HM Treasury
1 Horse Guards Road
London SW1A 2HQ
By email: ukfundsreview@hmtreasury.gov.uk

20 April 2021

Dear Sir, Madam

Re: BVCA response to HM Treasury's call for input on the UK funds regime

We are writing on behalf of the British Private Equity and Venture Capital Association ("BVCA"), which is the industry body and public policy advocate for the private equity and venture capital ("PE/VC") industry in the UK. With a membership of over 700 firms, we represent the vast majority of all UK based private equity and venture capital firms, as well as their professional advisers and investors. Our membership includes over 120 venture capital and 80 mid-market firms, that predominantly invest and operate domestically, as well as almost all of the largest global and European PE/VC firms that have a significant presence in the UK, investing here and across the world.

UK private equity and venture capital funds industry and its importance to the economy

BVCA members invested over £43bn into 3,230 UK businesses from 2015-2019 and the vast majority are SMEs. 60% of this investment was outside of London, including £11bn into the Midlands and the north of England, and companies backed by our members currently employ 972,000 people in the UK. PE/VC has a strong track record of investing in innovative companies, including those in digital, deep tech, biotech and life sciences, as well as R&D intensive businesses and those in business and consumer goods and services.

PE/VC will support efforts across the UK to deliver growth in the COVID-19 economic recovery and support other public policy priorities, as evidenced by several case studies in our 'New Horizons' report[1]. The report shows how the industry is addressing the 'levelling up' agenda across the UK, driving the UK's global competitiveness, and working towards Net Zero.

To deliver this public value to the UK economy, PE/VC attracts significant flows of international capital into the UK, along with talented individuals from across the globe. This underpins the UK's position as the world's largest hub of capital and expertise for PE/VC outside the USA. The BVCA therefore warmly endorses the Government's commitment "to the ongoing success of the asset management industry" and the wider review of the UK funds regime designed to "ensure the ongoing competitiveness and sustainability of the UK regime".

We wish to see measures which will enhance the competitiveness of the UK's investment environment. In recent years, the UK's PE/VC industry has lost ground to European jurisdictions that have enhanced their asset management regimes to emulate the success of the ecosystem established here. In an ever-complex operating environment the tax, legal and regulatory advantages of establishing a PE/VC fund and/or manager in the UK have been eroded as overseas jurisdictions developed more favourable regimes (such as Luxembourg or Ireland) and the UK has not kept pace with these developments.

[1] BVCA New Horizons report – available here

BVCA policy recommendations

The BVCA has put forward recommendations that enhance the UK's positioning as an attractive place to establish a PE/VC firm, including for the individuals that choose to base themselves here, and a leading funds domicile to raise international capital. The cumulative effect of the OECD and other international tax developments has put a premium on jurisdictions where there can be co-location of functions, i.e. where fund management businesses, funds and asset holding vehicles (where required) can all be based. The UK should be well placed (in some ways better placed than obvious competitors) to facilitate this and there are also clear economic and operational advantages to co-location.

It is important that the review of the UK's regime for PE/VC funds covers all relevant areas of law and regulation, as well as tax. Our feedback therefore comments on all these aspects, and not just those specific areas covered in the consultation document.

In this regard, we would like to stress that all of the various legal, tax and regulatory factors which determine whether a jurisdiction is chosen as the jurisdiction to locate a fund and as the headquarters for its management company are important: it is unlikely that the policy initiative will succeed if only some of the exiting problems are addressed.

Appendix 1 sets out recommendations that will strengthen and improve the attractiveness of the UK's PE/VC funds industry and Appendix 2 answers the detailed questions in the call for input. Our key points are:

- The **UK limited partnership regime (English and Scottish Limited Partnerships) is the legal bedrock of the UK private funds industry**, and the inspiration for numerous similar vehicles around the world. International investors are familiar with this regime and legal and tax enhancements to it can be implemented with relative ease, especially now that the UK is no longer bound by EU law. This is the BVCA's preference over an entirely new regime for unauthorised fund structures. It is also important that the existing BEIS reform project is concluded as soon as possible and with only essential changes being made: stability and predictability in the existing regime is key, and the UK can still be a jurisdiction of choice for investors (particularly where an EU-based structure is not required). A clear and competitive UK Asset Holding Company regime will reinforce the UK's positioning as a centre for co-location.

- The UK must remain a **competitive location for asset managers and individuals within these firms** to encourage capital to continue to be deployed in the UK and retain the country's positioning as a global investment hub. The full benefits of recent HMT initiatives, such as this review and work on asset holding companies, will only be realised if asset managers base themselves here as well.

- The UK **regulatory regime must also facilitate PE/VC fund managers' access to investors, transactions and talent**, whilst providing appropriate protections to investors. An excellent example of this is the work underway to enable DC pension schemes to invest into illiquid asset classes. Competition and change mean that the future of UK financial services regulation must be dynamic, especially in respect of regulation related to sustainability matters.

We would like to thank the Treasury teams for the continued dialogue on this crucial area and look forward to discussing our recommendations in more detail. Please contact Gurpreet Manku at the BVCA (gmanku@bvca.co.uk).

Yours faithfully,

Mark Baldwin Chair, BVCA Taxation Committee	Amy Mahon Chair, BVCA Legal & Accounting Committee	Tim Lewis Chair, BVCA Regulatory Committee

Appendix 1 – BVCA recommendations

Overview

The BVCA's recommendations are set out below and cover the following areas. We would be delighted to discuss these and provide further supporting detail.

UK limited partnership and Asset Holding Company regimes	1. BEIS consultation on LP reform 2. Consistent treatment of PE/VC funds and portfolio companies 3. Option for separate legal personality 4. Amendments to Partnerships Accounts Regulation 5. Option for umbrella funds and compartments 6. Removal of requirement for gazette notices for non-PFLPs 7. VAT and management fees 8. Tax compliance and HMRC approach to the industry 9. Addressing trading vs investing risks 10. Stamp duty 11. Attractive UK AHC regime
UK as a location for asset managers and individuals	12. CGT review and carried interest 13. Improved tax treatment of international workers 14. Carried interest and the remittance basis
UK regulatory regime	15. Supervisory efficiency and speed to market 16. Approach to developing UK regulation 17. Prudential rules for investment firms 18. Effective sustainability regulation 19. DC pension and semi-professional investment in illiquid assets
Monitoring competitiveness	20. Alternative Assets Competitiveness Unit

UK limited partnership and Asset Holding Company regimes

1. BEIS consultation on LP reform

We strongly recommend that BEIS concludes its consideration of proposed reforms to UK limited partnership law as quickly as possible because the continuing review is causing uncertainty in the market and undermines the UK's reputation for legal clarity and stability. The review was triggered by concerns that some UK limited partnerships were being used for anti-money laundering or other criminal purposes. There has been no suggestion that these anti-money laundering concerns have any connection with venture capital and private equity funds, but the continuing uncertainty is damaging to the UK private fund sector. We think the UK implementation of the EU's fourth Anti-Money Laundering Directive, has already achieved this goal in relation to Scottish limited partnerships (whose misuse was the genesis of this review).

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UK limited partnerships are particularly important for smaller UK PE/VC firms, including those based across the country and start-up/small firms with a few investors. All of these firms tend to use UK limited partnerships as their fund structures, as they are relatively straightforward and inexpensive to establish compared to overseas vehicles, which typically need input from law firms with a network of international offices.

The BVCA has been working with BEIS to address legitimate concerns about abuse and that has led to the development of some workable solutions that would meet any ongoing concerns.

A single legislative initiative to implement the above and other recommended changes below would be helpful (and send positive signals to investors); however, we would not want to delay the important progress made by BEIS on its work.

2. Consistent treatment of PE/VC funds and portfolio companies

We suggest that the UK takes a more consistent and coherent approach to the way in which PE/VC limited partnership funds are treated for legal, regulatory and reporting purposes.

The vast majority of private funds are not required by UK and international accounting standards to prepare accounts which consolidate the portfolio investments, including in cases where the investment fund holds a majority of the shares and/or voting rights in the underlying company. This is appropriate because each of those underlying companies (together with its subsidiaries) is operated independently, with its own financing structures and management. It would not make sense to treat the companies as a single entity for financial reporting purposes and would give rise to misleading information for the users of the financial statements and narrative reports.

However, this treatment is not consistently applied across all legal, tax and reporting regimes, even though the same logic applies, and the differences frequently give rise to complexity and anomalous results. The EU definition of an SME and concept of linked enterprises is also another cause of these issues.

A few examples of the issues created by this inconsistency are highlighted below. We would be happy to provide further details and examples if helpful.

- Merger control filings require that all assets controlled by an investment firm are aggregated when assessing whether or not a filing is required and in evaluating whether the merger should be approved.

- The EU-derived rules on financial conglomerates mean that a private equity fund that invests in a number of financial services businesses is at risk of having the fund together with portfolio companies treated as a "financial conglomerate", with disproportionate regulatory burdens and costs which the individual companies are not designed to manage.

- The EU-derived rules on regulatory capital for investment firms means that a UK based private equity fund may be prohibited from acquiring more than 50% of the voting rights in a UK qualifying investment firm, in circumstances where an overseas private equity fund would not be prohibited. This is because the UK rules prohibit funds (which do not have regulatory capital) from becoming parent undertakings of financial services groups which include a qualifying UK investment firm.

- Access to the COVID-19 loan guarantee schemes was initially in doubt for portfolio companies on the basis that they had to aggregate their turnover with other companies in the same portfolio and were therefore deemed too large to qualify. Changes were subsequently made to some aspects of the schemes, but this grouping provision was still an issue when complying with EU state aid requirements.

- Our response to HMRC's consultation on notification of uncertain tax treatments by large businesses is a recent example of where grouping of portfolio companies was not necessary, and this has been reflected in the Government's response to the consultation.

On the other hand, the tax treatment of private funds is such that they do not receive any group tax advantages, such as group relief. In many respects, therefore, private funds are facing the worst of all worlds.

