

# TOOLKIT for the design and effective implementation of Domestic and International GENERAL ANTI-AVOIDANCE RULES (GAAR)

*Emphasis on the Caribbean Region*

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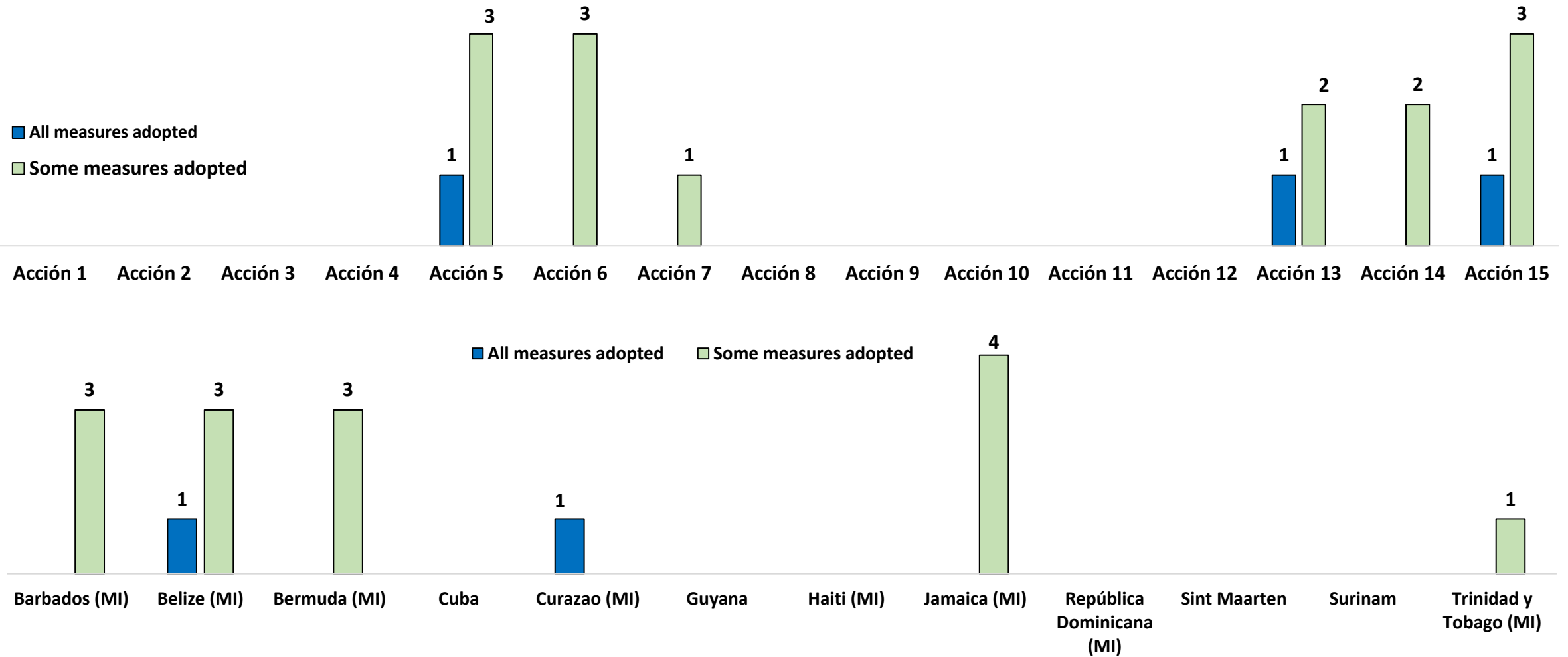


