BlackRock

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Submitted via email to: mandatorydisclosure.rules@hmrc.gov.uk

RE: International Tax Enforcement: disclosable arrangements

Dear James

BlackRock[1] is pleased to have the opportunity to respond to the International Tax Enforcement: disclosable arrangements consultation document, issued by HM Revenue & Customs ("HMRC") on 22 July 2019.

BlackRock supports a regulatory regime that increases transparency, protects investors, and facilitates responsible growth of capital markets while preserving consumer choice and assessing benefits versus implementation costs.

We welcome the opportunity to comment on the issues raised by this consultation response and will continue to contribute to the thinking of HMRC regarding any issues that may assist in the final outcome.

We welcome further discussion on any of the points that we have raised.

Yours sincerely,

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[1] BlackRock is one of the world's leading asset management firms. We manage assets on behalf of institutional and individual clients worldwide, across equity, fixed income, liquidity, real estate, alternatives, and multi-asset strategies. Our client base includes pension plans, endowments, foundations, charities, official institutions, insurers and other financial institutions, as well as individuals around the world.

Executive summary

As the largest global asset manager, BlackRock is supportive of the European Commission's agenda to enhance tax transparency in order to address abusive tax arrangements. As a significant contributor to the financial services industry, we appreciate the EU's renewed focus on tackling harmful tax practices through the requirement for aggressive tax arrangements to be disclosed and shared between tax authorities within the EU.

Our comments in the below response focus on concerns and challenges associated with proposed UK implementation of the Directive for the asset management industry. Primarily, we want to ensure that tax authorities within the EU establish an appropriate framework to allow for the collection of information on genuinely aggressive tax arrangements. In our view, the broad scope of the Directive has the potential to result in the mass reporting of benign arrangements undertaken in the ordinary course of business. Further, we are cognisant that in some instances, the broad scope of the Directive may extend to capturing ordinary course transactions that do not in fact result in any tax benefit. We do not believe either of these outcomes to be in line with the policy intention of the Directive.

We have also provided in Appendix 1 three generic examples of certain typical transactions in which investment funds may engage or otherwise be involved. Whilst these examples are by no means exhaustive or indicative of the full range of asset management activities, we have sought to illustrate the rationale for our expectation that certain ordinary course capital-market and private asset arrangements would not be reportable under the Directive. To this end, Examples 1 and 2 deal with routine capital-market transactions of securities lending and trading in Contracts For Difference ("CFDs"). Example 3 covers a typical fund structure in a private asset fund.

Comments contained within this submission focus on the following key themes, with relevant linkages to the examples provided:

- the potential of the Directive to capture certain high volume, non-tax aggressive transactions within the financial services industry;

- the lack of knowledge that an intermediary may possess of a specific arrangement making it difficult to ensure compliance with required reporting obligations for that intermediary;

- the practical challenges for asset managers in being able to satisfy themselves that all necessary information has been reported by other intermediaries in a given arrangement; and

- the proposal for a more narrow, focused, purposive based approach to allow for certainty and consistency in the application the main benefit test, in order to limit the scope for ordinary course financial transactions to be reportable under the Directive.

Further, whilst we appreciate HMRC's reluctance to provide a 'white list' of arrangements that are not required to be reported, our overarching request is that HMRC deliver clarity via the provision of a comprehensive list of examples detailing the nature of transactions that are intended to be captured under the Directive, as distinct from ordinary course, regular financial services transactions and arrangements that are permissible and not reportable.

Please note that we have not sought to respond to every question in the consultation document. We have instead focussed on the key points which we consider to be the most relevant to the asset management industry.

We welcome the opportunity to discuss our submission in further detail with HRMC.

Responses to questions

Question 4: Can you identify any particular practical challenges with regard to HMRC's approach to identifying intermediaries, and what information they have in their knowledge, possession or control?

Paragraph 3.8 is broad in scope, and therefore has the potential to capture intermediaries in a wide variety of circumstances. Examples 3, 4 and 5 are particularly wide, and could catch intermediaries who are merely involved in the provision of financial services to counterparties, and who have no role in providing tax or structuring advice.

With respect to the question on the level of knowledge an intermediary must have to trigger a reporting requirement, we have provided an example in Appendix 1, Example 1. In this scenario, a European domiciled index fund owns equities in a European entity and lends the stock temporarily to a borrower in return for collateral and a borrowing fee.

