

**To:** 'TransferPricing@oecd.org'

**Subject:** DISCUSSION DRAFT ON TRANSFER PRICING DOCUMENTATION AND CbC - response to consultation

Dear Sir/Madam

I am writing to you on behalf of the British Private Equity and Venture Capital Association (the "**BVCA**"), which represents the interests of members of the private equity and venture capital industry. The BVCA is the industry body and public body advocate for the private equity and venture capital industry in the UK. More than 500 firms make up the BVCA members, including over 250 private equity, mid-market, venture capital firms and angel investors, together with over 250 professional advisory firms, including legal, accounting, regulatory and tax advisers, corporate financiers, due diligence professionals, environmental advisers, transaction services providers, and placement agents. Additional members include international investors and funds-of-funds, secondary purchasers, university teams and academics and fellow national private equity and venture capital associations globally.

This email has been prepared by and is being sent on behalf of the BVCA's Tax Committee, whose remit is to represent the interests of members of the industry in taxation matters. The BVCA welcomes the opportunity to submit formally its comments on the Public Consultation document entitled DISCUSSION DRAFT ON TRANSFER PRICING DOCUMENTATION AND CbC REPORTING released by the OECD on 30 January 2014 (the "**Consultation Document**") and how it might affect members of our industry. Our comments in respect of the Consultation Document are set out below.

- We note in particular that the broad concept of what constitutes an MNE (Multinational Enterprise) implies that a significant number of BVCA member investment portfolio structures are likely to be required to comply with the evidentiary and tax reporting regimes across numerous territories. We believe there is a risk that in a number of instances, the additional record keeping and reporting may have little practical impact on the taxing authorities' ability to interrogate transfer pricing policies but could lead to disproportionate administrative burdens and costs. In particular we wish to draw your attention to the fact that in a number of instances, existing disclosure of related party transactions in audited group financial statements together with existing domestic TP (Transfer Pricing) arm's length tax reporting procedures already provide adequate visibility for taxing authorities to identify and investigate TP in a group.
- We wish to respond regarding some specific questions raised in the consultation document at clause 20. In particular responses were requested in the consultation document regarding (1) whether a bottom up or top down approach should be adopted and (2) if country by country vs legal entity reporting was preferred. We believe that the objectives of the regime can be met by taxing authorities adopting a top down and country by country approach and that this form of data collection and reporting will provide the lowest cost and administrative burden for reporting groups. Given the efficiencies offered by this approach we are strongly in favour of CbC reporting being organised in this way.

- We note that, whilst there are a large number of groups that will potentially be caught by these proposals, there are no exemptions proposed in respect of MNEs which have immaterial cross border related party transactions or whose international activities are small in scale. We therefore ask that the OECD consider some form of exemption to these requirements for a small MNEs measured by reference to an objective test e.g. number employees/annual turnover/volume of cross border related party transactions.
- In the event that a bottom up/entity by entity regime is recommended by the OECD we would further suggest that this should only apply to larger MNEs or those with material levels of cross border related party transactions with small MNE's being subject to a simplified reporting framework or outright exemption.

Thank you in anticipation for taking our comments into account as part of the consultation process. If you have any question or if we can provide any further clarifying comments or information please do let me know.

Kind Regards

For and on Behalf of the British Private Equity and Venture Capital Association.