



Response from ICAS

Tax deductibility of corporate interest expense:
consultation on detailed policy design
and implementation

3 August 2016

About ICAS

1. The following submission has been prepared by the ICAS Tax Committee. This Committee, with its five technical sub-Committees, is responsible for putting forward the views of the ICAS tax community, which consists of Chartered Accountants and ICAS Tax Professionals working across the UK and beyond, and it does this with the active input and support of over 60 committee members. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants and we represent over 21,000 members working across the UK and internationally. Our members work in all fields, predominantly across the private and not for profit sectors.

General comments

2. ICAS welcomes the opportunity to contribute to "Tax deductibility of corporate interest expense: consultation on detailed policy design and implementation" issued by HMT and HMRC on 26 May 2016.
3. The result of the EU referendum means that UK companies are facing a period of uncertainty and will need to address a wide range of issues arising from the decision to leave the EU. This will occupy a considerable amount of business time and effort; therefore, the additional burden of introducing new interest deductibility rules should be delayed. We urge the Government to reconsider the start date for the proposed new rules on interest deductibility.
4. As we noted in our response to the original consultation, 1 April 2017 is too soon to give companies the chance to review and adjust existing long term arrangements. This is more than ever the case following the EU decision, with the added complication that the period between now and April 2017 is likely to be a difficult period in which to undertake refinancing. This is the wrong time for businesses to have to renegotiate debt if the only reason for doing so is changes to the tax rules. The uncertainty may make businesses reconsider their UK presence if they feel it is becoming much more difficult to operate here.
5. Time should be taken to assess the approach of other jurisdictions to ensure that, as far as possible, UK companies are not left at a competitive disadvantage. In this context it should be noted that the EU has set a deadline of 1 January 2024 for EU member states (which have targeted rules against BEPS relating to interest) to implement the OECD interest proposals; the date for EU member states without targeted rules is 2019. If the UK goes ahead with a 2017 implementation date this will therefore potentially be a long way ahead of other key jurisdictions and will disadvantage UK companies.
6. There appears to be an underlying presumption in the consultation that equity finance is preferable to debt finance. This ignores the fact that loan finance is frequently used for legitimate commercial purposes where equity finance may not be possible. Provided the interest receipt is taxed at a rate similar to that applying to the interest cost (in the UK or abroad) it is hard to see that there is a BEPS issue with claiming a tax deduction for the interest paid. Loans and equity perform different functions; loans are a very useful mechanism for obtaining short term funding for a company. Equity is much harder to withdraw so may not be available or appropriate. It is difficult to see why the tax system should put barriers in the way of companies addressing their cash requirements. Depending on future arrangements with the EU we believe consideration should be given to disapplying the rules for UK to UK loans where there is no possibility of BEPS.
7. Whilst the main OECD recommendations on Action 4 were published last year, its work was incomplete. Further discussion drafts on the Group Ratio Rule and Banking and Insurance Sectors have been published very recently so their recommendations have not been taken into account in drawing up the proposals in the consultation document. Proper consideration needs to be given to this additional OECD work; this will not be possible with the suggested 2017 implementation date.
8. Many large companies have just carried out a costly and time consuming process to configure business reporting systems to provide data for country by country reporting (CBCR). Calculating interest deductibility for the UK group as proposed in the consultation document would require another configuration. Most IFRS accounting reporting methods consolidate the whole group, not just the UK. To reconfigure this, all UK entities would have to be carved out and consolidation adjustments attributed to them as appropriate. This is another time consuming systems change as the data needed differs from CBCR. The implementation date should not be before 2019.

9. The new regime should include grandfathering provisions for existing financing arrangements. This will be particularly important if the Government decides that it is essential to proceed now, so that companies are forced to restructure financing in the present uncertain financial climate and without knowing the approach which will be adopted by other jurisdictions. Grandfathering will give companies time to adjust and allow any refinancing to be undertaken over a longer period, thus mitigating some of the short term difficulties arising from the decision to leave the EU. Again it should be noted that the EU implementation proposals do include provision for grandfathering – so once again UK companies will be disadvantaged if the UK proposals are not amended in this respect.
10. The inclusion of a £2 million de minimis allowance is welcome. It is helpful that 95% of groups (and standalone companies) will easily be able to see that they are unaffected by the rules. We suggest however that consideration should be given to allowing periodic reviews of this threshold or some form of indexed increase to take account of changes in interest rates and erosion of the threshold over time.