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A NEW MODEL OF GLOBAL GOVERNANCE IN INTERNATIONAL TAX LAW MAKING



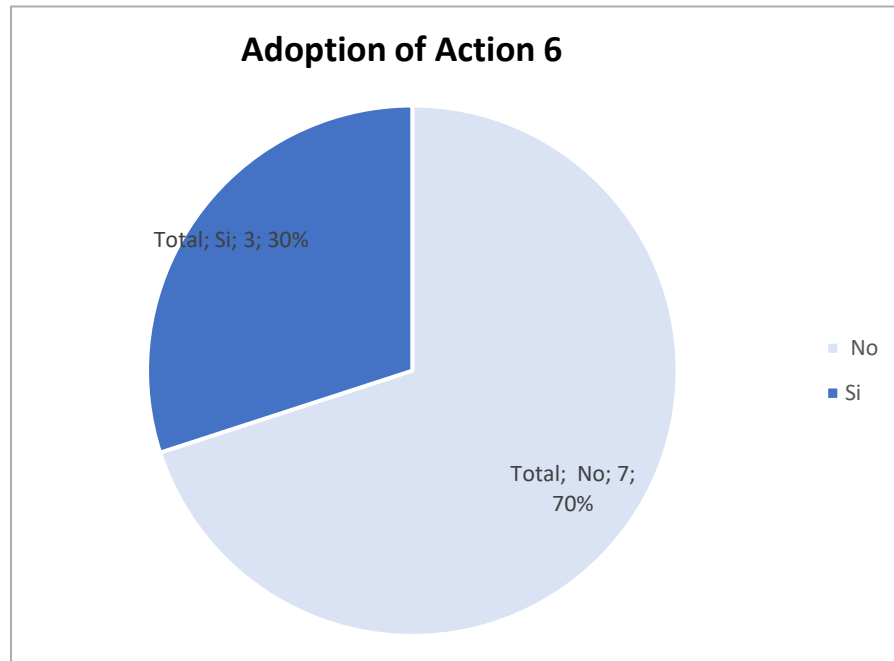
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# BEPS Actions Adopted by Caribbean CIAT Member countries (2021)



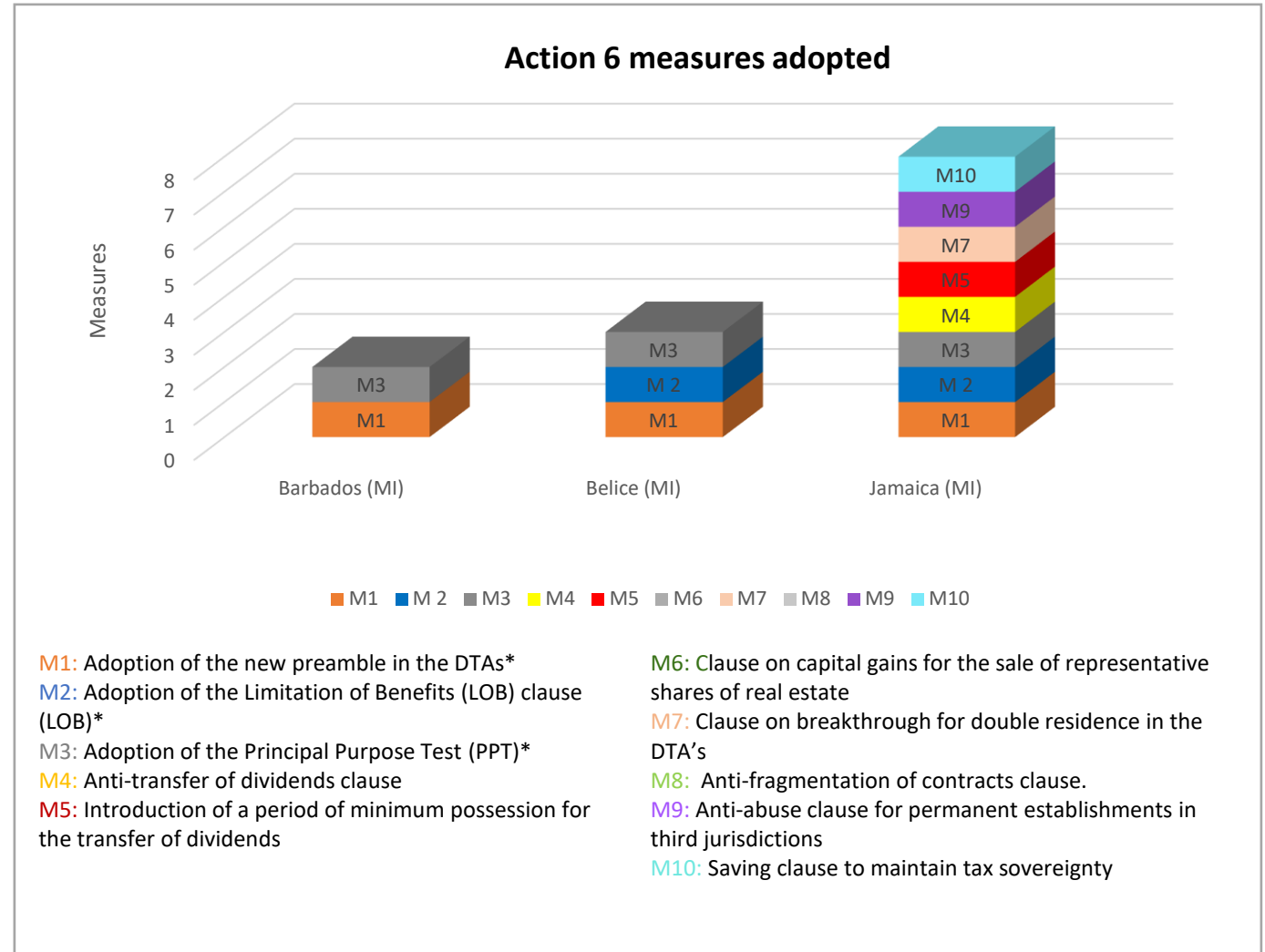
Source: BEPS Monitoring database, 2021, CIATData

