
CORPORATE TAX 2023

- Tax Grouping**
- Transfer Pricing**

“Death, taxes and childbirth!

There's never any convenient time for any of them.”

TAX GROUPING - CONDITIONS

01

Residency Status,
Share Capital
& Voting Rights

Parent company must hold 95% of share capital and Voting rights of its subsidiary

02

Tax Group
members

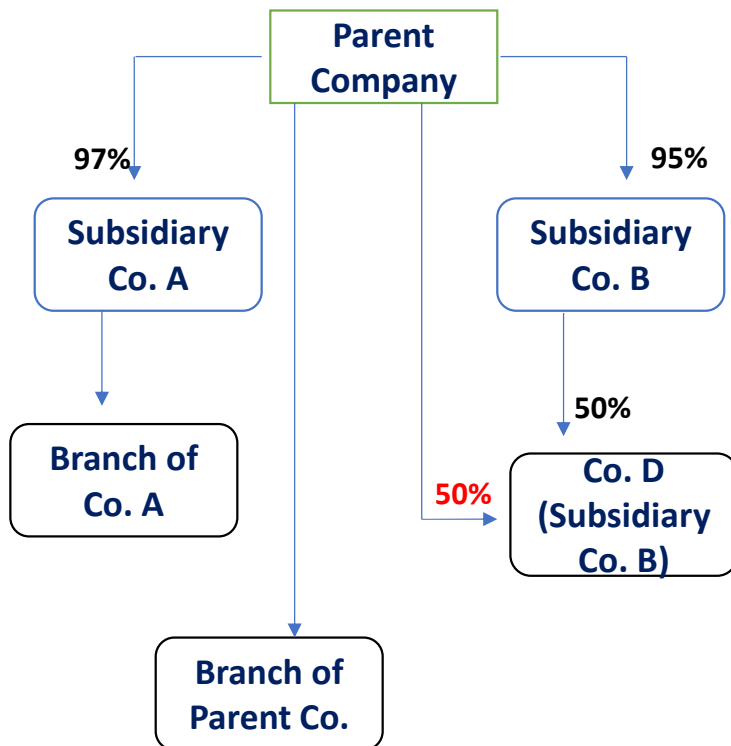
Neither Parent nor
Subsidiary can be
Exempted person or
Freezone Person

03

F.Y and Process

All entities must have same financial year and Notice must be signed by Parent and Subsidiary to be submitted with FTA.

TAX GROUPING - MEMBERS



- **UAE Resident** group of companies can form Tax Group
- Parent Co. must hold at least 95% of share capital and voting right
- Indirectly owned by Parent Co. and another Subsidiary is allowed
- Branch of Parent co. or its subsidiary is allowed
- Administration and CT payment is the responsibility of Parent Company
- Parent co. and subsidiary will be jointly and severally liable for CT

TAX GROUPING – OTHER POINTS

- Intra-group transactions (Revenue-Expenses) between Parent co. and Subsidiary group member must be Eliminated
- Tax effective for the group of profit making and loss-making entities only
- Group loss relief: UAE group companies, at least 75% commonly owned
 - Loss of FZP and Exempt company not allowed
 - Maximum 75% of taxable income of the receiving company
- Inter-group transfer relief: Transfer of Assets and Liabilities between UAE group companies
 - Are at least 75% commonly owned
 - No gain or loss booked for tax calculation
 - Retain for three year within same group

Transfer Pricing

- **Transfer Pricing Impact**
- **Related Party**
- **Connected Person**
- **TP Method**
- **Methodology**
- **Compliances**
- **Issues & Challenges**

TRANSFER PRICING IMPACT – FOREIGN AND DOMESTIC

UAE businesses undertaking intra-group transactions and/or with connected person, need to comply with Transfer Pricing rules and documentation requirements set with reference to the OECD Transfer Pricing guidelines

The Transfer Pricing rules will certainly impact the businesses with **foreign and domestic related party transactions covering** but not limited to

- Sale & Purchase of Material
- Sale & Purchase of Fixed Assets and Intangibles
- Reimbursement of Expenses
- IT enables Services, Technical and Management Services
- Royalty
- Loan received and paid

Taxpayer would be required to submit the disclosure and maintain a master and local file as prescribed under OECD BEPS Action 13.