As highlighted in the Appendix, in many circumstances, the lender will have limited (if any) knowledge of the following:

- the identity of the ultimate borrowers (particularly in more complex transactions where there may be multiple intermediaries, with stocks being on-lent to one/a number of additional borrowers); and

- whether an actual tax benefit is to be obtained by the ultimate borrower. Whilst the lender may suspect a borrower could theoretically be obtaining a dividend withholding tax benefit in particular circumstances (for example where the securities are lent over the dividend record date), the lender will rarely have specific knowledge or details to enable reporting to any degree of certainty.

Our understanding of the Directive is that it is not designed to capture transactions where certain intermediaries can at best only guess, rather than have actual knowledge, of a tax benefit being obtained by another party. We would therefore consider a securities lender in the scenario set out in the Appendix to be an intermediary whose knowledge falls sufficiently short of being 'reasonably expected to know' of any specific tax benefit being obtained by an ultimate borrower. Therefore, no reporting obligation should be triggered for the lending fund.

In such a scenario, it is our view that the ultimate borrower may be the only party to the arrangement to have sufficient knowledge to be able to evaluate whether a report is required. It would therefore be helpful if HMRC could include such an example in the guidance setting out the obligations for each party involved.

Question 7: Do you agree that the amount of evidence required for intermediaries and taxpayers to satisfy themselves and HMRC that all the necessary information has been reported is appropriate?

The consultation document indicates that in order to be exempt from reporting, the intermediary/taxpayer needs to be satisfied that all the information they would have reported has already been reported by another intermediary. For a variety of reasons described below, we fear that the practicalities of this requirement will impose a substantial administrative burden on multiple entities involved in a transaction and will result in the filing of many duplicate reports.

We are concerned that various confidentiality requirements, including GDPR, may result in intermediaries not being willing or able to share the full text of any disclosure with other parties to an arrangement. These confidentiality limitations may result in certain intermediaries not having sufficient knowledge that a reporting intermediary has reported sufficient detail to discharge its own obligations. For example, in the context of private asset transactions where the complete advisory team may comprise any combination of accounting firms, law firms, investment banks, and administrators, it will be very challenging for each intermediary to confirm that another party has reported all necessary information without full sight of the content of the associated disclosures.

Additionally, the 30-day timeframe for reporting is likely to result in further barriers to intermediaries being able to confirm that another intermediary has sufficiently reported. This timing will be a particular issue where other intermediaries only report very close to the deadline.

In line with the suggestion in paragraph 6.2, we would therefore propose a solution, particularly in the context of standard transactions, of requiring a single reporting party to provide a reference number to all other potential intermediaries evidencing that they have reported an arrangement to HMRC. For practicality purposes, we would ask that the provision of a reference number comes with an underlying presumption that all necessary information has been reported by that party, unless another counterparty has evidence to the contrary.

Additionally, in the instance where there was a reasonable expectation that another party was reporting, if an intermediary does not receive the reference number by the required reporting date, we would propose that the intermediary should then have the ability to submit a report of its own in a reasonable timeframe (an additional 30 days, for example) and without penalty, even where the original 30 day window has elapsed.

This approach would maintain HMRC's ability to have access to the relevant data points to enable further investigation of any arrangements, whilst limiting the potential for duplicate reporting and easing the reporting burden on multiple intermediaries in standard transactions.

Question 8: Do you think that the approach to defining the main benefit test and tax advantage is proportionate?

The approach taken by the wording of the Directive to defining the main benefit test is far-reaching. It will likely be extremely difficult for taxpayers/intermediaries to apply the concept with any level of certainty or consistency. This may therefore lead to taxpayers taking a conservative view as to what needs to be reported and therefore result in a significant level of over-reporting, which may be disproportionate to HMRC's policy objective in trying to capture genuinely aggressive tax motivated arrangements. There is the potential that in order to mitigate the risk of non-compliance, taxpayers and intermediaries will lean towards reporting common financial transactions in bulk, which it must be assumed is not the intention of the Directive.

