F.No. 500/09/2016-APA-I/E
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
(Foreign Tax & Tax Research Division-I)

Room No. 903, 9th Floor, C-Wing,
Hudco Vishala Building, Bhikaji Cama Place,
New Delhi - 110066
Date 30 September, 2026

Subject: Updated Mutual Agreement Procedure (MAP) Guidance - reg.

The Final Report on "Making Dispute Resolution More Effective", prepared under Action 14 of the Base Erosion and Profit Shifting (BEPS) project (2013-15) of the G-20 and OECD countries, had recommended that all countries that implement the BEPS package of measures must publish comprehensive Mutual Agreement Procedure (MAP) guidance.

2. The Central Board of Direct Taxes had issued comprehensive guidance on MAP and matters connected thereto vide F. No. 500/09/2016-APA-I dated 7th August, 2020, for the benefit of taxpayers, tax practitioners, tax authorities and Competent Authorities (CAs) of India and of treaty partner jurisdictions. The said Guidance was subsequently updated vide communication dated 10th June, 2022, inter alia, to provide further clarity on certain aspects relating to MAP.

3. With the enactment of the Income-tax Act, 2025 and the Income-tax Rules, 2026, the statutory and regulatory references contained in the existing MAP Guidance require suitable revision. Further, certain stakeholders have raised queries on certain related aspects of MAP, which are not covered by existing guidance, like the relationship between MAP and the Board for Advance Rulings, and the Direct Tax Vivad se Vishwas Scheme, 2024.

4. Accordingly, the Board has decided to issue the enclosed **Consolidated Guidance on Mutual Agreement Procedure, 2026**, which incorporates the changes necessitated by the Income-tax Act, 2025 and the Income-tax Rules, 2026 and consolidates the guidance relating to MAP procedure and connected matters, with a view to providing greater clarity regarding the MAP process and facilitating its effective and consistent application.

5. If any element of the MAP guidance comes in conflict with the domestic legislation, rules, instructions, and circulars in India or with the DTAAs entered into by India, the provisions of such domestic legislation, rules, instructions, and circulars or the DTAAs, as the case may be, shall prevail.

6. The **Consolidated Guidance on Mutual Agreement Procedure, 2026** is enclosed with this communication for the benefit of all stakeholders. The same is also being made available on the website of the Income Tax Department.

Uma Maheswari R
Director, FT&TR-I,
Central Board of Direct Taxes
Government of India

Copy to:
(a) Chairman and Members of Central Board of Direct Taxes
(b) Pr. CCsIT/Pr. DsGIT/CCsIT/DsGIT with a request to circulate in respective regions
(c) Joint Secretaries/Commissioners/Directors/Deputy Secretaries/Under Secretaries in CBDT
(d) Database Cell for uploading on the IRS Officers website
(e) Web Manager for uploading on the Departmental website

CONSOLIDATED GUIDANCE ON MUTUAL AGREEMENT PROCEDURE, 2026

CONTENTS

INTRODUCTION

PART A: MAP: INTRODUCTION & BASIC INFORMATION

- **A.1. Mutual Agreement Procedure (MAP)**
- **A.2. India's Tax Treaties or DTAAs**
- **A.3. Making a MAP Application in India**
- **A.4. The MAP Process**
- **A.5. Timeframe for Resolving and Implementing MAP cases**

PART B: ACCESS AND DENIAL OF ACCESS TO MAP

- **B.1. Access to MAP**
- **B.2. MAP in Unilateral Advance Pricing Agreements**
- **B.3. MAP & Safe Harbour**
- **B.4. Orders of Income Tax Appellate Tribunal**
- **B.5. Board for Advance Rulings (BAR)**
- **B.6. Direct Tax Vivad Se Vishwas Schemes (2020, 2024)**
- **B.7. Denial of Access to MAP**

PART C: TECHNICAL ISSUES RELATED TO MAP

- **C.1. Downward Adjustment below Returned Income**
- **C.2. Resolution of Recurring Issues**
- **C.3. Interest and Penalties**
- **C.4. Secondary Adjustments**
- **C.5. Bilateral & Multilateral APAs & MAP**
- **C.6. Suspension of Collection of Taxes during the Pendency of MAP**
- **C.7. Adjustment of taxes paid in pursuance of demand raised by an order under Section 398 of the Income-tax Act, 2025**

PART D: IMPLEMENTATION OF MAP OUTCOMES

- **D.1. Implementation of MAP where ITAT pronounces an Order**
- **D.2. Timelines for Implementation of MAP Resolution**
- **D.3. Information to CAs of India**

PART E: APPLICANT'S RESPONSIBILITIES

- **E.1. Responsibility of making true disclosure**
- **E.2. Responsibility to provide up-to-date information**

INTRODUCTION

India has a large network of Double Taxation Avoidance Agreements ('**DTAAs' or 'Tax Treaties', hereinafter**) with various countries. The DTAAs, inter- alia, provide rules and mechanisms for allocation of taxing rights amongst the treaty partners; intending to eliminate double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance; and resolution of taxation not in accordance with the treaty through the Mutual Agreement Procedure (**'MAP', hereinafter**). This document provides a comprehensive guidance to all stakeholders in respect of the MAP provided in India's DTAAs, in accordance with the Final Report on "**Making Dispute Resolution More Effective**", prepared under Action 14 of the Base Erosion and Profit Shifting (**'BEPS', hereinafter**) project of the G-20 and OECD countries. The Guidance provided in this document substitutes the earlier MAP Guidance dated 7th August, 2020 and 10th June, 2022.