Specific questions

Question 1: Does the use of IFRS concepts cause practical difficulties for groups accounting under other accounting frameworks (e.g. UK GAAP or US GAAP)? Could the use of a range of acceptable accounting frameworks to define the group give rise to difficulties in identifying the members of the group? What would be the main consequences of relaxing the definition in this way?

The definition of what constitutes a group should be the same for the Group Ratio Rules (GRR) as for the Fixed Ratio Rules (FRR). The primary aim should be to ease compliance without the resultant outcome being inconsistent. Where groups either do not prepare consolidated accounts or report in a GAAP other than those listed as 'acceptable', it would be reasonable to require them to use IFRS to determine their group for the purposes of the interest deductibility restriction calculations.

Groups which use accounting frameworks other than IFRS (eg UK GAAP or US GAAP) should have the option to choose to use this other framework (provided it is an acceptable GAAP) unless/until they switch to using IFRS. The group ratio rule allows the use of different accounting frameworks so it is hard to see why there should be a mismatch.

Question 2: Is it reasonable to take the proposed approach to the periods for making interest restriction calculations? What changes or alternatives to that approach, if any, should be adopted?

This appears to be a reasonable approach.

Question 3: Do you agree that these are the right amounts to be included with the scope of tax-interest? Are there any other amounts that should be included within the scope of tax-interest, or any amounts which should be excluded? If so, please explain the reasons why?

We broadly agree that the definition of tax-interest should be based on tax deductible finance costs less taxable finance income. We support the desire to minimise complexity in the introduction of the new rules. However, if derivatives are to be included in the definition of tax-interest, a degree of complexity will be required to deal with them.

We do not disagree with the principle that amounts payable/receivable under certain derivative contracts affect a company's funding costs and should be included in the definition of tax-interest. However, the fair value accounting applied to derivative contracts under IFRS and UK GAAP will cause complexity. When the worldwide debt cap was introduced, derivatives were excluded from the rules because of the complexity and volatility they bring.

If derivatives are to be included within the scope of tax-interest, we believe that the definition of derivatives included within tax-interest should be narrowed down and would propose that the derivatives in tax-interest should be based upon the definition of an 'interest rate contract' in regulation 9 of the disregard regulations.

In addition, the proposals as they stand give rise to issues for certain sectors. For example, for a life insurance business the inclusion of bond market movements in the calculation of tax interest will produce volatile results year on year which will not reflect the economic result. As bond markets change,

policyholder liabilities change in the same direction as valuation rates of interest are adjusted. Economically the result is therefore neutral. To prevent distortion policyholder liabilities should be treated as a loan relationship for this purpose.

Question 4: Do you agree with the proposed treatment of exchange gains and losses? Do you foresee any unintended consequences from this approach? If so, please explain, and suggest an alternative.

Yes, we believe that the consultation is taking the right approach to exchange gains and losses. However, we also believe that separately identifying foreign exchange differences in respect of interest and other finance amounts could impose a considerable compliance burden for many groups and would recommend that evidence is sought from business on this point.

Question 5: Do you agree with the proposed treatment of impairment losses? Do you foresee any unintended consequences from this approach? If so, please explain, and suggest an alternative.

We consider that impairment losses should not be included in tax interest.

Impairment losses (on principal amounts) are not amounts equivalent to interest. Impairment losses arise from credit risk in relation to the borrower and we do not believe that what could represent very large credit-related amounts should distort the calculation of finance costs.

This rule would apply to loans involving unconnected parties only (as tax relief is not available for connected party impairment losses.) Unconnected parties do not make loans in the anticipation of impairing them to give the company/ group a tax advantage. The inclusion of impairment losses, which represent a true economic cost, in any interest limitation calculation could represent a further cost to the company/ group through an increased tax charge through no fault of their own.

Question 6: Do you agree with the proposed treatment of related transactions? Do you foresee any unintended consequences from this approach? If so, please explain, and suggest an alternative.

We have no comments in relation to this question.

Question 7: Are there any other amounts that should be included with the definition of tax-EBITDA, or any more items which should be excluded? If so, please explain the reasons why?

We have no comments in relation to this question.

Question 8: Do you agree with the proposed treatment for tax-depreciation and tax-amortisation?

Yes, we agree.

Question 9: Do you agree that the proposed treatment of different types of loss relief will be fair and effective while minimising the need to analyse and trace loss amounts? If not, please suggest an alternative, providing an explanation of why you find it preferable.

We agree with the statement in para 5.38 that introducing additional complexity into the rules by requiring the carry forward of negative tax-EBITDA would be unnecessary and undesirable. As the paragraph notes the risk of inflated interest capacity arising is limited by the factors mentioned.

