ATAD Implementation – Interest Limitation Feedback Statement
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8 March 2021

Dear Sir or Madam

Re. ATAD Implementation – Interest Limitation Feedback Statement

The Irish Debt Securities Association ("IDSA") welcomes the opportunity to reply to the Feedback Statement on the ATAD Interest Limitation Rule of Dec 2020. This reply builds upon and further develops our submission to, and our subsequent engagement following, the November 2018 public consultation on the implementation of the ATAD Anti-Hybrid rules and ILR and we welcome the opportunity to make this further contribution.

During our continued engagement and previous responses and submissions, we have noted the membership, role, and objective of IDSA, the significance and opportunity of structured finance, debt securities and the specialist securities industries as pillars of the EU Capital Market Union and the leading position of Ireland in this sector. In this respect, the implementation of ATAD and, in particular, the introduction of the ILR is of critical concern to the securitisation sector specifically but the international financial services sectors in Ireland generally as the sector's legislative framework supports and underpins the other main international financial services sectors in Ireland including aircraft leasing, investment funds and reinsurance by enabling companies in these sectors to establish financing companies and manage risk appropriately.

The Feedback Statement discusses the iterative approach to the development of the ILR with the first stage, the DEC 20 Feedback Statement, to develop a robust legislative approach to the operation of the ILR, including carry-forward provisions, on a single company basis and the second stage to consider the notional local group and group ratio options with a second Feedback Statement to be published in mid-2021 to include draft legislative approaches to all the ILR provision including all the group and exemption options in advance of the introduction of the ILR in Finance Bill 2021. Given that the time between a mid-2021 Feedback Statement and the Finance Bill 2021 is a very narrow window, any deviation from it will seriously challenge any ability to develop a considered and appropriate legislative framework.

When replying to the Nov 18 public consultation we highlighted the complexity of the issues being considered and as such we welcome the feedback statement and this further consultation on these very important issues. However, the complexity of the issues is still a very real consideration and we welcome the proposal in the feedback statement that as part of the consultation, the Department will meet with stakeholders and we look forward to this continuing engagement.

Below follows our input on and response to the Feedback Statement and concluding the introduction and our general comments, we note that we would welcome the opportunity to meet with the Department and Revenue immediately following this Consultation period to highlight and work through the practical challenges arising, which we believe will assist in the consideration and preparation of the Second Feedback Statement, the timing of which is critical, and we would urge that it include more draft legislation extracts and practical guidance.

Yours faithfully

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ATAD Implementation – Interest Limitation Feedback Statement

Introduction

In sharing our thinking on how the new Interest Limitation Rule (ILR) could be implemented in Ireland we seek to highlight certain features of our sector which we would ask to be taken into consideration when drafting the new legislation and developing guidelines around it.

Legislative references below are to the Taxes Consolidation Act 1997, as amended.

- The legislative framework of the SPV regime in Ireland achieves the desired policy objective of tax neutrality by allowing tax deductions for profit related interest, only if a number of very prescriptive conditions contained in Section 110 are met. The recent introduction of anti-hybrid rules, enhancement of anti-avoidance rules within Section 110 and transfer pricing rules have added further requirements and all these restrictions will continue to apply regardless of how the ILR impacts on the sector. Also if the ILR limits an interest deduction and creates a tax charge this will not be a deferral, it will be a permanent cost, as the SPV will not have the capacity in any year to absorb the interest tax credit (see our response to Question 9). To seek to preserve the intended policy intent enshrined in our existing rules it is critical therefore that the impact of ILR on the sector is kept to an absolute minimum and that is the context of our responses to a number of the key questions raised in the latest Consultation Document.

- The interpretation of what is interest equivalent income is quite pivotal and we welcome the assurances that a symmetrical approach will be applied to the definition of borrowing costs in the Directive. Thus for instance if fair value movements on profit participating loans are viewed as a borrowing cost, fair value movements on debt should be viewed as interest equivalent income. The suggested definition in the Consultation document appears wide enough to cover items such as fair value movements on all forms of debt, gains on loan portfolios including NPL's, gains on various derivative contracts etc and it would be very helpful if the legislation (or Guidance) was explicit in this regard (see our responses to Question 3). For the leasing sector also a confirmation of the treatment of operating lease income is very important.

- While we acknowledge that a complete carve out for the SPV sector may not comply with the minimum standard of the Directive, in circumstances where a prescription definition of financial undertaking is adopted, we believe that the flexibilities which are permitted, offer scope to appropriately minimise the impact. We would in particular draw your attention to the manner in which the De Minimis Exemption (see our response to Question 11) and the Legacy Debt Rules (see our response to Question 15) are implemented. In addition if it is the case that the majority of SPV's will not fit within the Stand-Alone Exemption it is critical that they are able to avail of the various grouping measures catered for in the Directive including the Notional Local Group and Group Escape clauses.

- Typically the Irish SPV sector tends to proliferate the use of separate companies. This is for a variety of reasons including the requirement of external lenders to hold assets in ring-fenced entities for security and bankruptcy remoteness purposes. This often means that the normal tax definition of what constitutes a group would not be met. Even an extended definition, including companies within the same finance consolidation group, may not be sufficient as under IFRS 10 investment entities do not fully consolidate the results of subsidiaries (see our response to Question 12). It is critical that the definition of Notional Local Group is wide enough to allow grouping in the types of situations where there are common economic ties and that it is optional and not mandatory. It is also very important that flexibility is allowed in relation to the use of the Disregarding and Amalgamating techniques for comprising the results of all the group members (see our response to Question 27)

- The Consultation asks what, if any, limited adaptations of existing legislation could be introduced in Finance Bill 2021 to assist with effectively integrating the ILR with existing domestic rules. We believe that the combination of a new fixed ratio rule, the anti-hybrid rules and the existing anti-avoidance measures targeted specifically on interest deductions give leeway to eliminate duplicative measures particularly within Section 130 and Section 817. We also believe that recent rule and interpretation changes involving the treatment of foreign withholding taxes and foreign exchange differences could be tweaked to eliminate unintended consequences on the sector (see responses to Questions 1 and 2)

- The Feedback Statement refers at various points to the need for anti-avoidance provisions. With the possible exception of the de minimis exemption (see our response to Question 11) we do not see the need for anti-avoidance provisions. As Ireland is not proposing to remove any of the existing Irish anti-avoidance provisions relating to interest, there should be sufficient protections in place without the need to supplement them here.