There is an opportunity to change this inconsistent and illogical treatment now that the UK is no longer a member of the EU. We consider that it would be helpful and would improve the attractiveness of the UK as a place to locate private funds if the UK applied a consistent treatment to investment vehicles and, following the accounting treatment, regarded underlying portfolio companies as separate entities. The limited partnership which sits at the top of the structure should not be considered a 'parent company' for any purpose.

In order to address this issue, we would propose that the Government makes clear that, unless the contrary is clearly provided and policy considerations make it essential, any tax, legal and regulatory provisions should not treat PE/VC funds or fund managers as parent companies or parent undertakings, and that portfolio companies should not be treated as members of the same group as each other or otherwise associated for any relevant purpose. Future legislation should take account of that general statement of principle. This would be helpful in providing certainty to asset managers on the UK's approach. How this is then embedded in law would depend on the specific legislation under consideration.

In addition, as the Government is aware from previous discussions with the BVCA, we are concerned that EU case law has applied "parental liability" in competition law to financial investors, including private equity funds. This case law attributes liability to investors in all but the most narrow of circumstances which is not a reflection of the operational control exerted by the investors and therefore the responsibility that ought to be borne by them. We are of the view that this approach creates perverse incentives and should be changed post-Brexit. We are also concerned that possible extensions of tortious liability to parent companies could also pose a risk to UK investment structures and may discourage investors from locating their funds in the UK (see, for example, *Okpabi & Others v Royal Dutch Shell Plc & Another* [2021] UKSC 3). In both cases, we would like to discuss whether UK law can clearly draw an appropriate line to ensure that responsibility and liability falls on those who cause (or, in some cases, fail to prevent) harm, rather than financial investors with no operational control of an activity.

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3. Option for separate legal personality

We consider that it would improve the attractiveness of UK limited partnerships in the private fund sector if there was an *option* to establish a UK limited partnership either with or without a separate legal personality. For reasons explained below, we believe that it is crucial that it remains possible for a UK limited partnership to elect not to have legal personality, but the additional flexibility of having both options available in all parts of the UK – as is available in some other jurisdictions – would be valuable.

Currently, all Scottish limited partnerships have separate legal personality and all limited partnerships established elsewhere in the UK (including in England) do not have separate legal personality. Having a separate legal personality enables the limited partnership itself to hold assets and to contract with third parties in its own name. In some cases, this would simplify UK fund structures, limited partnership contractual arrangements and the holding of limited partnership assets. It would also simplify financing transactions for some limited partnerships, (especially in connection with granting security over assets of the partnership). It would also be helpful if a limited partnership with separate legal personality had an express power to grant a floating charge over its assets.

We recommend that, as currently is the case for Scottish limited partnerships, a UK limited partnership with separate legal personality should not be a "body corporate".

As mentioned above, we also recommend that the option be retained for a UK limited partnership to be established as a contractual arrangement without separate legal personality, because in some cases having separate legal personality might result in the limited partnership suffering adverse tax treatment under the tax laws of some foreign jurisdictions. This is in line with the recommendations of the joint report on partnerships in 2003 of the Law Commission and the Scottish Law Commission. It would also match what is offered under the limited partnership laws of other important jurisdictions including Luxembourg, Guernsey and Jersey, all of which offer forms of limited partnership with or without a separate legal personality.

In summary, we consider that providing fund managers and investors with the option to establish a UK limited partnership with or without separate legal personality would increase the attraction of the UK as a location for private funds by reducing costs and complexity.

However, the introduction of an option for all limited partnerships to have separate legal personality would have to be undertaken on the basis that it would not give rise to a change in UK tax (including VAT) treatment. In particular, it would be important that a limited partnership with separate legal personality did not result in there being an adverse VAT outcome. Currently, in the case of English, Scottish and Northern Irish limited partnerships, we consider UK VAT law should be applied on the basis that it is the general partner of the limited partnership that should be registered for VAT in respect of the limited partnership, and which may join a VAT group if desired. Whilst HMRC take a different view of the law here and consider Scottish limited partnerships to be required to register separately, it is their practice (agreed with the BVCA) to treat all UK limited partnerships in the same way. It would be important that this parity of treatment continued to apply to any future UK limited partnership that had separate legal personality. A more detailed discussion of the issues can be provided separately, potentially in conjunction with the VAT consultation referred to above.

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4. Amendments to Partnerships Accounts Regulation

The Limited Partnerships Act 1907 does not make specific provision for the accounts of a limited partnership. However, under the Partnerships (Accounts) Regulations 2008 (as amended), accounts are required to be prepared and filed in respect of a UK limited partnership (in a similar way to companies) if the partnership is a "qualifying partnership". A qualifying partnership is (broadly) a limited partnership whose general partner is either a limited company or certain other types of entity or association having limited liability. These rules were introduced to implement EU Directive (90/605/EEC) and, at the time, it was clear from our discussions with officials that the UK Government was not convinced that there was a good policy reason to apply these EU rules to UK limited partnerships.

Private funds do generally produce and circulate to their investors audited financial statements. However, these are often not prepared according to UK or International GAAP, but apply US GAAP or a different set of accounting standards as required by investors. They are also not generally published. When this obligation to prepare and file UK GAAP accounts applies to private funds (including PE/VC funds), it often involves duplication of effort to prepare a second set of accounts and requires potentially sensitive information to be made available to the public. This is extremely unattractive to the managers of, and investors in, such funds. These accounting rules do not apply to limited partnerships formed in a number of other jurisdictions (including the SCSp in Luxembourg, and limited partnerships in Guernsey, Jersey, the Cayman Islands and Delaware) which can put the UK at a competitive disadvantage.

Not all UK limited partnership private funds are treated as a "qualifying partnership" because of their structure, but the risk that the Partnership (Accounts) Regulations 2008 might apply to private funds is an adverse factor in any decision whether to locate in the UK rather than in another jurisdiction. In the Government's response to the consultation on the reform of limited partnership law dated December 2018, the Government said it did "not consider the case has been made for all limited partnerships to prepare accounts and reports in line with limited companies", and we therefore recommend that these accounting rules be disapplied.

We note that, now that the UK is no longer a member of the EU, there is no obligation to retain these rules in order to comply with EU law.

5. Option for umbrella funds and compartments

Private funds sometimes wish to establish "umbrella fund" structures under which separate "pools" of assets and liabilities (or "sub-funds") of a limited partnership are attributed to limited partners holding different classes of limited partnership interest. This can be to enable a single limited partnership to offer investors different investment strategies such as offering (for example) a credit strategy to holders of a Class A limited partnership interest and offering a buyout strategy to holders of a Class B limited partnership interest. It could also be used to avoid the need for separate vehicles in a fund structure when some partners need for tax or regulatory reasons to invest through a "blocker" structure (in which case a "blocker" could be inserted beneath a sub fund). Umbrella fund structures are common in the retail investment fund sector.

The intention is that holders of a particular class of limited partnership interest will only benefit from the performance of the underlying investment strategy being pursued in respect of the sub-fund attributable to that class. The problem is that the segregation of the different assets and liabilities of the limited partnership is achieved by the contractual arrangements in the limited partnership agreement. Whilst this binds the partners, it will not bind third party creditors. This leaves open the possibility that a creditor in respect of one sub-fund may have to be satisfied out of the assets of a different sub-fund if there are insufficient assets in the original sub-fund to satisfy its claim. The risk of any such "cross contamination" presents a serious problem for any investor in an umbrella structure.

In certain other jurisdictions, including Luxembourg and Ireland, the limited partnership law permits the different pools of assets and liabilities of a limited partnership to be "ring fenced" so that a creditor in respect of one pool of assets (sub-fund A) cannot claim against a different pool of assets (sub-fund B). We consider that this would be an attractive feature to introduce into UK limited partnership law so as to enable private funds structured as limited partnerships to operate as umbrella funds. There may also need to be a clarification of practice or consideration of a modification of the law to ensure that use of an umbrella structure in a UK partnership does not prevent the partnership from being a single partnership for the purposes of UK partnership law.

6. Removal of requirement for gazette notices for non-PFLPs

Even though the UK now has a Private Funds Limited Partnership ("PFLP") regime which has modernised the reporting requirements for PFLPs, there are still many legacy limited partnership funds in existence that are still bound by the pre-PFLP law. It is not feasible or cost-effective for most such limited partnership funds to convert to PFLPs. We consider that Gazette notice requirements for these non-PLFP partnerships should be aligned with the PFLP equivalent. The requirement to advertise changes in the London, Edinburgh or Belfast Gazette (as appropriate) is anachronistic and unnecessary. We consider that updated rules which align non-PFLPs with PFLPs would act as a simple yet effective way of reducing the administrative burden on non-PLFPS and making this jurisdiction more streamlined and welcoming to potential investors.

7. VAT and management fees

We note that there is to be a separate consultation on VAT later in the year. This is a complicated area and is very important to our members so we are keen to are keen to be involved. Due to the diverse technical issues and the potentially differing views on the most appropriate course of action, even within our membership, we would prefer to engage separately on this and should be happy to be part of the research process referred to in the call for input. We do recognise that additional VAT costs which arise in onshore structures can serve as an incentive to establish funds offshore, and would be keen to explore options to mitigate this issue, in seeking to encourage more funds to establish here. We will certainly want to respond to any consultation, but believe that an earlier discussion would be fruitful. We would invite HMRC to contact us in this regard.

8. Tax compliance and HMRC approach to the industry

There are clearly a wide variety of partnerships in use in the UK, in many different circumstances and on a number of occasions when making representations on legal changes/draft amendments the inability to rectify unexpected consequences for PE/VC investment partnerships has been based on the potential impact on the large number of other partnerships that HMRC has to consider.

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In particular, the distinction between trading partnerships and investment partnerships is important here given that a large part of HMRC's guidance (e.g. the partnership return guide) is written with trading partnerships in mind and investment partnerships are not well covered having instead to interpret the trading partnership guidance.

