



HM Treasury

By email: [BEPSinterestconsultation@hmtreasury.gsi.gov.uk](mailto:BEPSinterestconsultation@hmtreasury.gsi.gov.uk)

14 January 2015

Dear Sirs,

**Re: Tax Deductibility of Corporate Interest Expense: Consultation**

We are writing on behalf of the British Private Equity and Venture Capital Association (the "BVCA"), which is the industry body and public policy advocate for the private equity and venture capital industry in the UK. With a membership of almost 600 firms, the BVCA represents the vast majority of all UK based private equity and venture capital firms, as well as their professional advisers. While our membership is predominantly focussed on private equity and venture capital, a significant number of our members are active in infrastructure, debt and real estate. These types of alternative funds are a growing source of finance for investment by business.

Our members have invested over £30 billion in nearly 3,900 UK-based companies over the last five years. Companies backed by private equity and venture capital in the UK employ around 490,000 people and almost 90% of UK investments in 2014 were directed at small and medium-sized businesses. The availability of debt finance facilitates this investment in business and jobs growth and the benefits of debt finance in the broader economy should not be underestimated. Changes to the tax system which affect the effective cost of financing, and the uncertainties that this creates, could deter investment at a time when it is much needed by reducing the attractiveness of the UK. **In principle, therefore, we do not agree with the proposal to introduce a new general rule for restricting the deductibility of interest.** There are a number of reasons why private equity and venture capital firms use debt finance and we discuss these in more detail below. Measures to reduce the deductibility of interest will impact the industry and potentially harm the competitiveness of the UK.

Furthermore, these proposals come at a time when the European Commission has acknowledged the role of the industry in its Capital Markets Union Green Paper and subsequent Action Plan by stating that "[a]s an alternative form of funding to traditional bank loans or issuing debt or equity, private equity and venture capital play an important role in the European economy" and then went on to ask "[h]ow can the EU further develop private equity and venture capital as an alternative source of finance for the economy?". Private equity and venture capital funding is one of the options which a company may consider in order to meet a need for capital. It fulfils a different role to say stock market capital or bank lending, because private equity investors will tend to take a more active role in the investee business. Private equity and venture capital is therefore a source of genuine long term investment for the real economy.

As well as the benefits to the investee companies and those directly or indirectly employed by them, investment by private equity also has wider benefits to communities. Many private equity

firms have signed up to the UN's Principles for Responsible Investment<sup>1</sup>. The private equity work stream was launched in 2008 and now has over 240 GPs and Funds of Funds as members. The UN have noted that *"Private equity is highly conducive to responsible investment because of its relatively long-term horizon; the typical holding period for a portfolio company is 3-7 years. In principle, private equity firms have influence over company management and are therefore able to promote ESG initiatives at the company level"*.

### **Overview of the use of debt**

This letter contains our responses to the specific questions raised in the consultation paper. Before we turn to those, however, we thought that it might be helpful to provide some general comments on how and why debt is used in a private equity and venture capital context.

Debt plays an important part in financing private equity and venture capital transactions. In respect of any particular investment and depending on the type of fund and underlying asset class, it may comprise external third party (e.g., bank) debt and / or debt financing from the fund to the relevant investee company.

Bank debt may be used for a number of reasons. Amongst others:

- it can help to finance the acquisition and development of businesses;
- it can improve returns for investors by providing a flexible and stable form of capital; and
- it can increase the diversity of a fund's portfolio by increasing the spending power of investor commitments to the fund.

Fund debt, which can cover both loans from a private equity fund to underlying investee companies and loans within a group of companies owned by a private equity fund, may also be used for a number of reasons:

- it can provide comfort and certainty for investors, particularly in an insolvency scenario – the rights of loan creditors are generally more clearly defined and rank ahead of shareholders. For example, investing through a mix of equity and loan notes is common for growth stage investment into SMEs and in turnaround situations where downside protection is important;
- it can facilitate a quick and immediate investment in an asset, with a view to a subsequent refinancing with external party debt;
- it can ease the repatriation of cash – the repayment of loans and the payment of interest are not usually subject to the same corporate law constraints as the return of share capital and the payment of dividends;
- it can encourage greater investment in and development of new business lines and geographies; and
- it can improve returns for investors.