- We recognise that the level of optionality and flexibility requested in our responses may add to the complexity of the ILR and its operation. This in turn will impact on the policing of the ILR regime by Revenue. We are prepared to meet with Revenue and the Department of Finance immediately following this Consultation period and work through the practical challenges arising and fixes that may be necessary. We believe this will assist in the drafting of the Second Feedback Statement which we would urge should issue no later than mid-summer and should contain more draft legislation extracts and practical guidance on the operation of the regime.

Question 1

What, if any, limited adaptations of the existing legislation could be introduced in Finance Bill 2021, to assist in effectively integrating the ATAD ILR with existing domestic rules?

The combination of the new fixed ratio rule, the anti-hybrid rules and the existing anti-avoidance measures targeted specifically on interest deductions give leeway to eliminate duplicative measures particularly within Section 130 and Section 817. The following are some immediate changes which could be made in Finance Act 2021 at the same time as the ILR is implemented.

<table>
<tr><th>Provision</th><th>Rationale</th></tr>
<tr><td>Special rules for 75% non-EU, non-trading debt (Section 130(2)(d)(iv), Section 130(2B) Section 452 and 452A and Section 845A)</td><td>No economic rationale supports this rule, particularly since transfer pricing applies.</td></tr>
<tr><td>Convertible debt (Section 130(2)(d)(ii));</td><td rowspan="2">Anti-hybrid rules address mis-matches, so since the interest is taxed on receipt, a deduction should be granted.</td></tr>
<tr><td>Results dependent interest (Section 130(2)(d)(iii)(I)),</td></tr>
</table>

“stapled” debt rules (Section 130(2)(d)(v))	
Section 130(2)(d)(iii)(II) – the excess amount over a reasonable commercial return is a distribution.	Transfer pricing specifically addresses this issue. If transfer pricing applies to deny a deduction is the amount so denied still a distribution this creating overlap between the rules?
Sections 247(4A), (4E) and 840A – anti-step up rules	Interest limitation rules limit the ability to step up debt level in a corporate group.
Section 817A – no deduction if the interest is incurred for avoidance purposes.	Section 811C covers this point specifically.
Section 291A caps the current year relief for interest expense and capital allowances at 80% of the tax adjusted income from specified intangible assets with a carry forward.	As the ILR restricts the amount of interest deduction in a year and has a carry forward, it is unclear why the Section 291A interest restriction is still needed.
Section 249	This provision seems unnecessary once interest deduction is limited under the ILR as its purpose is to prevent excess interest deductions.

Question 2

What, if any, further adaptations of the existing legislation could be considered in later Finance Bills?

As a general matter, the rules relating to the taxation and deduction of interest should be contained in a single code. This feature is effectively assumed in the interest limitation rule in the Directive but is not present in Ireland. The resulting patchwork of Case I/II rules, Case III rules, Section 247 and Case V rules should be swept away with a single code for taxing and deducting finance costs not limited to interest) with a small number of specific rules (such as Section 110(4)). The rule should permit a deduction for all “borrowing costs” (perhaps defined to mirror the Directive) on any debt incurred for the purposes of earning taxable income or gains as it accrues in the statutory accounts, subject to anti-avoidance and other rules. One could introduce a wholly and exclusively concept (similar to Section 81) in line with the current deductibility test for trading expenses. A better approach would, however, to ensure that any rules denying deductibility would only apply “to the extent” the anti-avoidance rule applied so there are no cliff edges if one were to foot fault.

For example, the effect would be to align the interest deduction rules in Case III with similar rules for Case I/II. This would be beneficial as it seems odd that Irish tax policy should deny a deduction for interest under Case III even where the interest meets all of the other tests for deductibility, simply because Case III applies.

We also believe that recent rule and interpretation changes involving the treatment of foreign withholding taxes and foreign exchange differences could be tweaked to eliminate unintended consequences on the sector.

Question 3

Comments are invited on this possible approach, including whether any other matters should be considered in the transposition process. (More detailed questions relating to each step are contained later in this paper, so responses to this question should focus on the general approach.)

On balance, we agree it makes sense to apply the ILR after a company has prepared its corporation tax computation in the normal way. We understand the rationale behind the proposed approach as it will mean that the corporation tax computation will not need to be altered and the approach does allow the rules to be layered on top of the existing process for taxpayers. That said, some consideration must be given to the complexity of the proposed approach, including timing of calculation and payment, the new definitions that are required and the significant additional burden that this places on taxpayers. This further emphasises the difficulties that are associated with layering new rules onto an already complex legislative system. As such we would urge that, where possible, the rules below are simplified to the greatest extent possible and we have provided comments throughout this response which we believe will help in this regard. We would also urge that consideration be given to providing for an extended filing period within which to apply the ILR and for any deemed charge to be excluded from the calculation of preliminary tax.

Question 4

Comments are invited on this possible definition of 'interest equivalent'.

The Directive prescribes that the interest limitation rule only applies to 'exceeding borrowing costs'. This is defined in the Directive "the amount by which the deductible borrowing costs of a taxpayer exceed taxable interest revenues and other economically equivalent taxable revenues that the taxpayer receives according to national law." Certainty over the definitions of "borrowing costs" and "taxable interest revenues and other economically equivalent taxable revenues" is therefore crucial to the correct interpretation and application of the rules.

While "borrowing costs" is defined in the Directive, "taxable interest revenues and other economically equivalent taxable revenue" are not. Instead, it is a matter of member state discretion which must, of course, be exercised in a reasonable manner. Since the purpose and aims of the Directive with regard to interest limitation is to limit the amount of deductible interest to 30% of EBITDA but only on a net basis, then it would seem to follow that the concept of "borrowing costs" and "taxable interest revenues and other economically equivalent to taxable revenues" ought to be defined symmetrically. If this were not the case, there might be no effective netting and the restriction for a given tax payer would be greater than the Directive's requirement. Without symmetry, this outcome could occur as a result of the form of interest or interest equivalent income received by a taxpayer and, therefore, taxpayers in economically equivalent situations would be taxed differently leading to competition law/State aid concerns. Accordingly, we advocate the adoption of what we view as the most logically coherent approach: that of ensuring symmetry between the concepts of "borrowing costs" and "exceeding taxable interest revenues and other economically equivalent taxable revenues".

In this context, we believe that a new statutory definition in the form of a non-exhaustive list would be most appropriate in this instance. There does not seem to be any other obvious concepts or definitions of interest which could be used in this context. Accordingly, Ireland should adopt a coherent approach that is consistent with the Directive principles and ensure that there is symmetry between "borrowing costs" and "taxable interest revenues and other economically equivalent taxable revenues".