TRANSFER PRICING IMPACT – FOREIGN

A. Value of Intra-group Reported transaction (Expense) is less than Arm's Length Price (ALP)



- Sale of good from India to UAE at USD 4 million for further sell to European client at 5.5 million
- ALP of import by UAE entity from India group co. is USD 5 million
- since the reported purchase cost by UAE entity from RP is lower than the ALP, So the transaction is at ALP

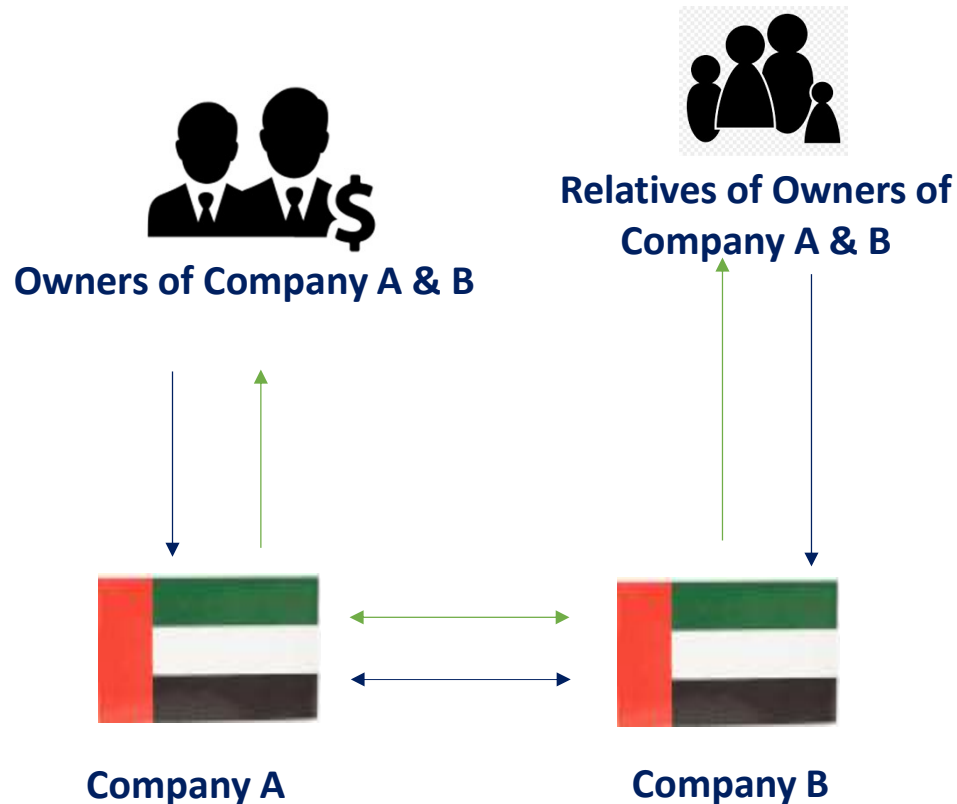
In case of Intra-group revenue transactions, above situation will be Vice-versa.

B. Value of Intra-group Reported transaction (Expense) is more than Arm's Length Price (ALP)



- Sale of Technical/Management Services from Bahamas/Cayman Island (No Tax Jurisdictions) to UAE RP at USD 5 million
- ALP of expenses transaction is USD 3 million (which is less than reported cost, so this is not at ALP)
- Since its is transfer of excess expenses leads to transfer of profit from tax jurisdiction to No tax jurisdiction

TRANSFER PRICING IMPACT – DOMESTIC



Domestic Related Party Transactions

- The salary, management remuneration benefits and management fee provided to the owners, partners and shareholders from businesses
- Loan and other intercompany arrangement qualify as Debt would be covered under the ambit of Transfer pricing rules.
- Allocation of Management and Resource sharing cost
- Business transactions (Sales and Purchase) between legal entities

RELATED PERSONS

The PCD envisages the principle of 'Arm's Length Price' which means the transaction or arrangement between Related parties or with Connected persons must be consistent with the results if same transaction would have done between independent parties. Hence, the concept of Related Persons is an essential backbone of the transfer pricing rules



RELATED PERSONS – Control Definition

Control as per OECD guidelines

- Capacity of one person to ensure that another person acts in accordance with the first person wish
- Exercise of control by one person over another to avoid or reduce their tax liability

