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Dear Mr O'Rourke,

RE: CITY OF LONDON LAW SOCIETY'S RESPONSE TO TRANSFER PRICING CONSULTATION

Please find below The City of London Law Society's ("**CLLS**") response to the HM Revenue & Customs ("**HMRC**") consultation document dated 23 March 2021 entitled "Transfer Pricing Documentation" (the "**Consultation**").

INTRODUCTION

The CLLS represents approximately 17,000 City lawyers through individual and corporate membership including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multi jurisdictional legal issues.

The CLLS responds to a variety of consultations on issues of importance to its members through its 17 specialist committees. This response to the Consultation has been prepared by the CLLS Revenue Law Committee. The current members of the committee are herewith:-

http://www.citysolicitors.org.uk/clls/committees/revenue-law/revenue-law-committee-members/

As highlighted in these responses, our key comments are as follows;

(i) We welcome the intention to provide businesses and advisors with clarity on the transfer pricing documentation requirements in the UK. Taking a proportionate approach for businesses above the CbC reporting threshold seems reasonable, but further design features through the use of thresholds and materiality levels should be considered for the master file and local file. We believe this will enable

the requirement to appropriately target MNE groups which have a substantial number, value or high risk nature of intragroup transactions relating to their UK operations, aligned to HMRC's risk-based approach.

(ii) The UK transfer pricing documentation requirements could be aligned to the OECD Action 13 report whilst providing taxpayers with the discretion and flexibility to apply these as appropriate to the specific facts and circumstances of the MNE group (e.g. format as well as content including at an entity level, country level for the local file etc.) Requirements which go beyond and deviate from the Action 13 requirements such as an evidence log or additional information will significantly increase the compliance cost, resource and time burden for taxpayers disproportionately to any potential benefit envisaged. Furthermore, HMRC's existing risk-based approach should be factored into the design of the transfer pricing documentation requirements focussing on substance rather than form which will enable taxpayers to minimise time spent on irrelevant, insignificant or immaterial areas and help HMRC obtain the right information for each taxpayer.

(iii) Further insights are required to articulate the purpose and benefit (quantitative and qualitative) to taxpayers and HMRC by introducing an IDS filing requirement and how this aligns with the desire for the UK to become a competitive business location post Brexit through reducing unnecessary compliance and administrative requirements. Through information exchange and other tax legislation implemented in the last five years, HMRC already has access to an unprecedented level of information about businesses. We don't think taxpayers should be required to provide an excessive amount of information at the compliance stage where UK businesses are already required to fulfil their obligations under the self-assessment regime.

(iv) The administrative burden of the IDS like its international comparators is significant for businesses. Instead of imposing more obligations, a clearer, well-functioning transfer pricing documentation system which provides quantitative and qualitative descriptions of an MNE group's transfer pricing policies would arguably be a more effective tool and displace the need for a potential IDS.

Our response below reflects our own concerns on the proposals being considered under the Consultation, as well as those expressed by our clients during discussions.

1. **Do you agree that most MNE groups within the CbC reporting regime will already routinely be preparing master files to comply with the OECD's standardised approach and to comply with transfer pricing documentation requirements in other countries?**

(A) We consider that most MNE groups within the CbC reporting regime (group revenues greater than EUR 750 million) will likely already be preparing master files where they have a presence in countries which have incorporated the OECD's standardised transfer pricing documentation approach concluded in the Action 13 report into their local legislation.

(B) We note however that the OECD Guidelines only provide a threshold for the CbC reporting regime and not for the master file and local file requirements.

(C) In addition, it is important to highlight scenarios where an MNE group within the CbC reporting regime may not routinely prepare a master file namely:

(1) The MNE group has only exceeded the group revenues threshold for CbC reporting in the prior financial year and therefore has only recently become of a sufficient size in their view to consider the preparation of a

master file (assuming the MNE group was not required to prepare the master file in its other countries of operation);

(2) The MNE group may have a substantial presence in countries where a master file is not required to comply with transfer pricing documentation requirements. For example, the US sets out its principal documents for penalty protection for transfer pricing adjustments under regulations 6662 which does not require the preparation of a master file.

2. **In the event that a MNE reports that the group does not maintain a master file or that the master file is not within the power of possession of the MNE, what steps could be taken to ensure equality of treatment?**

(A) Depending on the location of operation, in our view, MNE groups which do not maintain a master file may already have a transfer pricing documentation report in accordance with the OECD's pre-Action 13 format or local requirements (e.g. US) which may contain group-level information prescribed in a master file. In such cases, it may be expedient for HMRC to accept these reports as a substitute for a master file. The substance of the analysis is arguably more important than the format.

