QUOTED COMPANIES ALLIANCE

Quoted Companies Alliance

Proposals for Taxation Reform

2017 Budget

Contents

QUOTED COMPANIES ALLIANCE – INTRODUCTION AND CONSTITUENCY

We are the Quoted Companies Alliance, the independent membership organisation that champions the interests of small to mid-size quoted companies. We campaign, we inform and we interact to help our members keep their businesses ahead. Through our activities, we ensure that our influence always creates impact for our members.

Small and mid-size quoted companies tend to have market capitalisations below £1 billion. There are approximately 1,600 small and mid-size quoted companies on the Main List and quoted on AIM and ISDX, which comprise 86% of all UK quoted companies. The total market capitalisation of the small and mid-size quoted company sector in the UK is £247.4 billion (as of September 2016). The total turnover of the small and mid-size quoted company sector is £165 billion (as of October 2015).

Small and mid-size quoted companies employ approximately 1.3 million people (as of February 2016), representing 5% of private sector employment in the UK.

The members of the Quoted Companies Alliance Tax Expert Group, who compiled these proposals after discussions with our quoted company members, can be found in Appendix D.

The Quoted Companies Alliance Share Schemes Expert Group also supports these proposals. A list of the group members is available in Appendix D.

For further information about our organisation, contact:

Tim Ward
Chief Executive
Quoted Companies Alliance
6 Kinghorn Street
London
EC1A 7HW

Telephone:	020 7600 3745	Email:	tim.ward@theqca.com
Fax:	020 7600 8288	Website:	www.theqca.com

EXECUTIVE SUMMARY

The ability of small and mid-size quoted companies to obtain and maintain funding for economic growth is a crucial issue for the UK economy. Our proposals are designed to help inspire private sector growth and employment and focus on the following areas:

1. Creating a simple and reliable tax system

The UK has the reputation of having one of the most complex tax systems in the world. We fully support the work of the Office of Tax Simplification (OTS) to explore ways to simplify it. We are also very supportive of the Government's reduction of Corporation Tax rates. Nonetheless, existing and new tax legislation is still increasing in length and complexity, which is raising the cost of compliance for UK companies. Furthermore, domestic legislation is being impacted by the OECD's BEPS framework, such as particularly complex proposed restrictions on interest deductibility.

We have become increasingly concerned that some areas of tax legislation impose a disproportionate compliance burden on small and mid-size quoted companies. In this document we make the case for creating a **small-cap threshold** that would exempt small and mid-size quoted companies from these rules either by increasing the size threshold beyond which these rules apply, or by allowing small and mid-size groups to voluntarily publish their annual tax strategy, so that such companies would then be rewarded with a light compliance touch in relation to these matters. We have included detailed proposals on these areas.

We also believe that much certainty could be gained from introducing a **binding, paid-for clearance/ruling process** which HMRC could use as a small revenue-raising mechanism. We have included suggestions on how this can be achieved.

Further simplification benefits could be obtained by introducing a **withholding tax relief regime applicable to interest payments**, effectively extending the treatment set out at Section 911 of the Income Tax Act 2007. We have included a proposal on how this treatment could also be applied to interest payments made in situations where the double taxation treaty passport scheme is not in operation.

We also propose that provisions are put forward regarding **transfer pricing**, **size tests**, the **tax treatment of employment income clawback** and that the process of **electronically registering employee share plans** is improved and simplified.

2. Encouraging long-term investment and funding for growth

With the Government exploring how to encourage long-term investment and growth in UK companies, we believe that it would be important to focus on **capital gains tax (CGT) reform for Entrepreneurs' Relief**.

We welcome the introduction of the new Investors' Relief which should help to encourage investment from external parties who value reduced CGT rates over income tax relief. We also agree with the recent change and restriction applicable to "Employee Shareholder Shares", but continue to encourage measures which widen employee share ownership.

We continue to propose the **removal of the arbitrary 5% threshold for CGT Entrepreneurs' Relief in respect of shares held by employees/officers**. We explain in detail, including specific examples of small and mid-size quoted companies, the practical difficulties of the 5% Requirement, which show the need to address this area for growing businesses.

We also propose a number of alternative measures which would help mitigate the negative effect of the 5% test on small and mid-size quoted companies if such test must be retained, such as **aligning the treatment of Enterprise Management Incentives (EMI), Save As You Earn (SAYE) and Company Share Option Plan (CSOP) share option schemes and extending Entrepreneurs' Relief to earn outs.**

We also propose **considering the extension of the EMI size qualification criteria** to that introduced for the comparable SME "notifiable state aid" R&D relief.

The Government could also consider introducing rules which would prevent founder shareholders from losing their entitlement to ER in situations where their shareholdings are diluted due to the introduction of new external investors. For example, the **5% test could be amended to be more consistent with the substantial shareholdings exemption**.

Any such concessions would encourage wider employee share ownership and align employee and management goals in driving growth.

Further employee share ownership could be encouraged **by relaxing some of the requirements of the Company Share Option Plan (CSOP)**, as suggested by the OTS.

We also suggest **enhancing the rules for using the Enterprise Investment Scheme (EIS) and Venture Capital Trusts (VCT)** to ensure that small and mid-size quoted companies are able to raise the finance they need to grow and create employment.

3. Creating a level playing field for equity and debt

The tax treatment of raising equity versus debt finance has been a key feature of debates on the causes and consequences of the 2008 financial crisis. We suggest that **the costs of raising equity should be tax deductible**, in order to create a level playing field and encourage more companies to raise equity finance. Case law in the VAT area already supports this principle and aligning the direct and indirect tax treatment would achieve greater consistency in the tax system.

We have included detailed proposals of how this relief could work, as well as a comparison of the tax treatment of raising equity across 19 European countries, which highlights the UK's extreme position on this matter. We estimate that the cost to the Exchequer in any year would be approximately £75 million.

Alternatively, or as a potential transitional measure, we also propose that the **cost of raising equity could be deductible by being included within the £2 million *de minimis* threshold** (as set out in the proposed restrictions on interest deductibility).

SUMMARY OF PROPOSALS

Creating a simple and reliable tax system		
Issue	**Proposals**	**Appendix**
Establish a binding ruling process	Introduce specialist teams to consider ruling requests for Capital Gains Tax and international tax matters	**A.i**
Small-cap threshold	Lift the threshold at which certain reporting requirements and disclosures apply (e.g. transfer pricing, Diverted Profits Tax), so that they are the same as for country-by-country reporting, to relieve compliance burdens for small and mid-size quoted companies. As an alternative, allow small and mid-size quoted companies to voluntarily self-certify and publish their tax strategy to be exempt from the application of these rules.	**A.ii**
Withholding tax regime	Introduce new rules to allow UK persons to make interest payments gross or at treaty rates where the person reasonably believes, at the time the payment is made, that the payee is entitled to relief in respect of the payment under double taxation arrangements.	**A.iii**
Transfer Pricing	Confirm that medium-sized groups are not required to compile contemporaneous evidence to support pricing policies, unless they wish to. Alternatively, confirm that HMRC will not seek to discount the value of evidence compiled at a later date following the commencement of HMRC enquiries.	**A.iv**
Size Tests	Align size definitions for tax purposes as far as possible.	**A.v**
Employment Income Clawback Provisions	Clarify the tax treatment of payments made by employees to their employers to clawback previous year income. Confirm the availability of relief from income tax and national insurance. Issue guidance on how HMRC intends to approach such clawback situations.	**A.vi**
Electronic Registration of Employee Share Plans	Continue improvements to the process of electronically registering employee share plans and filing annual returns online. Allow agents to register/self-certify plans on behalf of companies.	**A.vii**

Encouraging long-term investment and funding for growth

Capital Gains Tax (CGT) Reform of Entrepreneurs' Relief	Remove the condition that the officers/employees of a company must have at least 5% of the voting rights and 5% of ordinary share capital in the company in order to qualify for the relief ('5% Requirement'). Alternatively, as a transitional measure, remove some of the material anomalies that can deny relief, as follows: • Consider amending the 5% test so that it only needs to be met for a continuous 12 month period during the five year period ending with the date of sale or alternatively align with the substantial shareholdings exemption (SSE) such that relief would be available if such a test were met on a sale within the two years leading up to the ultimate sale. • Commence the 12 month period, during which the qualifying tests must be met, from the earlier of the date shares are acquired or the date the relevant option is granted (rather than exercised), under HMRC "tax-advantaged" Save As You Earn (SAYE) and Company Share Option Plans (CSOP) schemes, in the same way as now applies to Enterprise Management Incentives (EMI). • Align the limits for EMI so that they are the same as for R&D tax relief. • Ensure that share sellers who qualify for Entrepreneurs' Relief continue to do so even if they receive consideration in cash, shares or loan notes in the form of an earn-out. • Amend legislation to confirm that the exercise of options on the same day as the shares are sold or otherwise diluted will not cause Entrepreneurs' Relief to be lost.	**B.i**
Relaxation of the CSOP requirements	Encourage employee share ownership in smaller companies by relaxing the following requirements of the CSOP: • Allow the exercise price to be at a discount or at nil cost (while keeping the income tax relief only for any increase over the market value at grant). • Remove the three year holding period before which options can be exercised with income tax relief.	**B.ii**

	• Consequentially remove all leaver and other early exercise requirements. • Replace the existing £30,000 limit for all subsisting options with a rolling three year £30,000 limit.	
Enhancing the rules for EIS/VCTs	Introduce more dedicated resources to reduce the complexity of the rules and improve timescales.	**B.iii**
Creating a level playing field for debt and equity		
Costs of Raising Equity To Be Tax Deductible	Allow the costs of raising equity to be tax deductible. Introduce a £1.5 million upper limit in order to target the relief appropriately to SMEs. Allow the relief to be applicable for both IPO and secondary fundraisings. Allow all types of fundraising costs associated with raising equity to be tax deductible. Allow tax relief for the costs of raising funds to be available in the year these were incurred. Allow the relief to be available once the implementing legislation comes into effect. Allow the relief to apply to costs incurred as a result of an aborted fundraising. As a transitional measure, consider counting equity raising costs towards the £2 million *de minimis* threshold above which interest deductions are potentially restricted under the new rules to apply from 2017.	**C.i**

APPENDIX A

DETAILED PROPOSALS - Creating a simple and reliable tax system

Our members consistently advise us that more simplification and certainty of the tax system would greatly help develop their growth potential. In this section, we set out proposals to assist the Government in creating a simple and reliable tax system which will reduce the compliance burdens on small and mid-size quoted companies.