Definition vary according to country and situation

General Understanding of control with reference to KSA TP regulation

Control via Ownership	Control over related person or Control by related person
	Common Control
Effective Control	Control via Governance
	Control via Funding
	Control via Business

A nonresident or resident company that owns directly or indirectly 50% or more in a subsidiary or Subsidiary is owned by the company

Sister companies, where 50% or more of each is owned by the same Parent, directly or indirectly

Power to influence the decisions of the business through a management agreement, trust arrangement or control on the board of directors

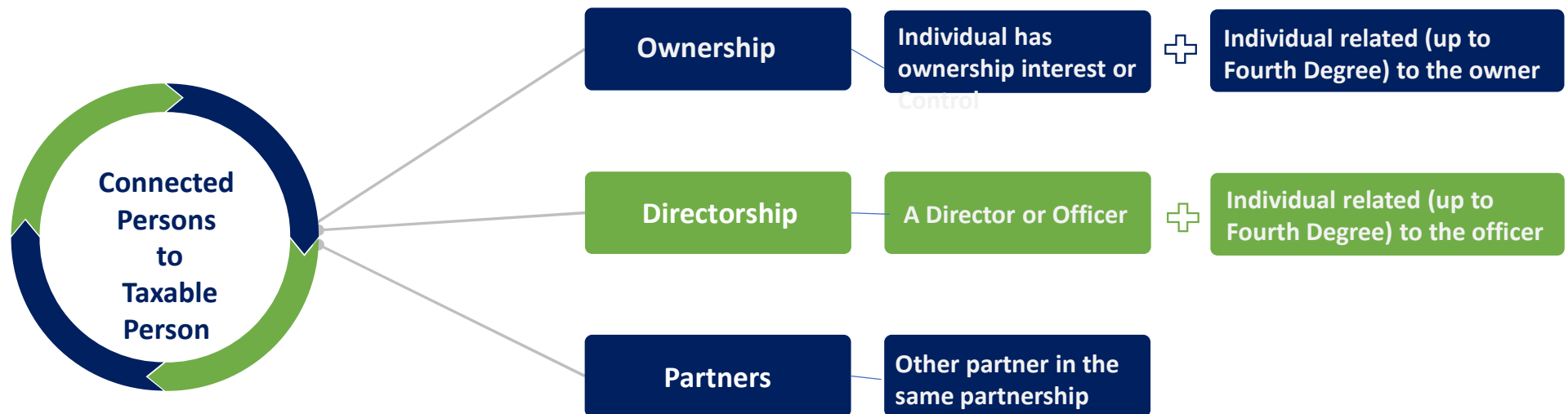
Control over the decision making of business via funding from an economic point of view

Dependency upon a major customer or distributor for business

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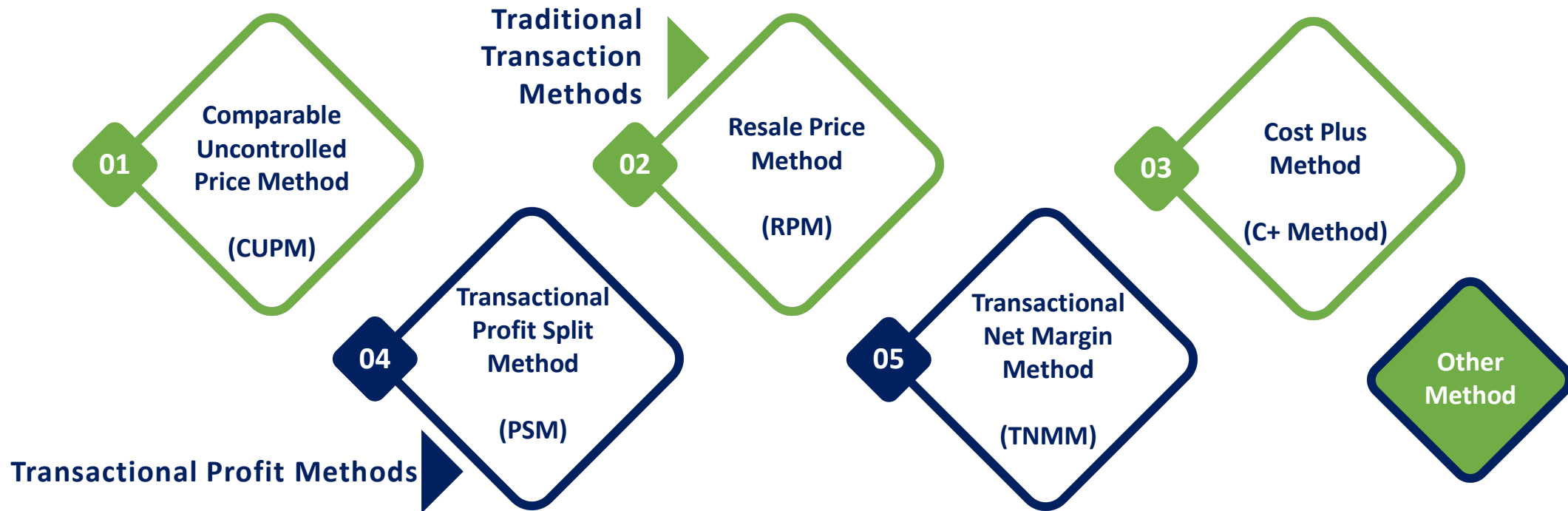
CONNECTED PERSONS