# BEPS Action 6: Proposed International Anti-Abuse Rules PPT and LOB



All measures taken	Some measures taken
0	3

Source: BEPS Monitoring database, 2021, CIATData



# Our expectations

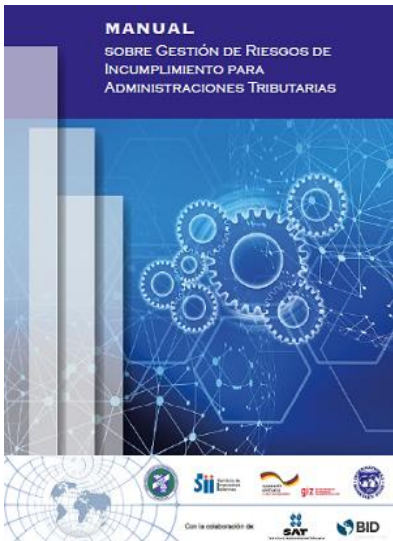
Complementing  
the international  
doctrine

Highlighting the  
main themes

Identifying  
opportunities for  
improvement

Providing  
proposals

## Related works



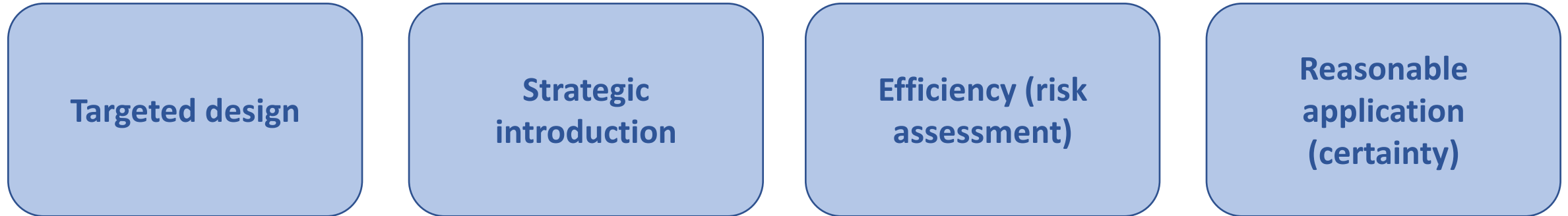
*Transnational  
Cases Involving  
the Erosion of  
the Taxable Base*