There is a fundamental difference between trading and investment in particular given the impact on non-resident partners as clearly non-resident partners in a trading partnership would have a UK tax liability whereas typically those in a PE investment partnership would not.

We would suggest a different regime for investment partnerships that are Collective Investment schemes could be considered as a way of reflecting their different nature and avoiding the administrative burdens that might be more relevant for trading partnerships.

FA 2018 changes

In this context the recent FA 2018 changes have significantly increased the burdens on and costs of reporting for investment partnerships for no obvious benefit for HMRC given the majority of limited partners are usually non-residents with no UK tax liability (non-resident partners are not subject to UK taxation on investment returns from a UK partnership unless they are subject to UK tax for a reason other than their interest in an investment partnership).

Non-resident partners and UTR's - the position on non-resident partner identification and reporting seems disproportionate. Whilst HMRC made some welcome relaxations to the original FA 2018 changes, to try to reduce the burden on investment partnerships, a costly exercise is still required to identify and track the UTR's allocated to each non-resident partner and in some circumstances to apply for UK UTR's. This appears to us to be disproportionate given the non-resident partner does not have a UK tax liability and in practice this additional administration and cost is a factor that weighs against the use of a UK partnership when deciding on fund location.

Multiple sources - partnerships with many underlying partnerships like fund of funds now have to complete a significant and costly exercise to disclose to HMRC separate details of all of those underlying fund sources of income by partner whereas previously they were reported on a consolidated basis. The spreadsheets to disclose the analysis can run to hundreds of pages and it is important to note that all the information was previously disclosed in the tax computations attached with the partnership tax returns but the new format of reporting is extremely onerous to complete.

There is no change to the end product which is the reporting for a recipient limited partner as they still report their income on a consolidated basis, but the change has created a significant additional burden and costs for such partnerships with no apparent benefit to HMRC other than they have more data on typically non-resident partners.

Corporation Tax (“CT”) and Income Tax (“IT”) basis computations - for a UK partnership at least 2 bases of computation will typically be required, one on a CT basis and one on an IT basis. For a trading partnership there is frequently relatively little difference between the CT and IT versions of the partnership computation. However, this is not the case for investments partnerships as the CT and IT versions use fundamentally different calculations e.g. interest received for example which will follow a cash received basis for IT as opposed to an accruals basis for CT. This requires the preparation of essentially two partnership tax returns sometimes in circumstances where the amounts being allocated to UK partners on one basis are either de minimis or nil. Clearly this additional complexity creates an additional cost burden on using a UK partnership.

In complying with the above rules, the current system for investment partnerships leads to a number of difficulties with existing software requiring work arounds that are complex, time consuming and are not compatible with the more digital system that HMRC envisages.

When comparing UK partnerships with other popular fund jurisdictions (such as Luxembourg and the Channel Islands), it should be noted that the tax reporting burden for UK-domiciled LP structures is significant. For example, in Luxembourg the partnership tax return comprises a short four-page document only. The return simply sets out the allocations of net profit between the limited partners. By comparison, following the FA18 changes to the tax reporting obligations of partnerships, each UK partnership is required to report on multiple tax bases (UK CT, UK IT, NR CT, NR IT) and also to report each underlying income source separately and map each partner's share of that underlying source. As mentioned above this has led to some partnership returns running into several hundred pages in length and results in a much more cumbersome and time-consuming/costly process for UK partnerships.

HMRC approach to the industry

To attract foreign investment managers and their funds to the UK, it is crucial that they have confidence that the tax rules will be clearly enacted and explained and consistently applied.

It will be very important that any tax changes introduced as part of this exercise are the subject of clear and precise legislation which is explained in accessible guidance issued promptly. There have been numerous cases in recent years of guidance being issued long after legislation has been enacted and in terms which are not particularly helpful.

There have been a number of examples in recent years of pieces of legislation (the salaried member rules and the disguised investment management fee regime are examples) which have been applied inconsistently in the period immediately following their introduction and in ways which do not seem consistent with the underlying purpose of the rules or explanations given at the time of their introduction. No one is suggesting that fund managers should have an especially privileged treatment, but it is absolutely key that the rules to which they are subject are enacted and explained clearly and carefully and applied consistently. If large, multinational managers feel that there is uncertainty as to how they will be taxed under existing rules, then the UK will not be an attractive place for them to locate their businesses.

As we commented in our response to the AHC consultation, it will be very important that HMRC is staffed with suitably experienced senior staff who are able to give guidance on areas of difficulty and ensure that the industry is dealt with in an efficient, consistent and fair way.

9. Addressing trading vs investing risks

One of the anomalies facing UK-based unauthorised funds structured as limited partnerships that are managed in the UK is the risk that their non-resident investors might become subject to UK tax on their fund-related profits as a result of such investors being treated as trading in the UK through a permanent establishment (or carried on in the UK as applicable) either because the fund itself might be treated as carrying on trading activities or because the non-UK resident, if itself a trader, might be treated as carrying on its own trade through the agency of the fund's general partner or investment manager.

The basic issue of the case law factors used to determine whether a particular activity or transaction might be trading not being easily applied to investment funds was recognised by the "white list" of activities not treated as trading for authorised funds and set out in Regulation 2 of the Investment Transactions (Tax) Regulations 2014 (SI 2014/685).

Whilst the investment management exemption ("IME") exists to exempt a non-UK resident's profits from investment funds managed in the UK, the conditions required to meet the IME are relatively complex and can cause problems in certain fund structure. As part of making the UK a more attractive jurisdiction for unauthorised fund establishment, it would be a welcome addition if the white list was extended to apply to the activities of UK unauthorised funds when established and/or managed in the UK. Similar exemptions apply in certain other jurisdictions.

It would also be a useful extension if an exemption could be added to the effect that non-UK resident traders (banks, insurance companies) that invested in UK unauthorised funds managed in the UK that conducted activities within the white list would not (and their UK representative - which might potentially be the general partner or manager - would not) be subject to UK tax (other than in respect of UK withholding tax) on profits derived from the investment fund.

Shortly after the BVCA/DTI/Inland Revenue agreed statement on the use of limited partnerships as investment fund vehicles was issued in 1987, the Inland Revenue confirmed that as a general rule investors in a limited partnership fund would not be treated as having a permanent establishment in the UK for the purposes of OECD-model double tax treaties. This issue was at one point covered in the International Manual (at paragraph 1688 et seq of a section of the Manual dealing with the International Aspects of Partnerships), but the relevant text no longer appears in the Manual. It would be a helpful reassurance to international investors in UK limited partnership funds if this position could be publicly restated.

Together, these three points would give welcome reassurance to international investors in UK funds.

10. Stamp duty

Whilst limited partnership funds are not generally established with the intent that interests in those funds should be freely transferable, secondary transactions in fund interests are increasingly common. The retention of the stamp duty charge for transfers of UK partnership interests creates complexity and difficulty in completion mechanics, and adversely differentiates UK limited partnerships from their competitors and makes the UK regime seem somewhat archaic.

11. Attractive UK AHC regime

For the UK Asset Holding Company ("AHC") regime to be successful (which we all hope very much that it will be) it is absolutely crucial that the regime is better than competitor regimes/jurisdictions. Fund managers with AHC platforms in another jurisdiction will not go to the time and trouble of moving back to the UK (which could involve making valued colleagues in other jurisdictions redundant) unless the UK AHC regime is better than the existing (non-UK) regime. Other managers

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looking for an AHC regime will not choose the UK unless the UK AHC regime is at least as good as the alternatives. Clearly, a very important part of that comparison is the ability to co-locate functions in the UK with all the cost and other benefits that brings. But that of itself will not be enough; if it were, no UK manager would use a non-UK AHC at the moment.

The UK AHC regime must measure up to the competition. In reality, certainly in the PE/VC space, there is only one serious competitor jurisdiction and that is Luxembourg. The Luxembourg AHC regime is attractive because it is simple and does not create tax cost. It uses existing corporate tax regimes and so there is no "entry test" before the regime can be used. Equity returns (dividends and capital proceeds) benefit from a straightforward and clear participation exemption. Other profits (shareholder debt yield) are taxed on a margin basis, which produces an appropriate tax cost bearing in mind the AHCs functions. Proceeds can be returned to investors without any withholding or other Luxembourg tax costs for investors.

We appreciate that the UK and Luxembourg are very different. Funds do invest in the UK whilst there is limited investment in Luxembourg. There are Luxembourg-based fund investors, but they are not investing for the local population. But funds do invest for UK residents. Clearly, against that background the UK government will have concerns that the Luxembourg government does not.

Nevertheless, in a competition to provide an investment structure for global capital, taking investment from around the world and deploying it to multiple jurisdictions, a regime which is designed to address every conceivable local issue will sink under the weight of its own complexity. It is also important to see these concerns in context. There is very limited use of UK companies to hold non-UK investments, especially in a fund context. There is no current UK tax to be lost, because funds and investments that might be routed through UK AHCs are not here at the moment. This is a proposal which can only be a gain for the Treasury.

The need to avoid complexity and uncertainty is a really important point; no one will dare to use a UK AHC regime if they cannot be sure (as they can be in Luxembourg) that its perceived benefits will be available to them and (more importantly) their investors. A complex and uncertain regime will rapidly become a white elephant.

A simple entry requirement (restricting the UK AHC regime to appropriate, low-risk users) is the way to reconcile understandable domestic concerns with the need to offer a regime which is attractive to users providing services to global capital. Therefore, to be successful, the UK AHC needs to:

- have clear entry criteria. We suggest a minimum percentage ownership by funds which meet a diversity of ownership (or "GDO") test or other qualifying investors;
- allow other investors (joint venture partners from outside the funds space) to participate in the AHC subject to the entry test still being met;
- offer a broad "participation exemption" for dividends and capital returns on equity;
- tax other profits (principally, yield on shareholder debt) on a margin basis that reflects the AHC's role;
- tax UK resident investors in the same way as they would be taxed if they participated in a competitor jurisdiction (e.g. a Luxembourg partnership with a Luxembourg AHC);
- be as straightforward to operate as possible; and
- avoid creating unnecessary risk of failure.