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<sup>1</sup> <http://www.unpri.org/areas-of-work/implementation-support/private-equity/>

It will be clear from the list above that the reasons for using debt finance in a private equity and venture capital context are not all tax related. The fact that interest is generally deductible does mean that the cost of capital can be reduced and the returns for investors can be improved, increasing and encouraging investment in businesses. This has a very important role in promoting growth and jobs in the UK. It does not, however, mean that it is necessarily being used to facilitate BEPS.

It is also worth noting that, in each case, private equity firms and their investors will be keen to ensure that portfolio companies are not excessively burdened with debt as this could put the performance of the underlying business at risk.

### **Summary of key points**

While we do not, as a matter of principle, agree with the proposal to introduce a new general rule for restricting the deductibility of interest and continue to believe that transfer pricing remains the most sensible basis for determining the deductibility of interest because it relates specifically to the borrowing capacity of the underlying business rather than some arbitrary fixed ratio, we acknowledge that this methodology has been rejected by the OECD in the context of AP 4 and have addressed the questions raised in the consultation paper on that basis.

A summary of our key points is set out below. Responses to the specific questions raised in the consultation paper follow.

#### **A. Timing of Introduction and Grandfathering**

Any changes which affect the deductibility of interest costs could have a significant effect on business cash flows and forecasts. The position may be particularly acute where those interest costs have, quite reasonably, been assumed to be deductible because they relate to external third party debt or have been the subject of an Advance Thin Capitalisation Agreement with HM Revenue and Customs.

This, in turn, could put businesses at risk of breaching the financial covenants in their financing documents, triggering events of default and / or increases in the interest rates payable under those documents. In these circumstances, businesses will typically look to reduce costs (e.g., jobs) and capital investment to protect themselves from the effects of this. For some businesses, this may not be feasible and the ability to refinance their existing arrangements may be limited. At a time when the global economy is emerging from a very significant downturn and remains in an extremely fragile state, this would seem counterproductive and potentially very damaging to the UK economy.

Unless, therefore, it is absolutely clear that the effects of any new rules will be limited to clear instances of BEPS only, we would strongly recommend that the implementation of any new rule is deferred until 1 April 2018 (or, at least, until 12 months after the final legislation is made available) and is combined with a sensible grandfathering period of two to three years.



The issue of timing and grandfathering is extremely important to our industry, where term financing of 5 to 7 years and detailed financial covenants are common and term financing in some sectors (e.g., utilities, infrastructure and property) can be even longer.

**B. Fixed Ratio Rule**

In order to ensure that the UK remains competitive as a place to do business, we would suggest that any fixed ratio is set at 30 per cent, in keeping with Germany and other European jurisdictions.

What is more, we believe that any fixed ratio (and group ratio) rule should be kept under review as the economic environment changes, in line with the recommendations in the OECD Final Report on AP 4. These proposals are being put forward at a time of historically low interest rates and with the global economy in recovery mode and it is important to ensure that these proposals remain fit for purpose and can adapt to the economic environment, although this must always be balanced with the need to maintain, so far as possible, a stable tax regime for business to encourage long term investment.

**C. Group Definition**

We believe, in line with the OECD's conclusions in respect of AP 4, that portfolio companies under a private equity fund should not be considered to be part of the same group for the purposes of any fixed ratio or group ratio rule. There are two principal reasons for this:

- portfolio companies will typically operate in completely different sectors, be financed on a standalone basis (without reference to any other fund investments), be at different stages of development and operate completely independently. For the interest costs in each of those portfolio companies to be determined by reference to the economic performance and financing arrangements in place in respect of all the other portfolio companies would therefore be perverse and detached from economic reality; and
- the administrative complexity associated with consolidating the underlying businesses for these purposes would be considerable.

**D. Group Ratio Rule**

We believe that this is critical to ensuring that, so far as possible, third party financing costs remain deductible (again, in keeping with the conclusions reached by the OECD in respect of AP 4).

External leverage ratios in private equity transactions will commonly be in the region of 4 – 7x EBITDA, although in respect of businesses with more stable income streams or in the early development stages the initial multiples may be much higher. As a result, even at today's historically low interest rates and with a fixed ratio set at the highest threshold



(i.e., 30 per cent), the deductibility of interest costs on external debt above 4 or 5x EBITDA could be susceptible to restriction.

It is also worth noting that, while the group ratio rule would work well for UK businesses, certain problems and anomalies arise in the context of groups with operations in the UK and elsewhere. This is because, in circumstances where a business is relying on the group ratio rule to preserve deductibility, the deductibility of UK interest costs may well be determined by the performance of the group's non-UK operations – in the most simple example, where UK EBITDA remains flat, this will generally be to the benefit of the group where the non-UK operations perform well and to the detriment of the group where the non-UK operations perform badly.