This appears to align with the broad approach being suggested in the Feedback Statement. However, we are surprised to note that the proposed definition of borrowing costs is not as broad as the Directive definition. We would advocate that this be corrected while preserving the symmetrical approach on the revenue side. We would propose that the following definition of interest equivalent income be used in conjunction with the sweeper language suggested in the Feedback Statement:

'Interest equivalent' includes interest income on all forms of debt, other income economically equivalent to interest and income earned in connection with the raising of finance, including, without being limited to, receipts under profit participating loans, imputed interest on instruments such as convertible bonds and zero coupon bonds, amounts under alternative financing arrangements, such as Islamic finance, the finance return element of lease payments, capitalised interest included in the balance sheet value of a related asset, or the accrual of capitalised interest, amounts measured by reference to a funding return under transfer pricing rules where applicable, notional interest amounts under derivative instruments or hedging arrangements related to an entity's lending transactions, foreign exchange gains and losses on lending transactions and instruments connected with the provision of finance, guarantee fees for financing arrangements, arrangement fees and similar income related to the borrowing of funds, and shall also include any amount arising from an arrangement, or part of an arrangement, which could reasonably be considered, when the arrangement is considered in the whole, to be economically equivalent to interest.

In terms of "amounts economically equivalent to interest", we raise the following specific points:

- It is clear from the definition in the Feedback Statement that finance lease income/expense would be considered interest equivalent. We would seek confirmation regarding whether the financing element of operating lease payments is considered interest equivalent.
- Does the definition of interest cater for implied interest or other inclusions arising as a result of transfer pricing adjustments?
- We would welcome confirmation that gains and losses on loan portfolios (including non-performing loans) and fair value movements on all forms of debt would be viewed as included as "interest equivalent". To put context around this, we feel that there has been a focus on payments made which does not acknowledge that deductions are also taken for non-payments.
- In the event that loan payments are accelerated by taxpayers such that an early repayment fee is triggered, would that fee be considered equivalent to interest or an expense incurred in connection with raising finance?

We are cognisant of the fact that not all of these issues can be addressed via legislation, however an express list of as many examples as possible would be preferable. To the extent that this cannot be achieved, we ask that the accompanying Revenue guidance include as many practical examples of what is interest, interest equivalent and expenses incurred in connection with raising finance as possible.

As a general point, it is worth noting that we feel the consistent references to "interest equivalent" make the legislation more difficult to navigate. Simplifications such as the use of the term 'interest' instead of 'interest equivalent' would make the definition more readable and, in our view, loses nothing in accuracy.

Question 5

Comments are invited on these possible definitions of 'taxable interest equivalent' and 'deductible interest equivalent'.

It is difficult to comment on either of the above definitions without the definition of “relevant profits”. As such we would recommend that “relevant profits” should be defined as the total profits of an entity, including chargeable gains. Our commentary below and in the other questions has taken this assumed definition.

The suggested definition of taxable interest equivalent includes any amount that is “taken into account” in calculating the relevant profits of a relevant entity. In the case of an Irish regulated fund (investment undertaking) the profits of the fund are “taken into account” in calculating its relevant profits before being taken out of the charge to Irish tax by the relieving provision contained within S739C TCA 1997. It would be helpful if explicit confirmation of this was provided.

Furthermore and more broadly, in contrast to EBITDA, the exclusion of exempt income in the calculation of net interest or “exceeding borrowing costs” is not required by reference to the provisions set out in the BEPS Action 4 report.

Question 6

Comments are invited on these possible definitions of ‘exceeding borrowing costs’ and ‘exceeding deductible interest equivalent’.

As noted earlier it is critical that these key definitions ensure that there is clear symmetry between what a paying taxpayer is required to include as a “borrowing cost” and a recipient taxpayer can include as “taxable interest equivalent”. For example, if a borrower is required to include the interest element of a Profit Participating Loan as a borrowing cost, a lender should also be entitled to treat the return earned on a Profit Participating Loan as interest equivalent income.

Furthermore, we note that the definition of ‘exceeding borrowing costs” operates to cap the relevant amount at nil. In this way, it is not possible to calculate a negative amount. While this makes sense in the context of a single entity, we would note that depending on the calculation methodology which is envisaged for a notional group, this may result in adverse consequences and complexity in the context of calculating the ‘exceeding borrowing costs” for a single taxpayer depending on the drafting of the rules. Where this is the case, the ability to disregard intra group transactions becomes very important in the context of calculating accurate numbers for a notional local group. Reference is made to the response to Question 27 in this regard.

Question 7

Comments are invited on this possible definition of ‘EBITDA’.

There are inherent difficulties in commenting on the definition included for EBITDA as one of the key components in calculating EBITDA for this purpose is “P” which is defined as the “relevant profits” of the “relevant entity”. We would note in relation to the definition of “relevant profits” once available that it should be sufficiently broad so as to include all profits which are chargeable to tax in Ireland at all the appropriate rates (i.e. trading, non-trading and corporation tax on chargeable gains). We have the following comments in relation to the relevant parts in calculating EBITDA:

I – This figure is added back to P above and is defined in the calculation of EBITDA as “the portion of the exceeding borrowing costs of the relevant entity that is referable to exceeding deductible interest equivalent referred to in paragraph (a)(i) and (ii) [in the possible definition of deductible interest equivalent – see 4.3]”. It is difficult to understand the reference made to “a portion” in this definition and in our view this should be simply exceeding borrowing costs. The reference to a portion is overly complex and it is not clear what it seeks to achieve. Furthermore, the reference to deductible interest equivalent in arriving at "I" seems to provide that it would first be necessary to reduce the amount of borrowing costs to be added back by any interest arising on legacy debt. As legacy debt is excluded from the scope of the interest limitation rule it would be inconsistent for interest arising on legacy debt to negatively impact the EBITDA figure which is used to calculate the 30% EBITDA restriction. As such, consistent with the Directive, interest arising on legacy debt to also be added back to P to arrive at EBITDA.

DA- We suggest that in the definition of "DA" thought is given to scenarios where capital allowances are disclaimed and how this could impact upon the ultimate calculation of EBITDA.

Question 8

Comments are invited on the above possible approach to the operation of the ILR.