(B) We consider that HMRC should assess whether the master file is 'reasonably required' in the course of their enquiries and exhaust all possible alternative ways of receiving this information from MNE groups if the master file is not within their power of possession. We do not consider the master file should be treated differently to other documents requested by HMRC to assess the MNE group's tax position if it is 'reasonably required'.

3. **Do you agree that any new master file requirement should apply only to MNEs within CbC reporting groups?**

(A) We believe the suggested criteria could be considered a proportionate approach to addressing the new master file requirements subject to the following comments.

(B) For MNE groups which operate as insurers and asset managers, the insurance entities in an MNE group are often the largest investor in an MNE group's funds in its asset management division of the business. For CbC reporting purposes, the insurance entities may consolidate funds and underlying investments funds. However, they do not act as related parties as there are other third party investors in the funds and hence are diversely owned. Accordingly, we are of the opinion that the master file requirement should apply only to the corporate group in these situations, excluding the funds.

(C) In our experience, MNE groups which exceed the CbC reporting threshold but do not have large values of cross-border intragroup transactions (e.g. those with a decentralised operating model or those predominantly operating domestically) may not have the internal tax team resources or have transactions of material value and significance to justify the preparation of a master file. In these circumstances we recommend thresholds or parameters to ease the compliance burden for such MNE groups. For example, this could include de minimis thresholds for transactions with UK entities to identify and exclude qualifying MNE groups from the master file requirement in the UK (similar to those referred to in our response to question 8 below). This aligns with HMRC's existing risk-based approach.

4. **The government would welcome observations on the extent to which local file requirements align with transfer pricing documentation which MNEs already routinely maintain.**

(A) In our experience, for MNEs above the CbC reporting regime threshold, many will have produced local files for other jurisdictions or local file templates which could be utilised to prepare a UK local file. This is particularly relevant for countries in Europe.

(B) Nevertheless, the approach taken by MNEs varies considerably and depends on numerous factors such as the countries of operation, stage of business (e.g. start-up, fast growth phase or established) and the size and nature of transactions. Some businesses either do not have the financial system capability or the tax team resource to assimilate all intragroup transaction data required for the local file format. In other cases, UK entities in the group may only provide routine support services and therefore, some information required under the local file (e.g. key competitors etc.) may not be relevant for the business.

(C) Where an MNE group is UK headquartered with substantial operations in the UK, there may be significant duplication in the content of a master file and a UK local file. Therefore to manage time and costs, the MNE group may only have one of these documents, prepare a combined local file for all UK based entities or a single report combining and consolidating the master file and local file requirements.

5. **The government invites comments on the possibility of issuing further practical guidance about local file documentation, including the possible requirement to maintain an evidence log or similar appendix.**

(A) Whilst we welcome the clarity local file documentation requirements would bring to taxpayers and advisors for compliance with UK transfer pricing documentation rules, we believe taxpayers should be given discretion as to how they present their transfer pricing arrangements in the UK as long as the focus is on substance over form and it aligns with the purpose of the exercise. For example, this includes whether taxpayers choose to do so by preparing a local file on an entity by entity basis, an overall country basis or grouping certain transactions in a way which best represents the transfer pricing position rather than having to adhere to prescriptive and detailed requirements. This would enable taxpayers to take a proportionate and appropriate approach for the MNE group, factoring in HMRC's existing risk-based approach into requirements in a practical and effective way.

(B) The introduction of an evidence log similar to that required under the Profit Diversion and Compliance Facility ("PDCF") will significantly increase the compliance burden for MNE groups beyond the requirements under the OECD Action 13 local file. We don't think taxpayers should be required to provide an excessive amount of information however, enough information should be provided to assist HMRC with their understanding of the process and information used to prepare the local file.

(C) Furthermore, the OECD's Base Erosion and Profit Shifting Project brought together numerous jurisdictions to achieve consensus on the best format and content for preparing transfer pricing documentation which would assist taxpayers and tax authorities internationally. This should be respected and we see no clear rationale for justifying an approach to extend these requirements in the UK beyond the Action 13 recommendations.

(D) Accordingly, we request further clarity on the purpose of the evidence log in the context of a local file (rather than under the PDCF) and how this would benefit HMRC and taxpayers in the process of compliance. Many UK headquartered MNE groups will have a relationship with a Customer Compliance Manager ("CCM") who they meet regularly and has an understanding of the MNE group's business and transfer pricing risks. How would an evidence log assist HMRC in this situation?

