

How Value Chain Analysis can contribute to managing controversy effectively

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1. Tax and transfer pricing compliance

Master file

Contains a “blueprint” of the MNE group:

- (i) the MNE group’s organizational structure;
- (ii) a description of the MNE business(es)
- (iii) the MNE; intangibles
- (iv) the MNEs intercompany financial transactions;
- (v) the MNEs financial and tax position.

CbCR

Contains key elements of the financial statements by jurisdiction, providing local tax authorities visibility to revenue, income, tax paid and accrued, employment, capital, retained earnings, tangible assets and activities.

Tax Return

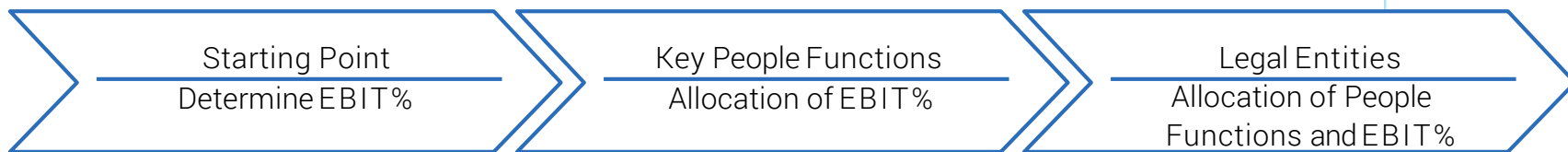
Contains information regarding only the local entity disclosed for local corporate tax filing obligations, including its intercompany transactions with other entities in the group.

THE MISMATCHES CAN NOW BE ALIGNED USING VCA

2. “Tax sensitive data” disclosure policy

1. Full tax transparency = full value chain analysis
2. Disclosure policy :
 - Do you have a written policy?
 - Did CFO sign off?
 - What is the definition of sensitivity?
 - What to do with commercially sensitive data?
 - Who has access?
 - What are channels of disclosure?
3. Corporate governance on tax matters

3. Value chain analysis: qualifiable approach



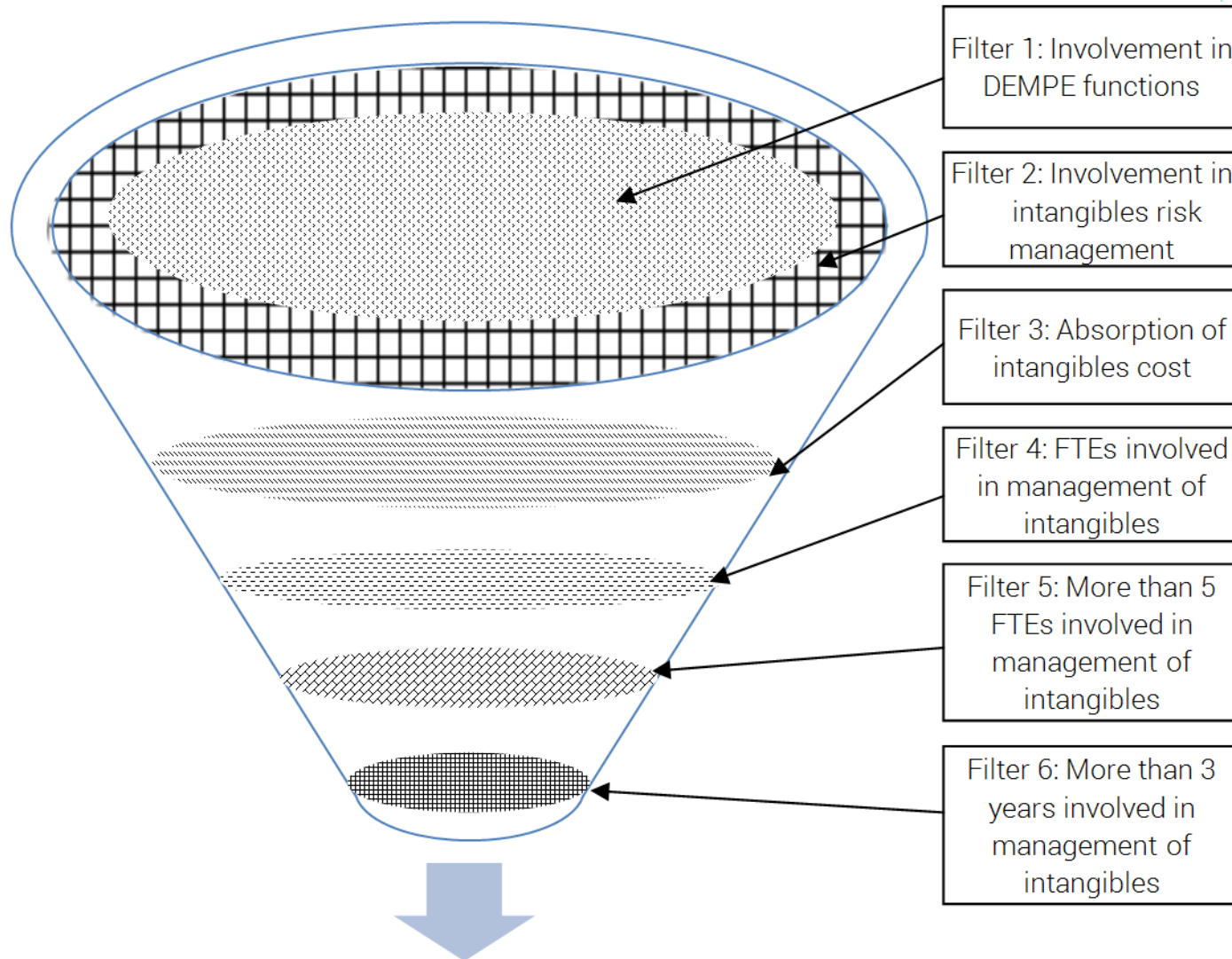
Residual	
Investment Center	Profit Center
<ul style="list-style-type: none"> ✓ Capital market/customer driven activities ✓ Mostly performed for stakeholders/MNE as a whole ✓ Core Activity e.g., IP Owners 	<ul style="list-style-type: none"> ✓ Market/customer driven activities ✓ Mostly performed for external customers ✓ Mostly core e.g., Distribution Centers

