value creation, are of relevance for financial service companies. In addition Action 13 on transfer pricing documentation will result in changes in the documentation to be provided to tax authorities to ensure they will be able to see the 'big picture' view of a taxpayer's global operations and value chain.

While it could seem that BEPS is to be feared, there is a great opportunity in Ireland to ensure that the debate around BEPS is a holistic one with a coordinated strategic approach.

In addition, our existing tax framework is an excellent base to position Ireland as a country that has substance and transparency around its tax regime and can benefit from the post BEPS environment. While there are uncertainties out there, the debate has still quite a bit to run and it is up to all FS companies and advisors to participate to shape our future.

Deirdre Power is financial services tax partner at Deloitte.

Ireland's tax system is already compliant with the majority of BEPS objectives, but the devil might be in the detail

PJ HENEHAN and PATRICK MCCLAFFERTY of FS Taxation point out that Ireland already has a tax system that is based on the core principle that companies must have substance in Ireland.

This is probably the most vexing tax question circulating in Ireland and elsewhere at the moment. We are one of the countries that potentially have a lot to lose so therefore our response needs to be carefully considered. The Government are encouraging all interested parties to participate in a consultation process which was launched on 27th May and which runs until the end of July.

PJ Henehan

The Base Erosion and Profit Shifting or BEPS project is being led by the Paris based OECD which is being backed by at least 20 countries. Unlike its predecessor the ill-fated CCCTB (Common Consolidated Contractual Tax Base) BEPS has an international as opposed to an EU focus and therefore will have a potentially more fundamental impact on the Irish economy. BEPS is also much broader in scope than CCCTB.

The US however may not be as enthusiastic as some would have expected and it remains to be seen what impact their ambivalence will have. The BEPS project has 15 objectives which can be summarised under the following broad categories:

- Tax Treaty improvements
- Transfer Pricing and CFC (Controlled Foreign Corporation) reforms
- Elimination of artificial transactions/structures
- Enhanced data collection, analytics and information sharing by and between jurisdictions
- Development of a new instrument to enable countries to implement measures identified by the BEPS project through the amendment of bi-lateral treaties.

The overall objective of the BEPS project as set out is to better align taxing rights with economic substance. This of itself is not a problem for Ireland. However a very aggressive time scale has been set for the deliverables and we need to pay very close attention to developments as they occur.

There is no particular focus on the Financial Services sector although as can be seen above all the objectives can apply equally to all business heads. The devil however may well be in the detail when it emerges.

Patrick McClafferty

What are the key elements from an Irish perspective? A simple SWOT analysis may help us focus on the issues:

BEPS Project Irish SWOT Analysis

Strengths	**Weaknesses**
Key focus is to align taxing rights to substance	Some legislation changes will be required and may impact FDI
Opportunities	**Threats**
Will further marginalise tax havens	High Tax countries will have more tools and data to attack perceived abuses

The above graphic of the SWOT analysis is of necessity a very high level view but serves to show that there are significant positives as well as negatives arising from BEPS. The Government has said that 'Ireland will play fair but play to win'. The writers' view is that we do not have to be among the leaders in this project but we do need to be proactive behind the scenes emphasising all the time that we already have a tax system that while competitive it is based on the core principle that to benefit companies must have substance in Ireland. We need also to continue emphasising that we tax passive income at a much higher rate than active business income (trading income). Therefore Ireland is already compliant with the majority of BEPS objectives.

It must be said that there are some aggressive tax structures which contain an 'Irish Leg' however it is conveniently overlooked by some that in order for these structures to work there are home country rules that have to be satisfied and if those countries feel aggrieved they have the means if not the will to tackle perceived abuse.

Unfortunately our success in attracting FDI from a substantial number of the world's top companies will bring with it adverse media attention from time to time but this is an inevitable price to be paid in some respects.

PJ Henehan and Patrick McClafferty are partners in FS Taxation, a boutique financial services tax practice.