(E) We note that some of the components of a local file are objective, factual information such as intragroup agreements, transaction values, financial statements, organisational and reporting line charts etc. and therefore we do not expect these to be addressed separately in an evidence log.

(F) Whilst we challenge the need for such a requirement for the reasons outlined above, if it is considered, we strongly believe the approach for MNEs should be proportionate and not overly burdensome. For example;

(G) An evidence log shouldn't be a "requirement" but instead a guideline for taxpayers to include such information depending on their facts and circumstances to best articulate the rationale and support for their transfer pricing position.

(H) An evidence log could be limited to MNEs with complex, high risk transactions.

(I) The format and content of the evidence log could be at the discretion of the taxpayer who has an understanding of the information available. This is further supported by the fact the UK corporation tax regime is based on self-assessment by the taxpayer and therefore, the taxpayer is required to collate and use the appropriate evidence to support their tax position.

(J) A simple summary of the number of business people involved and in what capacity to prepare the local file (e.g. finance input, functional interview date / participant etc.) could be provided.

(K) Some MNE groups may retain meeting notes of functional analysis interviews with business people and therefore these can be provided, if necessary. However, others may decide to directly capture this information in the functional analysis in the local file to make the process more cost and time efficient where documentation is produced internally and/or by advisors. In this case, a summary of the process and participants would be more appropriate.

(L) Copies of emails and logs of correspondence on information relating to the services used to produce the local file would be practically infeasible for MNE groups who do not have the systems capabilities and overly time consuming for resource constrained internal tax teams to manage. This would cause great difficulty in practice and arguably we believe this is excessive for filing purposes outside the context of an enquiry. Therefore, we do not think such a requirement in the form of an evidence log would be reasonable.

6. **Do you think that reporting MNEs within the scope of the CbC reporting regime to maintain a local file is proportionate?**

(A) We believe the suggested criteria could be considered a proportionate approach to addressing the local file requirements subject to the same comments outlined in our response to question 3.

(B) Requiring all MNEs above the Small and Medium sized Enterprise ("SME") threshold to prepare a local file will significantly increase compliance burdens

for businesses with minimal or simpler cross border transactions, decentralised models or a substantial presence in countries which do not follow the master file / local file format (e.g. US, Brazil etc.). For these MNEs, it could be very time consuming to gather the detailed and prescriptive list of financial, transaction, reporting line and organisational data and descriptions under the local file requirements. As mentioned previously, the UK transfer pricing documentation requirements should continue to focus on substance over form and reflect HMRC's risk-based approach by design.

7. **Do you agree that 30 days is an appropriate timescale for production of the master file and local file?**

(A) We broadly agree that 30 days is a reasonable timescale for the production of the master file and the local file for MNE groups above the CbC reporting threshold.

(B) We recommend considering extensions and/or the option to increase the request period based on the circumstances (as agreed between HMRC and the taxpayer). Overall, this would bring the UK in line with other OECD countries, which generally have request periods of 30 days, up to 60 days.

8. **Which metrics would be appropriate to determine de minimis thresholds?**

(A) We believe it is important to design de minimis thresholds to ensure the local file requirements are proportionate and relevant for MNE groups. From our experience, this is the most effective way for MNE groups to manage requirements, and ensures the transaction and the UK group entity are of a material size to prepare a local file. These could include:

(1) Thresholds which are proportionate to the UK entity's results such as calculating total revenues of the UK entity above/below a percentage of the group revenue to determine whether a local file is required for the UK entity.

(2) Using the data in the CbC report to understand the characterisation, financial profile and employees of UK entities to assist with adopting a targeted and risk-based approach.

(3) Intragroup transaction values as a percentage of the cost base, revenue base, total profit etc. of the UK entity to assist MNE groups to focus their compliance resources on the most material intragroup transactions.

(4) De minimis values for intercompany transactions e.g. below £20,000 or £50,000 etc. which do not need to be analysed in the local file.

(5) Group cost recharges including pass through payments and allocations where a single group entity has incurred third party costs on-behalf of others which are not subject to transfer pricing.

9. **If a MNE consider all its transaction to be not material, should that mean the MNE is (i) required to submit an annual declaration to that effect or (ii) obliged to provide a short form local file upon request?**

(A) A short, simple annual declaration appears reasonable and sufficient for these purposes. We do, however, have a few questions on what this simple annual declaration would look like and how it would work which need further consideration;

(B) A single tick box on the corporation tax return filed annually to confirm the MNE doesn't consider any of its transactions to be material in line with the de minimis thresholds (outlined in question 8 above)?