We are broadly supportive of the approach being suggested but would make the following points in relation to the drafting and application of the rules:

- the use of new terms such as "exceeding deductible interest equivalent" seem unnecessarily confusing and there are also opportunities to simplify the formulae being used in the seven step approach;
- a Case IV charge should not arise in any circumstances where a tax charge would not have arisen if the interest deduction was limited by the excess amount in the normal Corporation Tax computation;
- a Case IV charge should not be subject to the close company surcharge;
- where old Irish GAAP is being used by a company for tax computational purposes the ILR should be calculated by reference to those numbers.

Question 9

Comments are invited on this possible approach to carrying forward non-deductible 'exceeding borrowing costs'.

As alluded to above, if the ILR limits an interest deduction and create a tax charge for an Irish SPV this will not be a deferral, it will be a permanent cost. Given the operation of this provision and the requirement to have interest capacity in order to utilise this credit in subsequent years, in the majority of, if not all, cases it would appear that Irish SPVs will not be in a position to get any benefit from this provision as the SPV will not have the capacity in any year to absorb the interest tax credit. An example is appended to illustrate this point in practice.

To seek to preserve the intended policy intent enshrined in our existing rules it is critical therefore that other provisions are transposed in a manner that supports the preservation of the regime.

Question 10

Comments are invited on this possible approach to carrying forward 'excess interest capacity'.

Similar to our comments made in response to question 9, given the operation of this provision and the requirement to have interest capacity in order to generate excess interest capacity this is expected to have limited, if any, application to the Irish SPV sector.

Furthermore, Irish SPVs that have made an irrevocable election to compute their taxable income on profits based on IFRS are more adversely impacted by the ILR than those that compute their taxable income on profits based on Irish generally accepted accounting principles that applied in 2004 (with identical portfolios and returns). This is due to the inability to utilise the interest tax credit and excess interest capacity provisions. We are happy to provide examples to illustrate this point if that would be helpful.

As noted in Question 9 above, to seek to preserve the intended policy intent enshrined in our existing rules it is critical therefore that other provisions, such as the exemptions and the grouping provisions, are transposed in a manner that supports the preservation of the regime.

Question 11

Comments are invited on this possible approach to the de minimis exemption, and on the potential need for anti-avoidance provisions to accompany such an exemption.

We support the suggested approach that the full €3,000,000 per annum de minimis threshold should be provided for and would be anxious to share our views on how the relief could be introduced to optimise the benefits. One possible suggestion relates to the interaction of the €3million de minimis amount and the calculation of EBITDA. In addition and consistent with the Directive the de minimis threshold should be considered for the entire notional local group.

In the event that it is necessary to incorporate anti-avoidance provisions, we recommend that a bona fide commercial test be included with the De Minimis threshold. This would prevent artificial de-aggregation structures.

Question 12

Comments are invited on the above possible definitions, including how single companies not coming within the Directive definition of 'standalone entity' could be treated.

Worldwide Group

The definition of worldwide group includes the ultimate parent and all subsidiaries which are fully included in the ultimate consolidated financial statements. However, this definition should be considered in the context of subsidiaries of an "investment entity" (as defined for the purposes of the International Financial Reporting Standards ("IFRS")). Entities that meet the definition of an investment entity in accordance with IFRS 10, do not consolidate certain subsidiaries and instead measure those investments that are controlling interests in another entity (i.e. their subsidiaries) at fair value through profit and loss. Such entities are quite common in the financial services sector and if an entity is regarded as an investment entity then under IFRS it is a requirement that the results of certain subsidiaries are to be consolidated in this manner. The proposed definition of worldwide group based on the requirement to "fully" include the results of an entity could have the undesired outcome of excluding investment entities and their subsidiaries from falling within the scope of a worldwide group. If so, these entities which are in a group which fall under the scope of IFRS 10 would be adversely impacted as they would not be able to adopt a group ratio to assist with limiting the blunt nature of the fixed ratio rule, as permitted by the Directive. This will also be relevant when considering the appropriate definition for a notional Irish group.

Furthermore, and linked to the next point on Standalone Entity, where it is considered to be not possible to legislate that orphan SPVs constitute standalone entities as defined, the definition of worldwide group becomes crucial for the sector. To the extent that such entities cannot fall within the definition of a standalone entity proposed, such entities would be disproportionately impacted by the rules given the entities are not, on the face of it, capable of availing of the consolidated financial statements group provisions. We would encourage that consideration be given to allowing such entities to avail of consolidated financial statements group provisions to the extent that they cannot avail of the “standalone entity” provisions. Therefore the Irish implementing legislation would need to introduce a similar definition of the Single Company Worldwide Group used in the UK and also define a consolidated group for financial accounting purposes to include a Single Company Worldwide Group.

Standalone Entity

A typical securitisation company will have nominal issued share capital (often €1 only) held by a share trustee company which is administered by a corporate services provider. The securitisation company will issue bonds to investors. The issued shares will have nominal economic value (but must exist for company law purposes) and the trustee will typically hold the shares on trust under a "purpose trust". This purpose trust does not have identifiable beneficiaries during the life of the trust and the transaction and is often described as an "orphan trust". In Ireland, the purpose trust will typically be established with general charitable objects. Certain other jurisdictions where securitisation companies are established have dedicated "purpose trust legislation".

The result of these arrangements is that the securitisation company has no beneficial or economic owner of the shares and consequently is described as "bankruptcy remote" from any other person. These arrangements are commercially and legally required by stakeholders such as bond holders, rating agencies and commercial lenders. The result is that, from an economic and insolvency perspective, the securitisation company is not part of a larger group.

The shares of the securitisation company are 100% legally held by in the name of the trustee company on trust. The trustee company is neither the beneficial nor economic owner of the shares. The key question is whether the securitisation company in this case can be regarded as a standalone entity or rather is considered to have an “associated enterprise” being the trustee company. We are assuming for these purposes of this analysis that none of the bondholders are an associated enterprise and are not consolidated for accounting purposes with the securitisation company, so the securitisation company is not part of a worldwide group, and that the securitisation company has no permanent establishment or subsidiaries. For completeness, the securitisation company would not be consolidated for accounting purposes with the trustee company.

In our view, the securitisation company should clearly be regarded in those circumstances as a "standalone entity" and this is entirely consistent with the Directive and OECD Action Plan for the following reasons:

Analysis 1:
The trustee company in its own right should not be regarded as an “associated enterprise” of the securitisation company because it does not hold its shares beneficially nor can it exercise voting rights in respect of the shares on its own behalf. Instead, it holds the shares and associated voting rights on behalf of a trust with charitable objects, being a purpose trust.