We would recommend, therefore, some potential safeguards for businesses in these circumstances, e.g., a right to elect for the deductibility of interest costs at the beginning of any financing arrangements to be determined by reference to the EBITDA of the group at that time. This would enable businesses to obtain a greater degree of comfort in respect of the deductibility of future interest costs when entering into funding arrangements. They would not, in these circumstances, enjoy a greater interest shield if trading improved but by the same token they would not be adversely affected if the business (or parts of the business) went through a more difficult period.

Similarly, alternative group exceptions could be introduced based on earnings and assets, consistent with the way in which banks commonly lend, where underlying income streams are only part of the equation and asset value may be equally important.

#### **F. De minimis and SMEs**

We believe that a de minimis threshold, at the very least, would be sensible. AP 4 is aimed at big multinationals and small businesses should not be subjected to unnecessary compliance costs as a result of these measures, particularly if all the existing restrictions on the deductibility of interest costs in the UK are retained.

HM Treasury and HM Revenue and Customs will be aware that other jurisdictions (e.g., Germany) have higher de minimis thresholds and we would therefore suggest that a higher threshold (e.g., £2m) should be considered. The target of AP 4, after all, is big multinationals.

In a similar vein, we believe that an exemption for SMEs should be considered very seriously and this is the area in which the majority of private equity investments are made. In order for this to work effectively for the private equity industry, however, it would need to be clear that, as in the case of the worldwide debt cap, companies which would on a standalone basis constitute SMEs do not cease to be SMEs simply because they are owned by one private equity fund. The reasons for this follow those set out in section C above.

## G. Targeted Rules – Related Party Debt

We believe that any rules targeting the deductibility of interest costs on related party debt should be approached with extreme caution.

A complete restriction on related party debt, simply because it is related party and irrespective of whether there is any BEPS involved, would go far beyond what AP 4 was designed to achieve and would, for the reasons set out in our response to question 15 below, risk distortion and potentially double taxation.

It is also worth noting that, in most instances where the relationship between parties can affect the UK tax treatment of arrangements between them, there is usually some objective measure of what the adjustment should be (e.g., arm's length, market value, tax mismatch). This must be right and any restriction based solely on whether the parties are related without any evidence of BEPS would run contrary to that principle and the intention of AP 4.

Against that background and on the basis that nearly all of the existing restrictions in the UK tax system on interest deductibility will be retained, at least in the short to medium term, we would strongly suggest that these remain the appropriate mechanisms to deal with related party debt and only if they are shown to be deficient should the position be revisited.

### **Detailed response to questions**

#### *1. What are your views on when a general interest restriction should be introduced in the UK?*

This very much depends on what form of general interest restriction is introduced.

If, for example, a fixed ratio were introduced, with no de minimis or group ratio exception, the impact on UK business, particularly in the private equity and venture capital arena, could be hugely significant in terms of both cost and compliance and an implementation date of 1 April 2017 would leave businesses with very little time to adapt to the changes or refinance their existing funding arrangements.

If, however, under the new regime all external interest costs remain deductible and there are no related party debt restrictions, the impact is likely to be far less significant and, while we do not support the implementation of a general interest restriction in principle because of the necessarily arbitrary and inflexible nature of any fixed ratio rule, may be more manageable.

Nevertheless, we note that the legislative process is in its very earliest stages in the UK and there are a number of items which are likely to be subject to further recommendations from the OECD – the group ratio rule, in particular – and those recommendations are unlikely to be received until sometime in 2016. We are therefore concerned that an implementation date of 1 April 2017 is extremely close and would strongly suggest 1 April 2018 instead.

2. *Should an interest restriction only apply to multinational groups or should it also be applied to domestic groups and stand-alone companies?*

We agree with the concerns raised in the consultation paper that this could create distortion and harm the attractiveness of the UK economy.

We also believe that the issue of limiting any general interest restriction primarily to the multinationals at which the OECD recommendations in respect of interest deductibility were aimed can be much better dealt with through the introduction of sensible de minimis and SME exceptions and a group ratio rule.

3. *Are there any other amounts which should be included or excluded in the definition of interest?*

We believe that this should most sensibly follow the current tax definition, i.e., only those financing costs which would otherwise be deductible under the loan relationship rules after the application of existing restrictions. By way of example, therefore, it should not cover interest disallowed under the transfer pricing or distribution rules.