Question 10: Do you agree with the proposed treatment of chargeable gains and allowable capital losses? If not, please suggest an alternative, providing an explanation of why you find it preferable.

We agree with the proposed treatment of chargeable gains and allowable capital losses and in particular that there should be no requirement to deduct unused capital losses in calculating tax-EBITDA.

Question 11: Given the proposed reform of losses, does carrying forward restricted interest to be treated as an interest expense of a later period give companies sufficient flexibility?

It is helpful that restricted interest amounts can be carried forward indefinitely. However, the proposed three-year limit on the carry forward of spare capacity may give rise to problems where there are

mismatches – for example between group accounts and the tax measures of items. This is discussed further in the responses to Questions 12 and 13 below.

As noted in our response to the first consultation, we believe there should also be scope for companies to carry back restricted interest to maximise flexibility. This would particularly help companies experiencing a downturn in their sector.

Question 12: Does the 3 year limit on the carry forward of spare capacity provide sufficient flexibility for addressing short term fluctuations in levels of tax-interest and tax-EBITDA?

There may be differences in the timing of recognition for tax purposes and recognition for company accounts – for example relating to derivatives (which may be taxed on an accruals-type basis but accounted for at fair value) or where there are changes of accounting policy. These could cause distortions in the calculations and the three-year limit for carrying forward excess capacity may not be sufficient.

A three-year time limit for the carry forward of unused capacity could cause particular problems for some sectors. For example, the life insurance industry operates on long term timescales (the profits on a pension policy written today are projected for up to 40 years) so a three limit on carried forward capacity causes distortion.

The EU proposals for implementation of the OECD interest proposals permit a five year carry forward of unused capacity. The restriction of the carry forward in the UK to three years will disadvantage UK companies. We suggest that the carry forward should therefore be at least five years but preferably that carry forward should be unrestricted.

Question 13: Are there common circumstances where the proposals will substantially fail to deal with problems around timing differences?

Where there is a change of accounting policy, with a one off accounting charge, the tax deductions may have to be spread forward over ten years. For a change of policy taking place before the implementation date for the new interest regime some or all of the spread-forward interest deductions will fall into the new regime. This could be avoided by excluding the spread-forward deductions from the operation of the new rules.

It is unclear from the consultation document how the proposed rules will apply to late-paid related-party interest, where the interest is not paid until the new regime has come into force: clarification would be helpful.

Question 14: Does the proposed modification of the Debt Cap rule balance the objectives of maintaining effective Exchequer protection in this area, aligning the mechanics with the interest restriction rules and ensuring that the relevant figures are readily available from the group's consolidated financial statements.

As noted in our response to Question 46 below, we believe the timing of the introduction of the modified debt cap regime should be aligned with the timing of the introduction of the new interest regime. Under the current proposals many companies will have a mismatch which will not be helpful in producing the necessary information and will cause unnecessary complexity.

Question 15: Which of these two approaches do you consider to be the most appropriate way to address the risks arising from very high group ratios or negative group-EBITDA, and why? How should the percentage cap be set under the second approach? Are there other approaches which would better address this situation?

We cannot see that the situations outlined would be very likely to occur and we would be interested to see any evidence HMRC/HMT have to suggest that this would be a problem in reality. Our view is that the assessment in the consultation document does not reflect economic reality, there is very little risk of base erosion and that the proposals are an unduly complex answer to a problem which is unlikely to arise.

Question 16: Are there specific cases where the removal of the 'broadly comparable' limb contained in the current Debt Cap regime would give rise to particularly difficult outcomes? If so, please suggest how this extension should be modified to allow the calculation of the group ratio.

We have no comments in relation to this question.

Question 17: Are there any further items of profit or loss which should be included within the definition of total qualifying group-interest?

We have no comments in relation to this question.

Question 18: Are there any other amounts that should be included with the definition of adjusted group-interest, or any more items which should be excluded? If so, please explain the reasons why?

We have no comments in relation to this question.

Question 19: Are there any other amounts that should be included with the definition of qualifying group-interest, or any more items which should be excluded? If so, please explain the reasons why?

The proposal to disallow interest deductions on related party debt is a concern. Some debt which falls within the OECD definition of related party is technically third party debt in all but name and this needs to be recognised.

