are expected because existing domestic tax law already addresses the proposals.		
Estonia	The amended EU parent-subsidiary directive applies and is implemented into domestic law. Estonia will deny a tax exemption for dividends if the dividends are deductible at the level of the payer. As an EU member state, Estonia is subject to the two EU anti-tax avoidance directives (ATAD and ATAD 2) and, therefore, is required to implement the directives into its domestic law. The ATAD and ATAD 2 include anti-hybrid rules that cover hybrid mismatches between EU member states, and between EU member states and non-member states, respectively. Member states are required to adopt the domestic legislation necessary to comply with the directives by 31 December 2019 (with an extension until 31 December 2021 for the reverse hybrid provisions). It is not yet known which changes will be made to the existing provisions to ensure compliance with the ATAD and ATAD 2.	1 November 2016 1 January 2020 (1 January 2022 for reverse hybrid provisions)	July 2017
Finland	The amended EU parent-subsidiary directive has been implemented into domestic law. As an EU member state, Finland is subject to the two EU anti-tax avoidance directives (ATAD and ATAD 2) and, therefore, is required to implement the directives into its domestic law. The ATAD and ATAD 2 include anti-hybrid rules that cover hybrid mismatches between EU member states, and between EU member states and non-member states, respectively. Member states are required to adopt the domestic legislation necessary to comply with the directives by 31 December 2019 (with an extension until 31 December 2021 for the reverse hybrid provisions). The timing of any amendments required to comply with the ATAD	31 December 2015 1 January 2020 (1 January 2022 for reverse hybrid provisions)	May 2017

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	and the ATAD 2 is not yet known.		
France	Action 2 is implemented through domestic initiatives (an anti-hybrid rule for interest payments) and implementation of part of the amended EU parent-subsidiary directive. New anti-abuse measures are expected to be introduced (e.g. implementation of the de minimis clause in the amended EU parent-subsidiary directive). As an EU member state, France is subject to the two EU anti-tax avoidance directives (ATAD and ATAD 2) and, therefore, is required to implement the directives into its domestic law. The ATAD and ATAD 2 include anti-hybrid rules that cover hybrid mismatches between EU member states, and between EU member states and non-member states, respectively. Member states are required to adopt the domestic legislation necessary to comply with the directives by 31 December 2019 (with an extension for the reverse hybrid provisions). It is not yet known what changes will be made to the existing rules to ensure compliance with ATAD and ATAD 2.	1 January 2015 Not yet known 1 January 2020 (1 January 2022 for reverse hybrid provisions)	May 2017
Germany	Some anti-arbitrage rules for hybrids already exist (in relation to hybrid dividends and the double deduction of negative income in tax groups). Further, a new "anti-double dip" rule for certain partnership structures was enacted in December 2016. As an EU member state, Germany must adapt its national law to the EU Anti-Tax Avoidance Directive (ATAD) I and II, which contain minimum standard provisions against hybrid mismatches involving taxpayers in the EU and in third countries. Member states are required to adopt the domestic legislation necessary to comply with the directives by 31 December 2019 (with an extension until 31 December 2021 for the reverse hybrid provisions).	1 January 2020 (1 January 2022 for reverse hybrid provisions)	July 2017

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	A draft law has not yet been presented.		
Greece	Anti-avoidance measures included in the EU Parent Subsidiary Directive have been incorporated into domestic law. As an EU member state, Greece is subject to the two EU anti-tax avoidance directives (ATAD and ATAD 2) and, therefore, is required to implement the directives into its domestic law. The ATAD and ATAD 2 include anti-hybrid rules that cover hybrid mismatches between EU member states, and between EU member states and non-member states, respectively. Member states are required to adopt the domestic legislation necessary to comply with the directives by 31 December 2019 (with an extension until 31 December 2021 for the reverse hybrid provisions).	Applicable as from 1 January 2016 1 January 2020 (1 January 2022 for reverse hybrid provisions)	May 2017
Hong Kong	Although Hong Kong has a DIPN on the Taxation of Financial Instruments that addresses the tax treatment of hybrids, the DIPN is not aimed at avoiding double non-taxation with a treaty country. Legislation was introduced to clarify that the tax treatment of regulatory capital securities comprising certain hybrid instruments under Basel III would follow that of debt. The IRD plans to introduce legislation to address hybrid mismatch arrangements.	The legislation was passed into law on 26 May 2016 Not yet known	July 2017
Hungary	Existing tax legislation already contains some anti-hybrid provisions. In certain cases the Hungarian GAAR rules do not allow the exemption of foreign source income. Furthermore, Hungary has amended its domestic legislation addressing (downward) transfer pricing adjustments to include a linking rule which will be effective from January 2018. It is not yet known whether further amendments will be proposed. As an EU member state, Hungary is subject to the two EU anti-tax avoidance directives (ATAD and ATAD 2) and, therefore, is	January 2018 1 January 2020 (1 January 2022 for reverse hybrid provisions)	April 2017