2. Rule 121 of the Income-tax Rules, 2026, notified vide G.S.R.198(E) dated 20th March, 2026, provides, inter-alia, the processes to be followed by the competent authority(ies) (**'CA' or 'CAs' hereinafter**) of India till the resolution of the issue of taxation not in accordance with the treaty and the processes to be followed by the field authorities to implement the outcome of the MAP. The new rule is applicable from Tax Years 2026-27 onwards. The concept of "Tax Year" is applicable from 01 April 2026, i.e., for income earned from FY 2026-27 onwards under the Income-tax Act, 2025. Rule 44G of the repealed Income-tax Rules, 1962 shall continue to apply unaltered to MAP proceedings for all assessment years prior to Tax Year 2026-27 in accordance with the provisions of Section 536 (2) of the Income-tax Act, 2025.

3. The Action 14 Report of the BEPS project of the G-20 and OECD countries, on "**Making Dispute Resolution More Effective**", had recommended that all countries that implement the BEPS package of measures must publish comprehensive MAP guidance. In line with this recommendation, a MAP guidance was published on 7th August, 2020, and was further updated on 10th June, 2022, for the benefit of taxpayers, tax practitioners, tax authorities, and CAs of India as well as its treaty partner jurisdictions.

4. Now, keeping in view the enactment of the new Income-tax Act, 2025, and the Income-tax Rules, 2026, this updated MAP guidance is published for the benefit of all stakeholders.

PART A
MAP: INTRODUCTION AND BASIC INFORMATION

A.1. Mutual Agreement Procedure (MAP)

5. Mutual Agreement Procedure (MAP) is an alternate tax dispute resolution mechanism available to the taxpayers under the DTAAs for resolving disputes giving rise to taxation not in accordance with DTAAs or double taxation. MAP can help in relieving double taxation either fully or partially. All DTAAs entered into by India have the provision for MAP, which provides an additional dispute resolution mechanism to taxpayers in addition to those available under the domestic laws of India. Where a taxpayer considers that the actions of one or both of the treaty partners result or will result in taxation which is not in accordance with the provisions of the relevant DTAAs, it can seek access to MAP by approaching the Competent Authority of the jurisdiction where it is tax resident, or in case of an alleged violation of the provisions governing non-discrimination, by approaching the jurisdiction of which it is a national, depending upon the existence of such a provision in the applicable tax treaty.

6. A taxpayer can request for assistance under MAP regardless of the remedies provided under the Indian domestic law. Generally, in all such cases, the access to MAP is available. For the benefit of all stakeholders, it is hereby clarified that access to MAP does not obliterate the rights of a taxpayer to pursue another remedy available under the domestic laws. However, where a taxpayer voluntarily exercises a choice to avail of an alternate remedy under the Indian domestic laws, either instead of seeking access to MAP or while he is also seeking a resolution under MAP, and the process initiated in respect of that alternate remedy is finalised in accordance with the applicable law and rules, thereby leading to a resolution under that remedy, it may have an impact on the subsequent resolution under MAP, as detailed under this guidance. Accordingly, taxpayers wishing to seek a resolution of their tax disputes under MAP are advised to carefully go through this document, and fully understand the limitations that may arise in case they wish to simultaneously seek a resolution of their dispute in another dispute resolution mechanism.

7. MAP enables the CAs of India to engage with the CAs of other treaty partners in a process which includes discussions and negotiations between both treaty partners as they endeavour to resolve international tax disputes, where a person considers that the actions of one or both of the treaty partners results or will result for that person in taxation which is not in accordance with the provisions of the relevant DTAAs. Under the treaties, the powers of the Competent Authority are vested with the Hon'ble Finance Minister of India, who delegates this authority to the designated CAs. At present, India has two CAs

for MAP cases and they are senior officers in Department of Revenue, Ministry of Finance (Joint Secretary, FT&TR-I and Joint Secretary, FT&TR-II)[1].

8. The two CAs have territorial jurisdiction over the MAP cases depending upon the location of the treaty partner. The CAs of India are independent of the tax authorities who audit taxpayers and take their own decisions that are only administratively governed by an internal governance mechanism within the CBDT, Department of Revenue.

9. A MAP request can be made by a taxpayer when it considers that the actions of the tax authorities of one or both of the treaty partners results or will result in taxation not in accordance with the provisions of the relevant DTAA. MAP cases involve cross- border double taxation that could either be **juridical double taxation** (same income taxed twice in the hands of the same entity in two different countries) or **economic double taxation** (same income taxed in the hands of two separate entities, who are Associated Enterprises, in two different countries).

10. Double taxation or taxation not in accordance with the DTAAs may arise in some of the following circumstances:

- Transfer Pricing adjustments
- Existence of a Permanent Establishment
- Attribution of profits to a Permanent Establishment
- Characterisation or re-characterisation of an income or expense

11. Invocation of MAP requires that a conclusive view is taken by a tax authority in India or the other treaty jurisdiction, even if a final tax demand has not been raised. However, a notice of initiation of proceedings, or a show cause notice, which does not lead to any conclusion regarding the tax liabilities of a taxpayer is not sufficient for invoking MAP. If in such a case, MAP access is provided by the Competent Authority of the other treaty jurisdiction, the Indian CA will seek closure of such case, with an understanding that if and when the final order is issued, the access to MAP can be given.