In the absence of personal income tax, payments to individual owners of taxable business can allow the leakage by allowing excess payments. To overcome with the such situation, the concept of Connected Person have been proposed in PCD.



* Related Party of any of the above

APPROVED TRANSFER PRICING METHODS



The above methods are duly in line with the principles outlined in the 'OECD Transfer Pricing Guidelines'

TRANSFER PRICING METHODS: BRIEF SUMMARY

Comparable Uncontrolled Price Method (CUPM)

Comparison is made in prices charged in controlled vis-à-vis comparable uncontrolled transaction



Peculiar transaction like direct remuneration/shareholder, interest on borrowing, Royalty, FTS and other transactions with strict product similarity
(Pure documentation)

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Resale Price Method (RPM)

Analysis of resale margin earned in controlled vis-à-vis comparable uncontrolled transaction



Pure Trading transaction (without any value addition) and GP margin is checked as an indicator, , mainly used for distributors and resellers

Cost Plus Method (C+M)

Analysis of direct and indirect cost markup earned in controlled vis-à-vis comparable uncontrolled transaction



Mainly used for manufacturing transaction and for providing services where cost of providing the services are calculated as an indicator

Transactional Profit Split Method (PSM)

Analysis of Allocation of profit margin to each participant in controlled vis-à-vis comparable uncontrolled Transaction



This method is used for creation of intangible assets (NP arising out of transaction)

Transactional Net Margin Method (TNMM)

Analysis of net profit margin earned relative to an appropriate base earned in controlled vis-à-vis comparable uncontrolled Transaction



Indicator is operating profit to justify the reported profit. manufacturing, Royalty, FTS are covered under this method

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METHODOLOGY & PROCEDURAL FLOW

Identification of controlled transaction

Following aspects need to be considered **post** identification of controlled transactions:

- **Understanding of the industry sector;**
- Analysis of the **Economic role** that each RP performs
- **Contractual terms** of the Transaction;
- Carrying out **Functional and Risk Analysis** of Controlled Transaction;

Selection of Transfer Pricing Method

Key Considerations:

- **Economic Analysis** for selection of most appropriate
- **Availability of reliable information**
- **Degree of comparability** between Controlled and Uncontrolled Transactions,
- **Use of statistical approach to determine Arm's Length price** based on Interquartile range

Selection of Comparable

- **Selection of appropriate database**
- **Multiple year data**
- **Selection of a relevant profit level indicator**
- **Determination of interquartile Arm's Length Range**
- **Identification of reasons for deviation**