One possible solution would be to consider that the restriction on including related party debt in the calculation of the GRR should not apply where a group can demonstrate that the related party funding represents a clear on-lending of third party financing taken out by the related party. It would be for the UK borrower to prove a clear link to the third party financing and there would be a legislative requirement for the terms of the on-lending (the amount, maturity, interest note/basis, repayment terms) to be substantially similar to the third party debt.

Question 20: Do you agree that the proposed definition of related party will be effective in preventing equity investors inflating the group ratio by investing using debt instruments? Please identify situations where this definition would prevent the Group Ratio Rule from taking into account interest payable to lenders that invest for a fixed return and without seeking influence over the borrower?

The proposal in 6.45 of the consultation document is concerning as the phrase 'collaborate in a more general sense' appears to be extremely broad and accordingly has the potential to generate uncertainty.

Multiple investors in an individual asset will always have interests that align, but this should not be sufficient to treat the investors as acting together. In addition, at what point do you draw the line on the number of investors who may be collaborating?

Where investors are acting as independent lenders they should be treated as such, regardless of whether they, or a connected party, also owns some equity above the 25% threshold.

The broader concept of acting together in 6.45 should be dropped as it goes beyond the OECD's proposals and has the potential to cause significant uncertainty as to whether funding costs will be deductible.

Question 21: Are there any other amounts that should be included with the definition of group-EBITDA, or any more items which should be excluded? If so, please explain the reasons why?

We consider that for wholly UK groups there should be the option to elect to base both the FRR and GRR on tax-EBITDA. Under the current proposals the mismatch in the approach for the two different tests may in certain circumstances lead to mismatches/timing differences such that a wholly UK group (with no BEPS risk) may not obtain relief for its entire third party interest cost.

Question 22: Bearing in mind the Fixed Ratio Rule permitting net interest deductions of up to 30% of tax-EBITDA, the Group Ratio Rule, the £2 million de minimis amount, rules permitting the carry forward of restricted interest and excess capacity, and the inclusion in tax-interest of income accounted for as finance income, please describe the key features of situations involving the financing of public benefit infrastructure where a specific exclusion will be necessary to prevent interest restrictions arising in cases where there is no BEPS.

We commented in our response to the first consultation that the PBPE proposed was very narrow and would largely be restricted to PFI and PPP arrangements – delivery models which are unlikely to be used for major projects in future. We suggested that PBPE should be extended to cover more public interest projects located entirely within the UK.

Whilst there have been some slight improvements to the proposals (including the £2 million de minimis amount which will assist public benefit projects) we still consider that the proposed PBPE is too narrow and will potentially exclude many projects which should qualify.

The conditions require that a public body must contractually oblige the operator to provide public benefit services (or licenses the operator). The services must be provided on a long term basis (at least ten years) or a shorter rolling term which is expected to continue indefinitely.

Additionally, the PBPE will only be available if at least 80% of gross revenue generated from the project assets over the life of the project is expected to arise from public benefit services. This could exclude some PPP companies where they have revenues from non-public sources – for example companies in the waste sector often provide services to non-public bodies.

We also suggest that any PBPE should include a clearance mechanism to provide certainty for companies investing in public benefit projects.

Question 23: Are there any situations involving the financing of public benefit infrastructure where interest restrictions could arise in the absence of BEPS despite a PBPE with the above conditions? If so, please provide details and suggest how the proposals could be changed to prevent undue restrictions occurring.

Many large infrastructure projects are carried out by joint ventures with foreign investors. The rules as currently proposed still appear to exclude this type of structure which will have an adverse impact on obtaining financing for public benefit projects.

Question 24: Are there any situations where interest restrictions would arise connected with public benefit infrastructure despite the provisions outlined in this document, and where those restrictions could have wider economic consequences? If so, please provide details, including an explanation of why the consequences could not be avoided, such as by restructuring existing financing arrangements. Please suggest how the rules could be adapted to avoid those consequences while still providing an effective counteraction to BEPS involving interest.

As noted in our general comments we believe that there should be provision for grandfathering to avoid putting UK companies at a competitive disadvantage. Both the OECD and the EU envisage grandfathering being available. We believe this is particularly important in the context of infrastructure companies which may find it very hard to refinance following the EU referendum outcome.

Question 25: Which of the two proposed approaches would be preferable? Please explain what you see as the advantages and disadvantages of each, and address whether the additional complexity of Option 2 is justified by the potential risks and distortions in Option 1.

Option 1 would be preferable. It is conceptually and administratively straightforward and would also provide consistency with the Worldwide Debt Cap rules. The oil industry is also suffering difficult conditions at present, due to low oil prices; many companies have reduced staff numbers and complying with the additional complexity of Option 2 could place a strain on resources that might be better spent on core business.