A.2. India's Tax Treaties or DTAAs

12. India has a large network of tax treaties, almost all of which contain a MAP Article based on the provisions of Article 25 of the UN/OECD Model Tax Convention. These tax treaties (read with section 159 of the Income-tax Act, 2025) constitute the legal basis for taxpayers to apply for a MAP and for CAs to discuss and negotiate a MAP case with the endeavour of finding a resolution to the dispute. It is important for taxpayers to refer to the text of the relevant tax treaty itself to understand the conditions for applying for MAP

[1] This authority can be delegated to and exercised by an officer looking after the work of these offices.

under that tax treaty. India's tax treaties are available and can easily be accessed at www.incometaxindia.gov.in

13. The MAP Article contained in all the DTAAs entered into by India requires that a taxpayer of either treaty partner approaches the CA of the jurisdiction of which it is a resident to request for a MAP if the tax authorities of either India or the treaty partner jurisdiction make an adjustment or take an action that results or will result in taxation not in accordance with the relevant tax treaty or double taxation. In most of the tax treaties of India, the time limit for making an application for MAP is three years from the first notification of the action giving rise to such taxation. In a limited number of DTAAs, the time limit is either less or more than three years. Wherever it is less than 3 years, it is expected to be changed in due course to three years as per the recommendation contained in the final report of BEPS Action 14. India intends to achieve this through amendments of such tax treaties through the Multilateral Instrument (**'MLI', hereinafter**) that has already come into effect for India w.e.f 1st October 2019, or through bilateral negotiations with the relevant treaty partners.

A.3. Making a MAP Application in India

14. A taxpayer resident in India can make an application to the CA of India having jurisdiction over the case (depending on the location of treaty partner) if it considers that the actions of the tax authorities of the treaty partner resulted or will result in taxation not in accordance with the provisions of the relevant tax treaty. Such an application has to be made in **Form No. 55** in accordance with **Rule 121** of the Income-tax Rules, 2026. The relevant provision of the rule is as follows:

> *'121 (1): Where an assessee, who is a resident of India, is aggrieved by any action of the tax authorities of any country or specified territory outside India which, according to him, is not in accordance with the terms of agreement with such other country or specified territory, he may make an application to the competent authority of India seeking to invoke the mutual agreement procedure, if provided in such agreement, in Form No. 55.'*

15. The following information and details are required to be provided in Form No. 55 while making a MAP application to the CAs of India:

a) Name of the Applicant;
b) Address;
c) Permanent Account Number (PAN);
d) Email Id
e) Contact Number;

f) Status;
g) Tax Year(s);
h) Jurisdictional Circle/ Ward;
i) Name and Designation of Tax Authority in the other country or region (Treaty Partner) (where region is a specified territory the same is to be mentioned);
j) Date of the notice or order giving rise to the action; and
k) Whether it is claimed that the order/action of the Tax Authority of the Treaty Partner not in accordance with the agreement?

16. In item (k) of Form 55, the Applicant should provide the facts of the case; the analysis of issue(s) that are sought to be resolved under the MAP; and the reasons why the action taken by the tax authorities are not in accordance with the relevant DTAAs.

17. In addition to the above information and details, Form No. 55 requires the following documents to be furnished at the time of making the application:

- Copy of notice or order giving rise to the action not in accordance with the relevant DTAAs;
- Detailed reasons in respect of the claim that the order/action of the tax authorities of the treaty partners is not in accordance with the relevant DTAAs;
- Complete details along with reasons, for considering the order/action of the tax authorities of the treaty partners to be not in accordance with the relevant DTAAs;
- Details of remedy sought in the other country or specified territory, if any, with documentary evidence;
- Any document(s) in respect of remedy sought in the other country or specified territory; and
- Any other document that the applicant may want to submit or the CAs of India may ask for.

18. If an Associated Enterprise or related party of an Indian taxpayer submits a MAP application before the CA of its country or specified territory of residence (treaty partner), in respect of any order/action of the tax authorities of India or of the tax authorities of such treaty partner, a copy of such MAP application must also be provided to the CA of India having jurisdiction over the case. The CAs of such treaty partners are expected to expeditiously intimate the CAs of India about their acceptance of a MAP application.

19. The MAP application in Form No. 55 or the copy of the MAP application filed before the CAs of other countries or specified territories (treaty partners) must be submitted to the CA of India having jurisdiction over the case. There are two CAs in India. Their details are as under:

20. Where the treaty partner is a country or specified territory in Europe and North America (including the Caribbean Islands)-

Joint Secretary, FT&TR-I,
Central Board of Direct Taxes, Department of Revenue,
Ministry of Finance, Government of India
Room No. 803, 8th Floor,
"C" Wing, HUDCO-Vishala Building,
Bhikaji Cama Place, New Delhi-110066

Where the treaty partner is a country or specified territory in any part of the world other than Europe and North America (including the Caribbean Islands)-

Joint Secretary, FT&TR-II,
Central Board of Direct Taxes, Department of Revenue,
Ministry of Finance, Government of India
Room No. 804, 8th Floor,
"C" Wing, HUDCO-Vishala Building,
Bhikaji Cama Place, New Delhi-110066

A.4. The MAP Process

21. Once a MAP application is accepted by the CA of India having jurisdiction over the case, he shall intimate the CA of the relevant treaty partner jurisdiction about such acceptance through a written communication (Notification or Invocation Letter). In such written communication, he would also briefly provide the basis of his conclusion that the action of the tax authorities results or will result in taxation not in accordance with the relevant treaty. He would also request the CA of the treaty partner to provide him written position (position paper) on the order/action of the tax authorities of his country.

22. If a MAP application is found to be not acceptable by the CA of India having jurisdiction over the case, he shall write to the CA of the relevant treaty partner informing him about the reasons for which the MAP application cannot be accepted and request the latter to send his views/comments on the same (Notification and Bilateral Consultation). Once the CAs of both treaty partners have exchanged views and come to a common understanding, the decision on the MAP application shall be communicated by the CA of India having jurisdiction over the case to the Indian taxpayer who had made the MAP application.

