

Dear All,

As you may be aware, the Department of Finance last month launched a Public Consultation on the implementation into Irish law of the EU Anti-Tax Avoidance Directive (ATAD) provisions dealing with the limitation of interest deductions (i.e. the 30% of EBITDA interest restriction) and anti-hybrid provisions. The deadline for responding to the consultation is **18 January 2019**. The consultation paper can be accessed by clicking [here](#).

As you may further be aware, it is becoming increasingly apparent that Ireland will likely have to introduce the interest restriction rules with effect from January 2020. In light of the potentially far-reaching implications this will have on Irish corporate treasury centres and the raising of finance by Irish tax resident companies more generally, it is the IACT's intention to respond to certain key aspects of the consultation.

To fully harness the expertise and input of our members, we would like to invite interested parties to a roundtable discussion to be hosted on **11 January at 08:00 in the offices of Deloitte, Earlsfort Terrace, Dublin 2** to share thoughts and discuss the IACT's response.

Please let us know if you are interested in participating in the formulation of the IACT's response by contacting Michele Fogarty at info@treasurers.ie to confirm your attendance. If you are unable to attend in person you may submit any queries or comments by email to info@treasurers.ie

For those that are interested in participating, we would be grateful if you could review the consultation paper and consider in particular the below specific questions:

1. The ATAD allows for the grandfathering of loans concluded before 17 June 2016 (i.e. interest on loans entered into before 17 June 2016 will continue to be deductible as normal into the future). This exclusion however does not extend to modifications to such loans after that date. What type of modifications should be capable of being made without impacting on the grandfathering? For example, if a floating interest rate clause is renegotiated in light of the future end of LIBOR, should that impact the grandfathering of a loan? **See question 36.**
2. The ATAD allows Member States to bring in certain relieving provisions. One such a provision is to have regard to the leverage ratio of the consolidated group ("group" for accounting purposes). There are two types of rules that can be implemented and Ireland must choose one. The impact for different groups depending which rule is chosen can be enormous. **See Question 38.** Which rule would be best for local treasury entities in Ireland?
3. The 30% limit can be applied at the level of a group (a "group" for tax purposes) rather than on a company by company basis. Ireland however has many different types of "groups" for tax purposes. What definition would be most suitable from a corporate treasury perspective? **See questions 31 to 33**
4. Member States can choose not to apply the 30% limitation to certain "financial undertakings". **Question 39** asks whether the exemption should apply to regulated financial undertakings only, or whether it should apply also to non-regulated undertakings which carry on the same activities (e.g. should an in-house bank be excluded in the same manner as a regulated retail bank)?
5. It is not only a deduction for "interest" that will be limited. It also includes costs "economically equivalent" to interest, such as hedging losses, FX losses, arrangement fees, finance leases (the finance cost element). What practical difficulties might arise from such a wide "interest" definition? **See question 41**
6. The consultation also covers the introduction of anti-hybrid rules in Irish tax law, and there are also a number of other consultation questions. Don't hesitate to let us know if there are any other questions you feel we are best placed to provide insight on and respond to.

Kind regards

Dympna Donnelly
President
Irish Association of Corporate Treasurers