We also set out proposals for reforms to clarify the tax treatment of clawback provisions; and the need to improve the process of electronic registration of employee share plans.

i. Binding Ruling Process

We believe that much certainty could be gained from introducing a binding, paid-for clearance/ruling process along similar lines to those provided in the Netherlands and Luxembourg, which HMRC could use as a small revenue-raising mechanism.

We believe that at a time when the UK will want to be seen as an attractive place in which to do business, such a mechanism could prove to be a useful tool to demonstrate that.

In the Netherlands, we understand that there is a dedicated team within the Rotterdam office of the Dutch Tax Authorities that deals with requests for binding rulings. There is no cost to the tax payer in seeking or obtaining a ruling but there is a clearly set out list of required information to enable the rulings team to fully consider the request. The team deals only in matters pertaining to International Tax, including, but not limited to, application of participation exemption, permanent establishment and foreign tax payer rules. Rulings are considered by one Inspector of Taxes with another co-signing once the ruling has been granted.

In Luxembourg, an advance tax clearance mechanism is in place to allow tax payers to apply for a ruling on all aspects of Luxemburg tax law. The clearance must be submitted prior to the implementation of the proposed structure or transaction and include an accurate description of the facts as well as the anticipated tax treatment. Applications for clearance attract a fee of between €3,000 and €10,000, depending on the complexity of the matter, and are considered by a panel of six Inspectors of Tax. The panel has two months to consider the application. Where the clearance is granted, the ruling is binding on the tax authorities for a period of five tax years from the date of implementation.

Proposals for reform

In line with the ruling processes summarised above, we would suggest that similar, specialist teams be identified to handle requests for rulings. Given the breadth of UK taxes that could be covered by such a regime, we would recommend two separate specialist teams be established: the first to consider ruling requests for capital gains tax matters such as Entrepreneurs' Relief (given the inherent uncertainties discussed elsewhere in this document); and the second to consider matters under the banner of international tax.

It will, of course, be necessary to ensure that any proposed clearance/ruling process is not in breach of state aid regulations by virtue of being perceived to create unfair competition. It should be noted that both the Netherlands and Luxembourg have recently amended their own ruling processes (to those set out above) following challenges from the European Commission.

ii. Small-Cap Threshold

We are concerned that some areas of tax legislation impose a disproportionate compliance burden on small and mid-size quoted companies. In particular, certain pieces of legislation appear to have been introduced and targeted at the largest multi-national groups. However, the legislation is drafted in a way that it becomes necessary for small and mid-size quoted companies to incur substantial costs to discharge their obligations under the relevant rules, even though any adjustment leading to additional taxes for HM Treasury is extremely rare in these cases.

For example, the recently introduced Diverted Profits Tax (DPT) rules are complex, but the size limits within the legislation are such that many small and mid-size companies are required to undertake expensive exercises to review matters and consider whether any action is required. The cost of undertaking a detailed review of the DPT position for a small or mid-size company would be typically in the range of £10,000 - £30,000.

Other areas which can or are likely to cause disproportionate costs for small and mid-size quoted companies include the transfer pricing rules (which are considered further below), the proposed interest relief restrictions (groups not covered by the £2 million *de minimis* limit will need to prepare potentially complex calculations to consider whether any restriction could apply), and the controlled foreign company rules (which can involve consideration of a series of complex gateway and exemption tests).

Proposals for reform

We suggest that measures are introduced to increase the threshold at which certain reporting requirements and disclosures apply to small and mid-size quoted companies. We propose that the size limit is aligned with the definition used for country-by-country reporting purposes (i.e. annual group revenue in excess of €750 million).

As an alternative, consideration could be given to allowing small and mid-size quoted companies to voluntarily self-certify and publish their tax strategy to be exempt from the application of certain rules (e.g. Diverted Profits Tax, transfer pricing rules).

iii. Withholding Tax Regime

Further simplification benefits could be obtained from extending the treatment set out at Section 911 of Income Tax Act 2007, which applies to withholding taxes on royalties paid by a UK person who reasonably believes, at the time the payment is made, that the payee is entitled to relief in respect of the payment under double taxation arrangements. This treatment could also be applied to interest payments made in situations where the double taxation treaty passport scheme is not in operation.

Proposals for reform

We suggest that new rules are introduced to allow UK persons to make interest payments gross or at treaty rates where the person reasonably believes, at the time the payment is made, that the payee is entitled to relief in respect of the payment under double taxation arrangements.

iv. Transfer Pricing

For medium-sized groups (as defined in the legislation), transfer pricing rules provide a partial exemption, though HMRC still has the power to direct transfer pricing adjustments.

This leaves medium-sized groups in an untenable position of not knowing for certain whether or not transfer pricing adjustments may ultimately be required. The result is that such companies are compelled to collate, compile and update transfer pricing documentation and incur the necessary costs of doing so, in order to protect themselves from potential challenge by HMRC.

However, we understand that the number of HMRC directions issued to medium-sized entities is minimal indicating that the uncertainty of the application of these rules to medium-sized entities serves little purpose. Our members continuously tell us that the onerous cost of compliance outweighs any commercial benefit or any possible increase in tax revenues.

Proposals for reform

We suggest that the position for medium-sized groups is clarified. This could be achieved by raising the threshold at which the transfer pricing rules apply.

Alternatively, HMRC should confirm that a taxpayer in these circumstances is not required to compile contemporaneous evidence to support pricing policies unless they wish to and that HMRC will not seek to discount the value of evidence compiled at a later date following the commencement of HMRC enquiries.

- **Practical difficulties with the Transfer Pricing rules**

Below are anonymised examples of companies that have experienced practical difficulties applying the transfer pricing rules, which illustrate the complexities and costs incurred by small and mid-size quoted companies:

Company A

Number of Employees - 500
Turnover - £100m
Market Cap - £40m

Company A's group has only UK to UK intercompany transactions, yet has to spend internal time and professional fees on UK transfer pricing documentation, which generates no benefit to the group or UK Exchequer.

Estimated extra cost to company in management time - £20,000
Estimated extra cost to company in advisor fees - £20,000

Company B Company B is a UK sub-group of a German parent, which operates in a number of territories globally, manufacturing and distributing video camera equipment. The other territories in which it operates have tax rates equal to or higher than the UK. The group is classed as medium for UK transfer pricing purposes. The UK sub-group was recently reorganised and had to rework its UK transfer pricing support documentation at a cost of some £40,000 (management time and professional fees), with future annual costs anticipated to refresh the documentation. **Estimated extra cost to company in management time** - £20,000 **Estimated extra cost to company in advisor fees** - £20,000

Company C Company C, a UK aviation group, is medium for UK transfer pricing purposes and has annual costs (management time and professional fees) of some £25,000 to maintain/refresh transfer pricing documentation. This documentation has never been requested or queried by HMRC since the introduction of the new transfer pricing regime. **Estimated extra cost to company in management time** - £12,500 **Estimated extra cost to company in advisor fees** - £12,500

v. Size Tests

Tax legislation includes various differing tests of size for various purposes. For example, different definitions are used for Transfer Pricing, Research & Development Tax Credits, Country-by-Country Reporting and the Senior Accounting Officer rules.

Proposals for reform

These varying definitions complicate matters and add to compliance costs, particularly for mid-cap groups that may be medium or large for some purposes, but not for others. We suggest that size definitions for tax purposes should be aligned as far as possible.

vi. Employment Income Clawback Provisions

Our experience is that clawback provisions – which allow an employer to recover remuneration or other benefits, including in the form of shares already paid to an employee – are becoming more common in incentive arrangements. This trend is not surprising as regulatory authorities and corporate governance codes standards now require remuneration committees and board to consider incentive arrangements for certain individuals to include clawback provisions. Employers, although not legally required to introduce such provisions, see clawback provisions as a positive development and are now beginning to follow these good practice principles. Therefore, we can expect clawback provisions to be common in incentive arrangements and can expect to encounter them routinely in the tax context.

That prospect, however, presents some difficulty because, currently, the tax treatment of any payment made by way of recovery of remuneration under a clawback provision appears to be highly uncertain.

The Martin Case (Martin v HMRC [2013] UKFTT 040 (TC), which was subsequently appealed to the Upper Tribunal, reported at [2014] UKUT 0429 (TCC)), has shed some light on the tax treatment of a payment made by an employee under a clawback provision. The conclusion reached by both tribunals, that in certain circumstances an employee may use amounts which are clawed back by an employer to offset certain tax liabilities, is helpful. However, many questions remain unanswered and this presents significant uncertainty for many businesses and taxpayers at a time when clawback provisions are becoming more common.