23. As indicated above, once a MAP application is accepted, the CAs shall exchange views. In most cases, the views shall be communicated initially through position papers. Once a position paper is received from the other CA, the CA of India having jurisdiction

over the case would examine the same and come to a negotiating position. He may also provide his own written comments to the other CA or ask for further clarification from him. After exchange of positions and comments, both the CAs would enter into discussions and negotiations endeavouring to arrive at a resolution to the dispute at hand. They may meet in person or negotiate remotely through teleconference, video conference, or emails, for this purpose.

24. Where the Indian CA considers that any information available with the taxpayer may facilitate the process of resolution, it may request that taxpayer for such information. In such cases, it will generally request the taxpayer to share the same information with the CA of the other jurisdiction as well, so that it can be taken into account and used by both CAs.

25. If both the CAs successfully resolve a MAP case, they would formalise a mutual agreement amongst themselves in a manner mutually agreed upon. The CA of India having jurisdiction over the case would intimate the Indian taxpayer seeking tax relief, about the terms and conditions of the resolution. The Indian taxpayer has the right to accept or not to accept the MAP resolution, but in either situation, the MAP case would be closed by both the CAs as resolved.

26. In case the taxpayer accepts the resolution, it will be required to withdraw any pending appeals filed in India before the Indian Appellate authorities, and provide evidence of the same to the Indian CA, on receiving which the Indian CA will convey the resolution along with evidence of withdrawal of appeals by taxpayer, to the relevant field authorities, who will give effect to the MAP resolution by issuing an order. Rule 121 of the Income-tax Rules, 2026 provides for this process, and makes it binding on the field authorities to relieve the tax as agreed in the MAP resolution.

27. If both the CAs are unable to resolve a MAP case, they would close the MAP case as unresolved. The CA of India having jurisdiction over the case shall inform the Indian taxpayer about the non-resolution of the dispute.

28. In a situation, where the MAP application was initially received and accepted by the CAs of treaty partner jurisdiction, it would be taking some of the actions described above, in accordance with its laws and practices.

29. In addition to the above bilateral MAP process, in appropriate cases, the CAs of India can participate in multilateral MAP discussions with CAs of more than one treaty partner jurisdiction. Multilateral MAP cases shall involve all the above processes (like exchange of position papers, negotiations, finalization of mutual agreements, etc.) on a multilateral basis amongst the CAs concerned. In view of the bilateral nature of tax treaties, a multilateral MAP can be considered as a series of parallel bilateral MAP cases,

where the CAs of relevant jurisdictions endeavour to arrive at a comprehensive resolution that will resolve all the bilateral MAPs.

30. The CAs of India can agree to accept a multilateral MAP request if all the following conditions are fulfilled:

- All the participating countries or specified territories have requisite DTAAs in place so as to resolve the dispute to be taken under Multilateral MAP;
- The transaction or issue in dispute has a bearing on all the treaty partners, directly or indirectly, and non-resolution of the dispute would result in taxation not in accordance with the relevant DTAAs; and
- The CAs of all the participating countries or specified territories agree to negotiating a multilateral MAP.

A.5. Timeframe for Resolving and Implementing MAP cases

31. India is committed to endeavour to resolve MAP cases within an average timeframe of 24 months. It may be clearly understood that the commitment is not to resolve MAP cases within that timeframe (it may not be possible for both CAs to agree on a resolution in all cases) but **endeavour** to do so. The commitment is in conformity with the minimum standards recommended in the BEPS Action 14 final report.

32. The period of 24 months is to be computed from the "Start Date" of a MAP case. Since, presently, most of the MAP cases before the CAs of India arise from a MAP application made by a non-resident taxpayer before the CAs of other countries or specified territories (treaty partners), the "Start Date" is determined by the other CAs in accordance with the MAP Statistics Reporting Framework, after consulting with India.

33. At times, the CAs of India receive intimation of MAP cases from the CAs of the treaty partners much beyond the "Start Date". This results in delaying the endeavour to resolve such MAP cases.

34. India is fully committed to implement the outcomes of each and every MAP case. It is the endeavour of India to implement each MAP outcome expeditiously. The process and timeframes to implement such outcomes are contained in Rule 121 of the Income-tax Rules, 2026. The rule, inter-alia, provides the following:

- How to apply for a MAP;
- Whom to apply to for a MAP;
- The role of the CAs of India in making an endeavour to resolve tax disputes under the MAP;
- Timeframes and processes after the resolution of a MAP case; and
- Role of Indian taxpayer and Indian tax authorities after the resolution of a MAP case.

This rule is a part of the Income-tax Rules, 2026, which are available and can be easily accessed at www.incometaxindia.gov.in.

PART B
ACCESS AND DENIAL OF ACCESS TO MAP

B.1. Access to MAP

35. India provides wide and easy access to MAP to Indian taxpayers if they are aggrieved by an order/action of tax authorities of other countries or specified territories (treaty partners) and such orders/actions in the opinion of the taxpayer results or will result in taxation not in accordance with the relevant treaty. The procedure for making an application has been discussed in Part A and the details can be seen in Rule 121 of the Income-tax Rules, 2026.

36. India also provides wide and easy access to MAP when the CAs of other countries or specified territories (treaty partners) accept a MAP application from their taxpayers and then notify the CAs of India about their acceptance. These MAP cases may arise from the order/action of tax authorities of India or of the treaty partners that in the opinion of the overseas taxpayer results or will result in taxation not in accordance with the relevant treaty.

37. Access to MAP is frequently provided by the Indian CAs in respect of following cases/situations if they result in taxation not in accordance with the relevant treaty:

a) Transfer pricing adjustments;
b) Determination of existence of a Permanent Establishment;
c) Attribution of profits to Permanent Establishments, whether admitted or not by the taxpayer;
d) Characterization or re-characterization of an item of receipt as a taxable income (like Royalty or Fee for Technical Services (FTS) or Interest).