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As this process develops, we would urge further discussions and the early sharing of draft legislation with interested groups before it is formally issued. In addition, as we are confident HMT and HMRC are aware, a new regime such as this will require suitably skilled and experienced personnel within HMRC; this will be crucial going forward and, once again, relates to the comparison with Luxembourg, where dealing with the tax authorities is regarded as straightforward. HMRC must be resourced to offer similar ease to users of the new UK AHC.

UK as a location for asset managers and individuals

12. CGT review and carried interest

The BVCA represents entrepreneurs and investors in businesses. It is essential that the tax system encourages the activities of both to transform UK companies into the global success stories of tomorrow, enabling the country to lead in the new industries and opportunities that the future presents.

Capital Gains Tax regime

A stable and internationally competitive capital gains tax regime incentivises investment and entrepreneurship, driving innovation and wealth creation in the UK economy. Along with the tax systems of other major jurisdictions, the UK taxes capital gains at a lower effective rate than income. Any systematic overhauling of the UK taxation of capital gains which does not recognise and reward entrepreneurship and investment risk (e.g. equalising the tax rates on gains with those on income) will undermine the case for investment at precisely the moment the economy needs its investors and entrepreneurs the most.

As well as rewarding investment risk a key reason for taxing gains at a lower rate than income is to strip out (or compensate for) inflationary gains. The extent to which (even in times of relatively low inflation) inflation erodes long-term returns is readily apparent from looking at the old indexation tables[2]. When the UK taxed capital gains and income at the same rates it compensated for inflation by indexing base cost or allowing gains to be tapered (where the proportion of the gain that was taxed reduced the longer the asset was held), so that the full amount of gain was not taxed. Both approaches are complex and raise their own issues (e.g. taper relief creates an artificial incentive to retain assets, so the approach taken by most countries is simply to tax gains at a lower rate than income. The UK taper relief rules provided two rates of taper, one for business assets and one for pure investment assets. This evidences another important feature of the taxation of capital gains, that it rewards entrepreneurial risk-taking, sometimes simply by taxing profits as gains rather than income and at other times by providing for an even lower effective tax rate for gains derived from risk-taking in the commercial sphere.

We discussed these points in greater detail in our response to the OTS review of CGT and the BVCA is firmly of the opinion that:

- it is important that gains are taxed at a lower effective rate than income in order not to tax the effect of inflation. Any other approach would be wholly out of line with international norms

[2] https://www.gov.uk/government/collections/corporation-tax-on-chargeable-gains-indexation-allowance-rates

and signal that the UK sets no store by any form of investment and regards taxing inflationary gains as perfectly acceptable;

- because of the wider societal benefits it generates, it is important that the tax system recognises entrepreneurial risk taking in the commercial sector by taxing capital profits from such activities at lower rates than income;
- there should be a hierarchy of gains, and entrepreneurial, business risk (properly defined) should be rewarded (by being subject to a lower tax burden) more than gains on passive investments; and
- there are a number of anomalies in the current CGT regime which need to be addressed so that the tax fairly reflects these principles and functions effectively.

Carried interest

The BVCA believes that, so far as management equity and carried interest are concerned, the boundary between income and capital is conceptually drawn in the right place and its integrity is fully protected by existing rules. The UK has a comprehensive regime for the taxation of carried interest, which has been significantly refined over time (most recently in the Finance Act 2016) and as confirmed by the Government in two recent written replies to questions in the House of Lords[3], is in line with approaches currently taken by other G7 countries. The UK's competitive position as a fund management centre should not be further eroded by negative changes in this area. Investment activity data consistently shows that the UK has a higher proportion of investment in Europe, and we believe this is in part because a significant number of PE/VC firms are headquartered or have a meaningful operating footprint here. For example, the UK received 23% of the €94bn invested into European portfolio companies in 2019[4].

Carried interest is an established, high risk participation arrangement that aligns the interests of PE/VC managers with those of investors and supports long-term and sustainable investment into unlisted companies. It is a share of a PE/VC fund's profits allocated to the manager and by its nature, is a long-term return based on the overall success of a fund. It therefore creates a powerful alignment model between PE/VC executives and the investors in a fund. On average, carried interest payments will begin in year 7 of a 10-year fund if the fund is successful.

The UK recognises that carried interest should be taxed as a capital gain and this principle is adopted by all major jurisdictions with a developed PE/VC industry. This principle reflects the risk and long-term nature of carried interest. The combined effect of the UK's rules is that carried interest will only be taxed as a capital gain (at the minimum rate of 28% with income included within carried interest distributions taxed at higher rates), if:

- there is a significant risk that it will never pay out;
- it is contingent on the fund generating value and making a realised overall profit on investments;
- the carried interest is satisfied out of capital proceeds realised by the fund (with income included in the carried interest distributions taxed as such at higher rates); and
- investments on which the carried interest depends are held by the fund long-term or the carried interest is subject to the comprehensive employment tax and employment related securities rules.

[3] Written question for Treasury, tabled 14 December 2020 – available here.

[4] *Source:* Invest Europe

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In the VC, emerging/first time fund manager and smaller end of the PE funds industry, management fees will be lower as they are based on smaller fund sizes. Any carried interest received when a fund performs well, therefore comprises a more significant part of those managers' long-term arrangements.

The UK now has one of the highest rates of tax on carried interest in Europe and internationally. The minimum CGT rate of 28% only applies to long term gains and does not apply to income included in carried interest distributions (income is taxed at 38.1% or 45%, which can make the effective tax rate on carried interest higher than 28%) and so many executives will pay higher blended rates. By comparison France, Germany and Italy do not apply higher rates to income as shown below. The headline UK rate (which will often be lower than the actual effective tax rate) is higher than the effective tax rate in some competitor European jurisdictions and only slightly lower than the equivalent rate in others. Although not shown in the table below, carried interest received in Switzerland and Luxembourg may also be subject to an attractive tax treatment, particularly where executives move into the relevant jurisdiction from abroad.

Meanwhile, other jurisdictions are moving to improve their carried interest tax regimes. Hong Kong is in the process of introducing what is described as a "highly competitive" regime and France has relaxed the requirements of its beneficial carried interest regime for managers who move to France or who manage funds that are larger than €1bn. We are aware of approaches to member firms by foreign governments using attractive carried interest tax regimes to attract them to relocate from the UK. The Government should be in no doubt about the fiercely competitive marketplace that is developing among rival European jurisdictions and the extent to which the UK has lost its competitive edge in recent years. Its attempt to make the UK an attractive location for asset managers will be doomed to abject failure if it does not address this issue.

Comparison of the UK tax regime to other major PE/VC jurisdictions

	Expected effective tax rate (upper rates unless rate is flat) (%)						
	UK	**France**	**Germany**	**Ireland**	**Italy**	**Singapore**	**US (federal)**
Specific carried interest tax regime?	Yes	Yes	Yes	No	Yes	No	Yes
Taxed as employment income?	No	No	Yes (subject to 40% exemption from tax)	No	No	Yes / No (if received as foreign dividends / capital gains)	No
Capital gains	28%	30% (plus 4% for high earners)	28.5%	33%	26%	22% / 0*	20% (if held for 3 years or more)
Interest	45%	30% (plus 4% for high earners)	28.5%	40%	26%	22% / 0*	37%
Dividends	38.1%	30% (plus 4% for high earners)	28.5%	40%	26%	22% / 0*	37% (unless qualifying dividends)
Size of PE/VC market USD billion (by funds/capital raised, includes fund-of-funds and secondaries) ***Source: Preqin 3/9/20***							
2019 Global $687.1bn	$53.8bn	$22.2bn	$4.1bn	$0.2bn	$1.2bn	$4.5bn	$427.0bn
2019 Europe $102.8bn	52.3% share	21.6% Share	3.9% Share	0.1% share	1.1% share		

**Foreign source income received or deemed received by a Singaporean tax resident individual is exempt from income tax. Singapore does not tax capital*

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13. Improved tax treatment of international workers

The fund management industry (particularly in the PE/VC and other alternative asset spaces, but more generally too) is very internationally mobile. A number of jurisdictions have special tax regimes (commonly called "impatriate" regimes) designed to attract internationally mobile executives to work in them. In order for the UK to compete as an asset management centre, we need an impatriate tax regime which is at least as attractive as those of competitor jurisdictions.

Overseas Workday Relief (or "OWDR") and, to a lesser extent, the remittance basis perform that function in the UK, but the overall UK regime is significantly less generous than the regimes offered by competitor jurisdictions.

Overseas workday relief

OWDR applies to an individual who comes to the UK having been non-UK tax resident for at least three tax years before his arrival. Where such an individual comes to the UK, the remittance basis is available in the year of arrival and the following two years in respect of earnings derived from working abroad. Because OWDR only applies in the tax year of arrival and the next two years, the effective period over which an individual may benefit from it can be quite limited. For example, an individual who moves to the UK at the turn of the calendar year would only be entitled to OWDR for two and a quarter years. In addition, OWDR is only beneficial to the extent that the individual performs services abroad and does not need to remit that proportion of his earnings.

The regimes offered by competitor jurisdictions are significantly more beneficial. They tend to operate for a longer period and are not dependent on tax exempt earnings not being remitted to the host jurisdiction.