The decision in the Martin Case was based on the interpretation of the particular contract. It remains unclear exactly what constitutes negative taxable earnings and when a payment made under a clawback provision will constitute negative taxable earnings. It is highly unsatisfactory that (even where a clawback payment does constitute negative taxable earnings) employees may not get effective relief against tax that has already been paid on the remuneration that is clawed back, in particular where the employee is required to repay the employer on a gross, rather than a net, basis. This uncertainty could contribute to company and employee resistance to inserting clawback provisions.

Additional issues can also arise if the remuneration to be clawed back is not a cash sum but takes a different form, for example shares. Moreover, there is the question of what effect clawback has on National Insurance contributions of the employer and the employee – a point that is not at all addressed by the Martin Case – and Corporation Tax.

We are aware that some practitioner groups have raised the subject of clawback provisions with HMRC, particularly in the aftermath of the Martin Case, and that guidance from HMRC was expected, but no such guidance has yet been published.

Proposals for reform

Against this background, we believe that the interests of our members, small and mid-size quoted companies, and the interests of employers, employees and business more generally, would be best served if the Government clarified the tax treatment of clawback payments and, in particular, the availability of relief from Income Tax and National Insurance. HMRC should, at the very least, publish some guidance on how it intends to approach the taxation of clawback payments. In our view, the advantage of clarifying the situation now, before claims under clawback provisions become more common, would be to provide the required certainty without significant cost to the Exchequer.

We would be happy to consult with the Government and HMRC on the extent and form of any clarification and/or any proposed changes.

vii. Electronic Registration of Employee Share Plans

2015 saw the long-awaited introduction of electronic registration of employee share plans and the electronic return of annual return information. Our members supported this, seeing benefits for companies, advisors and HMRC alike.

However, experience of the new system has been mixed. There was no repeat of the significant delays and difficulties from the 2015 filing, but the process of registration remains a hurdle for many small and mid-size quoted companies and those based outside the UK. The difficulties include:

- Process to register an authorised agent is difficult and unclear;

- Smaller companies outsource PAYE and struggle to understand the PAYE portal “in house”;

- Many grouped companies will not have a relevant PAYE registration and need, or believe they need to create one causing additional work;

- Low resourced financial controllers or finance directors do not have time to read all the relevant guidance;

- “Unapproved” plans are frequently registered as CSOPs in error because they are “Company Share Option Plans” and the “Other” is unclear and confusing. For example, the Employee Shareholder Scheme (ESS) is also often being registered as a CSOP because companies believe it to fall within the 'tax advantaged' registration procedure, however it should, under current rules, be registered under "Other". A separate return for ESS would be preferable and the term "Other" changed to something like "Unapproved option plan and share acquisitions" to make it clearer for users;

- More generally, the required information to be inputted into the annual return templates, and the related guidance, is not always clear, in particular where tax advantaged awards are rolled over.

Proposals for reform

The relevant templates and accompanying guidance should be reviewed to increase simplicity and clarity. We would propose continued consultation with representative bodies and advance notification to changes in the schedules and questions for the online reporting and registration procedures so that employing companies are in a position to make the appropriate reports and filings with minimal errors.

Moreover, we propose that HMRC allows agents to register and self-certify plans on behalf of companies if authorised by the company which established the plan and if the company wishes to take advantage of this possibility. This would save time and resource, particularly for small and mid-size quoted companies. Likewise, agents should be able to de-register following a plan termination (e.g. takeover). ERS agents should be able to enter a plan termination date to close a plan registration (which at present can only be done by the company).

To this effect, the agent would need formal confirmation from the client that the statements in the return are true to the best of their knowledge and belief and that the agent submitting the return is merely an agent and not responsible for certifying the scheme. This would be similar to the confirmations used to authorise an adviser to deal with corporate tax issues; we believe that it should be relatively straightforward for HMRC to extend the procedure to these proposed agent arrangements.

APPENDIX B

DETAILED PROPOSALS – Encouraging long-term investment and funding for growth

i. Capital Gains Tax (CGT) Reform of Entrepreneurs' Relief

Introduction

We note the Government's recent commitment to delivering long-term productivity growth based on a strong economy with a strong industrial strategy at its heart.

We believe that well-targeted and cost-effective capital gains tax (CGT) reliefs to encourage equity investment in private and public companies will demonstrate that the Government is prepared to act quickly and decisively to promote entrepreneurial activity. It is generally accepted that the alignment of employee and shareholder interests promotes long-term growth in corporate profitability and, therefore, a higher tax yield for the Exchequer.

We note that changes to Enterprise Management Incentives (EMI) implemented in the Finance Act 2013, particularly the extension of Entrepreneurs' Relief to shares acquired through EMI options, was welcomed and effectively removed the 5% shareholding requirement in this particular instance.

We welcomed the introduction, in March 2016, of an investors' relief for external investors in unlisted trading companies for newly issued shares. This is significant in encouraging investment in smaller companies, including those on AIM and ISDX. We have been campaigning over the past five years for a fundamental extension to Entrepreneurs' Relief and we were pleased to see that the Government agrees that incentives are needed to encourage such investment.

However, "cliff edge" tests and criteria and the lack of availability of Entrepreneurs' Relief to employees continue to be mentioned by our members as a critical issue. We note that the recent case of Castledine vs Revenue and Customs (Entrepreneurs' Relief: meaning of 'ordinary shares')[1] highlighted the potential situation where the presence of deferred shares can reduce an entrepreneur's holding from an initial 5% to a value below that, resulting in failed Entrepreneurs' Relief claims. This can therefore be restrictive to both entrepreneurs and companies that would otherwise be able to benefit from the relief.

One of the practical difficulties that small and mid-size quoted companies have been facing due to the Entrepreneurs' Relief rules is the issue of dilution. As we comment in further detail below, often founding shareholders have his or her shareholding in the company diluted by the introduction of external investors where their holdings dip below the 5% threshold. We believe that the rules should allow for the founding shareholders not to be penalised in this situation.

Furthermore, we believe that the Government should continue to extend the availability of Entrepreneurs' Relief. The economic benefits of this measure are difficult to quantify; however, it is evident that the advantages for small and mid-size companies would increase, as these companies would then be able to attract the necessary talent and investment to grow and create more employment, which is essential to the

[1] Castledine v Revenue and Customs (Entrepreneurs Relief : meaning of 'ordinary shares') [2016] http://www.bailii.org/uk/cases/UKFTT/TC/2016/TC04930.html

UK's economic growth. As we demonstrate below, there are many case studies which demonstrate difficulties faced by small and mid-size quoted companies in this regard, which could otherwise be turned into successful growth and investment plans, encourage liquidity, as well as help to generate further economic return to HM Treasury.

The History of Entrepreneurs' Relief

The introduction of Entrepreneurs' Relief was a reaction to the severe criticism accompanying the abolition of Business Asset Taper Relief. Overall, that abolition has had a negative impact on investment in small and mid-size quoted companies.

The announcement to introduce Entrepreneurs' Relief was made on 24 January 2008 (almost four months after the Pre-Budget Report which prompted such an outcry). The Finance Bill, which implemented this measure, was published only two months later. In view of this timetable, the parliamentary draftsmen evidently decided to use the old retirement relief (abolished in 1999) as a basis for the new provisions.

Therefore, the current definition of "personal company" is similar to, but not the same as, that for retirement relief. The key differences are the removal of the requirement for involvement in a "managerial or technical capacity" and the additional requirement to hold 5% of the ordinary share capital in the company, as well as 5% of the voting rights.

The 5% figure appears to have been lifted from retirement relief with little thought being put into whether or not this was appropriate. HMRC's representative to the House of Lords Select Committee on Economic Affairs, when asked to explain why this level was set, stated that "where to draw the line in determining the appropriate percentage was a matter for Ministers, but 5% had been in retirement relief". The relief was said to be directed at "those with a material stake in a company and those who play an active role in it"[2].

Proposals for Reform

Our proposals (sections a. to e.) focus on removing some of the restrictions on Entrepreneurs' Relief to help small and mid-size businesses better incentivise their employees to own shares in their companies, which will help these companies to grow.

a. Removal of the 5% Requirement

Share-based employee incentive packages are a key tool in a company's recruitment and retention arsenal, as well as the most tried and tested way to align the performance of the individual with the performance of the business. Such awards are ever more important in an environment where the employer's ability to increase salaries is restricted.

Providing Capital Gains Tax relief to employees and officers who own shares in the business stimulates growth in the UK economy by giving employees an incentive to grow the value of the business for which they work. It also helps close the "them and us" perception gap that often exists between management and employees, something highlighted recently by the Prime Minister as a key social issue.

[2] Jane Kennedy, Public Bill Committee, 8 May 2008 (PM), column 136

Employees’ involvement in their businesses through ownership of shares is considered to be a significant contributor to employee engagement and economic growth. In many cases, it can represent a considerable exposure in terms of employees’ own disposable wealth and is a risky one too, as their own financial prospects are already linked via their employment to the company. While the effect of the annual exemption is useful, a favourable headline rate for employees to align with owners would encourage further engagement and ultimately help drive growth through alignment of employee and shareholders’ interests.

The personal company definition restricts businesses from incentivising most employees and is a brake on growth. The personal company definition in Entrepreneurs’ Relief means that an individual must hold 5% of the voting rights and 5% of the ordinary share capital in the company in which he/she holds shares to qualify for relief (the “5% Requirement”). This is in addition to the need to be an employee or officer of the relevant company.

