

**[Draft] agenda for the meeting on 2 December 2015 between the trade associations and HMRC/HMT on the impact of a hybrid mismatch rule on stock lending and repo transactions**

- 1) Introductions
- 2) Trade associations to provide a brief recap of the previous work undertaken with HMRC/HMT on this workstream and to explain the objectives for today's meeting.
- 3) HMRC/HMT to provide a summary of the work which has taken place at the OECD on stock lending and repo transactions since the publication of the OECD's interim<sup>1</sup> report in September 2014 to get to the OECD's final recommendations published on 5 October 2015<sup>2</sup>.
- 4) HMRC/HMT to:
  - (a) confirm when the UK's summary of consultation responses to the HMRC/HMT consultation (available [here](#)) published on 3 December 2014 entitled "Tackling aggressive tax planning: implementing the agreed G20-OECD approach for addressing hybrid mismatch arrangements" is likely to be published and what it will say on stock lending and repo transactions.
  - (b) provide a summary of the expected legislation in draft Finance Bill 2016 on stock lending and repo transactions (and, to the extent possible, the wider hybrid mismatch rule).
- 5) Trade associations to respond on HMRC/HMT's comments under items (3) and (4) and to reiterate the importance of practical rules which do not impact ordinary course business.
- 6) Discussion of examples 1.26 to 1.35 (see document attached) in the OECD's final recommendations published on 5 October 2015 explaining the operation of the hybrid financial instrument rule.
  - Example 1.29 (Interest paid to a trading entity)
    - Paragraph 3 – "The fact that A Co may treat the amount of interest paid under the asset sale agreement as taxable should not affect the amount of the adjustment required under Country B law".
    - Paragraph 6 – "the hybrid financial instrument rule looks only to the *expected* expense incurred in respect of the acquisition of a trading

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<sup>1</sup> "Neutralising the effects of hybrid mismatch arrangements" published by the OECD on 16 September 2014 (available [here](#)).

<sup>2</sup> "Neutralising the effects of hybrid mismatch arrangements" published by the OECD on 5 October 2015 (available [here](#)).

asset in the ordinary course of its business provided the taxpayer is fully taxable on the net return from those trading activities”.

- Examples 1.31 to 1.34 – members would appreciate further guidance on how the rules interact with foreign tax credits.
- 7) Next steps and what further work by the trade associations would be useful.
- 8) Members are encouraged to ask any further questions on the following areas:
- impact on stock lending and repo transactions.
  - the operation of the hybrid mismatch rule in the UK.
  - the BEPS project more generally.