- For example, the exemption period under the French impatriate regime expires at the end of the eighth year following the year of arrival. The exemption covers the so called "impatriate premium", i.e. the "additional" compensation directly linked to the impatriation (which may be notionally valued at 30 per cent of taxable compensation). In addition, compensation related to duties performed outside France for the benefit of the French host company is also exempt.
- Under the Dutch regime, only 70 per cent of an impatriate's earnings are taxed for a period of five years.
- The Spanish tax regime applies for the year in which an individual moves to Spain and the following five years. Under this regime the first EUROs 600,000 earnings each year are taxed at 24% and the balance at 45%.
- Portugal has a very beneficial regime for individuals transferring their residence there. Employment and self-employment income from working in Portugal can be liable to a special 20 per cent flat rate for ten years from arrival.

All these regimes also provide advantages (which vary between jurisdictions) in relation to investment income and gains, but our focus is on the benefits they offer in relation to earned income and we have not outlined those benefits.

It can be seen that the UK tax regime is significantly less generous than the rival treatments outlined above. In particular, the period over which OWDR is available is much shorter than the relevant period in all these jurisdictions and OWDR is only any real benefit to an individual if they work abroad for a significant amount of time during that period and do not need to remit earnings to the UK.

This is not a point restricted to the fund management industry, but to attract skilled executives at all levels to the UK, OWDR should be available:

- for a longer period, we would suggest at least the tax year of arrival and the next five years;
- in respect of the higher of the proportion of an individual's earnings referable to work carried out abroad or a flat fixed percentage (which should be at least 40 per cent) of total earnings; and
- whether or not exempt earnings are remitted to the UK.

14. Carried interest and the remittance basis

We have explained above the way in which carried interest is taxed in the UK and other competitor jurisdictions and how, at a time when other jurisdictions are making their regimes more attractive, the UK tax regime has moved towards the more expensive end of the spectrum.

One point of particular relevance to the PE/VC industry is that, until the time of the carried interest reforms in 2015, a non-domiciled executive would in practice generally only be taxable on amounts of carried interest to the extent those amounts were remitted to the UK. Following the 2015 changes the remittance basis is only available to the extent relevant services are performed abroad, and the remittance basis is not available at all in respect of carried interest within the income based carried interest ("IBCI") regime except to the extent it arises after an individual's arrival but relates to pre-arrival services. The old carried interest tax regime was a very important factor in making the UK an attractive place for non-UK nationals to come and work. The carried interest regime is particularly important for senior executives and it is their presence in the UK which makes this country a vibrant, powerful and attractive location for the industry. We know that the carried interest changes have resulted in senior individuals leaving the UK and others being reluctant to come here.

In order to make the UK an attractive place for highly skilled, internationally mobile executives, the pre-2015 position should be restored. Now that the remittance basis has been reformed (so that long-term UK residents have to pay to access the regime or lose its benefits completely after a period, the pressure to restrict the availability of the remittance basis to carried interest is significantly reduced. Carried interest (including IBCI) should only be taxable on an individual who is neither domiciled nor deemed domiciled to the extent that carried interest distributions are remitted to the UK.

Non-domiciled investors

The UK offers a remittance basis system of taxation for individuals who are neither domiciled nor deemed domiciled here. Non-UK income and gains are only taxed if they are remitted to the UK. Investment into a UK partnership fund is treated as a remittance, whereas investment into a non-UK fund is not (even if the fund invests in the UK). We are aware of funds which have been set up outside the UK in order to accommodate the concerns of remittance basis users. We raised this point in our response to the AHC consultation, and we repeat the point we made there, that we cannot see what policy rationale there is for discriminating against UK funds. The remittance basis rules should be amended to provide that a UK-based CIS/AIF (and any UK AHC it utilises) is to be treated as a non-UK asset for the purposes of determining whether there has been a remittance.

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IHT charges can be triggered by the death of individuals or certain transactions (including ten-yearly anniversaries of their creation) involving trusts. The territorial scope of IHT extends to UK situs assets owned by individuals and trusts even where they (or their settlors in the case of trusts) are resident and domiciled outside the UK. There is some measure of relief for authorised unit trusts and OEICs in section 6 IHTA 1984, which provides that interests in such funds are excluded property if the person beneficially entitled to it is an individual domiciled outside the UK and section 48(3A) makes broadly similar provision for trusts where the settlor is not UK domiciled. In order to remove this disincentive for non-UK individuals and trusts to invest in UK funds, sections 6 and 48(3A) should be extended to cover interests in all UK CISs/AIFs. Linked to our other suggestions relating to the remittance basis, these changes would remove features of the UK tax landscape which make UK (as opposed to foreign) funds unattractive for certain individuals and trusts.

UK regulatory regime

Our industry's central message is that the UK is home to a world leading PE/VC fund management industry, in part due to the world-class legal and regulatory standards that global institutional investors demand, and that these robust standards must be maintained as the cornerstone for the future of financial services in this country. At the same time, the UK cannot afford for its regulatory framework to become ossified, given the fierce competition between jurisdictions to attract PE/VC fund management activity and the host of political, environmental and societal challenges to which regulation must continually adapt in order to remain effective.

15. Supervisory efficiency and speed to market

Much can be done to improve the effectiveness of existing and future UK regulation for PE/VC fund management firms, whilst maintaining robust standards, by making changes to the way firms are supervised by Government and the regulator. This is an important consideration for asset managers when considering locations. Without changing any regulatory rules, the UK can quickly boost the competitiveness of the UK business environment for PE/VC firms by improving operational processes and procedures at the FCA.

We suggest that the FCA aim to reduce current processing times as follows:

Process type	Current typical process time	What the UK should aim for
1. MANAGER LEVEL		
New manager authorisation	9-12 months +	6 months
Variation of permission (straightforward cases)	3-6 months +	1 month
Approving the appointment of new directors/Senior Management Functions (straightforward cases)	6 weeks – 3 months	2 weeks
Cancellation of permission	2 weeks	None needed – process working effectively

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Process type	Current typical process time	What the UK should aim for
2. FUND LEVEL		
Registering a new AIF	1 month	1 week
Registering changes to an AIF	1 month	1 week
NPPR initial filing	1 day	None needed – process working effectively
3. PORTFOLIO LEVEL		
Change of control processes for portfolio companies	6 weeks – 3 months	1 month

There are a number of steps the FCA can take to do this:

- **Increased human resource**: It appears to us that much of the issue with current timings arises from the FCA having insufficient staff allocated to approval processes.

- **Increased automation**: We believe this will help, particularly for straightforward cases. For instance, currently the FCA process time for approving an institutional fund name change from "PE Fund V limited partnership" to "PE Fund V A limited partnership" is in practice up to a month. This appears to be because the applications take time to be allocated to a case officer. If the FCA can introduce automation to achieve straight through processing of simple applications, that will significantly improve process times.

- **Some form/rule/legislative simplification**: The FCA should streamline forms and supporting materials, especially where firms have to provide the same information on multiple occasions. There should also be a 'fast track' mechanism for certain minor, uncontroversial 'material changes' such as a change to a fund's name.

Many private equity firms invest in firms which hold consumer credit or insurance intermediation licences to support their core business. This covers businesses as diverse as dentists, caravan park operators and online car rental companies. The UK regulatory regime for these types of firm currently includes a **change of control regime** which works on broadly the same basis as the regime that applies when acquiring a controlling stake in a bank, securities broker or asset manager. The process is long (often taking 6 weeks to 3 months) and this adversely impacts the flow of capital into these companies. The UK should look to simplify the law (particularly for consumer credit businesses) and streamline its processes in this area. Again, the feedback suggests this might be a resourcing issue due to the volume of approvals; once our members speak to the FCA, the service level is good.

Should the UK decide to move away from tracking current EU regulatory requirements, it could reduce or eliminate some filing requirements prescribed by EU law where it appears that the resulting materials are not in practice being used by EU or UK regulators. Examples include material change clearances under AIFMD (which could be eliminated or replaced by filings) and some AIFMD reporting requirements. These processes take up a lot of time for industry and regulators and appears to add no value. It would be better to free regulators and industry to spend their time on more productive tasks.

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16. Approach to developing UK regulation

Much financial services regulation rightly concerns trading in listed securities. The core activity of PE/VC firms covers buying, building and selling private companies. Regulation developed for the traditional asset management sector will not always be appropriate for alternative asset managers (and vice versa). The two sectors have much in common but also many differences. Future regulatory requirements should be tailored accordingly.

There are a number of areas where improvements could be made to current and in-train UK rules and legislation. We refer to the proposed Investment Firms Prudential Regime ("IFPR") and sustainability regulation below and there are other pieces of existing regulation that should be better calibrated for the UK context (as has been suggested in the review of Solvency II and concerns raised regarding PRIIPs).

The UK is a leader in developing regulatory standards. Future regulatory requirements should be proportionate and clear, but any changes to the UK's regulatory framework should only be made with great care. International investors trust effective and robust regulation, and the UK should not position itself as a "lightly regulated" jurisdiction. One of the challenges of formulating regulatory policy is the risk of creating rules in one jurisdiction which conflict with legitimate rules in another. This creates challenges and costs for international fund managers and their investors. These challenges can often be addressed through pragmatic approaches to implementation and dialogue between international regulators.

The UK should also re-assess areas where it has gone further than EU legislation required ('gold plating'), or taken an implementation approach which makes compliance with the law as stated difficult. For instance, we have previously raised concerns about the UK's implementation of the fourth Money Laundering Directive insofar as it relates to trusts; a common law concept rarely used in most of the EU.

Calibration for UK market

Previous approaches to implementing EU law which assisted the UK in the context of supporting single market access into other EU member states may now need to be revisited now this access is no longer available. There is a real possibility that the UK will apply much tougher regulation to "adviser/arranger" firms than EU jurisdictions, through the UK's implementation of "on-shored" and forthcoming EU law. Any future UK review of onshored EU legislation should identify where there is scope to modify the UK's detailed interpretation of EU rules to suit the UK market better, whilst maintaining compliance where possible. Certain EU rules as implemented in the UK may require and be capable of modification without risking prejudice to EU equivalence assessments e.g. certain notification requirements in AIFMD during the fund marketing process.