The 5% Requirement also penalises employee shareholders working within high-capital-requirement, high-growth businesses, as the need of those businesses for significant outside investment is more likely to result in those shareholders actually involved in the running of the business having to accept dilution of their rights (often to below the qualifying 5%) or not being able to negotiate 5% packages due to the high value of such a holding. This is at odds with the overarching aim of promoting entrepreneurial business activity. Very few employees will hold as much as 5% of their employing company's share capital. In fact, it could only occur in small companies with 20 or fewer employees.

We note that the 5% Requirement also can result in inequality between companies and LLPs. It is possible for a member of an LLP to qualify for relief on the sale of any part of his/her interest in the LLP, regardless of his/her percentage interest in the LLP. This inequality demonstrates that the business world has moved on since retirement relief was phased out in 1999 and questions again the appropriateness of the 5% Requirement for companies.

Such tension could perhaps be tolerated if there was a well-reasoned argument behind the 5% Requirement. However, the limit appears to be an arbitrary way in which to define a ‘material stake’ in a business – it was simply lifted from the old retirement relief with no critical thought as to whether it was appropriate.

There is also now an unnecessary inconsistency between Entrepreneurs’ Relief and the new Investors’ Relief. Employees are subject to the 5% Requirement, while the Investors’ Relief does not contain this restriction. This would seem to prioritise outside investment over encouraging employee ownership, and would seem to run against other government policy – as reflected in the Employee Ownership Trust legislation.

The 5% Requirement creates unnecessary costs and difficulties for small and mid-size businesses in practice. Costs are created through lost time and distraction in negotiating transactions and the delays caused in dealing with a tax point, rather than concentrating on the commercial factors and business.

For those reasons, we consider that the 5% Requirement is inappropriate in the modern business world and propose that it is removed for employees and officers of the business.

Below are some general examples of the practical difficulties that small and mid-size quoted companies have faced:

- **Founding shareholders who have been diluted over time**

This can happen for various reasons. From the experiences of advisors on our Tax and Share Schemes Expert Groups, the most common situation is where shares are passed down to the next generation of management. To stop further dilution, founder shareholders place blocks to maintain their entitlement to tax relief. This can be detrimental to the business by discouraging changes in a company's capital and shareholder structure.

We believe that a founding shareholder should not be penalised for having his or her shareholding in a company diluted by the introduction of external investors where their holdings dip below the 5% threshold.

- **Obtaining new funding**

Deals for new funding can result in continuing managers each holding less than 5% of the company's capital. The commercial transaction can be complete with the price agreed and the funding ready. However, in our experience, far too much time can be spent in negotiations considering the Entrepreneurs' Relief points.

- **Specific examples**

We have collated and anonymised several examples of small and mid-size companies that have had practical difficulties with the 5% Requirement. The following examples illustrate the need to address this area for growing businesses:

Company A

Number of Employees - 250
Turnover - £60m

Company A restructured as part of a new investment by a third party corporate and, as part of the restructuring, certain key employees and directors also invested significant sums in Company A and purchased shares. Commercially, the relevant individuals were meant to have less than 5% of the voting rights, but the restructuring involved new holding companies so that the individuals could have more than 5% of the voting rights and ordinary share capital in the relevant holding companies and so should qualify for Entrepreneurs' Relief. New shareholders in the future could also be accommodated to qualify for Entrepreneurs' Relief, but further careful planning and negotiation with the other shareholders would be needed.

Estimated extra cost to company in management time - £30,000
Estimated extra cost to company in advisor fees - £60,000

Company B

Number of Employees - 20
Turnover- £6m

Company B had its advisors restructure a transaction to ensure that the relevant individuals had 5% of the voting rights. Commercially they were only meant to have 4.23% of the voting rights. Therefore, the shares that were issued did not have straightforward rights and the deal was made much more complex by this issue. Furthermore, soon after this transaction, an incoming new Chairman wished to also be included within the planning. This aim (to qualify for Entrepreneurs' Relief) was felt to be uncommercial by existing management and created tension within the management team.

Estimated extra cost to company in management time - £20,000
Estimated extra cost to company in advisor fees - £25,000

Company C

Number of Employees - 200
Turnover - £40m
Market Cap - £25m

Company C had inadvertently broken the personal company test for a short period, while in the process of a share reorganisation. It was due to a technicality in the "ordinary" share capital requirement.

Estimated extra cost to company in management time - uncertain over the management cost, however it cost the shareholder £1.8m in lost Entrepreneurs' Relief over the 12 months
Extra cost to company in advisor fees - £10,000

Company D

Number of Employees - 100
Turnover - £30m
Market Cap - £25m

Company D was formed 10 years ago by two entrepreneurs and some key managers. It floated five years ago in order to grow the business and raise additional share capital. The key managers, who are critical to the success of the business, were diluted to below 5%; hence they did not qualify for the Entrepreneurs' Relief, despite having invested both financial and human capital in a high growth business. Yet the original entrepreneurs currently continue to benefit from the relief.

Estimated extra cost to company in management time - £20,000
Estimated extra cost to company in advisor fees - £20,000

Company E

Company E is currently considering how to reward employees and executives (and in particular an incoming CEO) and align their longer term goals to those of the current owners and the company. A form (or forms) of share scheme is recognised as ideal for this purpose. An inordinate amount of time, effort and cost has arisen to protect those existing shareholders' holdings for Entrepreneurs' Relief.

Company F

Number of Employees - 200
Turnover - £20m

Company F's balance sheet was not attractive to lenders as there was a large shareholder debt present. The shareholder proposed to capitalise debt; however, the form of share (which would have been commercially acceptable and accounted for/disclosed as shareholder funds) would have been classed as "ordinary share capital". The issue of these new ordinary shares would have diluted all the managers' holdings below 5%. There was an enormous amount of time and effort, and not inconsiderable professional cost expended, in debating and solving an issue that was far removed from the very laudable commercial aim of trying to attract new funding to the business.

Estimated extra cost to company in management time - very significant
Estimated extra cost to company in advisor fees - in excess of £20,000

Company G

Company G, which operates share option schemes, is highly acquisitive – issuing shares to buy businesses. It has one executive with a 5% shareholding and he has had to top up his interest from time to time to keep the 5% holding as further shares are issued. In the meantime, the worry of getting numbers right gives the company secretary extra work.

The company concerned would say it is wrong that this executive is penalised for the success and growth of the company. Once someone has met the conditions, he/she should retain the relief so long as he/she remains an employee/director – however small his/her shareholding becomes. EMI options do not lose their relief because a company grows in size; neither should Entrepreneurs' Relief be lost in the same way.

Company H

Company H had to restructure its share capital to get round the fact that B Preference Shares, which had no right at all to dividends (and were effectively subordinated interest free debt rather than equity), were arguably "ordinary share capital" (and not fixed rate preference shares). The need to arguably take the B Preference Shares into account when determining whether the 5% condition meant that certain employees, who had, in practice, an equity interest of greater than 5%, would have been prevented from obtaining Entrepreneurs' Relief without the share capital restructuring.

Estimated extra cost to company in advisor fees - £5,000 - £10,000

Company I

At exit, the CEO of Company I had share options but did not have the required 5% of fully paid up shares. Upon a successful exit, Company I's start-up CEO was penalised at a tax rate more than twice the 10% tax rate applied to the company founders, despite being involved very early on and having worked full-time with the company for nine years.

b. Amending the 5% test

As noted before, there is an unnecessary inconsistency between Entrepreneurs' Relief and the new Investors' Relief. Namely, the latter has no lower percentage limit, although founders should be considered and remain key stakeholders rather than external investors, and being able to successfully attract external equity investment as the business grows should not lead to them being punished and in a worse position than those external investors. The founders are still the key stakeholders to drive growth and employment.

Therefore, we believe that the Government should consider introducing rules which would prevent founder shareholders from losing their entitlement to Entrepreneurs' Relief in situations where their shareholdings are diluted due to the introduction of new external investors.

For example, the 5% test could be amended to be more consistent with the substantial shareholdings exemption (SSE), such that the test would need to be met over a 12 month period beginning within the five years ending on the date of the sale. This would encourage wider employee share ownership and align employee and management goals in driving growth. This would help mitigate situations, for instance, where a founder is diluted below 5% due to an acquisition or fundraising but otherwise has met the test for a continuous period of at least 12 months and would have qualified on a disposal in a previous two year window.

We acknowledge that HMRC might consider it necessary to introduce some form of target anti-avoidance rule (TAAR) to restrict the 'banking' of Entrepreneurs' Relief to genuine commercial circumstances rather than contrived structures.

c. Alignment of treatment of EMI, SAYE and CSOP share option schemes

To align the treatment of employees who own shares with those companies that have been able to introduce tax-advantaged Save As You Earn (SAYE) and Company Share Option Plans (CSOP) schemes, we propose that Entrepreneurs' Relief is applied from the date an option is granted (rather than exercised), in the same way as now applies to the Enterprise Management Incentives (EMI) scheme, so long as qualifying conditions are still met. For all other instances, the relief should be applied from the date the shares are acquired.

The differentiation between the option schemes creates a penalty for corporate growth. Typically the limits (e.g. employee numbers) mean companies outgrow EMI schemes, and the alternatives of SAYE and CSOP create a number of reduced benefits and inevitable demotivation for employees to create growth.