(C) Are further details beyond a single tick box on the corporation tax return required if by virtue of the annual declaration, HMRC does not need to allocate more resources to these MNE groups?

(D) Can the taxpayer retain the necessary evidence to justify this as per the self-assessment requirement?

(E) If more details are required, what would this include and how would this be helpful to HMRC and the taxpayer? In this case, is the alternative a short one page format to be submitted to a HMRC mailbox at the time of filing the tax return?

(F) Should a short annual declaration be prepared, retained on file and submitted to HMRC only on request of the local file which will be easier to manage for all?

(G) From our experience, we consider a short form local file to create an additional layer of unnecessary complexity in terms of format, content and requirements for all and would go against the principle of taking a proportionate approach to UK transfer pricing compliance requirements where an MNE's transactions were not considered material.

10. **With regard to the proposals in this chapter, the government would welcome any other observations, comments or suggestions.**

(A) To ensure the master file and local file transfer pricing documentation requirements in the UK stay true to HMRC's risk based approach and are proportionate to business facts and circumstances, we suggest the following are considered:

(1) Defined thresholds and de minimis levels linked to the size of the UK entity's financials to ensure MNE groups are not disproportionately burdened by the requirements.

(2) Guidance to reiterate discretion and flexibility for taxpayers to present their transfer pricing arrangements as they consider appropriate focussing on the content as well as the format at a country level, combined transaction level or other approach within the parameters set by the OECD Action 13 requirements. This ensures HMRC's existing risk-based approach is factored into the design of the transfer pricing documentation requirements. The proposed requirements may also provide an opportunity to collate other existing guidance on transfer pricing documentation through the PDCF and international tax manuals in a single place aligning messaging to the legal requirement for UK documentation compliance and making it easier to refer to.

(3) We note that countries such as Australia have introduced "safe harbours" for certain transactions which have simplified record-keeping requirements or highlighted those which they consider to be high risk. This has helped taxpayers to focus their efforts on transactions which may be subject to greater scrutiny. We believe introducing similar "safe harbours" could be another effective way for taxpayers to manage compliance requirements and enable HMRC to adopt a targeted approach.

(B) We would welcome confirmation from HMRC that MNE groups would fall within the scope of the master file and local file requirements proposed in the UK by applying the CbC reporting threshold to the previous financial year (i.e. aligned to the CbC reporting regime threshold) rather than the current year.

(C) We would also appreciate clarification that under HMRC's proposals, MNEs below the CbC reporting threshold do not have a requirement to prepare a master file and local file in the OECD Action 13 format and continue to prepare and maintain transfer pricing documentation in accordance with HMRC's record keeping requirements as appropriate to the facts and circumstances of their business.

11. **The government welcomes comments about the extent to which your accounting / reporting system(s) can, or cannot, provide relevant to transfer pricing data and information.**

(A) In our experience, the ability to record, track, extract, analyse and reconcile transfer pricing data and information varies significantly amongst MNE groups. This is affected by the Enterprise Resource Planning ("ERP") and management reporting systems used across the organisation, the industry of the MNE and the resources of internal tax and finance teams.

(B) The implementation of the CbC reporting regime for MNE groups above the EUR 750m threshold was challenging for many. We can only extrapolate the potentially greater difficulties all businesses within the scope of UK transfer pricing legislation would encounter in providing transfer pricing data on a transactional level as being suggested under the IDS. In addition, whilst the approach for financial reporting at an entity or group level may remain reasonably constant from a process perspective, the nature and volume of transactions can significantly change year on year making it difficult for MNE groups to obtain synergies through iteration of the process.

(C) Our understanding of some of these challenges and steps which we think are important to demonstrate the complexity for MNE groups in complying with a potential IDS filing requirement, include:

(D) Gathering information from disparate financial databases and systems managed by different internal teams (particularly relevant in a decentralised operating model) requires coordination and time commitment from a number of individuals in the MNE group.

(E) Understanding and interpreting the definition of a transaction and the values presented by the financial system including ensuring consistency across countries and year-on-year.

(F) Verifying the accuracy of the information and reconciling positions to financial statements and where these do not tie, maintaining schedules to justify differences. This could be significant if the group has hundreds, thousands if not millions of transactions each year which may need to be analysed manually.