Professional investor definition

EU AIFMD contemplates that the funds which it regulates are sold to professional investors. Where permitted in a particular home jurisdiction, AIFs can be sold to retail investors, but the EU marketing passport would not apply in this circumstance. The onshored UK version of AIFMD contemplates that UK AIFs are made available to professional investors.

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The EU definition of a professional investor does not at all, from our perspective, reflect the actual degree of knowledge of investors in PE/VC and may limit the ability of certain types of long-term investors to commit capital indirectly to unlisted businesses. Annex II of MiFID, which determines what is a professional investor under AIFMD by virtue of the cross-reference made in Article 4(1)(ag) and this also has wider implications i.e. the requirement to produce a Key Information Document under the PRIIPs regulation for investors who do not meet the MiFID definition of a professional investor. Reverting back to the UK approach for sophisticated/professional investors under the financial promotions regime would be more appropriate.

The MiFID elective professional tests are calibrated for MiFID investment services provided in relation to liquid assets such as traded shares. The tests are extremely difficult to satisfy in the case of individuals (regardless of their wealth, sophistication or experience) who invest in long-term PE/VC funds which make relatively few transactions, and who have relevant experience in business (e.g. entrepreneurs) rather than financial services. “Sophisticated” investors ((ultra) high net worth individuals, family offices, entrepreneurs, academic endowments, executives, directors or employees of the AIFM that are involved in the management of an AIF, …) can sometimes be treated as retail despite having an expertise and experience of the industry that is equivalent to institutional investors and should not be treated differently.

It should be made clear that the "professional investor" definition here includes "opted-up" investors under the UK standard, which pre-dates MiFID and is a better fit for investors in private funds.

PRIIPs regulation

The requirement to produce KIDs under the PRIIPs regulation and the administrative burden of opting-up investors has dissuaded some fund managers from marketing to high net worth investors and other categories of investor where otherwise permitted under EEA national private placement regimes. Some of our members have deliberately not offered their funds to certain investors that have invested in previous funds and are experienced and sophisticated investors/industry experts. We have previously raised concerns about the inappropriateness of the prescribed methodologies for risk disclosures and performance scenarios.

The European Venture Capital Funds Regulation introduced a class of investors who are now categorised as semi-professional investors. We believe that these types of investors should also be outside of the scope of the PRIIPs Regulation. All prospective investors, including semi-professional investors, are provided with considerable amounts of information on the fund and the fund manager and carry out their own due diligence prior to making an investment. In addition, as part of their investment, they will acknowledge that they understand the risks involved in making that investment. We do not consider that there will be any increase in investor protection should such investors receive a KID. As the PRIIPs regulation is targeted at mass-market retail distribution, we consider that a PRIIP should be viewed as "made available" to retail investors only where the PRIIP is widely distributed.

A solution to this issue is to remove the requirement to produce a KID where a fund is distributed on a private placement basis, e.g. where marketing materials are distributed to fewer than 150 retail investors in the UK. We also note that the requirement to publish a KID on the manufacturer's website potentially cuts across the private placement regimes under which PE/VC funds are typically distributed. It is a key feature of private placement regimes both within the EEA and internationally that there should be no general solicitation of investors or general advertising of the product. A PE/VC firm will therefore typically not make any marketing materials relating to its funds generally available on its website.

17. Prudential rules for investment firms

We welcomed the Financial Services Bill, as it seeks to implement the IFPR in a way tailored to the specificities of the UK market, whilst maintaining world-class prudential standards. With respect to implementation, we also welcomed the FCA's proposals for a transitional period for MiFID adviser/arrangers (omitted in the EU text), and the longer implementation timeframe.

Nevertheless, we urge the FCA and the Government to revisit the regulatory classification and treatment of UK PE/VC MiFID adviser arrangers (classified as exempt CAD firms by the FCA), because EU Member States' approaches to similar firms put the UK at a competitive disadvantage (i.e. where similar activities are not licensed). We remain concerned that there is a material risk of the UK applying the regime in a way which is more onerous than the EU/EEA and that is in practice more onerous than individual member States' application. This would be a very odd result in the context of Brexit. One solution we would propose would be to appropriately reflect the concept of proportionality. This would support the rules fitting the wide variety of MiFID investment firms and not placing excessive burdens on firms such as adviser/arrangers.

In addition, the UK is proposing to apply MiFID investment firm standards to AIFM fund managers in addition to their AIFM requirements (for those firms classified as CPMI firms by the FCA). We understand at least one leading EU funds jurisdiction is not planning to do this, so will have a lighter touch regime than the UK. This would put UK CPMI firms at a competitive disadvantage against their EU counterparts, which would have the benefit of both the EU passport and lower capital requirements. For groups with both a UK CPMI firm and an equivalent entity in the EU, the UK regulated firm would have more stringent requirements. The FCA may be restricted in the changes it can make to its approach at this stage, but we would suggest that as a minimum the overlap between the IFPR and AIFMD rules should be reduced as far as possible and have recently submitted feedback on these issues[5].

18. Effective sustainability regulation

PE/VC firms are well-placed and incentivised to integrate climate and broader sustainability considerations into their operations. The Government and the FCA must support and encourage the transition to a carbon-free economy by ensuring UK sustainability regulation for private markets investment is both proportionate and focusses on materiality, whilst remaining compatible with international frameworks including the evolving EU disclosure regime. We have raised concerns about the EU's Sustainable Finance Disclosure Regulation with HMT and need clarity on the UK's approach to regulation covering sustainability-related financial disclosure (beyond the TCFD Roadmap).

19. DC pension and semi-professional investment in illiquid assets

The BVCA is very supportive of the steps being taken to address the barriers preventing DC pension savers and sophisticated individual investors from investing in long-term, illiquid assets. We are participating in the HMT, BoE and FCA working group to facilitate investment in productive finance and

[5] BVCA response to FCA consultation "A new UK prudential regime for MiFID firms"

the creation of the Long Term Asset Fund ("LTAF"), to which we bring the PE/VC industry's expertise in investing in long-term illiquid assets. There is a growing body of research and analysis demonstrating that allocations to PE/VC offer powerful potential for improving the retirement outcomes of DC scheme members, which we have referred to in our previous responses to DWP consultations[6].

The largest obstacle, however, for PE/VC funds trying to access UK DC pension schemes is the calculation method for the 0.75% charge cap applied to the default arrangements of DC pension schemes. This charge cap currently treats profit sharing models such as carried interest (in PE/VC funds) as a performance fee and includes them in the cap (unlike other countries such as Israel). Whilst we understand the rationale for the cap, it is also a key barrier as the inclusion of carried interest is likely to breach the cap.

DC trustees may not have the confidence to invest in PE/VC funds because the amount of carried interest payments, cannot be accurately predicted (especially at the outset of an investment into a fund). Although carried interest is only knowable in retrospect and in theory is unlimited, it also carries an inherent protection against any manager incentives eroding beneficiaries' capital or returns, because it is only earned after investments have performed well enough for investors to have already recouped the cost of their investments plus a preferred return (we refer to our previous DWP consultation responses for further detail on this).

We continue to stress that carried interest is better characterised as a profit share, rather than a performance fee, and that the best way of helping to improve outcomes for DC scheme members in this context would be for DWP to exclude it from the charge cap calculation (subject to appropriate conditions).

Monitoring competitiveness

20. Alternative Assets Competitiveness Unit

We urge the Government to establish a cross-departmental centre of excellence with a detailed understanding of the alternative assets sector. Its mandate would be to ensure the UK retains its position as a competitive jurisdiction for our industry and can support firms to succeed on the global stage. As part of its remit, this unit would:

- Review ongoing changes to UK and international legislation relevant for PE/VC funds (and other 'alternative assets').
- Support firms' international activity by driving the operational effectiveness work (highlighted immediately above)
- 'Join the dots' between regulatory, legal and tax policies and legislation to ensure they are fit for purpose for 'alternative assets'. The competitiveness of the PE/VC industry has been impacted due to a 'one size fits all' approach to financial services regulation. This unit should also ensure that changes proposed in the UK in one area do not negate those proposed in another (as we have seen in respect of limited partnership law, where HMT provided clarity via the new Private Funds Limited Partnership regime in 2017, whilst BEIS simultaneously initiated a review (that is still ongoing) on limited partnerships).

[6] BVCA response to DWP consultation "Review of the default fund charge cap" (pages 3 & 4).

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- Ensure appropriate positioning of the UK's 'alternative assets' ecosystem overseas, to support the UK as an investment destination.
- Review proposals for changes in other areas which may adversely impact the overall package of law and regulation applying to PE/VC firms in the UK.
- Ensure there is sufficient expertise within regulators and other bodies on funds and their operations and promote this to industry.
- Strengthen existing, and create new, bilateral arrangements with countries (alongside comprehensive trade agreements), and directing firms towards these opportunities. This work would assist firms with activities like international fund marketing (to professional and sophisticated investors) and the unit could support firms in other ways, such as implementing processes that facilitate greater supervisory co-operation (e.g. organising confirmation letters of a firm's regulatory status).

The Government should also consider new incentives which promote a commercially-attractive and predictable tax, legal and regulatory environment that will encourage PE/VC investment in, and through, the UK. This agenda should include measures designed to attract both EU and other global investors to establish a presence in the UK, taking advantage of the UK's position as an international hub for capital flows and its open approach to investment.

Appendix 2 – BVCA response to questions

Summary

Question 1: This call for input on the UK funds regime is necessarily wide-ranging. As the government would not be able to take forward all proposals immediately, what do you think the top 3 priority proposals should be for government implementation and why?

- The **UK limited partnership regime (English and Scottish Limited Partnerships) is the legal bedrock of the UK private funds industry**, and the inspiration for numerous similar vehicles around the world. International investors are familiar with this regime and legal and tax enhancements to it can be implemented with relative ease, especially now that the UK is no longer bound by EU law. This is the BVCA's preference over an entirely new regime for unauthorised fund structures. It is also important that the existing BEIS reform project is concluded as soon as possible and with only essential changes being made: stability and predictability in the existing regime is key, and the UK can still be a jurisdiction of choice for investors (particularly where an EU-based structure is not required). A clear and competitive UK Asset Holding Company regime will reinforce the UK's positioning as a centre for co-location.