The "associated enterprise" test must therefore be applied to the trust, not to the trustee company in its own right. In this regard, consistent with existing Irish tax legislation, the legislation implementing

ILR into Irish law must have regard to the principles of trust law in the Irish common law system and apply taxation and reliefs on the basis of a "beneficial ownership" test rather than a "legal ownership test".

If the "associated enterprise" test to the trust it can be concluded that the trust is not an “associated enterprise” because it is not an "entity" on the basis it does not have "legal personality" (application of the test in s.835Z TCA).

Analysis 2:
Alternatively, the definition of a "local group" in the Irish legislation could include both a securitisation company and the purpose trust which holds 100% of the shares through the trustee company.

A local group is considered a "taxpayer" under the Directive (Article 4(1)) and accordingly may be treated as a "standalone entity" provided it meets the relevant conditions (a) to (c) below.

This could be implemented as follows in the Irish legislation:

"local group" means [ ] and shall include any person which holds directly or indirectly a participation in terms of voting rights or capital ownership in a company of 25 percent or more or is entitled to receive 25 percent or more of the profits of a company, provided all members of the local group are tax resident in Ireland [or EU owned with Irish branch];

“standalone entity” means a company which under section 26(1) is chargeable to corporation tax on all of its profits, wherever arising, or a local group, and which —

(a) is not a member of a worldwide group,
(b) has no associated enterprises, and
(c) does not have a permanent establishment in a territory other than the State

Analysis 3:
The definition of a "local group" in the Irish legislation could include a securitisation company and the purpose trust which holds 100% of the shares through the trustee company as set out in Analysis 2 and associated definitions above.

In that case, as an alternative to treating that "local group" as a "standalone entity", then we would recommend that the two "group ratios" for consolidated groups are also applied to the "local group".

Question 13

Comments are invited on how Ireland might implement The Directive Articles 2(10) and 4(8), having regard to the different accounting standards and State Aid rules.

GAAPs permitted under the Irish Collective Asset-management Vehicles Act 2015 (ICAV Act) may be a useful point of reference in this regard and an extract from Section 116 of the ICAV Act is set out below. The annual accounts may be prepared in accordance with—

(a) generally accepted accounting practice in the State,
(b) international financial reporting standards, or
(c) subject to subsection (5), an alternative body of accounting standards.

(5) To the extent that the use of any alternative body of accounting standards does not contravene any provision of this Part, a true and fair view of the assets and liabilities, financial position and profit or loss of an ICAV may be given by the use by the ICAV of those standards in the preparation of its annual accounts.

(6) In this section "alternative body of accounting standards" means standards that accounts of bodies corporate are to comply with which are laid down by any such body or bodies having authority to lay down standards of that kind in—

> (a) the United States of America,
> (b) Canada,
> (c) Japan, or
> (d) any such other country or territory as may be prescribed by regulations made by the Minister, as may be prescribed by regulations so made.

It will be important to provide flexibility to the taxpayer in this regard in light of the international nature of many groups which operate in Ireland.

Question 14

While 'standalone entities' generally present a low risk of BEPS, the OECD notes that, in certain cases, they may be large entities held under complex holding structures involving trusts or partnerships, meaning that a number of apparently unrelated entities are in fact controlled by the same investors. What is your assessment of how the ILR could apply to such entities?

This is not relevant to the situation addressed by us in the response to Question 12. Specifically this is not relevant to the purpose trust described in Question 12 for a typical securitisation company whereby the trustee holds nominal issued share capital (often €1 only) under a purpose trust. The shares in the purpose trust in that case have no economic value and are not held on behalf of investors. Furthermore, we would note that the policy intent of such structures is to provide a platform to facilitate collective investment in a tax neutral manner and there are significant targeted anti-avoidance measures already in place in the Irish tax code to ensure that policy objective is achieved. Consequently, and in light of the stated policy objective within the Feedback Statement, we do not believe that any additional anti-avoidance measures beyond our existing stringent domestic anti-avoidance measures currently in place should apply to such scenarios.

Question 15

Comments are invited on the above approaches to defining and exempting "legacy debt" and more generally on the concept of a 'modification' in the context of legacy loans.

We welcome the broad approach being adopted and the confirmation that an exemption applies to the interest that would have arisen on legacy debt were it not for any modifications made.

On the interpretation of what constitutes a modification in our view it should only apply to amendments that impact on the amount of interest/interest equivalent that would be payable under the legacy arrangements but excluding amendments for both LIBOR as outlined in the Feedback Statement and any amendments which arise as a result of an existing term in the documentation as at 17 June 2016.

We set out below some common amendments which, even if such were to result in an increase in the interest payable on legacy debt, we would view as not constituting a modification;

1. The drawdown of debt pursuant to a loan facility or commitment entered into before 17 June 2016 (see below),

2. An interest rate change applied to an existing loan within the existing terms of the loan such as swapping from floating to fixed interest rates, or an increase due to the decline in credit rating of a borrower,

3. Exercising permitted flexibility within the loan facility e.g. banks often have the right to syndicate their share of the loan. This requires borrower consent and a loan amendment to facilitate syndication between the banks or the introduction of a new lender.

4. Updating loan agreements for changes in law.

5. Dealing with specific issues relating to Covid-19, such as technical covenant amendments etc.

The treatment of drawdowns of debt pursuant to a loan facility or commitment entered into before 17 June 2016 is a particularly important issue for the sector. We understand that Belgium and Luxembourg (based on circulars released by the Tax Authorities) and Italy (based on interpretation) adopt the position that a drawdown of funds for amounts which were originally envisaged under the terms of a loan signed pre 17 June 2016 would not be regarded as a modification for the purposes of allowing interest on a debt to be regarded as a legacy debt. It also appears that Hungary and Malta (based on interpretation) and Finland (based on guidance released by the Tax Authorities) also agree that a drawdown shouldn't be regarded as a modification. We would welcome early confirmation that a similar approach will be adopted here.

Question 16

Comments are invited on potential approaches to the criteria relevant to the 'long-term public infrastructure project' exemption.

Ireland has a long-established policy of encouraging investment in infrastructure projects. Therefore, this exemption is important to promote this as a long-term policy and an exemption for infrastructure loans should be provided for in the legislation.

ATAD Article 4 defines long-term public infrastructure to mean "a project to provide, upgrade, operate, and/or maintain a large-scale asset that is considered in the general public interest by a Member State". In our view, there are all manners of projects (ranging roads, broadband, aircraft, hospitals, bridges, wind farms and other projects) which could be considered to be public infrastructure projects. It is impossible to be exhaustive.

