

Comparison of OECD's BEPS recommendations versus EU Council's final compromise on anti-tax avoidance directive (ATAD)

	BEPS recommendations	ATAD final compromise
Interest deduction: ATAD worse than BEPS	<p>Cap 10-30%</p> <p>Applies to all loans</p> <p>No transition period foreseen</p>	<p>Cap 30%</p> <p>Exemption: Grand-fathering clause, making the rule not apply to all existing loans</p> <p>Exemption: If Member States already have "equivalent" rules, national legislation has to be adapted to the newer and stricter rules only by 2024 (or earlier if OECD agrees on a common approach - which is not very likely)</p>
Controlled Foreign Companies (CFC) rules: ATAD as bad as BEPS	<p>The BEPS recommendation on CFC is not very clear and only provides recommendations</p> <p>BEPS CFC rules cover profit shifting out of any country</p>	<p>Provision in ATAD watered down and no clarity who bears the burden of proof ("cooperation between taxpayer and tax administration")</p> <p>Exemption: ATAD covers profit shifting in the parent country only</p>
Hybrid mismatches: ATAD worse than BEPS	<p>Covers mismatches between all OECD member countries</p> <p>Recommendation only</p>	<p>Exemption: ATAD only tackles mismatches between EU countries (provision does not apply to third countries)</p> <p>Binding rule</p>
GAAR: ATAD as good as BEPS	<p>Included in BEPS (through Action 6)</p>	<p>Included in ATAD</p>
Exit taxation: ATAD better than BEPS	<p>No BEPS recommendation on Exit taxation</p>	<p>Included in ATAD</p>
Switchover: ATAD as bad as BEPS	<p>No BEPS recommendation on Switchover</p>	<p>Dropped out of ATAD final compromise (but was initially included in Commission proposal)</p>