DEMPE Functions* + Filter

Match-Making

*Development, enhancement, maintenance, protection and exploitation functions.

4. Match-makers on intangibles: funnel approach



Group entities entitled to a portion of residual (matchmakers on intangibles)

5. Value chain analysis: quantifiable approach

Basic approach to divide the residual profit

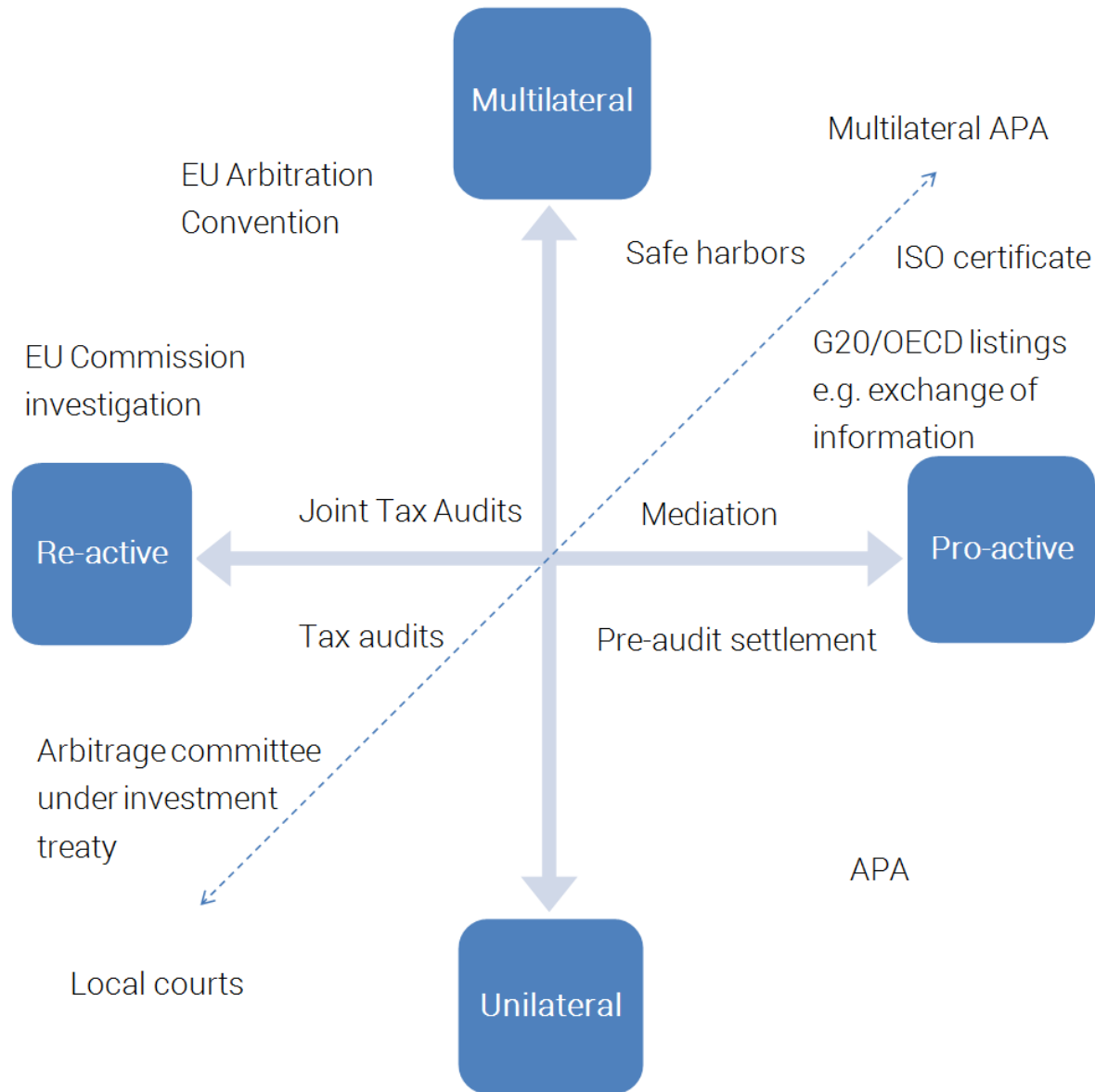
Example of pharmaceutical industry:

- Assumption 1: EBIT= 15%
- Assumption 2: Return for routine functions= 5% (to be given to finance activities, contract manufacturers, contract R&D providers and support service providers)
- Therefore, residual= 15%-5%= 10%, which needs to be split between the investment and the profit center
- Based on the industry standard for pharmaceutical MNEs, a return for the investment center and the profit center has been identified to be 2.5% and 7.5% respectively.

See calculation below:

EBIT	15%
Return for routine functions	<5%>
Residual EBIT	10%
Slice for investment center role	2.5%
Slice for profit center role	7.5%

6. Dispute avoidance and dispute resolution tools

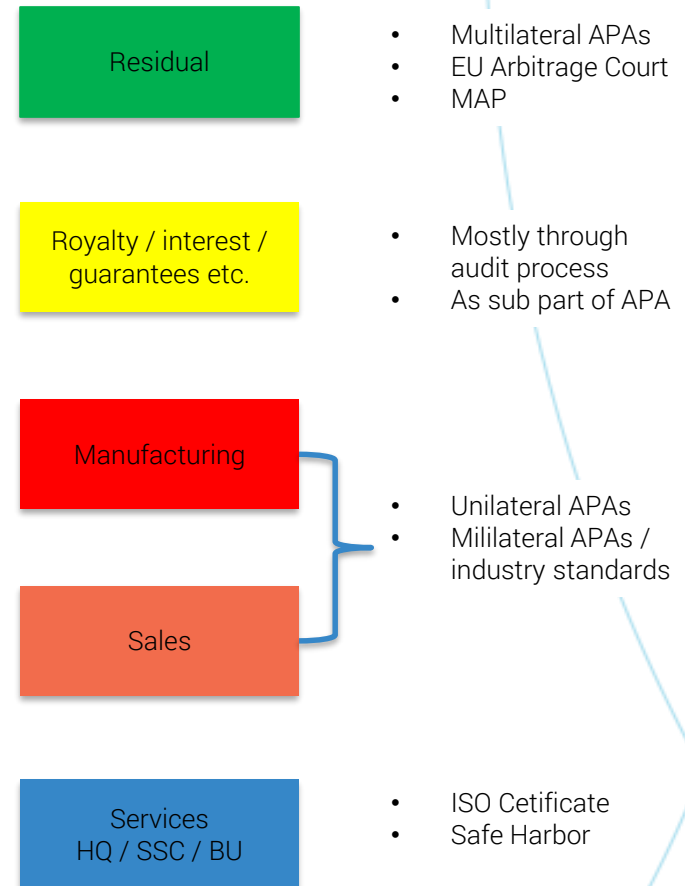


7. Value chain and dispute avoidance / resolution

A. A value chain analysis after BEPS



B. Dispute avoidance / resolution toolbox



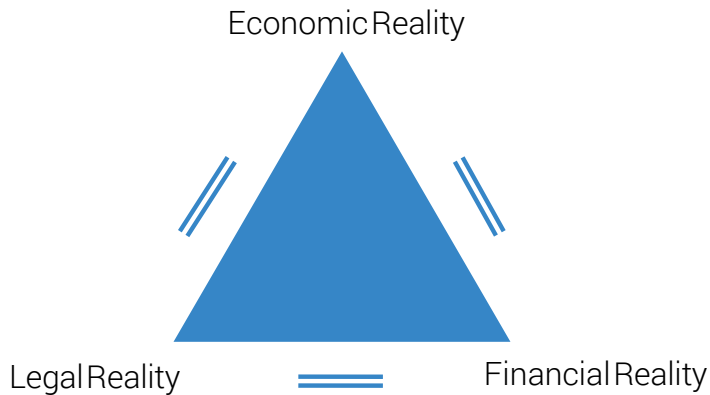
C. Main questions:

- which disputes to handle?
- which toolbox to use?
- what timing of risk management?
- what professional process to use?

➔ What will be your Global TP risk mitigation strategy?

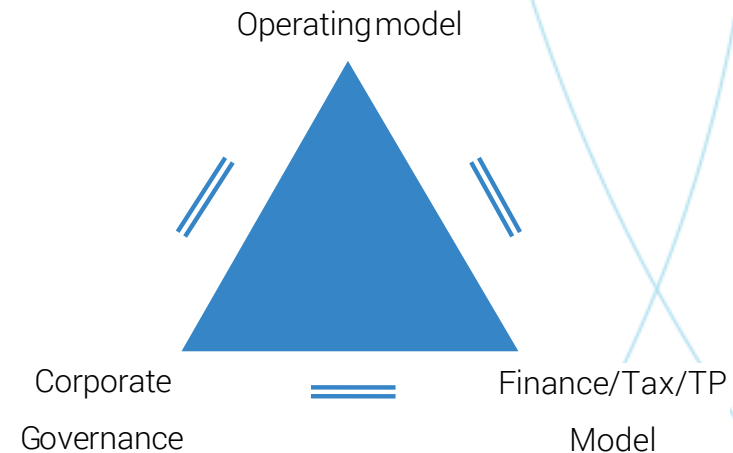
8. Link between value chain analysis and corporate governance