We propose that HM Treasury considers the alignment of the limits for EMI so that they are the same as for R&D tax relief – specifically the 500 employee limit (that is, lifting it from the current 250 employees) and the limit that can be raised (increase from £3 million to £5 million). This change creates a simplification of rules and helps businesses to avoid mistakes due to confusing limits. It will also become particularly important and relevant with the advent of IFRS16 in 2018/2019, which will require most operating lease assets to be placed on a company's balance sheet.

In our view this would address:

- A real need in growing small and mid-size quoted companies to retain and reward their employees throughout a company's growth cycle;
- The need to encourage talented people to join small, but not start-up companies, to grow to a sustainable size; and
- Accord to the Government's own policy of encouraging wider employee share ownership.

We must note that other limits cause problems to small and mid-size quoted companies, depending on their individual circumstances and characteristics; this includes the gross assets test £30 million limit, which could be increased to reflect inflation.

d. Entrepreneurs' Relief treatment of non-cash consideration

- **"Marren v Ingles" rule and cash earn-outs**

To ensure that Entrepreneurs' Relief operates on a logical and coherent basis, we request that a further category of qualifying business disposal is included within Entrepreneurs' Relief – the disposal of an earn-out which has arisen from the disposal of shares which, had the consideration not consisted of an earn-out, would itself have qualified for the relief.

In current law, where shares are sold and the consideration consists of or includes a cash earn-out, the net present value of the earn-out is treated as consideration received on the sale. Where the disposal meets the conditions for Entrepreneurs' Relief, the earn-out portion of the consideration, along with any cash received upfront, will form part of the consideration for the share disposal which qualifies for the relief.

However, in the event that a sum is subsequently received under the earn-out which is higher than the value estimated at time of the share disposal, that excess is treated as arising on the disposal of the earn-out, not on the disposal of the shares, and so is not eligible for Entrepreneurs' Relief. Sellers qualifying for Entrepreneurs' Relief ordinarily expect that the whole amount received under an earn-out will be eligible for the relief (subject only to the £10 million lifetime cap on eligible gains). An earn-out is a legitimate, commercial method of valuing a business being acquired and there is no commercial logic as to why cash sums received under an earn-out should be treated any differently from cash sums paid on completion of the share sale. We, therefore, propose that disposals of earn-outs in cases such as this are treated as qualifying business disposals for Entrepreneurs' Relief purposes.

The following example illustrates the need to address this issue:

Company A

Number of Employees - 75
Turnover - £20m

Market Cap - £5m

Company A had to seek advice on the application of Entrepreneurs' Relief to different types of consideration, including a cash earn-out element. Individuals related to Company A assumed that they would receive Entrepreneurs' Relief on all proceeds, including under the commercially negotiated earn-out, whereas in fact the profit on the earn-out would not qualify for Entrepreneurs' Relief and would be subject to capital gains tax at the prevailing rate.

Estimated extra cost to company in advisor fees - £15,000

We note that any concern regarding whether an earn-out is properly to be treated as further consideration for the value of shares is effectively already addressed in HMRC guidance at ERSM110940. If the earn-out passes the tests in that guidance, HMRC accepts that the earn-out is capital and not income and that it is further consideration for the sale of the shares. If that is accepted (and the earn-out is not 'disguised future reward') then there is no reason why its tax treatment should be any different from the tax treatment of any upfront cash proceeds.

We also note that it is usually the buyer that insists on an earn-out rather than the seller (a seller would normally prefer all consideration up front rather than over time and uncertain as to amount) – so an earn-out is without exception a purely commercial construct based on the negotiating position and strength of the parties rather than a 'tax based tool' (and if used as a tax based tool then the principles set out in ERSM110940 already protect HMRC in this regard).

- **Shares and loan notes received as consideration**

We are also aware of problems which arise when individuals receive shares or loan notes as consideration for the sale of their private companies and who do not own at least 5% of the ordinary share capital in and/or are not employees of the company that acquired the shares ('the acquiring company') at the time that those subsequent shares or loan notes are sold or redeemed.

Where shares or non-qualifying corporate bonds (non-QCBs) are received, the portion of the gain from the original sale related to this consideration is 'rolled-over' into the base cost of the new shares/loan notes. When those shares or loan notes are subsequently disposed of, the rolled-over gain then falls into charge as part of the overall gain/loss arising on their disposal.

A similar effect arises where qualifying corporate bonds (QCBs) are received, except that in that case the gain is held-over until such time as the QCB is disposed of.

Due to the way that the Entrepreneurs' Relief rules are drafted, whether or not any resulting gain qualifies for relief depends on whether the individual holds 5% or more of the ordinary share capital in the acquiring company and is an employee of that company throughout the 12 months up to the date of the subsequent disposal or redemption. Hence, if the individual does not meet these tests, he/she will not qualify for the relief, even if he/she met the tests in relation to the original company at the time of the original disposal.

It is possible to elect under Section 169Q or Section 169R of the Taxation of Chargeable Gains Act (TCGA) 1992 to disapply the roll-over or holdover treatment respectively (and pretend that cash had been received as consideration instead). The effect is that Entrepreneurs' Relief is available on the full consideration received (provided the qualifying tests are met), but the gain is deemed to arise at the time of the original disposal and cannot then be rolled over into the new shares or loan notes acquired. However, unless sufficient cash has been received as part of the deal, individuals often do not have the resources to pay the resulting additional tax liability.

We believe that the way these rules work is having a distorting effect on share deal negotiations and, in some cases, is prohibiting sales from being agreed where the purchaser does not have sufficient cash to pay for the shares without issuing shares or loan notes and the vendor is unwilling to accept the tax consequences. A change in the rules would help to encourage further share sales which would feed growth in the 'real economy', given that it is only shares in qualifying trading companies that qualify for the relief.

Therefore, we propose that the Entrepreneurs' Relief rules are amended so that, where an individual meets all the qualifying conditions for the relief to apply on the disposal of shares, the whole of the gain arising on the disposal should qualify, whether or not an element of that gain is rolled-over into new shares or non-QCB loan notes or held over into QCBs. This could be achieved by amending Section 169I of the TCGA 1992 to provide for an alternative new condition (condition E) under which the disposal of shares or securities in a company could qualify for relief (i.e. where an earlier qualifying gain had been rolled over or held over into the shares or securities concerned). Sections 169Q and 169R could also then be repealed.

e. The 5% limit and dilution on the day of sale

The legislation on Entrepreneurs' Relief (as set out in Section 169I (6) of the TCGA 1992) provides the conditions which must be satisfied where employees are selling shares:

Condition A is that, throughout the period of 1 year ending with the date of the disposal —

(a) the company is the individual's personal company and is either a trading company or the holding company of a trading group, and

(b) the individual is an officer or employee of the company or (if the company is a member of a trading group) of one or more companies which are members of the trading group'.

'Personal Company' is defined in Section 169S (3) of the TCGA 1992 in the following terms:

(3) For the purposes of this Chapter "personal company", in relation to an individual, means a company-

(a) at least 5% of the ordinary share capital of which is held by the individual, and

(b) at least 5% of the voting rights in which are exercisable by the individual by virtue of that holding.

On a direct application of these conditions, it would seem that, if holders of share options exercise their rights and acquire shares on the date of sale (which would be considered to be the date of disposal), the percentage of share capital held by existing shareholders will be diluted. If this falls below 5%, the individuals will no longer be eligible for Entrepreneurs' Relief.

In response to the ICAEW's question on this issue, HMRC responded by confirming that the exercise of options on the same day would not cause the Entrepreneurs' Relief to be lost. As a result, the ICAEW guidance note[3] on Entrepreneurs' Relief and the legislation do not match up in terms of how this situation should be treated. We believe that legislation in this area should be clarified. It is not acceptable to be reliant on a major extra-statutory concession on so informal a basis.

ii. Relaxation of the Company Share Option Plan Requirements

The Company Share Option Plan (CSOP) is a simple, though not very flexible, tax-advantaged share scheme, which would be ideal for rewarding both managers and lower-paid employees in small companies that do not qualify for granting Enterprise Management Incentive (EMI) options. Many smaller companies find it difficult to introduce either of the tax-advantaged all-employee share plans – SAYE and Share Incentive Plans (SIPs) – because of the greater administration obligations for these plans and therefore higher administration costs, even if administered in-house. This is because they might need to hire an additional person to deal with this or pay professional advisers. CSOPs can be governed by a relatively simple set of rules and can be easily administered because there is typically little to deal with between the award (grant) of the option and the option exercise.

We believe that the CSOP legislation has not been sufficiently adapted to meet modern remuneration practice. Smaller listed companies nowadays often prefer to grant "Long-Term Incentive Plan (LTIP)" awards over the full value of shares, while the exercise price of a CSOP option must not be less than the market value of a share at the date of grant. One of the main reasons for this is that LTIPs use fewer shares to provide the same reward. This helps smaller companies who might lack of share availability due to lower liquidity in the shares or shareholder dilution limits.

In contrast, EMI options allow options to be granted with a discounted – or even zero – exercise price. As for CSOPs, income tax relief is only given in respect of any increase in the value of the shares over their market value on the date of grant.

HMRC statistics show that the number of participants granted CSOP options has fallen from 415,000 in 2000-2001 down to only 25,000 in 2013-2014.[4] This is largely due to the flexibility of the EMI schemes designed to encourage smaller companies to grow. However, mid-size companies, in terms of employees or capital still need support to grow and continue to recruit and retain employees. These falling numbers have not been compensated for by participation in all-employee share plans. While just over one million employees participated in each of SAYE and Profit Sharing Share Schemes (now replaced by SIPs) in 2000-2001, by 2013-2014 participation in SAYE and SIP had fallen to about 450,000 for each plan.[5] These plans are predominantly operated by the largest companies due to the administration costs and need for a liquid market in the shares.