We would also suggest that any interest accrued but not deducted before implementation under the late paid interest rules (which remain relevant in a private equity context) should be excluded from any restriction under the transitional provisions.

4. *How could the rules identify the foreign exchange gains and losses to be included?*

Foreign exchange gains and losses which are not related to interest payments should not be included on the basis that they simply reflect currency movements and are unlikely to be contributing to BEPS.

5. *If the rules operate at the UK sub-group level, how should any restriction be allocated to individual companies?*

We believe that calculating the position by reference to the aggregate position of all UK companies in the same group is the most sensible approach. Not only is this more likely to reflect the economic terms of the financing in the UK group or UK sub-group, which will typically be secured or based on the assets of the group or sub-group as a whole, but should also be administratively simpler for business.

Against that background, it follows that economically and administratively it would be most sensible for the UK group or sub-group to have the choice as to where any restriction was allocated and any available deduction claimed (much in the same way as under the worldwide debt cap).

This is perhaps also the right place to highlight the importance of how "group" and "sub-group" are defined for these purposes. It is relevant both here and in the context of any group ratio rule. A private equity fund will typically hold multiple investments beneath a single fund vehicle and, for the reasons given in the OECD's first Discussion Draft on Action Plan 4, it is very important to

ensure that two or more independent groups held by the same private equity fund should not be consolidated for the purposes of any general interest restriction. If that principle is accepted, it should, in our view and for the same reasons, be applied consistently across private equity funds whatever their form, whether they are structured as limited partnerships, limited partnerships with an underlying master holding company structure, single purpose corporates or corporates comprising multiple compartments effectively representing multiple funds with different investor bases and investment parameters.

Furthermore, we would expect it to be clear that a group would stop at the top corporate vehicle in the group in line with the recommendations from the OECD such that debt provided by a fund to a portfolio company would typically constitute external group debt.

6. *Are there items which should be excluded from both the definition of interest and from "tax EBITDA", as referred to in the section on a fixed ratio rule?*

See response to question 3 above.

In respect of EBITDA, we acknowledge that, again, it probably makes sense for this to follow the tax rather than accounting position but we do not believe that Tax EBITDA should necessarily be the same as taxable profits. Dividends and gains should be included, even if exempt, on the basis that these amounts would be taken into account by a third party lender in determining the borrowing capacity of the group.

7. *What do you consider would be an appropriate percentage for a fixed ratio rule within the proposed corridor of 10% to 30% bearing in mind the recommended linkages to some of the optional rules described below?*

We believe that it is important that the UK remains competitive. Any ratio therefore needs to be in line with ratios in the rest of Western Europe, i.e., 30 per cent.

8. *What are your views on including in any new rules an option for businesses to use a group ratio rule in addition to a fixed ratio rule?*

We believe that the inclusion of a group ratio rule is crucial to ensuring that genuine third party interest costs remain deductible and we understand that the importance of this principle has been recognised by a number of nations during the working party process. Even at today's historically low interest rates, interest costs on bank and other external loans to portfolio companies are in many instances likely to exceed 30 per cent of EBITDA as this reflects a leverage ratio of c. 4 – 5x EBITDA. In some industry sectors, such as real estate and infrastructure, where leverage ratios have traditionally been much higher, the importance of this exception may be even more important in terms of ensuring that third party interest costs remain deductible.

Further safeguards are, however, required where a group operates in the UK and elsewhere as the performance of non-UK operations could distort the efficacy of any group ratio rule in these circumstances for the reasons set out in section D above.



We note that this section of the Consultation Paper raises certain concerns over whether a group ratio rule could exacerbate the debt/equity asymmetry and increase the level of financial risk to which groups are exposed. We do not, however, believe that this should detract from the key objective that genuine third party financing costs should remain deductible.

*9. What form of de minimis threshold would be most effective at minimising the compliance burden without introducing discrimination or undermining the effectiveness of any rules?*

We think that a de minimis threshold (or gateway) would be the most sensible way of tackling this. It is straightforward and easy to apply. We do, however, believe that it is important not to create a cliff edge test here in terms of interest disallowance. In other words, if net interest expense were above the threshold, deductions should be allowed for the greater of an amount equal to the threshold and the cap determined by the fixed ratio rule.

*10. What level should the de minimis threshold be set at, balancing fairness, BEPS risks and compliance burdens?*

The focus of BEPS has been big multinationals. A threshold of £1m therefore seems very low. We would therefore support a higher ratio of, say, £2m and believe that this would look more competitive in terms of other European jurisdictions.