Pre BEPS Functional Analysis

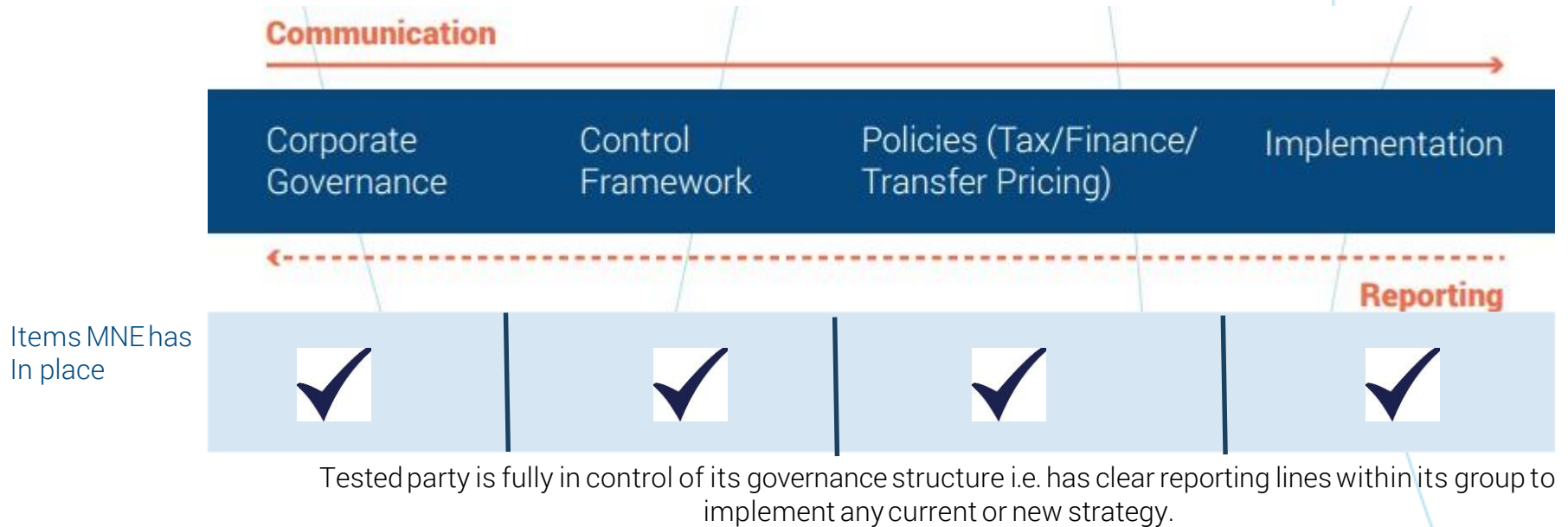


Move from
Pre to Post
BEPS

Post BEPS Value Chain Analysis



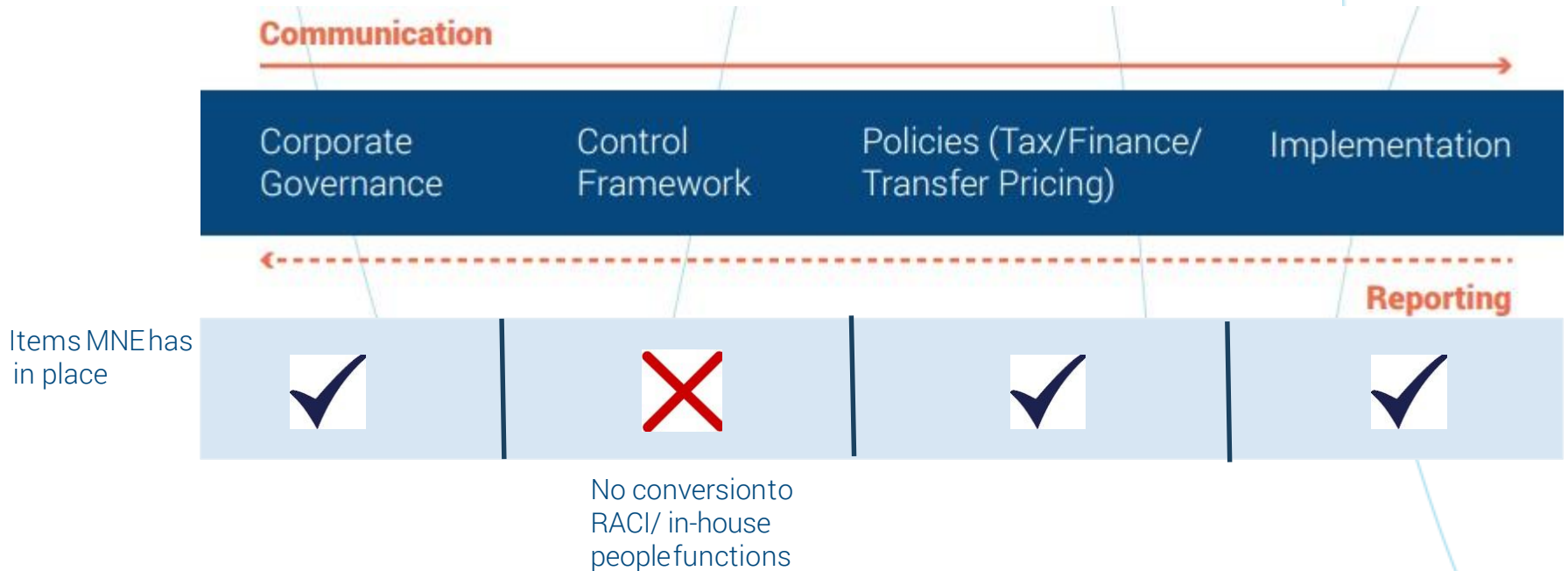
9. Generic governance model



Key Messages:

- ❖ Corporate governance models
- ❖ Liability issues of boards
- ❖ Corporate governance beyond tax matters