38. In a situation where the Indian tax authorities apply domestic anti-abuse provisions, the CAs of India will provide access to MAP for cases where a treaty anti-abuse provision applies or where there is a disagreement between the taxpayer and the tax authorities as to whether the application of a domestic law anti-abuse provision is in conflict with the provisions of a tax treaty. Further, discussions between CAs in these cases would only pertain to the issue of taxation not in accordance with the treaty that is a consequence of invocation of domestic anti-abuse provisions and whether correlative relief should be granted under the provisions of the relevant tax treaty, but not the grounds upon which India decides to invoke these provisions.

39. In certain situations, where obligation to deduct tax at source on the payment made by an Indian entity to a non-resident entity is enforced by an order passed under section 398 of the Income-tax Act, 2025 and the same is disputed by the non-resident entity, MAP access will be provided to such non-resident entity anticipating an event of double taxation or taxation not in accordance with the relevant DTAA. However, such action being purely under the domestic law and the order under section 398 not being an order determining any tax on income, the MAP discussion will be taken up only after the assessment order is passed in the case of the non-resident taxpayer, and such non-resident taxpayer considers that the assessment order results or would result in taxation not in accordance with the relevant DTAA.

40. There are certain circumstances where India would provide access to MAP but the CAs of India would not deviate from the outcomes already arrived at under other dispute resolution mechanisms and seek correlative relief from the CAs of the treaty partners where applicable. Most of these circumstances arise from the options available to taxpayers under Indian domestic laws that are to be exercised voluntarily by the taxpayer, and which lead to the resolution of the dispute in accordance with the applicable laws. In these cases, once such resolution is already availed by the taxpayer, the Indian CAs will not deviate from the resolution already availed by the taxpayer in the MAP. Some of these circumstances are described in following paragraphs.

B.2. MAP in Unilateral Advance Pricing Agreements

41. Indian domestic laws provide the option to a taxpayer to enter into a unilateral Advance Pricing Agreement **('UAPA', hereinafter)** with the Central Board of Direct Taxes (CBDT) in respect of a covered international transaction. The UAPA is initiated only if the taxpayer decides to exercise this option voluntarily, and is concluded only when the taxpayer voluntarily accepts the resolution arrived at. In such a case, the CAs of the treaty jurisdictions may still accept a MAP application from their taxpayer in respect of an international transaction that is already covered in such UAPAs, if an action by their tax authorities disturbs the income declared in the returns filed in pursuance of the UAPAs, and notify the CAs of India. In such cases, the Indian CA would allow access to MAP but would not agree to deviate from the terms and conditions of the UAPA, if the UAPA continues to be in existence. In such cases, the Indian CAs would request the CAs of the treaty partner jurisdictions to provide relief.

42. The Indian law provides for a possibility of cancellation of UAPA. In case the UAPA has been cancelled and was not in force for a tax year in respect of which MAP has been invoked, the Indian CA shall examine the case on its merits with an endeavour to resolve the case.

43. Where an application filed by the taxpayer for UAPA is under consideration but the UAPA has not yet been entered, the CAs of India or the treaty partner jurisdictions may

accept MAP applications from their taxpayers and notify each other. The CAs of India would allow MAP access in such cases, and would be willing to discuss the options for resolving disputes with the other CA. In such cases, it would be expected that the taxpayer choses one of these mechanisms for resolving its dispute. In case the taxpayer enters into a UAPA before the CAs can arrive at a MAP resolution, the Indian CA will then not deviate from the UAPA outcome. On the other hand, if a MAP resolution is accepted by the taxpayer before entering into a UAPA, any subsequent UAPA would not deviate from it.

B.3. MAP & Safe Harbour

44. The Indian domestic laws provide for safe harbour for the taxpayer in respect of certain specified international transactions. A taxpayer can apply for availing the safe harbour provisions under the Indian laws, in respect of its international transactions, and if its application is accepted by the Indian authorities, it can avail the benefits of the safe harbour. In such cases, the taxpayer is not subjected to transfer pricing audit in India. The Indian laws also provide that in a case where safe harbour is availed by a taxpayer, it will not be entitled to seek any further relief under MAP.

45. In such a case, the CAs of the other treaty jurisdiction, or CAs of India, may accept MAP applications from their taxpayers in respect of an action of the tax authorities of treaty partner jurisdiction, if it disturbs the returns filed in pursuance of such safe harbour provisions, and notify the other CA. In such cases, the CAs of India would allow access to MAP but would not deviate from the ALP of the international transactions covered under the safe harbour provisions and adhered by the taxpayer, and would request the CAs of the treaty partners to provide correlative relief.

B.4. Orders of Income Tax Appellate Tribunal

46. Since MAP and domestic remedy proceedings can be availed by the taxpayers simultaneously, there could be instances where the Income Tax Appellate Tribunal **('ITAT', hereinafter)** in India passes an order in respect of the same disputes that are also the subject matter of MAP proceedings.

47. Since the ITAT is an independent statutory appellate body, which is outside the administrative jurisdiction of the Indian tax authorities; and is the highest fact-finding body on tax matters, the CAs in India shall not deviate from the orders of the ITAT for the relevant year where the dispute is decided on merits. In such cases the CA of India would request the CAs of the treaty partners to provide correlative relief, if required. Such MAP cases shall be closed as having been resolved by a domestic remedy where the issue under consideration in MAP has been held by the ITAT to be in favour of the taxpayer. In other cases, the two CAs shall mutually agree on the outcome of such cases for MAP Statistics purposes.

48. However, if the order of the ITAT does not resolve the dispute but only sets them aside to be adjudicated afresh by Indian tax authorities, then access to MAP can subsequently be provided after the fresh adjudication by tax authorities, if requested for by the taxpayer.