Proposals for reform

We consider that the best way to encourage employee share ownership in smaller companies (which do not qualify for EMI) would be to relax the requirements of the CSOP and introduce more flexibility in a

[3] Available at http://www.icaew.com/~/media/Files/Technical/Tax/Tax%20news/TaxGuides/taxguide-112-er-final-at-25-jan-12.pdf
[4] Available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/464155/Table6-4.pdf
[5] Available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/464153/Table6-3.pdf

similar way to that recommended in the report of the Office of Tax Simplification (OTS) of its Review of Tax-Advantaged Share Schemes, published in March 2012[6].

In particular, the OTS report recommended (effectively for CSOP):

- Para 2.45: Allow the exercise price to be at a discount or at nil cost (while keeping the income tax relief only for any increase over the market value at grant).
- Para 2.55: Remove the three year holding period before which options can be exercised with income tax relief.
- Para 2.56: Consequentially remove all leaver and other early exercise requirements.
- Para 2.57: Replace the existing £30,000 limit for all subsisting options with a rolling three year £30,000 limit.

The additional cost to the Exchequer of these measures would be relatively low. However, the extra flexibility for design of CSOPs could substantially boost the levels of employee share participation and provide incentives to promote growth, in particular in small and mid-size companies.

iii. Enhancing the rules for the Enterprise Investment Scheme (EIS) and Venture Capital Trusts (VCTs)

We note the publication of HMRC's draft guidance on the Changes to the Enterprise Investment Scheme (EIS) and Venture Capital Trusts (VCT) rules introduced by Finance Act (No.2) 2015. Although we generally believe that this guidance has been adequately drafted and contains much needed clarifications as to how certain rules apply, we still believe that the EIS and VCT rules should continue to be refined and simplified to ensure that small and mid-size quoted companies are able to fully leverage venture capital schemes and thus raise the finance they need to grow and create employment.

We believe that the potential of EIS and VCTs are still not being fully realised. Consideration should be given to adjusting the rules so that venture capital schemes, such as EIS and VCT, are targeted at all growing companies, regardless of their age. We have seen examples of growth companies that have sought and received investment, but are ineligible to take advantage of EIS and VCT, due to the time limits imposed. We note that a longer history of trading is not an impediment to growth as opportunities may not have been previously available and the potential for growth may well still be dependent on obtaining funding for longer established companies. We believe that the time limit imposed could exclude companies that would genuinely benefit from investment and the funding of which would be in line with the overarching principles.

Furthermore, the changes introduced by the new rules on some of the options that were previously available, such as on acquisitions or the scale of the company, greatly limits the ways that smaller companies can use to grow. Regarding the scale, the rules focus on start-ups; this could limit institutional interest (i.e. VCT investors) as the scale of work needed to be done before investment increases whilst at the same time the size of potential investment decreases. In time this could also impact EIS investors as their performance will start to fall away as the quality of the investable universe weakens.

---

[6] Available at
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/198444/ots_share_schemes_060312.pdf

It is important to highlight that some of the conditions in the EIS/VCT rules may also be very difficult for small and mid-size quoted companies, particularly those regarding new products or geographical markets and skilled employees.

Determining whether a business has entered a new geographical market can be particularly difficult for technology companies, particularly those that do not have a defined geographical region. We therefore propose that more examples be used for companies operating in this sector in order to provide clarity for those businesses operating over the internet as to whether a new geographical region has been entered.

The manual states that a skilled employee is one who holds a higher education qualification of a Master's degree or above. However, this is often not the case for small and mid-size quoted companies, where many employees will hold up to a Bachelor’s degree. We believe that there are also few job roles within these companies that will require them to hold a qualification at Master's level or above. This can therefore make it difficult for many companies to satisfy the skilled employees condition. We therefore seek clarification as to the level of qualification required and ask that this be more reflective of many jobs within the workplace.

Moreover, whilst we appreciate the hard work provided by the inspectors within the Small Companies Enterprise Centre and their contribution in respect to venture capital schemes, we believe that the new rules have placed an additional, yet preventable, burden on many advance assurance applications. This had led to increased waiting time for responses, which have now stretched to between seven and eight weeks. This in turn has placed further constraints on companies seeking to raise financing for their businesses.

Proposals for reform

Whilst we understand many of the problematic aspects of these requirements listed above are tied to EU state aid rules, we believe that improvements can be achieved to reduce their negative impact on small and mid-size quoted companies. Namely, we believe that the issues of complexity and length of application of the rules should be addressed by HMRC.

We propose that HMRC increases its dedicated resources at the Small Companies Enterprise Centre to ensure that the complexity is reduced and timescales are brought down so that the service allows the venture capital schemes to achieve its objective of supporting small, growing companies.

We also would welcome the opportunity to continue working with HM Treasury and HMRC in exploring options to improve the application of the rules mentioned above to small and mid-size quoted companies.

APPENDIX C

DETAILED PROPOSALS - Creating a level playing field for equity and debt

i. Tax relief for the costs of raising equity

There is a specific entitlement to claim a tax deduction for costs incurred in raising debt finance, whereas the costs of raising finance through the issue of equity are not tax deductible. This represents an unnecessary and pronounced distortion in the tax system, which has been raised in a number of debates surrounding the causes and consequences of the financial crisis.

A review of the European Listings Regime (conducted following the March 2015 Budget in order to inform the debate on how markets can work better for firms of all sizes) recommended that consideration should be given to making equity issuance costs deductible for corporation tax purposes in order to promote greater long term stability and incentivise greater use of capital markets.[7]

The European Commission's Capital Markets Union Action Plan[8] also highlighted that addressing the preferential tax treatment of debt would encourage more equity investments and have financial stability benefits. Therefore the European Commission has recently proposed to support equity financing by examining and addressing the debt-equity bias.[9]

Reliance on debt finance is not a long-term solution for small and mid-size companies. There is a distinct need to shift the focus to incentivising long-term, permanent capital – equity finance. A tax relief for the costs of raising equity will level the playing field between debt and equity finance and encourage more companies to consider public equity. Fully leveraging the true potential of capital markets will ensure that small and mid-size quoted companies, which play a crucial role in the UK economy, are enabled to raise capital more cheaply and efficiently in a way that will generate employment and wealth, drive economic growth and support wider financial stability.

Growth companies primarily would benefit in practice from a tax relief on the costs of raising equity. As noted in a recent LexisNexis report:

> *During the first quarter of 2014, a fifth of the IPOs on AIM were carried out by companies in the pharmaceuticals & biotechnology and healthcare (pharma & biotech and healthcare) industry sector (3 IPOs), with the retail industry sector (2 IPOs) and the media & telecommunications industry sector (2 IPOs) together representing just over a fifth of the IPOs on AIM.*[10]

This analysis illustrates that recent market activity on AIM has been driven by real economy companies.

---

7 Capital Markets for Growing Companies – A review of the European listings regime, TheCityUK, King & Wood Mallesons, available at: http://www.thecityuk.com/research/our-work/reports-list/capital-markets-for-growing-companies-a-review-of-the-european-listings-regime/

8 European Commission Action Plan on Building a Capital Markets Union, available at: http://ec.europa.eu/finance/capital-markets-union/docs/building-cmu-action-plan_en.pdf

9 Capital Markets Union: First Status Report, available at http://ec.europa.eu/finance/capital-markets-union/docs/cmu-first-status-report_en.pd

10 Source: LexisNexis Report: Tracking the market: Trends in IPOs on AIM Q1 2014.

We have estimated that introducing a tax relief for the costs of raising equity would not be expensive to implement and would cost the Exchequer approximately £75 million over a 12-month period. We have calculated this figure based on the number of IPOs (129 of which 96 raised money) and further issues (954) on the London Stock Exchange's Main Market and AIM between 1 January 2015 and 31 December 2015, capping the relief at the £1.5 million per issue and assuming a corporate tax rate of 20%[11]. We have provided an analysis of these figures and our proposals for reform below.

For a small and mid-size company, the costs of raising equity represent a disproportionately large percentage of funds being raised and are, therefore, a major disincentive to seeking a listing on a public equity market. The UK is at a competitive disadvantage compared to other European regimes, such as Austria, Belgium, Bulgaria, France, Germany, Greece, Hungary, Italy, Luxembourg, the Netherlands, Norway, Poland, Portugal, Russia, Serbia, Spain, Switzerland and the Ukraine, which provide some form of corporation tax relief for raising equity finance. We have included our analysis of this in Table 1 below.

Furthermore, recent VAT case law[12] has confirmed that VAT on the costs of raising equity funding is deductible on input tax, if the company's activities are taxable. Hence, there is currently an inconsistency between direct and indirect tax.

Table 1 – Comparison of European regimes for tax relief for the costs of raising equity[13]

Country	**Is there any corporate tax relief for flotation costs?**	**Are the costs of issuing new equity generally deductible for corporation tax purposes?**
United Kingdom	No.	No.
Austria	Yes. Flotation costs are generally deductible for corporate tax purposes without any restrictions (cf. sec. 11 (1) (1) of the Austrian Corporate Income Tax Act).	Yes. The costs of issuing new equity are generally deductible for corporate tax purposes without any restrictions (cf. sec. 11 (1) (1) of the Austrian Corporate Income Tax Act).
Belgium	Yes. Flotation costs and, more generally, restructuring costs	Yes. In order to align the tax treatment of equity financing on the one hand and debt financing on the

[11] Our cost calculations assume that the costs of an IPO are 7.5% of the total amount of money raised and that the costs of a further issue are 5%. We have excluded companies on the International Main Market from the cost calculations in order to capture UK companies raising funds on UK public equity markets. However, no sectors were excluded from the analysis. The source of the data is the London Stock Exchange's New and Further Issues Statistics (available at: http://www.londonstockexchange.com/statistics/new-issues-further-issues/new-issues-further-issues.htm). The data analysed includes all new issues and the following types of further issues: offer for subscription, placing and open offer, placing for cash, rights and placing. The time period examined is from 1 January 2015 to 31 December 2015, which represents a full calendar year.