In relation to the planning system, there is a concept of strategic infrastructure assets which is set out in Schedule 7 of the Planning and Development Acts. Projects which are considered significant in a planning context, such as those noted in Schedule 7, should represent the same concepts which can be classified as public infrastructure projects. Projects can also be considered for the general public interest irrespective of whether they are privately owned or whether a fee is charged to the public for their use.

In relation to housing, it is notable that in an Irish context, housing has been subject to specific planning provisions, under the Strategic Housing Regulations which derive from the Planning and Development (Housing) and Residential Tenancies Act 2016. In a housing context, from a public policy perspective, it is notable that the State has determined that there is a public interest in the development and supply of housing. Given how public housing policy has developed, there is a strong argument for the inclusion of housing as part of the public infrastructure exemption.

In this context, we believe that a broad view should be taken on what loans qualify in this category. Furthermore, the nature of public infrastructure will always change, and it is not possible to conceive now what will be the public infrastructure of the future. As a result, we recommend that there should be no exhaustive definitions and the concept of public infrastructure projects should be kept as flexible as possible. This could be achieved by providing a list of strategic projects that could be updated by the Minister from time to time as required.

Question 17

Comments are invited on the exemption generally and this possible definition of 'financial undertaking'.

If financial undertakings are to be exempt from the interest limitation rules, the exemption should be applied at a group level to any group which contains financial undertakings. Regulated entities such as banks and insurance companies may undertake some of their activities (including raising debt) through subsidiary companies which may not themselves be regulated (and which may not be financial undertakings as a result). This is common for legal or regulatory reasons. It would not seem to make sense to apply the interest restriction to such subsidiary companies merely because they are different legal entities and do not have the same regulatory status as their parent companies. Therefore, in our view, a broad definition of financial undertakings should be adopted so that the interest limitation rule is disapplied for other entities which form part of a financial undertakings consolidated group.

If this broader interpretation of financial undertaking cannot be accommodated this carve out could have a negative impact on banking and insurance groups. There is a requirement therefore that this exemption is not made mandatory and that there is an ability to opt in or opt out. There may also be a necessity to flex the rules where there is a mix of financial undertakings and entities that are not financial undertakings within the same notional local group.

Question 18

If Ireland were to provide only one of the two "group ratios", which would be preferred?

It seems clear from the ATAD preamble in paragraph 7, that the EU is encouraging a taxpayer to use either of the above methods to calculate their interest restriction. We should not be approaching this decision on the basis that including any group rule is somehow being generous. The opposite is the case, not providing for a group rule could be overly restrictive, as recognised by the OECD. This is particularly the case for Ireland where, as noted at the outset and recognised in the Feedback Statement, a fixed ratio rule is not our primary defence against BEPS. Given the optionality provided for in Article 4(5) and the assertions in both the EU ATAD and the BEPS Action 4 report that the adoption of group ratio rules should still align with BEPS aims we strongly recommend that both options are legislated for. This provides the taxpayer with the option of adopting one method depending on their circumstances and therefore a group of taxpayers should not be adversely impacted through the implementation of these rules above another. We note that the Equity or

Earnings method can each result in anomalous results. Both options have pros and cons depending on the taxpayer's particular factual circumstances.

Earnings method:

- Earnings can be volatile. This makes it difficult to plan going forward and calculate the cost of debt for financial planning purposes – this is particularly relevant now in relation to Covid-19;
- Loss making companies may be obliged to pay tax if there is a disallowance of interest expense for tax purposes.
- The earnings method may not suit heavily capitalised industries or groups.

Equity method:

- Asset values are more stable leading to greater certainty though some asset types may be less stable than others.
- Some valuable assets (such as intangibles) may not be recognised for accounting purposes. Different accounting standards and group policies may also lead to very differing results in terms of recognition and value.

The application of either of these rules will be particularly case specific, both within particular industries, but also across different industries, and across different stages of the economic cycle

Question 19

Noting that the same definition of 'worldwide group' applies for the "group ratios" and the definition of 'standalone entities' (see 8.2), does that alter your response to Question 12 above? Also, how could entities such as joint ventures be treated for the purpose of the "group ratios"?

Our response to Question 12 does not change as a result of the "group ratio" provisions. As noted in our response to Question 12, to the extent that certain entities cannot fall within the definition of a standalone entity, it appears that such entities would be disproportionately impacted by the rules given the entities are not, on the face of it, capable of availing of the consolidated financial statements group provisions. We would encourage that consideration be given to allowing such entities to avail of consolidated financial statements group provisions to the extent that they cannot avail of the "standalone entity" provisions.

We would also note that in Q12 we have asked for clarification with respect to the concept of "fully included" means with respect to the definition of "worldwide group" and "ultimate consolidated financial statements". To the extent that this is seeking to encapsulate JVs/associates, we believe that would be helpful in dealing with JVs for the purposes of "group ratios".

The ability for optionality with respect to whether you avail of the "group ratios" and which option you avail of will be required due to commercial situations such as JVs.

Question 20

Technical analyses are invited as to whether the "Group Ratio Rule" (third-party interest divided by EBITDA) should be calculated based on the group's consolidated accounts or using tax adjusted values. The accounting figures for EBITDA and borrowing costs may bear little resemblance to the Irish tax concepts while the tax-adjusted values give rise to practical difficulties such as how to treat

intra group transactions and negative EBITDAs. Taking account of the provisions of The Directive Article 4(5)(b), and the issues identified above, how could this aspect of the "Group Ratio Rule" be designed?

In our view the rules would not be operable in practice unless they are based on the group's consolidated financial accounts.

Question 21

How might third-party borrowings be defined for the purpose of the "Group Ratio Rule"? Should it be borrowings excluding amounts borrowed from other members of the 'worldwide group'? Taking account of the definition of 'standalone entity' (see 8.2), which recognises that BEPS can occur between 'associates', should it also exclude borrowings with 'associates'? Accounting standards require that transactions with related parties are disclosed: should borrowings with a related party be excluded?

We would suggest that in line with the OECD Action 4 Report – 2016 Update, a practical and workable definition of a "group" for the purposes of the Group Ratio Rule would be one based on a consolidated group for financial accounting purposes, i.e. including parent company and all entities which are fully consolidated on a line-by-line basis in the parent's consolidated financial statements. Third-party borrowings for these purposes would be borrowings other than with a member of the "group". Third-party borrowings could therefore include borrowings with 'associates' and related parties who are not themselves members of the "group".