B.5. Board for Advance Rulings (BAR)

49. Sections 380 to 389 in Chapter XVIII of the Income-tax Act, 2025 provide for the constitution of an authority called the Board for Advance Rulings **('BAR', hereinafter)** for giving advance rulings on questions/issues brought before it by a taxpayer. The BAR is a statutory dispute prevention body. The process of giving advance rulings by BAR is independent from the audit and examination functions of tax authorities. It is a voluntary process and a taxpayer has to apply for obtaining a ruling. Once the application is admitted, the BAR examines all aspects of the question(s)/issue(s) brought before it and pronounces its advance ruling on such question(s)/issue(s). The ruling of the BAR is appealable before the High Court by both the Department and the taxpayer.

50. The CAs of India shall provide access to MAP to an Indian Taxpayer who has already obtained an advance ruling from the BAR and such advance ruling covers the issues that are sought to be included in the MAP application. Similarly, the CAs of India shall admit a case under MAP where the CAs of the treaty partners have accepted a MAP application by a taxpayer of their country or specified territory who (or its associated enterprise in India or the relevant party to the transaction on which the advance ruling is sought) has already obtained an advance ruling from the BAR and such advance ruling covers the issues that have been included in the MAP application accepted by the CAs of the treaty partners. However, the CAs of India shall not deviate from the orders of the BAR for the relevant year where the issue is decided on merits. In such cases the CAs of India would request the CAs of the treaty partners to provide correlative relief, if required.

51. Where the taxpayer's application is pending before the BAR, Section 385 of the Income-tax Act, 2025, restricts any income-tax authority or the Appellate Tribunal to proceed to decide any issue covered in the taxpayer's application. However, this restriction is only in case of resident taxpayers who have made an application before the BAR. Therefore, in case of non-residents, where an action has been taken by the Indian tax authorities that is considered by the taxpayer not in accordance with the relevant DTAAs, access to MAP shall be granted by the CAs and the CAs of India would endeavour to resolve such MAP cases, as all other MAP cases. In case the order of the BAR is issued during the pendency of the MAP, the CAs of India shall not deviate from the order of the BAR once the effect to the BAR order has been given by the Assessing Officer.

B.6. Direct Tax Vivad Se Vishwas Schemes (2020, 2024)

52. Alternative Tax Dispute Resolution schemes under the "Direct Tax Vivad se Vishwas Act 2020' and the Direct Tax Vivad se Vishwas Scheme, 2024 (henceforth collectively referred to as

'VsV Schemes'), were introduced in the Indian laws with the objective of resolving pending tax disputes. The details in respect of eligibility and other provisions of the Schemes are contained in the **Direct Tax Vivad se Vishwas Act 2020** and **Chapter IV of Finance (No. 2) Act, 2024**, respectively, and further explained by Notifications / Circulars/clarifications issued by the Board from time to time in this regard.

53. Sub-section 3 of Section 5 of the Direct Tax Vivad se Vishwas Act 2020 states as under:

> *"5(3) Every order passed under sub-section (1), determining the amount payable under this Act, shall be conclusive as to the matters stated therein and no matter covered by such order shall be opened in any other proceeding under the income-tax Act or under any other law for the time being in force under any agreement, whether for protection of investment or otherwise, entered into by India with any other country or territory outside India"*

Similarly, Sub-section 3 of Section 92 of the Finance (No. 2) Act, 2024, which contains the provisions of the Direct Tax Vivad se Vishwas Scheme, 2024, states as under:

> *"(3) Every order passed under sub-section (1), determining the amount payable under this Scheme, shall be conclusive as to the matters stated therein and no matter covered by such order shall be reopened in any other proceeding under the Income-tax Act or under any other law for the time being in force."*

54. These schemes provide an option to the taxpayer to avail the benefits of the scheme on a purely voluntary basis. Where a taxpayer voluntarily opted for VsV Schemes for resolution of a dispute regarding transfer pricing adjustments on international transactions with its Associated Enterprises (AEs), and the same is accepted under the applicable laws, the dispute gets resolved. However, the CAs of the treaty partner jurisdictions may accept MAP applications from their taxpayers (which are AEs of the Indian taxpayer), and notify the CAs of India. In such cases, Indian CAs would allow access to MAP but shall not deviate from the outcome arrived under the VsV Schemes. Instead, they would request the CAs of the treaty partners to provide relief. However, in cases, where a taxpayer has applied for VsV scheme but not yet availed the benefits by paying the taxes therein, the Indian CAs shall be willing to discuss the case with CA of treaty partner jurisdiction so as to resolve it under MAP.

B.7. Denial of Access to MAP

55. The CAs of India can deny access to MAP in certain situations and particular cases. However, before taking a decision to deny access to MAP in such situations, the CA of India would consult with the CA of the treaty partner jurisdiction, and may also hear the taxpayer. However, such consultation shall not be interpreted as consultation as to

how to resolve the case or consultation under the MAP provision. Such situations and particular cases are detailed below:

I. **Delayed MAP Applications -** If the taxpayers make a MAP application to the CAs of India or to the CAs of the treaty partners after the expiry of the time period specified in the Article relating to MAP (corresponding to Article 25(1) second sentence of the OECD Model Tax Convention) in the relevant treaty, the CAs of India would not provide access to MAP. This time period threshold in most Indian treaties is three years from the first notification of the order/action of tax authorities that results or will result in taxation not in accordance with the relevant treaty. In the limited number of DTAAs that do not prescribe a specific time limit, acceptance of a MAP application filed beyond three years from the date of the first notification shall be subject to discussions and mutual agreement between the CAs of India and the relevant treaty partner jurisdiction.