	required to implement the directives into its domestic law. The ATAD and ATAD 2 include anti-hybrid rules that cover hybrid mismatches between EU member states, and between EU member states and non-member states. Member states are required to adopt the domestic legislation necessary to comply with the directives by 31 December 2019 (with an extension until 31 December 2021 for the reverse hybrid provisions).		
Iceland	Not yet known.	Not yet known	June 2017
India	Not yet known.	Not yet known	May 2017
Indonesia	Not yet known.	Not yet known	July 2017
Ireland	Ireland currently does not have anti-hybrid rules. However, anti-hybrid rules are included in the EU Anti-Tax Avoidance Directive (ATAD). As an EU member state, Ireland is required to adopt laws and regulations necessary to comply with the ATAD anti-hybrid rules by 31 December 2019 at the latest.	1 January 2020	March 2017
Israel	Not yet known.	Not yet known	April 2017
Italy	As an EU member state, Italy is subject to the two EU anti-tax avoidance directives (ATAD and ATAD 2) and, therefore, is required to implement the directives into its domestic law. The ATAD and ATAD 2 include anti-hybrid rules that cover hybrid mismatches between EU member states, and between EU member states and non-member states, respectively. Member states are required to adopt the domestic legislation necessary to comply	1 January 2016	May 2017

	with the directives by 31 December 2019 (with an extension until 31 December 2021 for the reverse hybrid provisions). Italy already has domestic legislation applicable to hybrid mismatch agreements. It is not yet known if these rules will need to be amended as a result of ATAD.		
Japan	This issue was addressed in the 2015 tax reform, with the result that deductible dividends will not be considered exempt for Japanese tax purposes.	1 April 2016	May 2017
Luxembourg	As an EU member state, Luxembourg is subject to the two EU anti-tax avoidance directives (ATAD and ATAD 2) and, therefore, is required to implement the directives into its domestic law. The ATAD and ATAD 2 include anti-hybrid rules that cover hybrid mismatches between EU member states, and between EU member states and non-member states, respectively. Member states are required to adopt the domestic legislation necessary to comply with the directives by 31 December 2019 (with an extension until 31 December 2021 for the reverse hybrid provisions). The government implemented the amended EU parent-subsidiary directive into domestic legislation on 24 December 2015. Developments are under way in connection with the multilateral instrument (MLI) to implement tax treaty-related measures to prevent BEPS, although it is not yet known what position will be taken by the Luxembourg tax authorities. The MLI is expected to be signed in June 2017	1 January 2020 (1 January 2022 for reverse hybrid provisions) 1 January 2016 Subject to implementation of the MLI	March 2017
Mexico	The 2014 tax reform introduced a rule that disallows a deduction for payments made in the form of interest, royalties or technical assistance fees to a nonresident entity that controls or is controlled by a Mexican taxpayer, if: • The nonresident recipient is considered transparent and its owners are not subject to tax in that jurisdiction; and The country of residence of the recipient considers the payment to be disregarded or the recipient does not include the payment in its	1 January 2014	March 2017

	taxable income.		
Netherlands	No unilateral action is expected in relation to Action 2. The government has implemented the amended EU parent-subsidiary directive into domestic legislation. As an EU member state, the Netherlands is subject to the two EU anti-tax avoidance directives (ATAD and ATAD 2) and, therefore, is required to implement the directives into its domestic law. The ATAD and ATAD 2 include anti-hybrid rules that cover hybrid mismatches between EU member states, and between EU member states and non-member states, respectively. Member states are required to adopt the domestic legislation necessary to comply with the directives by 31 December 2019 (with an extension until 31 December 2021 for the reverse hybrid provisions). It is not yet known how the existing provisions will be amended to comply with ATAD and ATAD 2.	1 January 2016 (EU parent-subsidiary directive) 1 January 2020 (1 January 2022 for reverse hybrid provisions)	May 2017
New Zealand	A discussion documentation was released for public consultation in September 2016, which proposed reforms that broadly follow the G20/OECD recommendations. Due to the complexity of these proposals, further consultation is being undertaken in 2017 before legislation is introduced into parliament.	Not yet known	June 2017
Norway	The 2016 budget introduced a measure that will deny the application of the participation exemption for dividends received by a Norwegian company to the extent the company paying the dividends is entitled to a deduction for the payment made. Further changes have been announced in a tax white paper, and will be submitted for public consultation.	1 January 2016 (participation exemption); otherwise, not yet known	August 2017