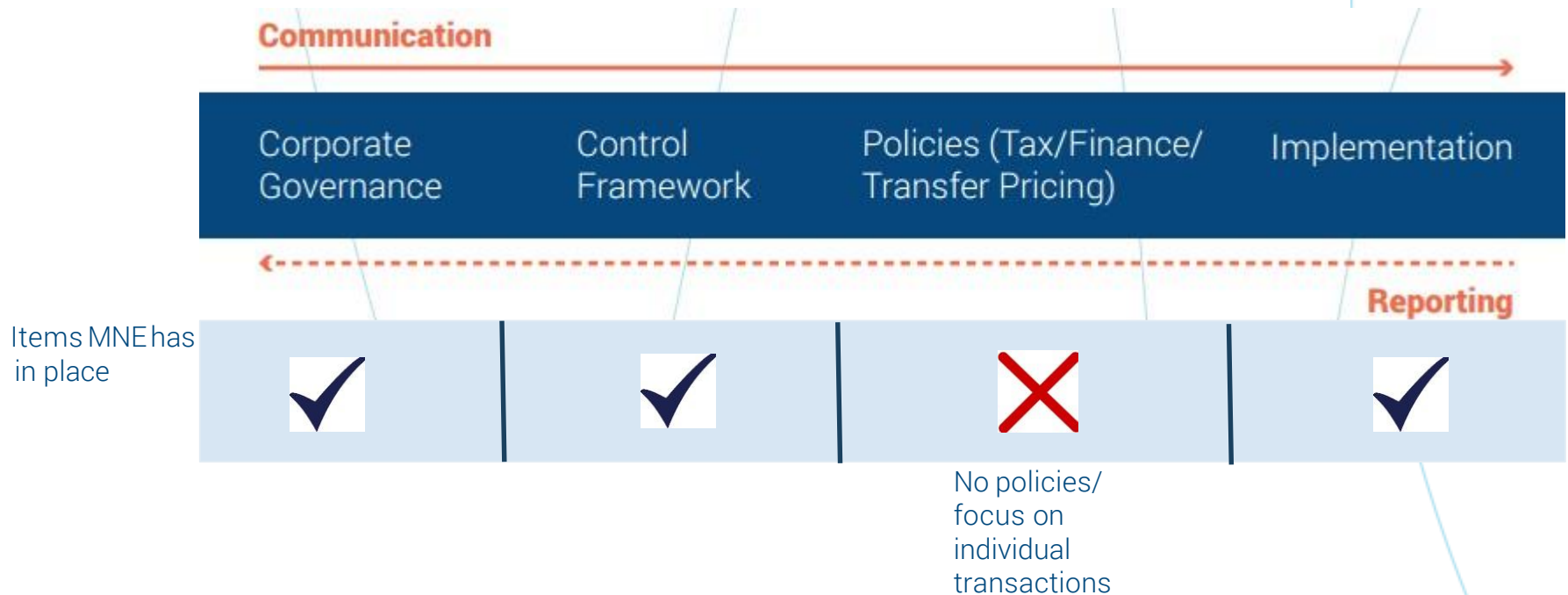
10. Governance Models for tax in Practice (1)



Points of discussion:

- ❖ What happens if no clear division of roles and responsibilities are defined on tax matters?
- ❖ Who signs off on the CbCr and tax returns?
- ❖ Who is responsible for a “Value Chain Analysis” in China?