The Directive infers that in assessing whether the main benefit test has been satisfied, the tax treatment of an arrangement should be compared against the tax treatment arising from a hypothetical alternative transaction. In other words, whether there is another possible way of achieving the same economic and commercial outcome without also realising a similar tax benefit. In Example 2 in Appendix 1 we have undertaken a comparison in determining whether a given arrangement results in a tax benefit. This example demonstrates that this assessment is not always an easy one, as all factors regarding a transaction need to be assessed holistically in arriving at a conclusion. In any hypothetical alternative assessed with the benefit of hindsight, there may well be an alternative arrangement which achieves a worse tax outcome (or no tax benefit) for a party involved. However, importantly, it may not be possible to separate the weight of distinct economic, tax and often regulatory reasons that are considered in reaching an overall commercial decision as to undertake a transaction in a particular way. Therefore, in contrast to HMRC's view that motive is not a relevant factor, we believe that overall intent of the parties subject to an arrangement does matter and that relevant non-tax motives should be considered in assessing whether tax could be seen as a main benefit.

The definition of the main benefit test is overreaching in that it is extra-territorial by including taxes levied by both EU Member States and outside the EU. Fundamentally, the expectation is that the EU Commission is concerned only with, and the policy underlying DAC 6 is only with respect to, European tax benefits obtained, particularly given that DAC 6 reports are only intended to be shared with EU Member States.

We also urge HMRC to more narrowly define the main benefit test to focus on the actual purpose of the arrangement and limit it to tax advantages that emerge from aggressive tax schemes, rather than ordinary course tax planning.

We would also propose that where a country's tax laws apply to give rise to a particular outcome in a relation to a given arrangement, the reporting of such outcome is clearly defined as being outside the scope of the Directive. As an example, Appendix 1, Example 3 sets out a relatively common private asset fund structure, where an interest deduction is received in an EU tax resident holding company and where local interest deductions are already subject to restriction under a range of targeted domestic rules such as corporate interest restrictions, transfer pricing and anti-hybrid rules. In scenarios such as this, we believe it would be reasonable for a potential intermediary to assume that the allowance of interest deductions is in line with domestic policy intentions and therefore not subject to reporting.

To aid taxpayers and intermediaries in determining whether particular arrangements fall within the main benefit test, it would be helpful if HMRC would include as part of the guidance a number of examples, such as those included in the Appendix to this letter, setting out particular types of arrangements or transactions that may captured for which reporting is required.

Question 9: Do you have any comments on the approach set out for hallmarks under Category A?

Given the extremely broad potential application of Hallmark A3, we would welcome clarification that financial products and agreements using standardised documentation that have not been specifically designed to achieve a tax advantage should not be seen as satisfying this Hallmark.

Although we take the view that some of the below documents are not sufficiently standardized to be captured within Hallmark A, taking all three examples in Appendix 1 in turn, we acknowledge that the following could all potentially be seen as a "standardised" document:

- Example 1 – The International Securities Lending Association ("ISLA") master agreement under which the lending transaction is entered into.
- Example 2 - International Swaps and Derivatives Association ("ISDA") master agreement under which the CFD is issued.
- Example 3 – the loan instrument that generates the tax deduction as well as the limited partnership agreement of the fund receiving the payment.

As a general matter, all the aforementioned documents are typical commercial documents that aim to provide commercial efficiencies by way of introducing as much consistency as possible across multiple market participants. We believe that providing examples to more narrowly define types of documents which would be viewed as sufficiently standard for the purposes of this hallmark would greatly assist and provide necessary clarity.

In relation specifically to the agreements referenced in examples 1 and 2, we would argue that, notwithstanding the cosmetic similarities between the ISDAs and ISLAs across multiple financial institutions, these documents are sufficiently tailored and customised to the user's specific requirements and should therefore not qualify as being standardised documentation. As such, these documents should not be captured by this hallmark and should therefore not in themselves give rise to a reporting obligation.

Even if HMRC were to determine that ISLAs and ISDAs fall within the scope of Hallmark A(3), we assume it is not the policy intention that every single transaction using such a document would be required to be reported. The guidance explicitly seeks to deter bulk reporting where no specific hallmark is met; however, lack of clarity around high volume financial services transactions, in particular, could lead to the risk of significant overreporting.

If there were to be reporting on such a scale, various intermediaries involved in these transactions would be required to undertake an enormous review exercise to be able to determine whether reports are required to be made. We view this to be an excessively cumbersome requirement for a reporting party and disproportionate and not intended in the context of the policy objective of the Directive.