(G) Identifying the appropriate people in the MNE group to assist as the IDS requirement would border tax, financial reporting compliance and transfer pricing responsibilities. For example, the Head of Tax for a smaller group may be responsible which would be very time and resource intensive to manage.

(H) Analysing and combining the information into the prescribed format as automation may only be possible for part of or even none of the processes involved in preparing the information.

(I) Establishing a process which will require multiple stakeholders in the MNE group to undertake the exercise periodically with the appropriate checks and balances.

12. **The government welcomes comments on ideas for appropriate types of data and information which could be requested through an IDS filing requirement.**

(A) We are of the opinion that a significant level of clarity is required from HMRC to understand how the information submitted under a possible IDS filing requirement will aid HMRC in its risk assessment of taxpayers and focussing its compliance efforts.

(B) The Consultation references a number of other jurisdictions including Australia, Denmark, Belgium and in our experience others such as Japan and Singapore also have similar requirements. However, it does not outline how these countries have used the IDS style information to assist with targeting their tax authority resources or the quantitative benefits delivered from this compliance exercise.

(C) Furthermore, there is a significant level of duplication for taxpayers who are required to prepare a local file and a CbC report. We are of the view that the administrative burden of preparing an IDS in addition would be considered disproportionate to the benefit of doing so.

(D) Arguably, clear and coherent transfer pricing documentation guidance based on the OECD Action 13 requirements in the UK would dispose of the need to prepare an IDS. The local file contains the relevant quantitative information on intragroup transactions including the intragroup payment and receipts for each category of controlled transactions involving the local entity, broken down by tax jurisdiction of the foreign payor or recipient with the qualitative details supporting the transfer pricing method and policy adopted we believe is appropriate and sufficient for a risk assessment.

13. **Please provide details of any impacts on administrative burdens which you could anticipate resulting from the introduction of an IDS requirement.**

(A) Our key observation in respect of the introduction of an IDS filing requirement is that it will lead to a disproportionately onerous administrative burden on the majority of reputable taxpaying businesses in the scope of UK transfer pricing legislation without clear evidence on how this will benefit taxpayers and HMRC.

(B) We have a number of examples of how businesses are currently cooperating with HMRC across transfer pricing and other tax areas to provide increasing amounts of information:

(C) Annual reports, statutory accounts and tax returns.

(D) Submission of CbC reports for those above the EUR 750 million revenue threshold.

(E) Preparation of local files which include details on intragroup transactions in accordance with the OECD Action 13 requirements.

(F) PDCF process.

(G) Regular meetings with CCMs.

(H) Where taxpayers are in the process of agreeing a bilateral or multilateral Advance Pricing Agreement (“APA”) or unilateral Advance Thin Capitalisation Agreement (“ATCA”) with the UK as one of the jurisdictions in the transaction.

(I) Transfer pricing positions could be in scope for disclosure under the proposed uncertain tax treatment disclosure regime.

(J) Information obtained by HMRC through its exchange of information powers including in the process of multilateral audits.

(K) Tax audits and information requests from HMRC in the ordinary course of assessing UK corporation tax returns.

(L) An IDS requirement would be particularly onerous for MNE groups with smaller, limited tax teams and as a result detract resource, costs and time away from pro-actively managing risks and ensuring their transfer pricing models are aligned to changes in the business. An increased focus on compliance alone would not be an optimal outcome for taxpayers and HMRC alike.

(M) Furthermore, following Brexit there has been a concerted effort by the UK government and HMRC to reduce compliance and administration for businesses in the UK to make it an attractive and enterprise friendly location for businesses to operate in. The proposal of an IDS filing requirement stands contrary to this message.

(N) We believe HMRC should reconsider the need for an IDS filing requirement in light of the above and communicate the quantitative and qualitative benefits supported by appropriate evidence before considering these proposals further.

14. **Businesses and advisers may have awareness or direct experience of reporting requirements for other tax authorities. The government welcomes comments or observations based on your experiences in other jurisdictions. If so, what processes will work well to extract and report the relevant data?**

(A) We are of the view that an IDS filing requirement similar to the Australian format would be unduly burdensome and practically difficult for businesses to manage due to the substantial duplication and significant level of additional information to the OECD Action 13 requirements.

(B) As discussed in our response to question 12, the local file prepared in accordance with the OECD requirements would include sufficient information on intragroup transactions which would be necessary for risk assessment purposes. There is an increasing degree of repetition between local file content and IDS style filing requirements from a number of countries worldwide which require a large amount of resources, time and costs to manage without a clear articulation of the benefit for taxpayers and tax authorities.