- The UK must remain a **competitive location for asset managers and individuals within these firms** to encourage capital to continue to be deployed in the UK and retain the country's positioning as a global investment hub. The full benefits of recent HMT initiatives, such as this review and work on asset holding companies, will only be realised if asset managers base themselves here as well.

- The UK **regulatory regime must also facilitate PE/VC fund managers' access to investors, transactions and talent**, whilst providing appropriate protections to investors. An excellent example of this is the work underway to enable DC pension schemes to invest into illiquid asset classes. Competition and change mean that the future of UK financial services regulation must be dynamic, especially in respect of regulation related to sustainability matters.

Treaty issues

Question 10: Regarding the proposals covered in this call for input, are there any specific considerations that the government ought to take account of in the context of the UK's double taxation treaty network? Please provide as much detail as possible.

Please refer to **Recommendation 11** in Appendix 1 above as the relevance for PE/VC funds is the need for an attractive UK AHC regime.

Limited partnership funds

Question 11: What are the barriers to the use of UK-domiciled LP Funds and PFLPs, and how might tax changes help to address them? Please provide detailed proposals and explain your answers.

Please refer to **Recommendations 1-10** in Appendix 1 above.

The UK's PE/VC industry has thrived over the past 30+ years to become the second biggest global hub outside of the US. This has happened largely because of deliberate, strategic and effective policy intervention by the Government in this area, which began in 1987 and was in evidence as recently as

2018, when HM Treasury introduced the Private Fund Limited Partnership ("PFLP"). This concerted policy drive has resulted in the UK being highly successful in both attracting fund managers to base themselves here, and in creating an environment that allows them to establish and manage UK fund structures that provide managers and investors with increased synergies.

Competition from other European jurisdictions for the business of establishing and running private equity and venture capital funds ("PE/VC business") had been mounting since before Brexit due to the regulatory uncertainty of access to EU investors.

The timing of the increased legal uncertainty caused by the BEIS Call for Evidence and proposed amendments limited partnership law, coupled with the need for an EU structure to market to EU investors (particular where they required one), influenced decisions not to base PE/VC business in the UK. At the same time, jurisdictions like Luxembourg were marketing heavily in the UK. In practice this meant that fewer PFLPs were registered in the UK than could have been the cause had it not been for these factors. We commented on this in more detail in our response to the 2018 BEIS consultation paper[7].

In addition, the tax compliance cost burden on managers and investors has increased in recent years and we have had useful discussions with HMRC regarding existing UK tax reporting rules. This also reduced the appeal of UK structures and our feedback is covered in more detail in Recommendation 8 in Appendix 1.

Several recent surveys/reports highlight the growth in, and popularity of, Luxembourg fund structures. In March 2021, the Association of the Luxembourg Fund Industry ("ALFI") announced that the total assets under management in Luxembourg-domiciled investments funds had hit another all-time record of EUR 5 trillion[8].

Specifically for PE/VC, a January 2020 report by the Luxembourg Private Equity & Venture Capital Association ("LPEA")[9], credited the Luxembourg government's role in creating the Reserved Alternative Investment Fund and LP regime with the growth in PE/VC funds. The report states *"The world's top 19 Private Equity players today have operations in Luxembourg and 9 out of 12 top PE players have substantially reinforced their presence in Luxembourg over the last couple of years. The whole sector now counts thousands of PE/VC professionals and represents EUR 400 billion of assets under management."* The report also includes a lot of detail on the Lux regimes and their benefits.

Fund authorisation

Question 12: What benefit does fund authorisation bring to product providers beyond access to retail investors? Does this benefit vary depending on the specific investor base or investment strategy? What relevance does authorisation of a product have to its appeal to the UK market and to the international market?

PE/VC funds use unauthorised fund structures. These are well-understood by institutional investors and are the international norm. BVCA members typically raise between 10-20% of the funds from UK investors and the rest is from international sources. In almost all cases, unauthorised limited

[7] BVCA response to 2018 BEIS consultation – available here
[8] ALFI press release – available here
[9] LPEA PE in Luxembourg report – available here

partnership structures will be used (be it limited partnerships in the UK, Luxembourg, Channel Islands, etc). We understand that DC pension scheme investors are driven by the need for liquidity and prefer to invest in open-ended funds authorised funds, with which they are most familiar.

Speed to market

Question 13: Do you have views on the current authorisation processes set out in legislation and how they could be improved?

Please refer to **Recommendation 15** in Appendix 1 above noting that this feedback relates to unauthorised funds and AIFMD authorisation processes.

Question 14: How do the FCA's timescales for fund authorisation compare internationally? Is there value in providing greater certainty about these timescales? Other than by reducing the statutory time limit, how could this be achieved and what benefits would it bring?

Please refer to **Recommendation 15** in Appendix 1 above noting that this feedback relates to unauthorised funds and AIFMD authorisation processes.

Qualified Investor Scheme

Question 15: What would you like the QIS structure to enable you to do that is not currently possible? What are the existing impediments to your suggested strategies, and why would the QIS be the preferred UK structure for those strategies?

We believe that restrictive product regulation operates today as an effective barrier to investment by in private assets and welcome the work to create a LTAF structure that is suitable for investors such as DC pension schemes.

A QIS does not impose the same percentage limitations as UCITS and NURS on investments in unquoted equities (meaning that it could be a viable solution for a PE/VC fund investing directly in unquoted securities). Similarly, for funds of funds, there is more flexibility in percentage terms with respect to investments in unregulated collective investment schemes. However, for managers of funds of funds, there are onerous due diligence requirements for the manager to undertake in relation to the target portfolio fund, both pre-investment and on on-going basis. Guidance on this is detailed and may not be practical to follow, especially in context of, say, secondary fund acquisitions (where access to the underlying portfolio fund manager may be restricted). In particular, many of the due diligence requirements seem duplicative in relation to an existing EEA Alternative Investment Fund managed by a full scope EEA Alternative Investment Fund Manager. Moreover, we had historically observed that there is a general lack of familiarity with the QIS model as the NURS is more commonly used in the market. Alleviating these restrictions through the creation of the LTAF would facilitate investment by DC pension schemes and other semi-professional investors in private assets.

Defining areas of opportunity

Question 19: Do you agree that reforms to enhance the attractiveness of the UK funds regime should focus on appealing to the creation of entirely new funds that have not yet been set up?

Appendix 2 – BVCA response to questions

We think this would be appropriate as once a fund structure is established elsewhere, it is expensive to move it for the reasons outlined in the call for input.

Question 20: Why do firms choose to locate their funds in other jurisdictions in cases where the UK's funds regime has a comparable offering, for example ETFs? Are there steps which could help to address this following the potential reforms to the UK funds regime discussed in this call for input, and would the scope to address this vary depending on the type of fund or target investor market?

There are several reasons why a firm may base their fund structures overseas. Our recommendations in Appendix 1 set out a comprehensive list of changes that could be made in the UK to be attractive for the PE/VC funds industry. These cover a broad range of areas as firms consider the following when establishing their fund structures:

- Access to target investors. Many but not all PE/VC firms have established Luxembourg fund structures and AIFMs to be able to have continuous access to EU investors. This will depend on the marketing strategy for the PE/VC firm (e.g. they may not need to market to EU investors and could go to the US instead). However, many EU investors require EU fund structures to assist with their own regulatory requirements (e.g. insurers' capital requirements under Solvency II).

- Ability to co-locate functions. As highlighted earlier, the cumulative effect of the OECD and other international tax developments has put a premium on jurisdictions where there can be co-location of functions, i.e. where fund management businesses, funds and asset holding vehicles (where required) can all be based.

- Stability, certainty and predictability of the tax, legal and regulatory environment, including the approach of regulators and tax administration authorities. Continuous changes and tinkering to legislation can act as a disincentivise given the compliance costs of adjusting to new rules. In particular, for long term fund structures, certainty is needed in respect of tax arrangements from an investor perspective.

- Respected institutions and high standards. These can be attractive to institutional investors and the UK is known for this given the status of its regulators and legal and regulatory regime.

- Ability to attract international talent to work in the PE/VC firms. This is affected by immigration rules and the tax treatment of international workers.

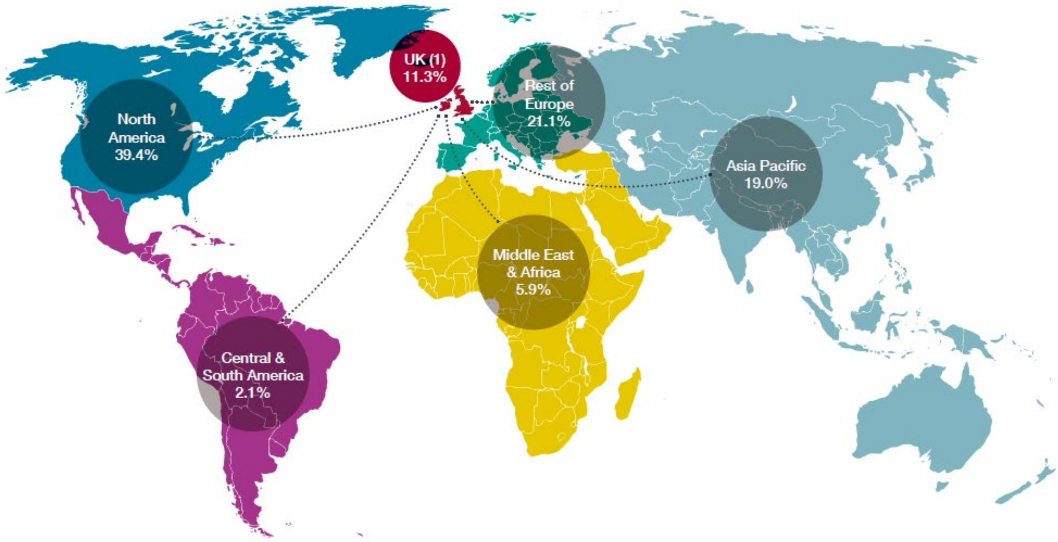
- Depth and quality of expertise in the professional services community and overall strength of the financial services ecosystem. This covers legal, accounting, fund administration, banking and many other functions.