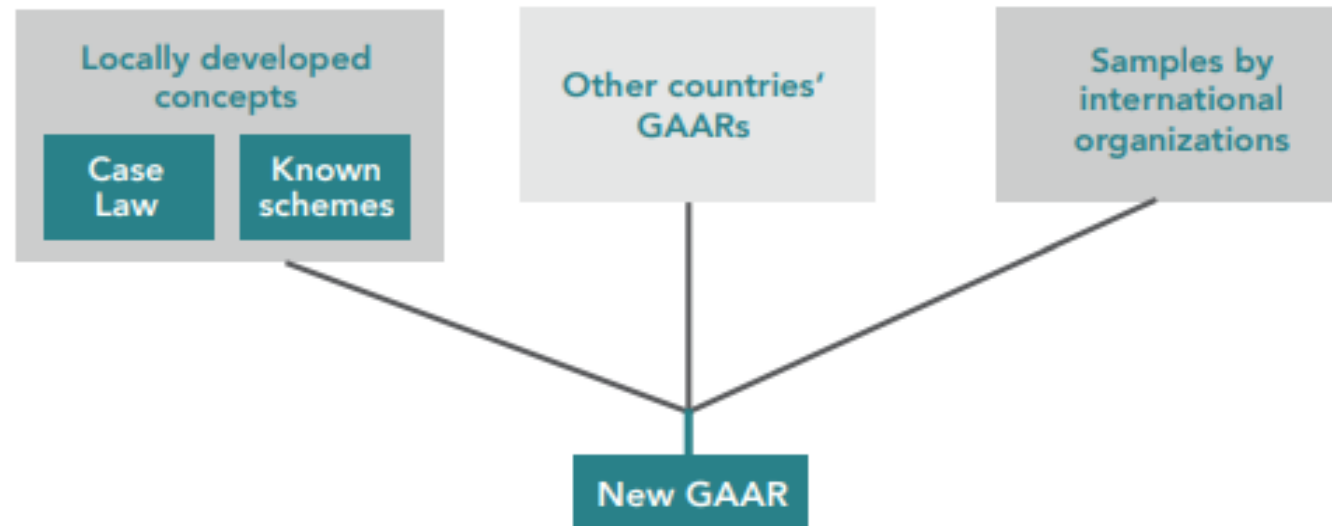
Disponibilidad de Información Pública

*BEPS Monitoring*

# GAAR regulatory design, technical capacity and strategy



**Figure 4** Sources of inspiration for GAAR design



## Design and Introduction

### Design considerations

Does the GAAR include a reference to a similar **scheme, act, agreement, or term**?

Does the GAAR include a reference to a **tax benefit**?

Does the GAAR include a **subjective or objective test**?

### Introduction strategies

Has a consultation process been organized?

Has a memorandum been drafted to accompany the introduction of the GAAR?

Has a strategy been developed to negotiate the GAAR in tax treaties?

### Additional considerations

Timing and transition, taxpayer engagement, consequences, GAAR-SAAR interaction, thresholds, panel.

**Effective and  
consistent  
implementation**

**Capacity**

HR and development programs

**Internal procedures**

Has an advance ruling unit been integrated and the procedure made known?

Has a flowchart and a procedure been drawn up?

Has a database of GAAR cases been created?

**Communication with the taxpayer**

Explanations in *website*, awareness-raising, publication of schemes?