If, despite the above points, HMRC's interpretation is that financial institutions will nevertheless have bulk reporting obligations in respect of standardised transactions that are commonly used financial instruments, we would ask that an intermediary be able to demonstrate satisfaction of its obligations by producing a single report that describes the transaction including the types of parties involved, but without a requirement to provide identifiers for every underlying client/transaction. In this scenario, we would envisage that a reporting party would provide a description of the overall arrangement along with relevant hallmark(s) and tax implications, with the agreement to make details of specific transactions available on request by HMRC. We would also propose that once reported, no additional reporting would be required in respect of substantially similar transactions (similar in terms of transaction type and tax advantage), unless specifically requested by HMRC. It would be helpful if HMRC could clarify in its guidance whether this would be an accepted approach

Question 10: Do you have any comments on the approach set out for hallmarks under Category B?

We would request that HMRC clarify in its guidance on the following points in relation to Category B hallmarks:

- Currently, we believe that the definition of 'roundtripping' in Hallmark B(3) is ambiguous in its potential application and, as drafted, has the ability to capture payments that are not ultimately returned to the jurisdiction of origin, which is what we understand the hallmark to intend to capture. We would therefore ask for clarification that funds need to ultimately be returned to the jurisdiction of origin in order for the hallmark to apply (e.g. payments made from jurisdiction A to B to A may be caught, but payments A to B to C are outside scope of the Hallmark); and

- Hallmark B(2) is drafted widely enough that conceivably carried interest arrangements could be required to be reported based on the expected capital treatment obtained by carried interest recipients. We do not believe that carried interest arrangements were intended to be captured under this Directive since, similarly to interest deductibility, there is already specific targeted UK tax legislation governing the capital gains tax treatment of carried interest. We would welcome clarification on this specific point.

Question 13: Do you think that this approach (to Category C) will also work for dealing with Collective Investment Schemes? Alternatively, what other approaches do you think would be better?

HMRC has clarified that in the case of transparent general partnerships, the partners (rather than the partnership) are the recipients for the purposes of determining the satisfaction of a hallmark. We ask that HMRC clarifies that this applies also to limited partnerships as we see no rationale for the distinction. Alternatively, the reference to 'general' could be removed. Additionally, we see no reason that this treatment would not be extended to all tax transparent entities. In particular, this would include collective investment vehicles such as a Tax Transparent Fund (and equivalents). We would urge HMRC to seek a common consensus on this point amongst the other EU member states regarding tax transparent entities. In particular, it is important that tax transparent entities are not treated as being an entity that is not resident for tax purposes.

We would further request that HMRC clarify that routine transactions and arrangements involving Collective Investment Schemes ("CIS") are excluded from various hallmarks (Hallmarks C and D in particular),since there is already sufficient regulation and specific domestic tax legislation governing the activities of CISes. As drafted, the Directive has the ability to capture many typical fund holding structures such as, standard payments of interest to investors as indicated in Appendix 1, Example 3 (which are subject to strict interest deductibility restrictions under local domestic laws) and returns of capital (which may have capital gains tax implications under specific legislation) from investment disposals.

The guidance relating to entities that are tax exempt by their domestic status is helpful, particularly in relation to Hallmark C(1)(c) and we ask that it forms part of the final guidance issued. We would also request that HRMC encourages other jurisdictions to provide similar guidance as well in the name of consistency of application. In relation to tax exempt entities, we would note that many investors in CISes are tax exempt institutions (pension funds, sovereign wealth funds, charities). Corporate fund structures also commonly include tax exempt fund vehicles for pooling investors (for example, Luxembourg SICAVs or Irish ICAVs). Such tax exemptions are permissible under domestic law in their jurisdiction of tax residence and are utilised for a number of commercial, tax and regulatory purposes. They also have the important effect of ensuring that investors are not unduly disadvantaged from a tax perspective by investing into pooled investment funds, when compared to holding the underlying portfolio investments directly.

Question 16: Do you have any general comments about the approach to hallmarks under Category C?

In relation to cross-border deductible payments made to an EU blacklisted jurisdiction, it is currently unclear what jurisdiction list is applicable for reporting from 25 June 2018 to 1 July 2020. For example, would a reporting obligation exist in respect of a jurisdiction that appears on the list today but is removed ahead of July 2020? It would be helpful if HMRC could clarify this in its guidance.

Question 17: Do you have any comments about the approach to hallmarks under Category D?