Financial Analysis

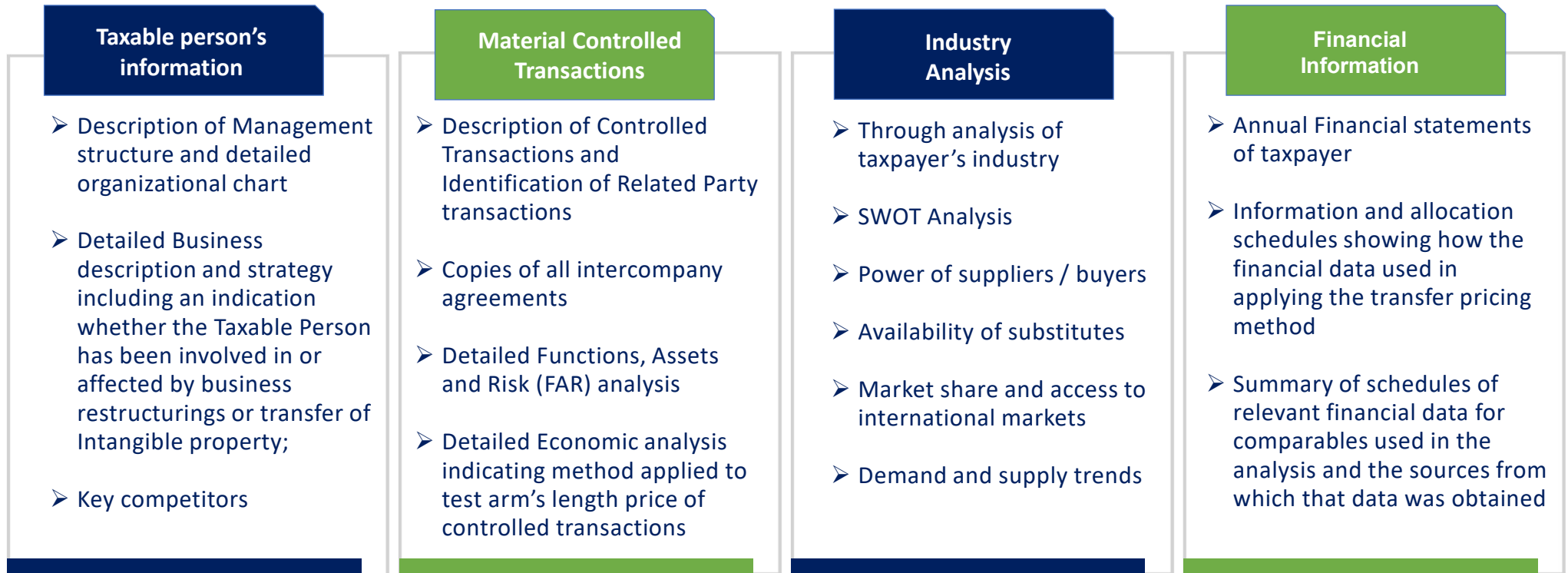
- Any deviation of Transfer Price from Arm's length range should be adequately demonstrated by Taxpayer.
- **Analysis of each transaction on isolation basis, other than for Portfolio approach**
- Reasons for losses incurred by related party in controlled transaction should be justified;

FOUR-TIER DOCUMENTATION



MINIMUM DOCUMENTATION REQUIREMENTS : LOCAL FILE

Latest Transfer Pricing guidelines prescribe some of the minimum requirements to be covered in Local File Transfer Pricing documentation to be maintained by Taxpayers