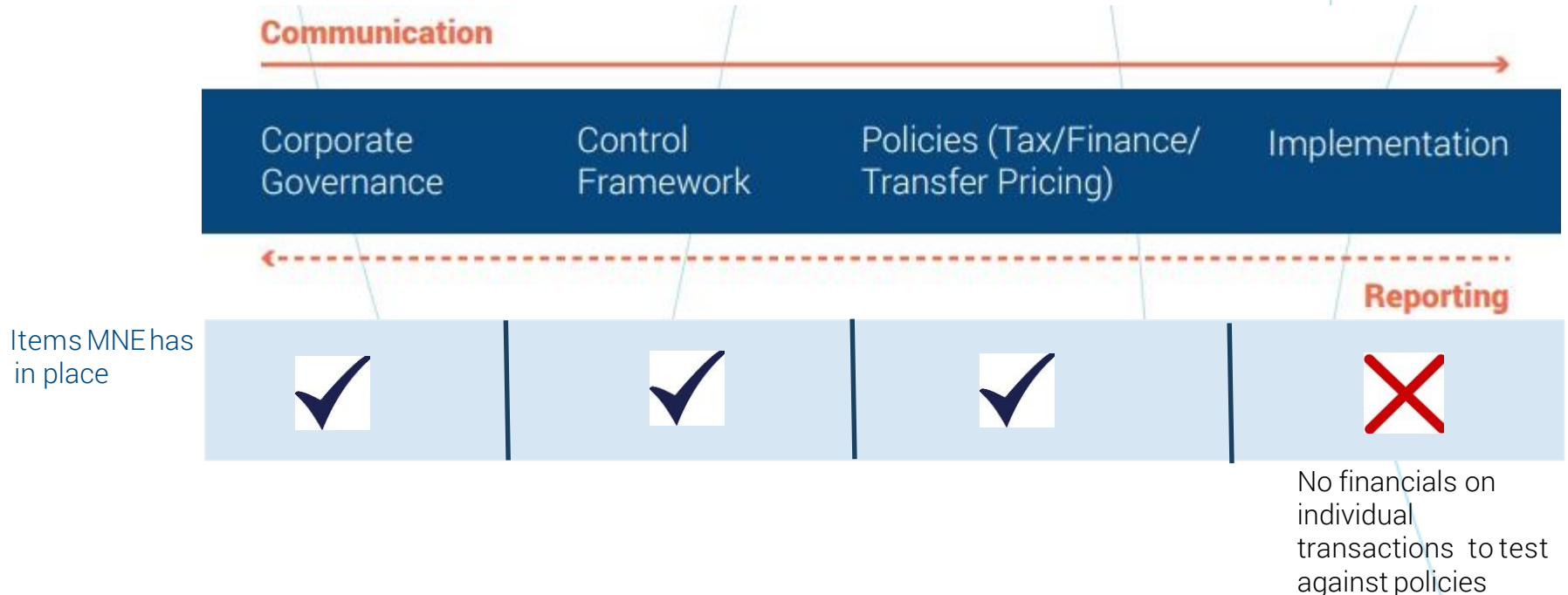
10. Governance Models for tax in Practice (2)



Points of discussion:

- ❖ What happens if your TP documentation captures each individual intercompany transaction (operational perspective only), while no written TP policies exist?