II. **Taxpayer's Objection Not Justified -** On receiving an application for MAP, if the CAs of India come to a conclusion that the objection raised by the taxpayer in respect of the action taken by tax authorities is not justified, they can deny access to MAP. In particular, access to MAP shall not be provided in respect of issues that are purely governed by India's domestic law and arise due to the implementation of India's domestic legal provisions.

III. **Incomplete MAP Applications/Documents/Information -** When an Indian taxpayer makes a MAP application in India in Form No. 55, it is expected to be complete in all respects. If the CAs of India point out some errors or defects in the application or ask for additional information/documents, the Indian taxpayer should remedy the errors/defects and should provide the information/documents within a reasonable time period. There is no prescribed time period in Rule 121 for the Indian taxpayer to comply with such additional requirements. Hence, the CAs of India are expected to provide adequate time to the taxpayer to remedy the errors/defects and provide the information/documents. Normally, a time period of 30 days for remedying the errors/defects and 90 days for providing the additional information/documents should be provided by the CAs of India to facilitate the process, which can be extended by the CAs depending on the facts and circumstances of the case. In case of persisting failure, access to MAP can be denied.

IV. **MAP Application by taxpayer having availed VsV Scheme Relief -** The CAs of India shall not provide access on the application of MAP by a taxpayer which has itself voluntarily opted for the VsV Schemes on the same issue, and already availed the relief provided therein. However, in cases, where a taxpayer has applied for VsV scheme but not yet availed the benefits by paying the taxes therein, Indian CA shall grant access to MAP. In such a case, if the taxpayer

subsequently avails the VsV Scheme benefits, the Indian CA shall not deviate from that outcome.

56. In respect of MAP applications accepted by the CAs of treaty partner jurisdictions and subsequently notified to the CAs of India and accepted by the latter, Rule 121 provides that the CAs of India can call for information/documents from the Indian taxpayers or their representatives. The rule does not prescribe any time limit upon the taxpayers or their representatives to furnish such information/documents. Hence, the CAs of India are expected to provide adequate time to the taxpayers or their representative to provide the information/documents. Normally a time period of 90 days for providing the additional information/documents should be provided by the CAs of India to facilitate the process, which can be extended by the CAs depending on the facts and circumstances of the case. In such cases, access to MAP would have already been granted. But in case, it is not possible to proceed to a resolution in the absence of such information, the Indian CA may propose to the CA of treaty partner jurisdiction to close the case without a resolution.

PART C
TECHNICAL ISSUES RELATED TO MAP

C.1. Downward Adjustment below Returned Income

57. The CAs of India can negotiate a MAP case with their counterparts and withdraw all or part of the adjustments made by tax authorities in India. However, the CAs of India cannot go below the returned income filed by the taxpayer, as the same is expressly prohibited in Indian domestic law. Rule 121 (5) of the Income-tax Rules, 2026 provides the following limitation in this regard:

> *"5) In case the mutual agreement procedure is invoked on account of action taken by any income-tax authority in India, the resolution arrived at under sub-rule (4) in a tax year shall not result in decreasing the income or increasing the loss, as the case may be, of the assessee in India, as declared by him in the return of income of the said year."*

58. Hence, it is not possible for the Indian CA to accept a MAP resolution, including in a case of transfer pricing adjustment made in India, which will have the effect of reducing the total income or increasing the loss returned by the taxpayer in India. The CAs of India have to adhere to this provision while negotiating MAP cases involving adjustments made by Indian tax authorities. However, this limitation does not extend to MAP cases arising from adjustments made by tax authorities of a treaty partner jurisdiction.

C.2. Resolution of Recurring Issues

59. The CAs of India may resolve a MAP case arising from recurring issues on the same principles, as adopted in a prior MAP resolution. However, they cannot resolve such recurring issues in advance of an order/action by the tax authorities in India. In other words, they do not have the power to prevent the tax authorities from making an order that is not in conformity with prior MAP resolutions in case of the same taxpayer and on the same issues.

C.3. Interest and Penalties

60. In most of the disputes on the quantum of income, which are resolved under MAP there can be consequential issues of interest and penalty. The CAs of India do not have the mandate to consider such consequential issues, or negotiate disputes arising from such issues. These are to be administered under the domestic laws. However, where the amount of interest and penalties are linked to the quantum of income, such interest and penalties shall be varied in the same proportion as the variation in the quantum of income due to a MAP resolution, in accordance with the domestic law. It may be noted that there are provisions of fees/penalty under Indian Income-tax Act which are not connected to the quantum of income and, accordingly, those would also not be affected by the resolution under MAP.

C.4. Secondary Adjustments

61. Section 170 of the Income-tax Act, 2025 provides for Secondary Adjustment in certain cases. This is a part of the domestic law and hence would be applicable in all cases. The Indian CAs can discuss and resolve a dispute relating to the primary transfer pricing adjustment, which can also have consequential impact on secondary adjustments. However, it is not possible for the Indian CAs to deviate from the secondary adjustment provided in this provision, when it is applicable.

C.5. Bilateral & Multilateral APAs & MAP

62. India has a well-established APA Program under its domestic laws that includes unilateral, bilateral and multilateral APAs. In respect of issues for which a bilateral or multilateral APA application has already been filed and accepted, MAP applications on the same issues for the same years may not be required. However, if such MAP applications are made either before the CAs of India or the CAs of treaty partners, the CAs of India shall consult with their counterparts and take a decision on accepting or not accepting such MAP applications, or accepting them and keeping them in abeyance till the time bilateral or multilateral APA on the same issue are under consideration.

63. Where a MAP application is filed and is not accepted by the CAs in view of the pending bilateral or multilateral APA application, but such APA application fails to result

in an Agreement, then a MAP application on the same issue and for the same years can be made either before the CAs of India or the CAs of treaty partners and the same may be accepted by the CAs of India if it satisfies all conditions of a MAP application.

