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**Commentaries Specific to Section 3 (“Global anti-base erosion proposal”) of the Public Consultation Document: Addressing the Tax Challenges of the Digitalisation of the Economy – carve-out of tax exempt investors**

Dear Mr Saint-Amans,

We welcome the opportunity provided by the OECD to comment specifically on Section 3 on “Global anti-base erosion proposal”, and in particular highlight the much needed scope limitations that must be incorporated in this section, should such proposal on anti-base erosion be further pursued.

**1. Scope of the consultation document**

Although the document is overall stated to relate to the tax challenges of the digital economy, we noted that section 3 of the document suggests a broader application with references to entities and/or activities that are “subject to no or low taxes in the jurisdictions where those entities are established” simply because “it would be difficult, if not impossible, to ring-fence the digital economy from the rest of the economy for tax purposes”.

**2. A carve out of tax exempt investors**

Whilst we understand the stated objective of the OECD of “protecting the tax base of the parent jurisdiction as well as other countries where the group operates by reducing the incentive to an intra-group financing...that strip profit from high to low tax entities within the same (MNE) group”, there is no application of such concern to the tax exempt investors that invest in companies that they do not themselves operate as they are not protecting any tax base at home given their domestic exemption.

It is commendable that the OECD has recognized that careful consideration will need to be given to certain exempt investors, such as pension funds, government entities that are intrinsically non-taxable such as sovereign wealth funds and other exempt taxpayers / investors which would be adversely affected by such proposals. These institutions primarily earn income from dividends and interest as a means to fund pensions or build their country's reserves by setting aside investments to benefit the country's economy and its citizens. It is considered not only appropriate but critical for such exempt investors to be carved out entirely from any such new base erosion concept.

Such measures would be consistent with both (i) supporting public policy on long term savings as reflected under domestic laws as well as exemptions granted for foreign interest and dividends already available in many reciprocal arrangements spelled out in various Tax Conventions and (ii) promoting import / export neutrality of capital deployed by institutional investors globally to support investment into infrastructure and other important sectors.

### **3. Collaboration between tax exempt investors and the OECD to date**

The pension and sovereign wealth fund sector, represented by a global group of tax exempt investors, including the signatories to this submission, have worked closely with the OECD during the drafting and roll out of the original BEPS project. We believe that we have, as members of this sector, articulated the fact that our business models do not support or facilitate profit shifting, nor do they support inappropriate access to double taxation treaties. Rather, they remain concerned with maintaining the integrity of the exemption model in the prevention of double taxation (amongst other concerns).

It is noted that the BEPS project made significant and necessary progress addressing concerns with the model treaty as well as in relation to international profit shifting. We consider that concerns on profit shifts by tax exempts as institutional investors or in relation to double taxation treaties have been addressed by the OECD under the BEPS actions that have been taken to date (i.e. revisions to the OECD Model tax Convention to further expand and clarify applicability of treaty to pension funds, administrators, governmental bodies, instrumentalities etc.; non-CIV examples under action 6; and the OECD's final report on Neutralizing the Effects of the Hybrid Mismatch Arrangements and in particular example 1.8 elaborating already on payments to a sovereign wealth fund).

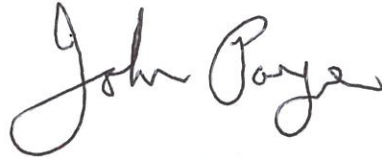
Allowing a revisit of such concerns and tackling of any perceived mischief of cross border hybrid instruments (such as not already tackled by BEPS action item 2 and others) would be counterproductive and further risk future double taxation on capital invested.

We hope that the comments provided are useful and would be available to assist in developing any specific exemptions or carve-outs as needed under the current proposal. If you have questions or would like further information regarding any of the points or concerns above, please contact any of the signatories below.

Yours sincerely,



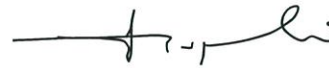
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