- ❖ What additional purposes does a TP policy serve?
- ❖ Is a value chain analysis published in your 'corporate social responsibility' document setting a clear policy standard?

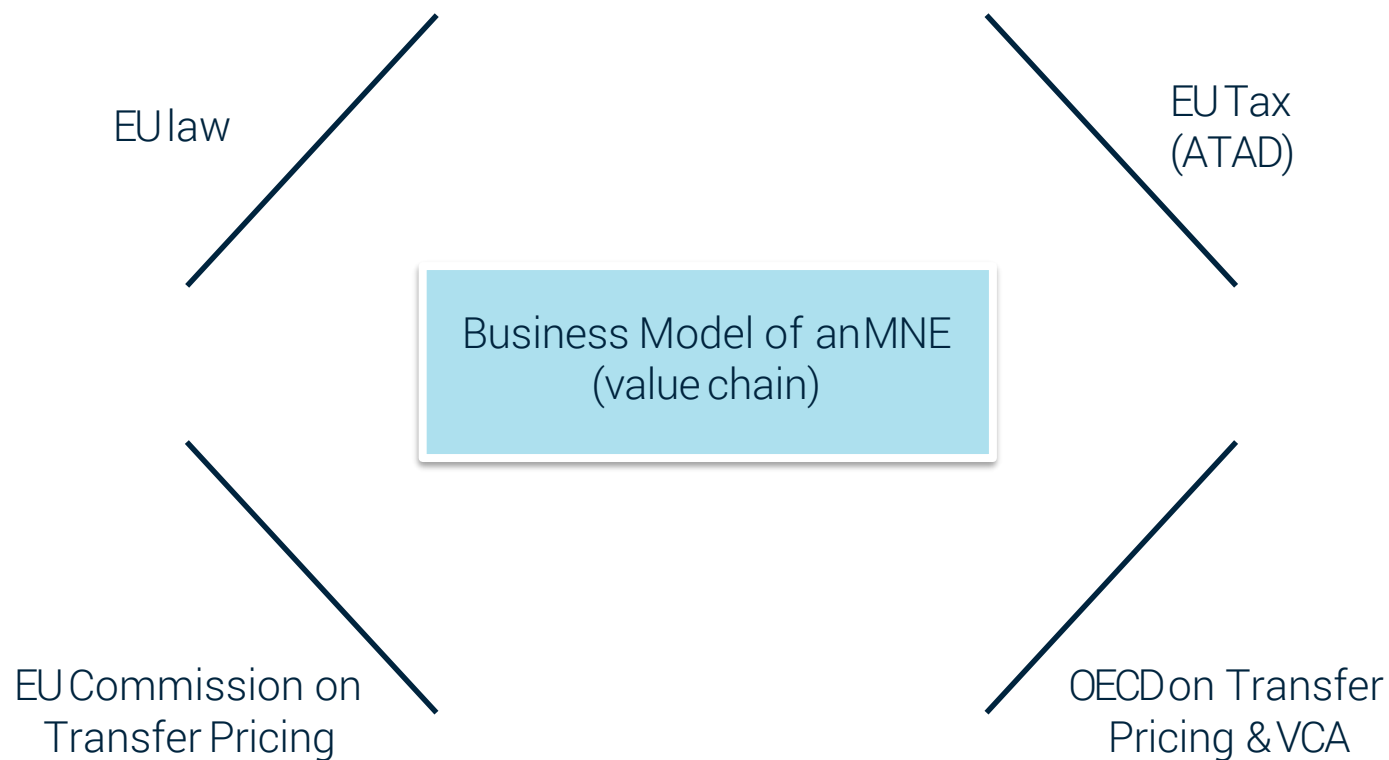
10. Governance Models for tax in Practice (3)