Question 26: As securitisation structures and transactions are often complex, there may be exceptions to the analysis set out above. Please would you set out any examples of securitisation structures or transactions within the securitisation regime where a net interest expense position might arise so that the application of the interest restriction rules could lead to an unintended restriction on the securitisation company?

We have no comments in relation to this question.

Question 27: Are there any further issues relating to AIFS (including TEFs) or Investment Trust Companies that need to be considered for the purposes of this consultation?

We have no comments in relation to this question.

Question 28: Are there any other fund structures, not considered in this consultation document, that require special consideration?

We have no comments in relation to this question.

Question 29: As a result of the proposed exclusion from the group of subsidiaries held at fair value, views are invited as to whether a specific rule is required to prevent collective investment vehicles from being the ultimate parent company of a group.

We have no comments in relation to this question.

Question 30: How could the rules be adapted so that they protect the property rental and residual profits of REITs from excessive interest deductions just as they do for other property rental groups?

We have no comments in relation to this question.

Question 31: To what extent are PAIFs likely to be impacted by the proposals in their current form? If applicable, how could the rules be adapted so that they protect the property rental profits of PAIFs from excessive interest deductions just as they do for other property rental groups?

We have no comments in relation to this question.

Question 32: Please supply any evidence that would help the government understand the full extent of interest-related BEPS risks connected with banking and insurances activities, and suggest any modifications that could be made to the Fixed Ratio Rule and the Group Ratio Rule to ensure that they operate effectively, but without giving rise to unwarranted restrictions, in respect of groups performing these activities.

The insurance industry is subject to comprehensive regulatory rules as noted in paragraph 8.33 of the consultation document. These provide safeguards against BEPS activity and we have been unable to identify any BEPS risks in relation to life insurance. The OECD published its additional work on banking and insurance on 28 July – too late for any detailed consideration prior to the closure of this UK consultation. We do not consider that it makes sense to proceed with any proposals for this sector until proper consideration has been given to the additional OECD work.

Paragraph 8.40 of the consultation document suggests that tax-interest and tax-EBITDA of insurance companies could be excluded from the interest calculation. We consider that this could cause distortion in certain circumstances. Two examples:

- (1) A life company passes surplus cash to its holding company by means of an interest bearing loan in advance of paying a dividend which will unwind the arrangement. This might be necessary because the holding company needs cash immediately but dividends take time to organise. If tax-interest of the life company was excluded from the calculations, as suggested in paragraph 8.40, this would lead to a tax mismatch across the group. The life company will have taxable income but tax relief in the holding company will be restricted; the holding company's only source of income is non-taxable dividends which do not feature in the EBITDA calculation. A non-insurance group would not suffer the same tax mismatch because the net interest rule would mean the tax deduction for the interest expense is not restricted.
- (2) A foreign parent lends to a UK holding company which makes a capital injection into an insurance subsidiary company for solvency reasons. Loan finance is used because this is regarded as a temporary measure and loan finance is easier to unwind than equity finance. The result of the proposal in paragraph 8.40 would have the same result as in the first example. There would be taxable income in the insurance company but restricted relief for the interest expense. A non-insurance group would not face the same restriction. It is important that parent companies are not deterred by tax rules from funding the solvency needs of their insurance subsidiaries.

Question 33: How could a targeted rule be designed to ensure that net financing costs deducted in the UK are commensurate with the UK business?

This question is posed in the context of banking and insurance companies. However, it has wider significance. Since the introduction of the exemption for foreign dividends from UK tax there has been scope for a UK deduction for UK financing costs that does not result in taxable income in the UK. We believe that consideration should be given to the impact of a change to the tax outcome on the government's policy of encouraging multinational companies to locate headquarters in the UK.

Question 34: Do you agree with the proposed treatment of Patent Box deductions, R&D tax relief, RDEC and land remediation relief? If not, please suggest an alternative and explain why you find it preferable.

The proposed treatment of Patent Box deductions in arriving at tax-EBITDA, set out in paragraph 8.45 of the consultation document, is only reasonable if financing is used to generate Patent Box income. A company with borrowings unrelated to its Patent Box income would be unfairly penalised by the proposed rules.

Given the low UK CT rates it has been suggested that Patent Box relief might be reduced. It would be helpful to have clarification on this possibility before making detailed comments on these proposals.

The proposed treatment of R&D relief appears reasonable.