The Directive states that the intention of Hallmark D is to target arrangements that undermine or subvert reporting obligations under CRS. We would ask HMRC to clarify, by a relevant example if necessary, that transactions involving the US (and other non-reporting jurisdictions) are not automatically captured under this hallmark solely by having a non-reporting jurisdiction involved in the transaction.

This approach would seem to be in line with the general concepts set out in the consultation in that Paragraph 11.6 notes that an arrangement does not have the effect of undermining or circumventing CRS simply because, as a consequence of the arrangement, no report under CRS is made. By extension, it would seem reasonable to conclude that the fact that a country is a non-reporting jurisdiction does not in itself lead to the conclusion of an attempt to undermine or subvert CRS reporting. This is distinguishable from the example in paragraph 11.7 in which funds are moved from a jurisdiction where the CRS is in force, to one which has implemented CRS.

Question 20: Do you have any suggestions for how the penalty regime could be improved?

Given the significant uncertainty around which arrangements/transactions will be required to be reported by when and the high level of subjectivity involved in making such a determination, we would request the following be considered by HMRC:

- A soft-landing/proportionate approach to applying penalties (particularly in relation to the retrospective period from July 2018 given the challenges of the uncertainty around which transactions are required to be reported and the gathering of potentially huge volumes of information);

- A specific confirmation that the provision of a supporting opinion from an accounting firm/law firm advisor confirming the non-reporting filing position of a specific transaction, will result in penalties not being applied even where HMRC subsequently determines that a report is/required to be have been made. The draft regulations confirm this will be the case when legal advice has been received and we would request that the provision of legal advice explicitly extends to include advice received from expert advisors;

- Further to the above, we are also of the view that it should not become a standard requirement to obtain advice from an advisor on whether every single arrangement should be reportable (although we appreciate this may be necessary in certain circumstances). We would request that HMRC clarifies that taxpayers should be able to rely upon advice provided by qualified tax professionals, taking into consideration the cost and benefit of such advice, and as such not all taxpayer transactions would require an independent tax advisor. This would ameliorate the cost and burden of having to obtain bespoke (and often expensive) tax advices in respect of ordinary course transactions; and

- A confirmation that HMRC will not apply penalties where a report is made by an intermediary or a taxpayer in good faith, even if HMRC deem that the taxpayer has not provided sufficient information on the reported arrangement.

Question 22: Are there any particular areas of DAC 6 that you would like HMRC to provide guidance on, which are not covered elsewhere in this consultation?

We would request that HMRC continue to encourage consistency of interpretation across EU jurisdictions. We believe it is important to discourage particular jurisdictions from creating additional hallmarks that would lead to asymmetric reporting obligations for intermediaries in different jurisdictions. Even at this early stage certain taxpayers and intermediaries are receiving inconsistent messages from relevant jurisdictions, making it extremely challenging to develop robust and useful internal systems to successfully track all arrangements that may need to be reported.

We would also ask HMRC to consider either providing a clear exemption for capital market financial transactions or the allowance for ‘bulk reporting’, particularly in relation to high volume transactions such as derivatives trading (as described in the response to Question 9).

We also wish to draw HMRC’s attention to the potential tax treatment for certain taxable investors going into accumulating investment funds. We note that the nature of such funds may provide for tax deferral on capital gains for an investor (although the investment fund itself is unlikely to have requisite knowledge of the specific tax benefit to be obtained by an investor). We would request that HMRC clarifies in its guidance that the mere fact that an investor may receive a deferral on the receipt of taxable income, does not in itself give rise to a reporting requirement.