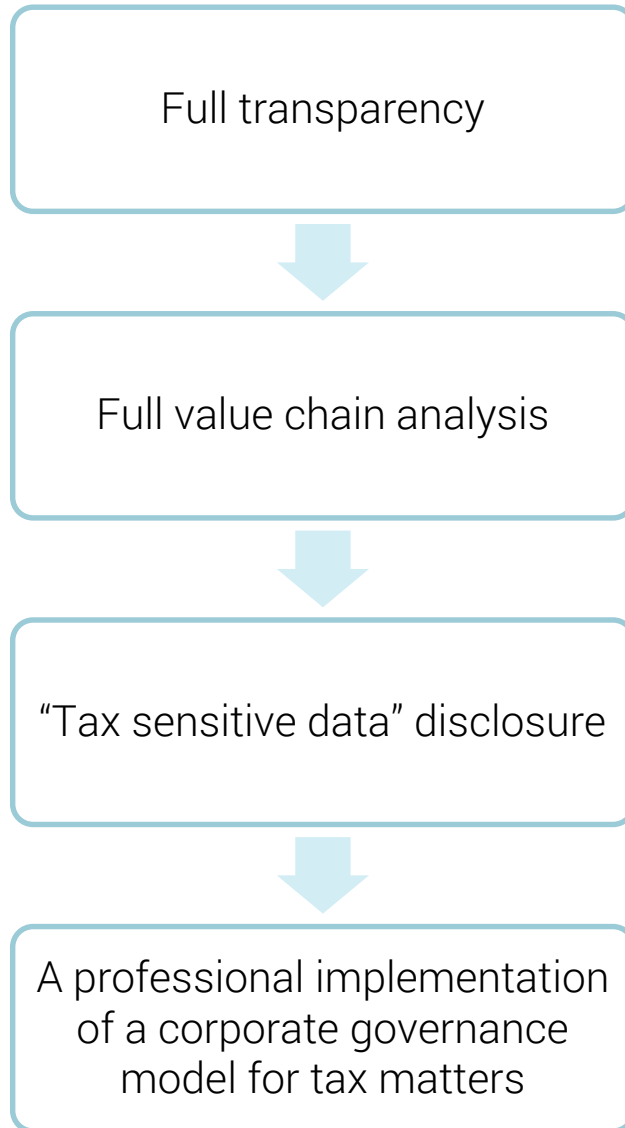
Points of discussion:

- ❖ What is the impact if your TP documentation only supports your TP policy papers, while:
 - No financials are available on intercompany transactions; or
 - Your financials are not measured against your TP policies; or
 - Your financials tell a different story than your TP policy.

11. Four sets of norms/boundaries for business models



12. Lessons learned



Q & A

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