[12] See Kretztechnik AG v Finanzamt Linz, CJEC case C-465/03 (2005).

[13] Research conducted by the Quoted Companies Alliance between June and September 2016 (except Greece and Norway, October 2014).

Country	Is there any corporate tax relief for flotation costs?	Are the costs of issuing new equity generally deductible for corporation tax purposes?
	can be tax deductible if incurred to develop taxable income.	other, Belgium legislation provides for a notional interest deduction (“Déduction pour capital à risque” – “Aftrek risicokapitaal”). A fictious interest calculated on the “net equity” of companies or branches can be deducted for their cost of capital. The notional interest is calculated as risk-free interest with reference to 10 year government bonds. The rate to apply in tax year 2016 (income 2015) is 1.63% for large companies and 2.13% for small companies. The “net equity” is determined by adjusting the equity, primarily by deducting the tax book net value of any financial fixed assets that are grouped under “participations and other shares” on the company's balance sheet. There are other deductible items, such as the net equity assigned to foreign permanent establishments or non-Belgian real estate property.
Bulgaria	Yes. Flotation costs (i.e. costs incurred by a publicly traded company with regards to issuing new securities) are not subject to a specific tax regime in Bulgaria and are generally deductible for corporate tax purposes.	Yes. The costs of issuing new equity should generally be tax deductible for corporate tax purposes.
France	Yes.	Yes. The costs of issuing new equity are deductible expenses for the financial year in which the costs are incurred. The taxpayer may also elect to capitalise those costs and amortise them over a maximum period of 5 years. Generally there is no cap on the amount of the deduction that can be obtained. However, such costs are not deductible in specific cases where they are

Country	Is there any corporate tax relief for flotation costs?	Are the costs of issuing new equity generally deductible for corporation tax purposes?
		not incurred in the interests of the company, e.g. upon capital reduction followed by a capitalisation of retained earnings (which protects only the interests of shareholders). The deduction works as follows. The costs of raising equity are considered as general expenses and are included in the P&L of the company. In France, taxable income is equal to the difference between the annual profits and losses of the company. Also, there are 6 limitations to the deductibility of interests on debt paid by French companies (but there is no limitation to the deductibility of the costs of raising debt financing): – Related party interest rate must, in any case, be at arm’s length; – Thin-cap rules; – General cap to the deductibility of financial expenses; – M&A context; Specific limitation applies in case of debt-financed transactions between a member of a tax group (“intégration fiscale”) and its shareholder / a company controlled by the shareholder (that is not a member of the tax group); and – Anti-hybrid provisions: The 2014 French tax bill provides that the deductibility of interest paid to an affiliate would be subject to tax at least at 8.33% at the level of the lender. The measure aims at avoiding the use of hybrid instruments and low-tax jurisdiction.
Germany	Yes. Flotation costs (underwriting fees, management fees, selling	Yes. In general, all costs of issuing new equity are deductible for corporate tax purposes.

Country	Is there any corporate tax relief for flotation costs?	Are the costs of issuing new equity generally deductible for corporation tax purposes?
	concessions, legal fees and registration fees) for primary offerings are deductible as business expenses. The same is true for secondary offerings if they are conducted mainly in the interests of the company (this is usually the case).	Generally, there is no financial cap on the availability of the deduction. Only costs that are directly related to the acquisition of shares by shareholders (e.g. notarisation costs for a takeover agreement, if notarised separately) may be treated as a hidden profit distribution when paid by the company (and therefore not subject to relief). If the costs are not directly linked to the respective shareholders then the costs are deductible business expenses.
Greece	Yes.	Yes.
Hungary	Yes. Such costs are deductible as general expenses.	Yes. Such costs are deductible as general expenses.
Italy	Yes. Based on Italian accounting principles, flotation costs may generally be capitalised. In this case, they may be depreciated (and deducted) over five fiscal years.	Yes. Generally, there is no financial cap on the availability of the deduction. There is only a limit on the availability of the deduction of interest charges (net of interest income) which is a cap equal to 30% of EBITDA. The deduction operates as follows: – Under Italian accounting principles, the Italian company should capitalise costs incurred to increase the share capital and then depreciate these costs over a five year period. Such depreciation is deductible for corporate income tax purposes; – Under Italian accounting principles, the Italian company should capitalise costs incurred to increase the debts and then depreciate these costs over the duration of the loan. Such depreciation is deductible for corporate income tax purpose; – Interest charge deduction is subject to a cap

Country	Is there any corporate tax relief for flotation costs?	Are the costs of issuing new equity generally deductible for corporation tax purposes?
		(30% of EBITDA).
Luxembourg	Yes. Flotation costs are tax deductible as general expenses.	Yes. The costs of issuing new equity are considered as operating costs. In principle, they are tax deductible for the issuer for corporation tax purposes to the extent they are booked as expenses in the Luxembourg GAAP accounts of the issuer. However, if the new equity finances assets that generate exempt income, the portion of the costs that finances the exempt income is non-tax deductible.
Netherlands	Yes. Costs that do not qualify as equity (e.g. management and underwriting commission) are allowable as deductions under Dutch jurisprudence.	Yes. Dutch corporate income tax law approves the deductibility of incorporation costs and costs related to the issue of capital.
Norway	Yes. Listing costs are deductible in the year the costs are incurred.	Yes. The cost of raising new equity is deductible in the year the cost is incurred. There is no cap on the amount of costs for which a deduction may be claimed.
Poland	No.	Yes. The law is not clear on the tax deductibility of the costs of issuing new equity. According to the most common interpretation, public and similar costs (such as court fees, administrative charges, stock exchange fees and notary fees) related to the issue of new shares on a stock exchange are not tax deductible. Other costs, such as advisory costs, are tax deductible.

Country	Is there any corporate tax relief for flotation costs?	Are the costs of issuing new equity generally deductible for corporation tax purposes?
Portugal	Yes. Pursuant to Portuguese GAAP, which follows IAS, such costs do not meet the criteria to be treated as intangible assets and therefore should be treated as a cost in the P&L. From a corporate tax perspective, such costs are therefore tax deductible, on the basis that they are necessary for the company to run its business.	Yes. Any administrative and similar costs incurred are tax deductible on the basis that such costs are necessary for the company to run its business.
Russia	Yes. Expenses associated with effecting an issue of securities (in particular the preparation of an issue prospectus, the manufacture or acquisition of blank forms and the registration of securities) as well as expenses associated with the servicing of own securities are accounted for as non-sale expenses for Russian tax purposes (Article 265, Item 1, Sub-item 3 of the Russian Tax Code). The above rule applies only for the issue of securities by the taxpayer. If, however, there are costs for setting up a subsidiary, these costs may become tax deductible only after disposal (retirement) of the subsidiary shares. All expenses recognised for Russian tax purposes should be properly documented and economically justified (Article	Yes. Expenses associated with effecting an issue of securities (in particular the preparation of an issue prospectus, the manufacture or acquisition of blank forms and the registration of securities) as well as expenses associated with the servicing of own securities are accounted for as non-sale expenses for Russian tax purposes (Article 265, Item 1, Sub-item 3 of Russian Tax Code). All expenses recognised for Russian tax purposes should be properly documented and economically justified (Article 252, Item 1).

Country	Is there any corporate tax relief for flotation costs?	Are the costs of issuing new equity generally deductible for corporation tax purposes?
	252, Item 1).	
Serbia	Yes.	Yes.
Spain	Yes. No restrictions on the tax deductibility of flotation costs are established in the Corporate Income Tax ("CIT") Law, as long as they are duly recognised in the P&L.	Yes. No restrictions for the tax deductibility of issuing new equity are established in the CIT Law, as long as they are duly recognised in the P&L. Generally, there is no financial cap on the availability of the deduction.
Switzerland	Yes. The general principles regarding costs of issuing new equity should apply to the tax deductibility of flotation costs. That is, such costs can either be capitalised and depreciated over five years or booked directly as an expense, in both cases with tax deductible effect provided that the costs are economically justified.	Yes. The costs for incorporation, capital increase and general company organisation can either be capitalised and depreciated over five years or booked directly as an expense – in both cases with tax deductible effect provided that the costs are economically justified. On 1 January 2013, the accounting rules of the Swiss Code of Obligations were revised. A transitionary period was in place until 1 January 2015. As of this date, it will no longer be admitted to capitalise incorporation, capital increase and organisation costs, but rather such costs have to be treated immediately as an expense. In this regard, it is worth mentioning that the Swiss parliament recently agreed on introducing a Notional Interest Deduction on part of the equity (optional on a cantonal level and subject to certain conditions) in the context of the Corporate Tax Reform III. Depending on the outcome of a possible referendum the revision is expected to enter into force in 2019/2020.
Ukraine	No.	Yes. As there are no direct restrictions in the Tax Code regarding deductibility of the costs of issuing new equity, one may assume that such costs are

Country	Is there any corporate tax relief for flotation costs?	Are the costs of issuing new equity generally deductible for corporation tax purposes?
		generally tax deductible. However, the Ukrainian tax authorities may try to challenge deductibility claiming that such costs are not directly related to the issuer's business activity.