MINIMUM DOCUMENTATION REQUIREMENTS : MASTER FILE

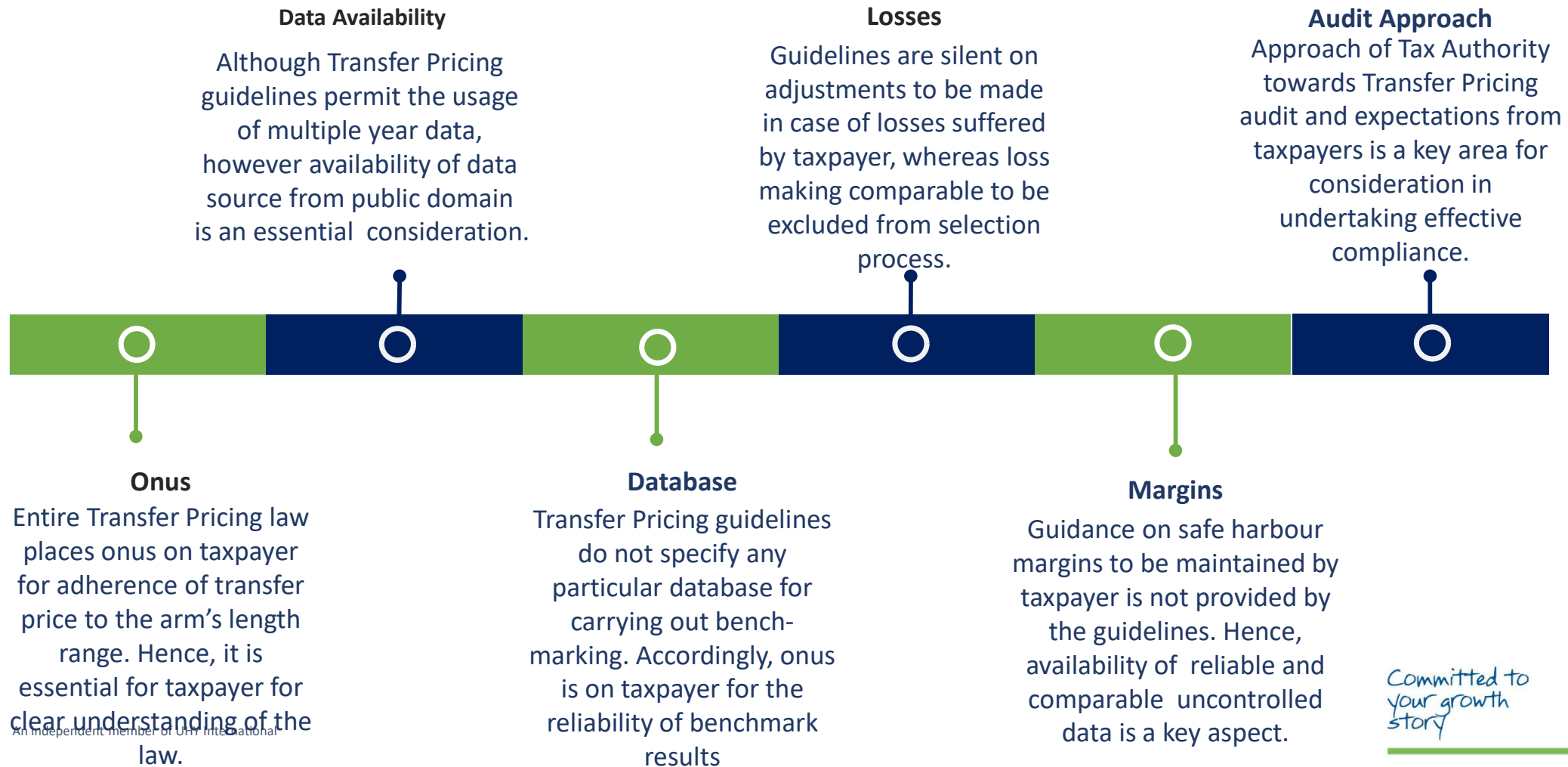
Organizational Chart	Business Description of MNE Group	Description of MNE Group's Intangibles	MNE Group's Intercompany financial activities	MNE Group's financial and tax positions
<ul style="list-style-type: none"> ➤ Blue print of Organizational Structure of the (MNE) Group ➤ MNE's legal and beneficial ownership structure ➤ Geographical location of operating entities 	<ul style="list-style-type: none"> ➤ Description of Supply chain and important service arrangements between group members ➤ Description of main geographical markets of the group ➤ Brief Description of functional analysis of principal group members 	<ul style="list-style-type: none"> ➤ Description of MNE's overall strategy for development, ownership & exploitation of Intangibles ➤ List of Intangibles of MNE Group of which it is legal owner ➤ A list of important agreements ➤ General TP policy regarding intangibles 	<ul style="list-style-type: none"> ➤ General description of how the group is financed, including material financing arrangements with independent lenders ➤ Identification of central financing function ➤ MNE Group's TP policies regarding financing arrangements 	<ul style="list-style-type: none"> ➤ MNE Group's annual consolidated financial statement for fiscal year, prepared for regulatory, reporting and tax purposes ➤ Description of the Multinational Enterprise Group's any tax rulings relating to the allocation of income among countries

The aforesaid requirements are as per Transfer Pricing Guidelines issued by OECD

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ISSUES AND CHALLENGES UNDER TRANSFER PRICING



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Thank You