C.6. Suspension of Collection of Taxes during the Pendency of MAP

64. With a limited number of treaty partners, India has entered into a Memorandum of Understanding (MoU), under the ambit of the MAP Article, that provides for keeping the collection of taxes in a case under suspension during the pendency of MAP in that case. The taxes whose collection can be suspended are those that have arisen from the dispute that is under discussion in MAP. Taxpayers have to adhere to the terms and conditions mentioned in the MoU to be able to get the collection of taxes suspended.

65. In respect of MAP cases with countries where no such MoU exists in the DTAAs, the domestic law of India (including Instructions/Circulars issued by CBDT) shall govern the procedures related to suspension of collection of taxes or stay of demand.

C.7. Adjustment of taxes paid in pursuance of demand raised by an order under Section 398 of the Income-tax Act, 2025

66. Payment of taxes (excluding interest) made as a result of demand arising out of an order passed under section 398 of the Income-tax Act, 2025 on the Indian taxpayer (payer entity) may be allowed to be adjusted against the tax liability of the non-resident taxpayer (payee entity) in the event of resolution of MAP in the case of such non-resident taxpayer for the relevant issues and relevant years.

PART D
IMPLEMENTATION OF MAP OUTCOMES

D.1. Implementation of MAP where ITAT pronounces an Order

67. India is committed to implementing MAP outcomes in each and every case. There are no legal or administrative impediments to implementing MAP outcomes. The only exception to this general rule is MAP cases in which an order of the ITAT (for the same assessment year that has been resolved under MAP) comes to the knowledge of the CAs of India after the MAP has been resolved or is pronounced after the MAP has been resolved but not yet implemented. In respect of the above cases/situations, the MAP outcomes cannot be implemented and the CAs of India would inform their counterparts about the outcomes of the ITAT order and request them to provide correlative relief for the adjustments sustained by the ITAT, if any.

D.2. Timelines for Implementation of MAP Resolution

68. Rule 121 of the Income-tax Rules, 2026 mandates clear timelines for the taxpayer and the tax authorities in India to implement a MAP that has been resolved by the CAs of both treaty partners. The taxpayer has been provided a time period of one month (from the end of the month in which communication from the CAs of India has been received by the taxpayer) to convey its acceptance of the MAP resolution and to submit evidence of withdrawal of domestic appeals. Conveying of acceptance of the MAP resolution within this time period is mandatory and failure to do so may render the MAP resolution unimplementable. Similarly, the Assessing Officer has been provided a time period of one month (from the end of the month in which he receives the letter of the CA of India having jurisdiction over the case providing details of the resolution) for giving effect to the MAP resolution. These timelines are expected to expedite the MAP implementation process and make it more efficient and effective.

69. While intimating the Pr. CCIT concerned about the details of resolution agreed under the MAP, the CAs of India shall mark a copy of their letter to the Assessing Officer, his controlling officer, the CIT/PCIT and CCIT concerned, and to the taxpayer to ensure expeditious implementation.

D.3. Information to CAs of India

70. The Assessing Officer, in addition to sending a copy of the order giving effect to the MAP resolution to the CA of India, must also provide information regarding the amount/date of payment of taxes by the taxpayer or amount/date of issue of refund to the taxpayer (as the case may be), withdrawal of appeals filed by the tax authorities, and any other relevant details.

PART E
APPLICANT'S RESPONSIBILITIES

E.1. Responsibility of making true disclosure

71. A taxpayer resident in India can make an application to the CA of India having jurisdiction over the case if it considers that the actions of the tax authorities of the treaty partner result or will result in taxation not in accordance with the relevant tax treaty. Such an application has to be made in Form No. 55 in accordance with Rule 121.

72. In item 11 of Form 55, the applicant should provide all the facts of the case that can materially affect the negotiation process. For instance, if adjustments have been made to the same international transaction by Indian tax authorities as well as its treaty

partner's tax authorities, the CAs of the two countries can be blindsided in negotiations if the applicant only mentions adjustments in one jurisdiction and leaves out the crucial fact of adjustments in the other jurisdiction.

E.2. Responsibility to provide up-to-date information

73. Good faith action is the hallmark of alternate dispute resolution under MAP. The applicant must keep the CAs as up-to-date as possible on all material changes in the information or documentation previously submitted as part of, or in connection with, a request, as well as new information or documentation relevant to the issues under consideration. Making all relevant documentation and information accessible to a competent authority, in good faith, will assist in the smooth and efficient operation of the MAP process.

74. Taxpayer is expected to share the relevant information and details relating to the dispute with the CAs. It is also expected that a taxpayer shall provide the same information and details to both CAs negotiating the case, so as to ensure information symmetry and prevent a divergence on their part on the perceived facts of the case. This is also expected where the information may be sought only by one of the CAs. Further, as part of this practice, taxpayers are advised to share a copy of their application (along with any details annexed with it) submitted to the CA of the treaty partner jurisdiction for invoking MAP, with the Indian CA as well.

75. This guidance has dealt with the interplay of MAP with other processes such as regular tax appeals, and domestic dispute resolution schemes. The applicant best knows about its status in other fora. The applicant should promptly provide updated status of proceedings in other fora that could affect the MAP process.

76. The MAP guidance, as above, may be adhered and referred to by taxpayers, tax practitioners, tax authorities in India and CAs of India. If any element of the MAP guidance comes in conflict with the domestic legislation, rules, instructions, and circulars in India or with the DTAAs entered into by India, the provisions of such domestic legislation, rules, instructions, and circulars or the DTAAs, as the case may be, shall prevail.

*