Question 21: Do you agree that reforms to enhance the attractiveness of the UK funds regime should focus on appealing to AIFs targeting international markets? Which markets would be most valuable and what would be the key obstacles to overcome in each?

The reforms should appeal to domestic and international markets (including EU investors). The UK PE/VC funds industry has raised substantial funds raised from international and UK investors. The BVCA

Appendix 2 – BVCA response to questions

Report on Investment Activity shows that £47.6bn was raised in 2019 (2018: £34.1bn). The geographical reach is shown below.



Notes: (1) UK includes Bermuda, British Virgin Islands, Cayman Islands, Channel Islands, Guernsey, Isle of Man and Jersey. 1.2% of total funds raised by an unclassified location of investor

Spreading the benefits of fund administration across the UK

Question 22: Do you agree that new UK fund administration jobs associated with new UK funds would be likely to locate outside London? How could the government encourage fund administration providers to locate jobs in specific UK regions?

The BVCA's membership includes 27 fund administrators that offer bespoke services to the PE/VC funds industry. Many of these firms already have locations outside of London and have operated on this basis for years:

- IQ-EQ employs 138 people in Belfast and 225 people in London.
- Mainspring Fund Services has offices in Central London and in Milton Keynes with approximately 20 staff in London and 25 in Milton Keynes.
- NCM Fund Services has its head office in Edinburgh and employs 31 people in this location.
- Our members work with administrators with offices in Southampton (Aztec Group), Reading (Throgmorton) and Glasgow (NVM).

The Government could offer grants to help fund administration providers establish offices in new locations. Some of our members have benefitted from this approach in the past.

These firms also do not have difficulty recruiting or retaining employees located outside of London and in a number of examples, it has been easier to recruit qualified professionals.

Question 23: How can the government ensure the UK offers the right expertise for fund administration activity?

We are of the view that the Government should prioritise creating an attractive investment environment and as activity increases, intervention into to fund administration space will not be as necessary. As stated in our previous response on AHC consultation, the benefits of an attractive and certain regime will build over time, but UK fund managers would be keen to make increased use of the UK-based providers, if more funds and AHCs were based in stable UK regime. [10]

We believe that if the UK regime incentivises the domicile of UK funds, we would see a proportion of the economic benefits seen in other key asset management locations. There are a variety of considerations made when choosing where to domicile a fund, including the availability of service providers such as fund administrators. As noted above, there are limited challenges when recruiting professionals. Furthermore, the work covers a broad range of services such company secretariat services and company directors, as well as fund administration.

Investment Trust Companies

Question 24: Are there specific barriers to the use of ITCs, either from the perspective of firms creating fund products or from the perspective of investors seeking to access them? Are there specific steps which could address these?

We have consulted with LPeC, an international body representing listed private capital companies and funds. We note LPeC's concerns about the application of AIFMD and the PRIIPs regulation to ITCs and suggestions for a new summary format for an ITC prospectus. We would be happy to discuss this further with you.

Question 25: Should asset managers be required to justify their use of either closed- ended or open-ended structures? How effective might this requirement be, and what are the advantages or disadvantages of this approach?

The standard structures used for PE/VC funds are closed-ended. These are well-understood by typical investors in PE/VC funds and as they address the liquidity imbalances i.e. need to commit capital for a long period and that assets in the fund cannot be disposed of at short notice.

Long-Term Asset Fund (LTAF)

Question 28: Do you foresee any issues with the LTAF adopting the current tax rules for authorised investment funds? Would the nature of an LTAF's investments, and the tax treatment of the income it receives in respect of those investments, mean that the current rules for authorised funds lead to tax inefficient outcomes?

Question 29: Are there any other tax considerations, outside of those that follow from the adoption of the current tax rules for authorised funds, that will be important to the success of the LTAF? Please explain your answer.

If the LTAF uses a partnership structure, it will be tax transparent, and we cannot immediately see why it would need any special tax regime.

If the LTAF uses a unit trust/OEIC structure (like current authorised investment funds ("AIFs")) it will need to have full access to the AIF tax regimes, including CGT exemptions, the rule that treats all

[10] BVCA response to first AHC consultation – available here.

transactions in "investments" as capital not trading, and the ability to operate as a tax elected fund ("TEF"). The CGT exemption is only available to a QIS if it meets the genuine diversity of ownership ("GDO") test and the ability to be a TEF and the rule treating all transactions as "investments" as non-trading are only available to an AIF that meets the GDO test. The full benefits of the AIF tax regime will need to be fully available to a LTAF if it is to be successful. We would suggest that these benefits should be available to a LTAF as long as either it meets the GDO test or all (or a specified minimum proportion) of its investors are on a "good list" (pension funds, sovereign funds, etc). This is the same as the gateway we suggested for the AHC regime and we can see significant attraction in both regimes having the same gateway. Not only will this promote simplicity and consistency across the industry, it will also mean that LTAFs will automatically be able to use a UK AHC without needing to meet additional requirements.

New unauthorised fund vehicles

Question 30: How would each of the proposed unauthorised fund structures add value alongside existing authorised and unauthorised UK fund structures, including the QIS? Would they bring value alongside each other? Would they bring unnecessary complexity? What would each structure allow fund managers and investors to do that they are unable to do currently in the UK regime? Please address each proposed unauthorised structure separately, and indicate which of the proposed unauthorised structures you consider most important

As highlighted earlier, the UK limited partnership regime (English and Scottish Limited Partnerships) is the legal bedrock of the UK private funds industry, and the inspiration for numerous similar vehicles around the world. International investors are familiar with this regime and legal and tax enhancements to it can be implemented with relative ease, especially now that the UK is no longer bound by EU law). This is the BVCA's preference over an entirely new regime for unauthorised fund structures. It is also important that the existing BEIS reform project is concluded as soon as possible and with only essential changes being made; stability and predictability in the existing regime is key, and the UK can still be a jurisdiction of choice for investors (particularly where an EU-based structure is not required).

Question 31: Would these unauthorised structures support the government's work on facilitating investment in long-term and productive assets, as outlined in Chapter 1?

Yes they definitely would. The introduction to this response sets out how the UK PE/VC industry invests into the economy and this is facilitated through existing fund limited partnership structures (be it UK ones or those located overseas).

Question 32: How do you think the government could best achieve consistent branding for UK fund structures which target only professional investors?

The current branding of UK limited partnership funds is understood as being relevant for professional investors. There is more mileage to be gained from the PFLP regime given our feedback to question 11.

Question 33: Do you think that these unauthorised structures should be unregulated collective investment schemes? If you consider any 'light-touch' authorisation necessary or desirable, what do you understand this term to mean and what form could it take? Why would it be beneficial for

investors, and how could it be explained to them in a way that avoids confusion with the regulatory assurances of fully-authorised structures?

Unauthorised fund structures should continue to be unregulated collective investment schemes and any authorisations, including light-touch, are completely unnecessary. PE/VC firms are themselves regulated, and market to institutional investors including pension funds, university endowments, insurance companies, sovereign wealth funds, fund of funds, corporate investors and private individuals. Further detailed information on the investor base can be found in our annual survey[11]. Additionally, PE/VC funds are typically closed-ended funds with a long term (typically ten years with the ability to extend) investment period. As a consequence, PE/VC fund managers often have a close and long-standing relationship with their investors. The constitutional arrangements of the fund are heavily negotiated with legal advice sought by both the manager and investor. The resulting agreements are tailored and detailed and set out additional requirements, including on reporting and investment restrictions. Therefore, any further authorisations would not provide any additional regulatory assurance.

Question 34: Do you think these structures should have flexibility on whether they are open-ended or closed-ended? Should they have flexibility on whether they are listed or non-listed? How important is this?

Flexibility is important and we have highlighted some examples of where this will be helpful in the context of PE/VC funds in **Recommendations 1-11** in Appendix 1.

Question 35: Do you think these vehicles should or could be implemented as part of existing structures set out in legislation? Please provide details. If not, please explain why not.

See our response to question 30.

Question 36: Are there any specific tax treatments that would be either necessary or desirable to support the successful introduction of new unauthorised fund vehicles in the UK? Please provide detail of how and where this is the case.

Our feedback relating to PE/VC funds is covered in **Recommendations 1-11** in Appendix 1.

Question 37: Are there any interactions with wider tax policy that the introduction of new unauthorised vehicles would need to navigate, in order to avoid unintended consequences?

Yes, it important to also consider the tax treatment of asset managers and individuals, as well as the funds. Please refer to **Recommendations 12-14** in Appendix 1.

Other proposals

Question 38: Are there other things government should consider as part of this review of the UK funds regime, or proposals for enhancements to the UK funds regime which the government has not included in this call for input? If so, how important are they and how would you like to see them prioritised in relation to the proposals explored in this call for input?

[11] BVCA Report on Investment Activity – available here

Appendix 2 – BVCA response to questions

We have set out recommendations for government to consider in relation to the UK's PE/VC funds industry. Our preference is to make enhancements to the current UK limited partnership regime and complete ongoing reforms. We believe that this will achieve greater traction in attracting new funds to the UK than setting up a new regime due to the familiarity of using Scottish and English limited partnerships. Furthermore, our recommendations are not contentious and should be able to be implemented with relative ease.

Whilst this call for input has focussed on the regime for funds, the regulation and taxation of asset managers are also important given the pressure to co-locate functions. We have therefore also included regulatory and tax recommendations in Appendix 1.