*11. Should SMEs as defined by the EU criteria be exempted from the rules, in addition or as an alternative to a de minimis threshold?*

We believe that an exemption for SMEs should operate in tandem with a de minimis threshold. The de minimis operates as a simple gateway. The SME analysis and compliance issues associated with that may be more complicated. Nevertheless, given the primary focus of AP 4 and the BEPS Project more generally, it is reasonable to suppose that SMEs should not be covered by these provisions and an exception for SMEs would take them (quite properly) out of the regime, even if their interest costs were in excess of the threshold. For the reasons set out in Section F above, however, we believe that it is very important to ensure that any SME exception works in respect of each portfolio company in a private equity fund, if on a standalone basis they would constitute a SME.

*12. What is the best way of ensuring that the rules remain effective and proportionate even when earnings are volatile?*

We believe that interest expenses disallowed under a general limitation rule should in principle be capable of being carried forward and set against profits in future periods and agree that this would be the simplest approach to addressing volatility and be consistent with the operation of the existing UK tax system.

We also believe that there should be no time limits on carry forward of disallowed interest expenses and that any restrictions on the carry forward of interest expenses following a change of control should be limited, e.g., only where there has been a fundamental change in the nature of the business or the losses are to be used in sheltering profits of an unrelated group business. This may be particularly relevant in a private equity context where there has been an investment in

business which is expanding or requires significant capital investment and carry forward losses may be significant at the point of sale but future trading is expected to be strong. It would seem odd in those circumstances for those carry forward losses to cease to be available to set against the future profits of the business. The UK system already has provisions to cater for this, which could be translated to any general interest restriction.

Given the potential issues with a group ratio rule where a group carries on activities in the UK and elsewhere, we would reiterate our request in section F above for businesses to be able to elect to determine the deductibility of future interest costs by reference to the EBITDA of the group at the time the financing arrangements are entered into, with the clock reset when the financing arrangements are varied or supplemented. This would protect businesses from the potential consequences of falling EBITDA in circumstances when they most need to protect their deductions.

*13. In what situations would businesses choose to use the PBP exclusion? How would this differ if no group ratio rule was implemented?*

We strongly support a PBP exclusion. The exact application of any group ratio rule is as yet unclear and full of uncertainties. Infrastructure projects, utilities and public services typically rely on significant amounts of private capital, often in the form of long term financing and relying on a moving group ratio rule to ensure that interest costs remain deductible over the life of the project presents obvious difficulties. A clear PBP exclusion would remove some of those uncertainties.

*14. Do you have any suggestions regarding the design of a PBP exclusion, taking account of the OECD recommendations?*

If there is to be a PBP exclusion, which we support, it is very important that the definition is wide and clear, with the key test being whether the asset is being employed for the public benefit. In other words, it should not be necessary to meet all the conditions in the Final Report on AP 4 to qualify for the exclusion.

*15. Do you have any views on the specific risks that might sensibly be dealt with through targeted rules?*

As set out above, we believe that the inclusion of a group ratio rule is vitally important if a general limitation rule is to be introduced. Equally important to the private equity and venture capital industry is the issue of targeted rules and rules aimed at related party debt in particular.

Related party debt restrictions are of such concern to private equity and venture capital because they could, depending on how related party debt is defined, affect much of the internal debt finance which funds typically look to invest in underlying investee companies. Before addressing, therefore, some of the potential concerns with any targeted rule in respect of connected or related party debt, we believe that it is important to consider whether the use of related party debt, particularly in the context of private equity and venture capital, gives rise to the type of base erosion and profit shifting which AP 4 is looking to address? If the primary focus of AP 4 is to counteract the movement of profits from high tax jurisdictions to low tax jurisdictions, we do not believe that it does. In any particular fund, the investor base is likely to be diverse in terms of type and geography. Interest payable to the fund will generally reduce the taxable profits of the

portfolio company, subject to any domestic restrictions, in exactly the same way as interest payable on any third party debt. That interest will then be distributed to investors. Those investors may be resident in the same jurisdiction as the underlying portfolio company; they may be tax exempt pension funds or taxpaying financial institutions. Against that background, it seems extremely difficult to identify any concerted base erosion and profit shifting. Imagine a portfolio investment in Country A is funded with bank debt and shareholder debt. Interest payable to the bank will generally be deductible. If, however, the bank is resident in Country B, no domestic tax in Country A may be collected on the receipt. If interest payable to the fund is not deductible because it is paid in respect of related party debt, there may be no deduction in Country A but tax in Country A on any investors resident there. What is more, even if the portfolio company obtained a deduction for the interest payable to the fund, there may be more base erosion in Country A in respect of the bank debt than in respect of any interest which is distributed to investors resident there.