The Report notes that a group ratio rule defined in this manner should be supported by a targeted rule to address the risk that a group ratio could be inflated using interest paid to a related party outside the group and gives examples of paying interest under a structured arrangement (e.g. a back-to-back arrangement), excessive interest payments to a related party or interest to a related party which is subject to no or low taxation on the corresponding interest income. Ireland already has targeted rules which would disallow an interest deduction in these circumstances (e.g. Section 835AJ (Financial instrument deduction without inclusion mismatch outcome), Section 835AU (Structured arrangements), our recently amended Transfer Pricing provisions, Section 130(2)(d)(iii)(II) in respect of excessive interest etc.).

Question 22

How would the application of "group ratios" work, in practical terms, where an exempt 'financial undertaking' (see 8.5) is a member of a 'worldwide group'?

It would not be possible to "deconsolidate" an exempt financial undertaking from a worldwide group. As such the exempt financial undertaking should be left as part of the group for the worldwide ratios and its income and expenses should be included. The proposed concessions in the rules are there to allow highly leveraged groups to not be impacted unfairly by the restrictions or to ensure that the asset to debt profile of an entity is in line with the overall group. As such the consolidated accounts of the worldwide group including financial undertakings provide the best proxy to allow these determinations to be made. BEPS Action Paper 4 indicates that entities with tax-exempt income should continue to be regarded as part of a worldwide group (see examples 3a and 3b) when calculating the restriction. Applying the group ratio rule to groups with mixed income sources ensures that a deduction is given for a proportionate share of the interest expense which funds taxable income. The paper does not indicate that deconsolidation is required or appropriate.

In the context of the notional local group we have previously submitted examples showing that where there is an exempt financial undertaking included and an aggregation (as opposed to disregarding) methodology is adopted for the purpose of calculating the group exceeding borrowing cost, the existence of said financial undertaking can have a negative impact on the group calculations in certain instances. This is due to the fact that exempt income cannot be included in the calculation of exceeding borrowing costs. For this reason we are strongly advocating the ability to use the disregarding approach in the context of notional local groups. Please see our response to Question 27 in this regard

Question 23

Comments are invited on the possible definitions of notional local group (including how consortia and joint ventures should be treated). In particular:

i. **How should the notional local group be defined? Should it be based on an existing definition (such as that used for group loss relief) or be a new definition?**
ii. **If a new definition is adopted, are there issues relating to the interaction of a new notional local group for ILR purposes and existing group reliefs?**
iii. **Does the way in which the notional local group is defined impact your views on any of the other issues raised in respect of local groups?**
iv. **What considerations should be given to the operation of the two "group ratios" where the notional local group approach is adopted? For example, it is relatively easy for a single company to compare its balance sheet to the group consolidated balance sheet, in order to calculate if relief is available under the "Equity Ratio Rule (as detailed in section 9.3). But what difficulties might a notional local group encounter in carrying out that comparison, particularly where it does not prepare local audited consolidated accounts?**

Both the BEPS Action 4 Paper and Article 4 of the Directive recognise the concept of "local groups" under which it is permitted to treat connected entities in a jurisdiction to be viewed as a single taxpaying entity when carrying out the exceeding borrowing cost analysis such that it is only payments from/to entities outside the group that are considered in the computations.

The Directive itself though gives wide discretion to the member state in Article 4(1) such that a "taxpayer" may include an entity which is permitted or required to apply the rules on behalf of a group as defined according to national tax law, or an entity in a group, as defined according to national tax law, which does not consolidate the results of its members for tax purposes.

On this basis Ireland can both define what is a group for these purposes, and permit optionality (both in terms of whether Ireland implements this element of the Directive, and whether such group treatment is mandatory or optional from a taxpayer's perspective).

The BEPS Paper suggests that a group exists where one company is directly or indirectly controlled by another company, and then considers global and local groups. It also later refers to a group by reference to consolidated financial statements as being an appropriate starting point where the relevant entities are consolidated on a line-by-line basis. Such an approach may be appropriate after the fact when there are financial statements available etc and the relevant IFRS determinations etc have been made but could cause difficulties where there technical accounting principle interpretations etc to be applied in such a determination.

An alternative approach would be to have a new/standalone tax definition of group for ILR purposes. This could be based off s410/411 TCA group loss relief concepts but substituting in 50%+1 subsidiary concept for the 75% threshold. It would seem to us that the widest concept of control should be used bringing this down to 50% interests etc rather than any higher ratio. Also this group definition should also include entities that are within a consolidated financial group that may not be within the above definition perhaps by election (to cater for bankruptcy remoteness orphaning etc).

Definition of Irish Interest Limitation Group

Article 4(1) of the Directive allows Member States to treat as a taxpayer "an entity which is permitted or required to apply the rules on behalf of a group, as defined according to national law", as well as "an entity in a group, as defined according to national tax law, which does not consolidate the results of its members for tax purposes". Care will have to be exercised in implementing these provisions to ensure that the current tax definitions of group and the absence of a fiscal unity regime in Ireland do not limit the definition with regard to what constitutes a taxpayer as provided for within the Directive.

We believe that this necessitates a definition of an "Irish Interest Limitation Group" which is consistent with many of our existing grouping rules. A suggested approach is as follows:

1. For the purposes of this Part:

    a. References to a company shall include a 'financial undertaking' within the meaning of section [NEW The Directive section] of the Taxes Acts;

    b. A 'principal company' means a company of which another company is a 51 per cent subsidiary;

    c. A company is an effective 51% subsidiary of another company (in this paragraph referred to as the 'parent') at any time if at that time:

        1. The company is a 51 per cent subsidiary (within the meaning of section 9) of the parent; and

        2. The parent is beneficially entitled to not less than 51 percent of any profits available for distribution to equity holders of the company; and

        3. The parent would be beneficially entitled to not less than 51 per cent of the assets of the company available for distribution to its equity holders on a winding-up;

    d. A principal company and its effective 51 per cent subsidiaries which are resident in the State may [by written notice to the Inspector] jointly elect to form a group of companies for the purposes of this Part.

    e. Where an election in paragraph 1(d) is made, exceeding borrowing costs and EBITDA shall be calculated at the level of the group and shall comprise the consolidated results of the principal company and all of the effective 51 per cent subsidiaries.