15. **The government welcomes comments and suggestions on appropriate metrics to determine materiality limits and transactions which could be aggregated.**

(A) Notwithstanding our response to questions 12, 13 and 14, we are of the view that there are a number of thresholds and metrics which should be considered further to design the IDS filing requirement as a targeted measure, subject to there being a stronger case to implement it.

(B) These may include but are not limited to:

(C) Exclusion of transactions between UK entities and where two UK entities are part of the same corporation tax group relief group.

(D) Exclusion of intragroup payments not subject to transfer pricing. For example, in the context of a hedge fund, this could include bonus compensation payments received by a single entity and distributed to traders in other entities.

(E) Transactions involving low value-adding services ("LVAS") could be aggregated or not reported.

(F) De minimis threshold for small value transaction e.g. £20,000 or £50,000 etc. below which they do not need to be reported.

(G) Requirement to report transactions where the counterparty is in a low tax jurisdiction relative to the UK only which can be measured through a percentage difference to the UK tax rate.

(H) Materiality threshold for transactions based on a percentage of the transaction as financial statement line item (e.g. intragroup sale of goods as a percentage of total revenues, purchase of goods as a percentage of cost of goods sold) or as a percentage of the entity's overall results. This would account for size more accurately and would avoid the use of an arbitrary number.

(I) Cost recharges relating to the allocation of third party costs between entities could also be aggregated and/or excluded.

(J) Specific guidance on which types of transactions are considered high risk in HMRC's view, similar to the guidance published by Australia on certain 'safe harbours' for transaction types and pricing to allow MNE groups to focus their resources.

16. **Please comment on a possible option for one entity to file a version of the IDS on behalf of other UK group entities.**

(A) We would welcome this approach to assist MNE groups manage the compliance requirement where there may be multiple UK entities. We have a number of questions in relation to how this would operate in practice which need further consideration:

(1) Will the thresholds and reporting information still apply to UK entities on an individual basis? If so, we presume this approach would only simplify the filing process?

(2) Could MNE groups have discretion to prepare a combined form to aggregate similar transactions across multiple UK entities or with a single counterparty overseas or maintain distinct forms if the UK entities operate reasonably autonomously in the UK?

(3) How will a filing on behalf of UK group entities work if each have different financial year-ends?

(4) If the IDS is appended to or part of the CT600, how will the UK entity making the filing have the authority to report on another UK entity's transactions? What facilitation measures will be required?

(5) Will the filing entity be held responsible for the information including any errors or omission if it is filing on behalf of another UK entity?

17. **The government welcomes views on the format and structure of the IDS.**

(A) We believe appending the IDS as a schedule forming part of the CT600 UK corporation tax return would be a reasonable approach to manage the

possible requirement as part of an MNE group's existing corporation tax compliance procedures. This would also potentially minimise instances of misfiling or alternative submission deadlines which could lead to further confusion and difficulties in tracking.

(B) It would be helpful for HMRC to confirm timings for the IDS filing which presumably will be influenced by whether or not it is a schedule forming part of the UK corporation tax return.

18. **With regard to the proposals in this chapter, the government would welcome any other observations, comments or suggestions.**

(A) We would welcome confirmation from HMRC that all information submitted by taxpayers through the IDS should be treated as confidential. Further reassurances from HMRC that taxpayer's information will not be submitted to other countries through exchange of information agreements and clarity on how it will be processed should be provided, given the sensitive nature of the content of a possible IDS.

(B) From experience, the IDS and local file approach vary significantly across countries. Several countries have a large degree of overlap whilst others require significant additional information to the local file through the IDS. HMRC's objectives on the IDS need to be articulated more clearly to help taxpayers understand why this information is required and how it will be used. HMRC should also clarify how the IDS will interact with the local file, particularly as the proposal is for MNE groups within the CbC reporting regime to prepare a local file available on request but this is not the case for businesses between the SME and CbC reporting threshold.

Finally, where the IDS is a schedule to the CT600 corporation tax return, we would appreciate confirmation that this would be included within the existing penalty regime as applicable to the preparation and submission of UK corporation tax returns.

POINTS OF CONTACT

Should you have any queries or require any clarifications in respect of our response or any aspect of this letter, please feel free to contact me by telephone on 020 7296 5783 or by email at Philip.harle@hoganlovells.com.

Yours faithfully

Philip Harle

Chair City of London Law Society Revenue Law Committee