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Poland	The government has implemented the amended EU parent-subsidiary directive into domestic legislation with respect to hybrid instruments. As an EU member state, Poland is subject to the two EU anti-tax avoidance directives (ATAD and ATAD 2) and, therefore, is required to implement the directives into its domestic law. The ATAD and ATAD 2 include anti-hybrid rules that cover hybrid mismatches between EU member states, and between EU member states and non-member states, respectively. Member states are required to adopt and publish the domestic legislation necessary to comply with the directives by 31 December 2019 (with an extension until 31 December 2021 for the reverse hybrid provisions).	Already implemented 1 January 2020 (1 January 2022 for reverse hybrid provisions)	May 2017
Portugal	As an EU member state, Portugal is subject to the two EU anti-tax avoidance directives (ATAD and ATAD 2) and, therefore, is required to implement the directives into its domestic law. The ATAD and ATAD 2 include anti-hybrid rules that cover hybrid mismatches between EU member states, and between EU member states and non-member states. Anti-hybrid rules were implemented before the Action 2 recommendations and ATAD directives were released, and no further changes are expected.	Already implemented	July 2017
Russia	Not yet known.	Not yet known	July 2017
Saudi Arabia	Not yet known.	Not yet known	May 2017

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Singapore	The Inland Revenue Authority of Singapore (IRAS) issued an e-tax guide on 19 May 2014 on the income tax treatment of hybrid instruments, specifying factors generally considered in determining whether such an instrument is debt or equity for Singapore income tax purposes.	19 May 2014	August 2017
Slovakia	Slovakia has implemented the amended EU parent-subsidiary directive into domestic law. As an EU member state, Slovakia must adapt its national law to the EU anti-tax avoidance directive (ATAD) I and II, which contain minimum standard provisions against hybrid mismatches involving taxpayers in the EU and in third countries. Member states are required to adopt the domestic legislation necessary to comply with the directives by 31 December 2019 (with an extension until 31 December 2021 for the reverse hybrid provisions).	1 January 2016 1 January 2020 (1 January 2022 for reverse hybrid provisions)	August 2017
Slovenia	The government has implemented the amended EU parent-subsidiary directive into domestic legislation.	Already implemented	December 2016
South Africa	South Africa already has legislation addressing hybrids, although an expert group (Davis Tax Committee (DC)) examining the tax framework has recommended that the hybrid instruments legislation be simplified to focus on legal principles rather than specific transactions or instruments. The rules also should be in line with international leading practices.	Not yet known	June 2017
South Korea	The Ministry of Strategy and Finance is conducting an internal study, but no action has been taken.	Not yet known	April 2017

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Spain	The government has implemented the amended EU parent-subsidiary directive into domestic legislation. As an EU member state, Spain is subject to the two EU anti-tax avoidance directives (ATAD and ATAD 2) and, therefore, is required to implement the directives into its domestic law. The ATAD and ATAD 2 include anti-hybrid rules that cover hybrid mismatches between EU member states, and between EU member states and non-member states, respectively. Member states are required to adopt the domestic legislation necessary to comply with the directives by 31 December 2019 (with an extension until 31 December 2021 for the reverse hybrid provisions).	1 January 2015 1 January 2020 (1 January 2022 for reverse hybrid provisions)	May 2017
Sweden	The government has implemented the amended EU parent-subsidiary directive into domestic legislation. As an EU member state, Sweden is subject to the two EU anti-tax avoidance directives (ATAD and ATAD 2) and, therefore, is required to implement the directives into its domestic law. The ATAD and ATAD 2 include anti-hybrid rules that cover hybrid mismatches between EU member states, and between EU member states and non-member states, respectively. Member states are required to adopt the domestic legislation necessary to comply with the directives by 31 December 2019 (with an extension until 31 December 2021 for the reverse hybrid provisions). Sweden has chosen not to apply the articles in the multilateral instrument (MLI) related to Action 2, *i.e.* articles 3-5.	1 January 2016 1 January 2020 (1 January 2022 for reverse hybrid provisions)	July 2017
Switzerland	The current view is that existing Swiss tax law is sufficient to prevent hybrid structures.	N/A	February 2017
Turkey	Not yet known.	Not yet known	June 2017

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United Kingdom	Legislation enacted in September 2016 addresses imported mismatches and mismatches involving permanent establishments. Updated draft guidance was published by the UK tax authorities in March 2017. EU member states will be subject to the two EU anti-tax avoidance directives (ATAD and ATAD 2) and required to implement the directives into domestic law. The ATAD and ATAD 2 include anti-hybrid rules that cover hybrid mismatches between EU member states, and between EU member states and non-member states, respectively. Member states are required to adopt the domestic legislation necessary to comply with the directives by 31 December 2019 (with an extension until 31 December 2021 for the reverse hybrid provisions). The UK tax authorities are of the view that existing laws are compatible with both the ATAD and ATAD 2; therefore, no further changes are expected.	1 January 2017	May 2017
United States	The US has dual consolidated loss rules that generally embody Recommendations 6 (deductible hybrid payments rule) and 7 (dual resident payer rule) in Part I of Action 2. US law and tax treaties generally embody the treaty recommendations in Part II of Action 2. No legislative proposals on other Action 2 recommendations are currently active.	N/A	March 2017