Proposals for reform

We believe that all costs in connection with the issue of new shares as part of a public offering (either at IPO or in a secondary fundraising) should be tax deductible. This would help increase the flow of equity funds into the SME sector, which will create jobs and tax revenues within the UK. To provide some context, we have gathered data on fundraisings from the London Stock Exchange for both AIM and the Main Market in 2015. A summary of both data sets is outlined below in Tables 2 and 3, followed by a detailed outline on how the measure should be targeted.

Table 2 – Further Issues on the London Stock Exchange (1 January 2015 – 31 December 2015) [14]

Market	Count of Further Issues
AIM	589
UK Main Market	365
Grand Total	**954**

Table 3 – New Issues on the London Stock Exchange (1 January 2015 – 31 December 2015) [15]

Market	Type of New Issue	Count of the Types of New Issue	Count of New Issues that Raised Money
AIM	IPO	33	33
	Not IPO[16]	28	16
AIM Total		**61**	**49**
UK Main Market	IPO	50	43
	Not IPO	18	4
UK Main Market Total		**68**	**47**
Grand Total		**129**	**96**

[14] Source: The London Stock Exchange – Further Issues (www.londonstockexchange.com/statistics/new-issues-further-issues/new-issues-further-issues.htm)

[15] Source: The London Stock Exchange – New Issues (www.londonstockexchange.com/statistics/new-issues-further-issues/new-issues-further-issues.htm)

[16] For example, re-admission to the market or transfer with a fundraising.

a. Introduce a £1.5 million upper limit in order to target the relief appropriately to SMEs

We recommend that a limit of £1.5 million is placed on the costs incurred by a company for raising equity finance which would be eligible for corporate tax relief. The cost of raising equity finance by a UK company on any of European stock exchange would be deductible within the cap.

The £1.5 million cap will direct corporate tax relief to mainly small and mid-size quoted companies far more than large listed entities, as these companies tend to raise higher sums of money which results in greater fees associated with the fundraising. In our opinion, for sake of simplicity, no issue size criteria should be attached to the relief.

b. Allow the relief to be applicable for both IPO and secondary fundraisings

We note that a number of small and mid-size companies raise funds through public equity markets as bank finance and bond markets are not available or are too expensive. In addition, some small and mid-size companies are looking to access investors who invest in quoted companies at a more attractive valuation than might be available through private equity. Primarily, companies usually decide to float to accelerate growth or development capital.

We believe the measure should, for that reason, target costs arising from any fundraising/issuance event, thus including both new (IPOs) and further issues (secondary fundraisings), subject to the £1.5 million threshold mentioned above.

For policy reasons, we consider that it will be important to target the relief to issuances where funds will be employed in the business. We suggest no corporate tax relief should be available where funds raised are received solely/mainly by existing shareholders. This would allow companies to seek and access recapitalisation that allows them to grow their business without the process being overly onerous. It should be noted, however, that the costs of raising debt are allowable even if this is for the purpose of repaying existing debt.

c. Allow all types of fundraising costs associated with raising equity to be deductible

We believe that it is relatively straightforward to make the distinction between expenses incurred as a direct result of fundraising and other fees (e.g. ongoing fees for maintaining a listing), especially as quoted companies have robust accounting records and controls to clearly identify the costs incurred as a result of a fundraising.

We believe that all types of fundraising costs associated with raising equity (e.g. underwriting fees, professional advisors' fees, direct listing costs, marketing costs, PR, etc.) should be allowed for the purposes of this measure, subject to the £1.5 million threshold mentioned above. Outlined in the tables below is an example of professional costs associated with a company seeking an AIM quotation and the annual costs associated with maintaining that quotation (see tables 4 and 5 below).

We understand that HM Treasury could be concerned with the possible risk that a tax relief measure for the costs of raising equity would lead to higher professional fees in the markets (e.g. for advice or underwriting). The same question could be asked for the professional costs associated with debt financing, as these are already tax deductible, but we are not aware of costs increasing or being inflated as a result of tax deductibility. Professional fees fluctuate in line with factors such as competition, market conditions and risks. Given the competitive nature of the market for professional services, we do not anticipate a rise in costs as a result of such a measure.

Table 4 – Estimated Costs of Floating on AIM[17]

Reporting Accountants	£120,000
Company's Lawyers[18]	£90,000 - £130,000
NOMAD's Lawyers	£25,000 - £50,000
NOMAD/Broker Corporate Finance Fee[19]	£30,000 - £150,000
Broker's Commission[20]	4.25% - 6% of funds raised **or** 0.5% - 1% for funds not raised
Printing	£10,000
Registrars[21]	Minimum annual charge £4,000 - £5,000
Public Relations	£36,000 - £72,000
LSE AIM Admission Fees	£7,600 - £85,750

Table 5 – Estimated Costs of Maintaining a Quotation on AIM[22]

Financial PR	£43,000
Broker/NOMAD annual fee (including analyst research)	£25,000 - £90,000
IR Press Cutting Service	£5,400
Basic Website Service	£6,000
LSE Regulatory News Service	£13,500 - £25,000
Analysis of Share Registrar	£1,500
Registrar	£8,500
Auditors	£10,000
Annual Report Design	£5,500
LSE AIM Annual Fee	£6,050
LSE AIM Further Issues Fee[23]	£0 - £42,875
Share Option Service	£15,500

d. Allow tax relief for the costs of raising equity to be available in the year these were incurred

In terms of the time scale for claiming these deductions, we believe that, to avoid excessive complication, tax relief for the costs of raising equity should be available in the year these were incurred.

[17] Quoted Companies Alliance research conducted between June and October 2014.

[18] These costs are associated with producing the admission/placing document and exclude other costs, such as due diligence/corrective agreements.

[19] Varies depending on market capitalisation/size of the company.

[20] Varies depending on market capitalisation/size of the company.

[21] Excludes other charges such as the AGM.

[22] Quoted Companies Alliance research conducted between June and October 2014.

[23] Varies depending on market capitalisation/size of the company.

e. Allow the relief to be available once the implementing legislation comes into effect

We also recommend that the relief should be available immediately (i.e. once legislation comes into effect) to avoid any perceived market distortion.

f. Allow the relief to apply to costs incurred as a result of an aborted fundraising

In the event of an aborted fundraising, we believe that professional costs incurred prior to an incomplete issuance should be allowed for tax relief in line with and in similar terms to costs which would be allowable if an equivalent debt financing process failed. There are a limited number of issuances that are aborted. We believe allowing all costs related to successful and cancelled issuances will reduce the level of complexity when drafting the measure.

g. Allow equity costs to be deducted up to the limit set for debt cost deduction (£2 million)

We believe that as an alternative or transitional measure, the Government should consider introducing measures to allow the cost of raising equity to be deductible but included within the £2 million *de minimis* threshold, as set out in the proposed restrictions on interest deductibility in the UK Government's May 2016 consultation document[24].

---

[24] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/525923/tax_deductibility_second_consultation_v2.pdf

APPENDIX D

MEMBERS OF THE QUOTED COMPANIES ALLIANCE TAX EXPERT GROUP

Neil Pamplin (Chairman)	**Grant Thornton UK LLP**
Paul Fay (Deputy Chairman)	Crowe Clark Whitehill LLP
Ray Smith	Clyde & Co LLP
Sam Dames	CMS Cameron McKenna LLP
Daniel Hawthorne	Dechert
Vijay Thakrar	Deloitte LLP
Emma Bailey Shofiq Miah	Fox Williams LLP
Neil Armstrong Holly Edwards	Frontier Developments PLC
Matthew Rowbotham	Lewis Silkin
Catherine Hall	Mazars LLP
Tim Crosley	Memery Crystal LLP
Nick Burt	Nabarro LLP
Mark Joscelyne	Olswang
Michael Bell	Osborne Clarke
Tom Gareze Catherine Heyes	PKF Littlejohn LLP
Alf Orban Aidan Sutton	PricewaterhouseCoopers LLP
Richard Jones Dan Robertson	RSM

MEMBERS OF THE QUOTED COMPANIES ALLIANCE SHARE SCHEMES EXPERT GROUP

Fiona Bell (Chairman)	**RSM**
Philip Fisher Andy Goodman	BDO LLP
Colin Kendon	Bird & Bird LLP
David Daws	Blake Morgan
Caroline Harwood	Burges Salmon
Nicholas Stretch	CMS Cameron McKenna LLP
Jennifer Rudman	Equiniti
Danny Blum	Eversheds LLP
Rory Cray	FIT Remuneration Consultants
Emma Bailey Shofiq Miah	Fox Williams LLP
Isabel Pooley Amanda Stapleton	Grant Thornton UK LLP
Matthew Ward	Hewitt New Bridge Street
Sara Cohen	Lewis Silkin
Liz Hunter	Mazars LLP
Stephen Diosi	Mishcon De Reya
Stuart James	MM & K Limited
Graham Muir	Nabarro LLP
Andrew Quayle	Olswang
Sue El-Hachmi Karen Cooper	Osborne Clarke
Stephen Chater Robert Postlethwaite	Postlethwaite & Co
Samantha Lenox	PricewaterhouseCoopers LLP
Martin Benson	RSM
Dave Bareham	Smith & Williamson LLP
Barbara Allen Anika Chandra	Stephenson Harwood
Justin McGilloway	Wedlake Bell LLP