Question 35: How should amounts of interest restriction or spare capacity be allocated between activities subject to the Northern Ireland rate of corporation tax and other activities?

We have no comments in relation to this question.

Question 36: Does this approach adequately address the situation where charities hold subsidiaries to undertake trading activities? If not, how could the rules be adapted to better address this situation?

We have no comments in relation to this question.

Question 37: Does this approach adequately address the situation of interest distributions made by Registered Societies? If not, how could the rules be adapted to better address this situation?

We have no comments in relation to this question.

Question 38: Do you agree with the proposed treatment of CFCs? If not, please explain the reasons and suggest an alternative approach?

We have no comments in relation to this question.

Question 39: Do you agree that the proposed treatment of income subject to double taxation relief will be fair and effective? If not, please suggest an alternative, providing an explanation of why you find it preferable.

No, we do not agree that the proposed treatment of income subject to double taxation relief will be fair and effective. Rather, we believe that the proposals in this area may well penalise companies investing in overseas operations, particularly in developing countries where tax treaties will generally allow for source state taxation and it may not be possible to push debt associated with the investment down into the locally-resident entity. If an interest deduction were to be disallowed in the UK due to this source state taxation, this could distort investment decisions which could be particularly detrimental to developing nations. Essentially, adjusting the calculations of disallowances under the new rules for DTR effectively re-imposes double taxation, which we do not consider to be an objective of the OECD's Action 4 report. The suggestion in 9.7 of the consultation document seems to us to result in worse-than double taxation, in that the (gross) interest reduces the DTR available, and then there is an interest restriction on top of that. This seems to us to be inconsistent with the proposals to adjust EBTDA / interest amounts for the purposes of the new rules for available DTR.

Given the above, we believe that no adjustments should be made for DTR in the calculations of any disallowance under the new rules.

Question 40: Do you agree with the proposed treatment of derivative contracts for calculating tax-interest? Do you foresee any unintended with this approach? If so, please explain, and suggest an alternative.

We have no comments in relation to this question.

Question 41: Do you agree with the proposed treatment of derivative contracts for calculating tax-EBITDA? Do you foresee any unintended consequences from this approach? If so, please explain, and suggest an alternative.

We have no comments in relation to this question.

Question 42: Do you agree with the proposed treatment of fair value movements on hedging relationships? Would this cause particular difficulties for groups, that would warrant particular rules to replace the fair value movements on hedging relationships with amounts recognised on an appropriate accruals basis (for example, in line with regulations 7, 8 and 9 of the Disregard Regulations S.I. 2004 / 3256)?

We have no comments in relation to this question.

Question 43: Does this approach adequately address the position for both the lessor and lessee across the range of different leasing arrangements? If not, how could the rules be adapted to better address these situations?

We have no comments in relation to this question.

Question 44: Does this approach adequately address the position for investments in non-group entities? If not, how could the rules be adapted to better address these situations?

We have no comments in relation to this question.

Question 45: Does this approach adequately address the situation where public bodies hold subsidiaries to undertake trading activities? If not, how could the rules be adapted to better address this situation?

We have no comments in relation to this question.

Question 46: Does the phasing in of the rules as outlined above create any particular difficulties for businesses?

As noted in our General Comments we believe that the start date for the new rules should be revisited and delayed. It would also be helpful if companies did not have to spend time dealing with the additional complexity which will arise from straddling provisions. Implementation should therefore be for accounting periods beginning on or after a given date. As December is the most common company year end a start date of 1 January would be a better option than 1 April. As noted in our general comments it is important to avoid rushed implementation of this major change during a period of considerable uncertainty for companies.

It is vital that there is time for proper consultation on draft legislation to implement the new rules so that any difficulties can be identified and dealt with before implementation. A start date of 1 April 2017 would not allow this to happen and increases the risk that the legislation as initially enacted will later have to be amended to deal with unintended adverse consequences.

Consideration should also be given to the timing of implementation of the new interest regime in other jurisdictions, to avoid disadvantaging UK companies as far as possible. The EU has set a deadline of 1 January 2024 for EU member states (which have targeted rules against BEPS relating to interest) to implement the OECD interest proposals; the date for EU member states without targeted rules is 2019. We therefore believe that the UK implementation date should be accounting periods beginning on or after 1 January 2019.

The start date should also be aligned with the start date for the modified debt cap rule – under the current proposals there will be a mismatch for many companies. The implementation dates for modified debt cap

and the new interest regime should be the same and should be for accounting periods beginning on or after a given date to avoid straddling calculations.