That issue aside, a targeted rule in respect of related party debt is inherently unattractive for a number of reasons:

- generally, defining what should constitute a connected or related party for these purposes is difficult. Is the 25% interest in an entity suggested in the OECD Discussion Draft the right measure? Does it create a cliff edge and an artificial barrier to increasing a shareholding in an entity from below 25% to 25% or above? How should transparent entities, such as partnerships be dealt with – on a look-through or single entity basis;
- the disallowance of all interest payments to connected and related parties may not be appropriate:
  - where a shareholder or a person connected with that shareholder acquires or holds a tranche of what was originally third party debt, alongside genuine third party lenders. It does not seem right that in those circumstances part of the interest costs on the third party debt should cease to be deductible;
  - where a lender becomes a shareholder of the group on an insolvency or restructuring event and part of the original loan remains outstanding or is restructured and remains held by the lender – a relatively common scenario over the last few years; or
  - in the context of a debt fund, where, as set out above, underlying debt assets will be acquired through a special purpose company funded by way of loan notes so that there is an effective pass-through of interest. Creating a substantial taxable profit in the special purpose company would be completely disproportionate to the economic activity carried out there; and
- allowing deductions only in respect of interest paid to connected or related parties subject to a minimum level of taxation on the receipt cannot be the right way to determine whether interest expenses should be deductible or not for the reasons set out in Action Plan 2 in relation to Hybrid Instruments. This is particularly relevant in the context of private equity funds, which are often structured as tax transparent limited partnerships, and deductibility would then turn on the composition and status of the investors from time to time. It would be extremely difficult to apply this rule in a private equity context, where information about the precise tax treatment of income received by

fund investors is not generally available to fund managers or indeed to investee companies. Either there is base erosion and profit shifting going on or there is not. The fact that the recipient is not subject to tax on interest receipts may be indicative of base erosion and profit shifting but the issue cannot turn on that as a matter of principle.

The other point we would make here is that the UK already has a large number of provisions designed to limit the deductibility of financing costs in certain circumstances. We do not need to add to that. We would therefore suggest that the basic framework be introduced – fixed ratio, group ratio exception, de minimis – and if it then transpires that that system, in conjunction with the existing rules, does not operate to combat the base erosion and profit shifting techniques of multinationals which was the focus of the BEPS Project, the position can be addressed then.

*16. Do you have any suggestions as to how to address BEPS issues involving interest raised by the banking and insurance sectors?*

We suggest that this is reviewed once the OECD discussions on the banking and insurance sectors have been developed further.

*17. What are the types of arrangement for which transitional rules would be particularly necessary to prevent any rules having unfair or unintended consequences, and what scope would these rules need to be effective?*

We believe that a delayed implementation date and sensible grandfathering period should be very seriously entertained for the reasons set out in section A above. It is extremely difficult to identify specific scenarios in which transitional rules will particularly necessary to prevent the rules having unfair or unintended consequences. All business which have entered into long term financing arrangements (3 years or more) could be significantly affected. Should one business benefit from a longer transitional period simply because its trading is currently poor or distressed, while another business which is performing well does not? We do not believe it should. Sensible transitional periods should apply to all businesses.

There is also precedent for longer transitional provisions in a financing context, e.g., the acting together provisions introduced in Schedule 28AA ICTA in F(No.2)A 2005 were subject to a two year transitional period and the implications of those changes were arguably far less significant than the potential consequences of the current proposals.

*18. To what extent do you believe that the new general interest restriction rule should replace existing rules?*

Ideally, it would be introduced and many of the existing rules would be repealed to simplify the tax system. We recognise, however, that this is most likely to replace, in effect, the worldwide debt cap and the other provisions will remain in place, at least in the short to medium term.

We would also prefer to adopt that position and have a sensible de minimis and group ratio rule with no new targeted rules rather than adopt a strict fixed ratio rule alone, coupled with a wider repeal of existing provisions.



We hope that the comments and responses above are helpful. We would, of course, be very happy to discuss any of them with you further.

Yours faithfully,

A handwritten signature in blue ink that reads "David R. Nicolson".

David Nicolson  
Chairman of the BVCA Taxation Committee