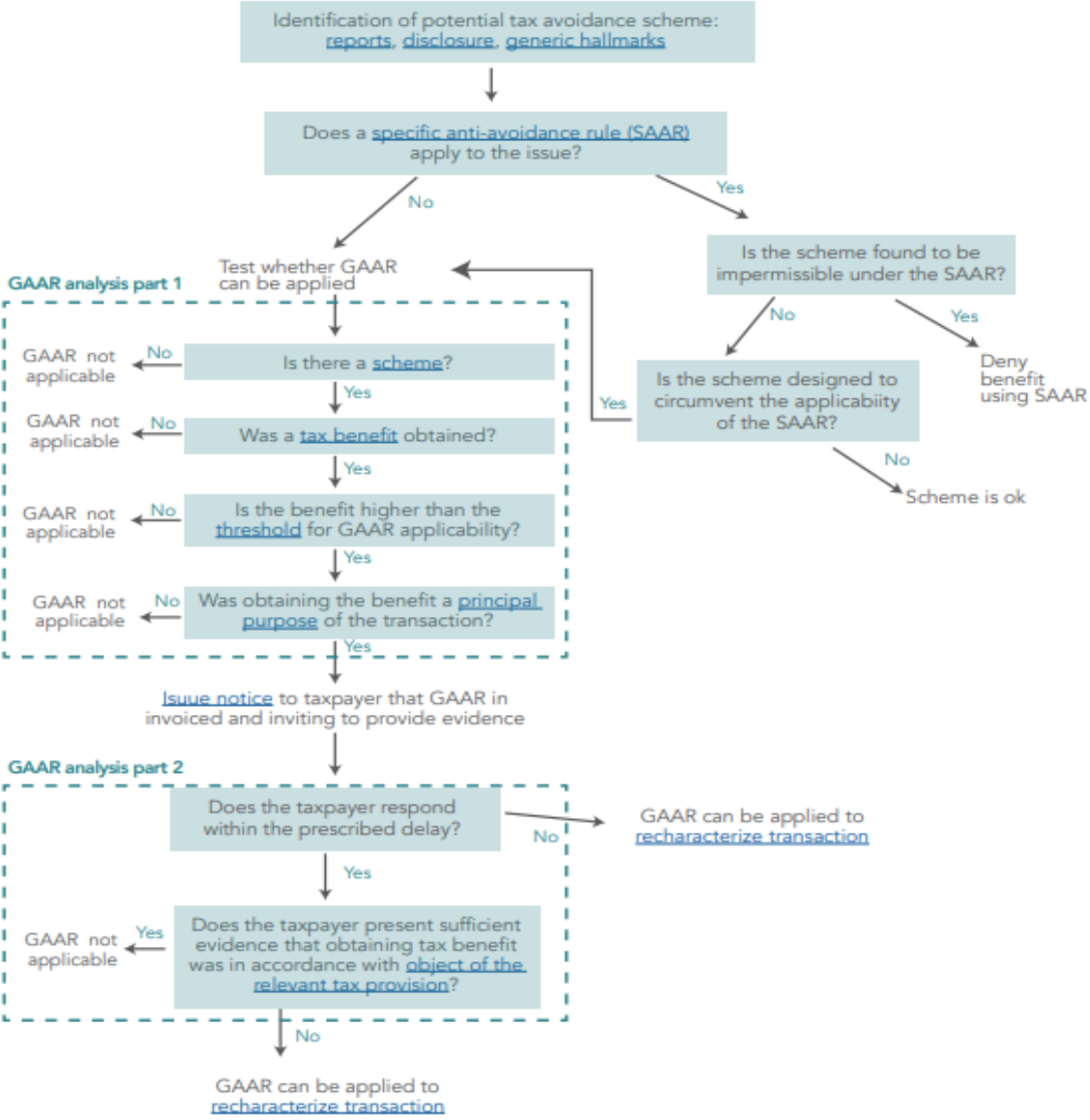
Does the taxpayer have the opportunity to provide additional information and explain his position during an investigation? Are the moments of the taxpayer's participation clarified and communicated?

**Dispute resolution procedures**

Procedures, application for liquidations, capacity of courts, access to MAP by application of GAAR

*To apply or not to apply, that is the question...*

**Figure 5** Generic GAAR analysis procedure



Source: Figure 4, Toolkit for the design and effective implementation of domestic and international general anti-avoidance rules, 2022.



# Further considerations...

## Challenges faced by the tax administration:

- Maintaining tax certainty
- Identifying and curbing abusive behaviors
- Harmonize interaction with specific anti-abuse rules (SAARs)
- Potential interaction/overlap with Pillar 2 measures

**GAAR**

It's not a magic bullet

*Thank you for  
your attention*

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