In addition it is important that Irish companies that are within the same consolidated group for financial accounting purposes, are allowed to elect into the Irish Interest Limitation Group even if they don't satisfy the above test. In the SPV sector third party lenders often require that certain entities established for the purpose of raising finance be established as bankruptcy remote vehicles. These restrictions imposed by lenders may prevent the relevant entities from fitting within the above definition but they may be consolidated into the financial statements of a group and should be allowed to elect into an Irish Interest Limitation Group.

Question 24

Where an optional "group approach" is provided, the following questions arise:

i. **Should a group election be irrevocable or for a finite period only?**
ii. **What is the best way to manage carried forward amounts held both prior to the formation of the group and immediately before the cessation of the group?**
iii. **What type of anti-fragmentation rules, if any, might be required?**

(i) Should a group election be irrevocable or for a finite period only?
We do not see a policy reason as to why a notional local group approach should be irrevocable or for a finite reason. As well as there being no clear policy reason why such an approach would be taken, this would give rise to significant commercial issues, e.g. around M&A activity.

(ii) What is the best way to manage carried forward amounts held both prior to the formation of the group and immediately before the cessation of the group?
Any prior year amounts carried forward should be refreshed every year and added to the current amount. This is similar to trading losses as they are "bundled" together.

(iii) What type of anti-fragmentation rules, if any, might be required?
There should be a bona fide test included to ensure that any breaking of a group is done for purely bona fide reasons.

Question 25

Would a mandatory but less complex "group approach" be preferable to an optional "group approach"?

In our view it is critical that maximum optionality be given to taxpayers and as such optionality is a necessity given the complexities asserted throughout this document.

Question 26

Is it practical to make a single company responsible for reporting information to Revenue on behalf of the notional local group and allocating amounts (including excess interest capacity and amounts carried forward) among group members? If so, the following questions arise:

(i) What criteria should be used to determine the reporting company?
(ii) How should changes in group structures that alter the position of a reporting company in a group (mergers, acquisitions etc.) be managed?
(iii) What information should be returned to Revenue by the reporting company? Should any information be reported at an entity level?
(iv) Is there an alternate manner in which information reporting should be dealt with?

We believe it is practical, and preferable, that a single company is primarily responsible for reporting information to Revenue. As the notional local group is deemed to be a single taxpayer for the purposes of applying the ILR, it makes sense for there to be a single primary report to Revenue.

There should be flexibility for the group itself to decide which company would report the information and likely this will be dependent on commercial factors. The VAT remitter model could be leveraged in this regard.

Similar to the approach taken for VAT groups, where companies are added to the notional local group, or removed from the group, in a particular accounting period, the reporting company would be required to notify Revenue of the change in its annual return.
We would suggest that the following information would be reported:

- The companies in the notional local group for the accounting period
- The exceeding borrowing costs of the notional local group
- Whether the notional local group is relying on the ‘group ratio’ rule or the ‘equity escape’ rule, and details in that regard.
- The interest capacity of the notional local group being carried forward into that accounting period and being carried forward into the next accounting period.
- The allocation of any ILR restriction imposed on the notional local group between the companies in the group. We would suggest that this could be allocated and notified in a similar way to the surrender of losses.

As each company in the notional local group will also be providing their own individual tax return for non ILR purposes, the anticipation would be that certain information is also reported in their own tax returns. (whether they are part of a notional local group, any ILR restriction for the period, who the group remitter is etc).

Question 27

How should intragroup transactions be treated for the purpose of calculating the consolidated ‘EBITDA’ and ‘exceeding borrowing costs’ of the notional local group? The Directive Article 4(1) provides that the results of the notional local group should “comprise the results of all its members”. Should the ILR be applied to the notional local group by reference to the amalgamated results of its members, or by reference to the results of the group having disregarded all intragroup transactions (akin to how an accounting consolidation is prepared)? How would this work, in practical terms, where an exempt ‘financial undertaking’ is a member of the notional local group?

We believe that it is very important that optionality is provided here for taxpayers. For many the simplest method of calculation will be by amalgamation of the end result of the proposed 7 step process. At the end of these steps the results of each entity could be amalgamated for the group resulting in a net position which could then be allocated to group members as outlined in our answer above. This would likely be the least complex manner to compute results for the notional group involving the minimum additional administration.

However, some groups may already compute consolidated financial statements for their notional local group or have straight forward group structures and in such cases, it would be important that they could base their calculation on these consolidated results which would disregard intragroup transactions. The method of calculation and application could be outlined in the return for each entity within a group. The ability to disregard intra group transactions could also be very important in the context of certain notional local groups where there is no debt funding from outside the Irish group which from a policy perspective should not result in an ILR charge.

Where an exempt financial undertaking elects to be within a notional local group they should not be treated as a financial undertaking for ILR purposes unless all other entities within the notional local group are also financial undertakings.

Question 28

How should ILR restrictions be allocated among members of the notional local group? In particular:

> **(i) How should the notional local group allocate its exceeding deductible interest to the members of the group?**
> **(ii) What should happen in scenarios where the notional local group as a whole has negative EBITDA but some of its members have positive EBITDA?**
> **(iii) How should excess interest capacity carried forward and/or deductible interest carried forward be operated in a notional local group scenario – should these amounts be carried at an entity or a group level?**
> **(iv) How should the charge (calculated under Step 6 in section 6 of this paper) be dealt with when applying the ILR to a notional local group? For example, should it be applied at the head of the group or at entity level?**
> **(v) How should changes in membership of the notional local group be dealt with?**

The group should be given the flexibility to allocate its exceeding deductible interest in the manner it sees fit, in the same way as it can when surrendering losses. From a policy perspective, this should not be problematic given the aims of the ATAD ILR.

Question 29

Would the answers to Question 28 be different for mandatory application of the "group approach" versus optional?

As asserted throughout this submission, we do not believe that the group application should be mandatory.

Question 30

Where there are different accounting period end dates throughout the group, what approach should be taken to standardise and apportion group transfers of 'exceeding borrowing costs' and interest capacity?

We would welcome the opportunity to engage further on this point.

Question 31

There are provisions throughout the Tax Acts which provide for the order in which certain reliefs are deemed to be used, such as in section 403 TCA 1997. How should the interaction of the ILR and such rules be dealt with?

We would welcome the opportunity to engage further on this point.

Question 32

Comments are invited on any other technical issues that may require consideration.

We would welcome the opportunity to engage further on the technical aspects of the calculation methodology inherent in the seven step approach.

IDSA
8 March 2021