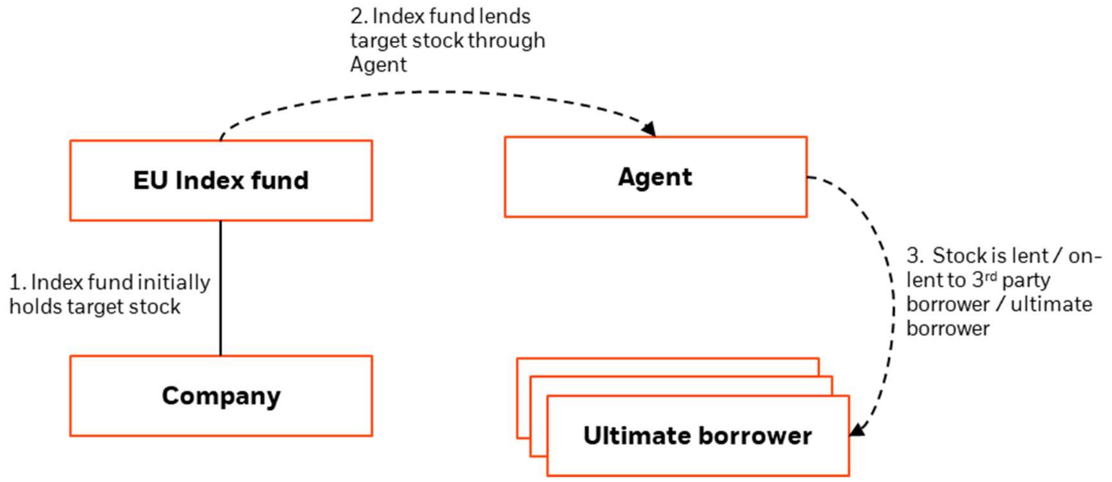
Additionally, we note that certain jurisdictions may treat the redemption by an investor of units in a fund as a being taxable as a capital transaction, even where the underlying fund has an element of its returns which are income in nature. Indeed, taking the UK’s Reporting Fund status as an example, this regime takes what would otherwise be taxes as an offshore income gain and allows for capital gains tax treatment in the hands of a UK investor. Therefore, we would like to further request that HMRC confirms the view that capital treatment of fund redemptions in the hands of investors is not reportable on the basis that this is a treatment intended by statute and, hence, is not a tax benefit for the purpose of the main benefit test. Further, we note that the potential for needing to report on every subscription by every investor within 30 days would be a significant administrative burden for the investment management industry.

We understand that the reporting process schema is currently being developed by the EU. Further guidance on this process and how information will be shared by tax authorities would be particularly useful by the end of the year, so as to give taxpayers and intermediaries sufficient time to develop/modify internal reporting systems as required.

Finally, to reiterate a point made throughout this response, to assist taxpayers with interpretation of the regime, we would again request that HMRC’s guidance include as many examples as possible (such as those included in the Appendix to this paper) detailing how HMRC would view the Directive being applied.

Appendix 1: Practical examples of common arrangements

Example 1 – Securities lending transaction



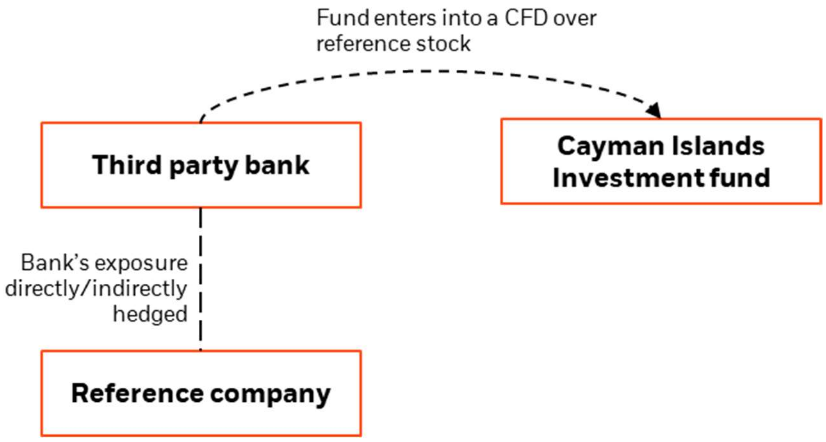
Relevant facts:
An EU incorporated fund entity holds all the constituent elements of an index (the "Index Fund"), including holding stock in a specific European company (the "Stock"). The Index Fund loans the Stock to a borrower through an agent in return for collateral and income in the form of a borrowing fee. The incremental income from these fees allows the Index Fund to better track the target index by offsetting transaction fees and other running costs. The fee additionally compensates the fund for the remote risk of loss should the borrower go out of business before the securities are returned, and due to market movements, the value of collateral held has fallen and/or the value of the securities on loan has risen.

The borrower may on-lend the Stock to one/a number of borrowers, without the Index Fund's knowledge since the transaction is a full transfer of title. There are potentially transactions that the ultimate borrower may undertake with the Stock that could generate a tax benefit for the ultimate borrower.

If a dividend is paid during the period when the Stock is lent out, any dividend withholding tax applied to the manufactured dividend payment received under the lending agreement is such that the Index Fund is no better off than had the physical stock been maintained by the Index Fund.

Application of DAC 6:
Where the ultimate borrower of the Stock receives a tax benefit related to an overall arrangement involving the Stock, the EU Index fund could be seen as an intermediary in that arrangement. However, on the basis that it would be impossible for the EU Index Fund to know with any level of certainly who the Stock is ultimately lent to or how or why that borrower is using the Stock, there would be no obligation for EU Index Fund to make a report.

Example 2: Trading on Contracts for Difference ("CFDs")



Relevant facts:
An investment fund incorporated in the Cayman Islands (the "Cayman Fund") enters into a CFD over shares of a company incorporated in the EU (the "Reference Company") against which it needs to post a certain amount of collateral. The CFD allow the Cayman Fund a flexible means to gain exposure to the financial performance of the shares in the Reference Company without having to fund the full cost of acquiring the entire reference position.

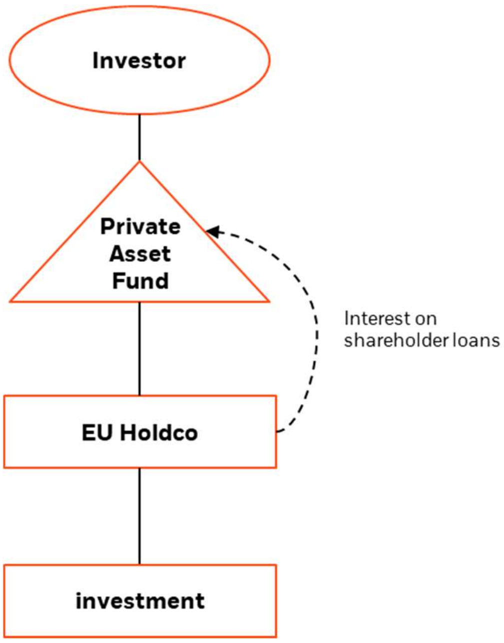
The Reference Company is in a jurisdiction that applies either a stamp tax on shares or charges non-resident capital gains in relation to gains on shares.

The Cayman Fund does not need to file or pay stamp taxes or capital gains tax in the jurisdiction of the Reference Company as a result of the CFD.

Application of DAC 6:
In assessing whether the main benefit test applies, a hypothetical alternative transaction often needs to be inferred so as to gauge whether, in comparison, any tax benefit has been obtained. In relation to this arrangement, it may be that acquisition of the shares in the Reference Company directly could be the hypothetical alternative. However, this may not be a fair comparison as the economic outcomes of the two transactions differ, in that entering into a CFD requires less capital outlay than the acquisition of the equivalent of shares in the Reference Company. Therefore, it is possible that the main benefit test is not satisfied.

Additionally, the ISDA under which the CFD is enter into should not be seen a standardized document under Hallmark A3, as it is negotiated between the manager of the Cayman Fund and the relevant bank/broker, such that it has become sufficiently customised. Therefore, irrespective of the conclusion reached regarding the main benefit test, no hallmark is met. Therefore, no report is required in respect of the arrangement.

Example 3: Private asset fund structure



Relevant facts:

A private asset alternative investment fund is established as an EU Limited Partnership (the "Private Asset Fund") which is treated as tax transparent in its jurisdiction of establishment. The Private Asset Fund makes certain long-term investments via a holding company incorporated in the EU ("EU Holdco"). EU Holdco is funded by a combination of equity subscriptions and shareholder loan funding.

EU Holdco is subject to a robust set of targeted tax rules in its jurisdiction of tax residence regarding interest payments on the shareholder loan (i.e. interest deductibility limitation rules, anti-hybrid rules and transfer pricing).

Interest payments on shareholder loans are fully tax deductible in EU Holdco and payable to the Private Asset Fund from the EU Holdco. The limited partners in the Private Asset Fund are a mix of global investors made up both taxable and tax-exempt entities.

Application of DAC 6:

A benefit is received by the above structure by virtue of EU Holdco receiving a full tax deduction for the interest on the shareholder debt that is used to capitalise the entity. This benefit is in comparison to the case of the entity being fully equity funded. However, on the basis that EU Holdco is subject to a robust set of targeted tax rules regarding the taxation of interest deductions, such a benefit is fully intended by legislation. Therefore, no reporting is required under DAC 6.