The International Regulatory Strategy Group (IRSG) is a practitioner-led body comprising leading UK-based representatives from the financial and professional services industry. It is an advisory body both to the City of London Corporation and to TheCityUK.

We welcome the European Commission's consideration of the issues raised by the OECD's work on Base Erosion and Profit Shifting (BEPS). The far reaching BEPS Action Plans aimed at addressing double non-taxation are critical in re-establishing confidence in the taxation of all businesses and ensuring a level playing field.

The BEPS work is now moving to the critical implementation phase, whether by multilateral or bilateral treaty or by domestic legislation. The consideration of EU-wide implementation is a necessary and welcome step.

Many of the organisations coming together at the IRSG have actively contributed to the development of the OECD's BEPS Action Plans in seeking to identify, and providing the OECD BEPS Working Groups the opportunity to consider, unintended and damaging consequences. Based upon these experiences, we wish to offer the following observations which we hope will be helpful in the development of any EU-wide proposals. However the Action Plans are implemented, whether separately by Member States or collectively as the European Union, we urge that these observations be considered and addressed.

Encouraging investment to generate trade and economic growth

The European Union has played a critical role in fostering and encouraging investment and economic growth for the benefit of its citizens. Most recently, the Capital Markets Union Action Plan unveiled in September represents a significant opportunity for positive action by the European Union that ensures that businesses have the capital that they need to grow. This is vital in sectors that are considered 'higher risk' or require a longer investment period such as the infrastructure, bio-tech and start-up sectors.

The BEPS Action Plans address activities of multinational enterprises and impact many financial instruments and transactions, which may be undertaken by all types of businesses – only a few aspects of modern commercial life are untouched by the Action Plans.

That said, we support the aims of the BEPS project to eliminate double non-taxation and to achieve these aims without inflicting unintended, adverse tax outcomes on bona fide cross-border investment. Such unintended consequences could reduce investment choice and returns for investors. In particular, implementation of the BEPS Action Plans should seek to ensure that investments in real assets, including infrastructure, venture capital and private equity, are not disproportionately impacted.

Therefore, to maintain investment and economic growth for the benefit of all, implementation of the BEPS Action Plans should be considered alongside the Capital Markets Union Action Plan. In particular, we call for the Action Plans to be implemented with minimum disruption to the ability of businesses to reach economic decisions and access capital from investors as rationally and efficiently as possible, in line with the Capital Markets Union objectives.

Complementing and supporting the Single Market and EU financial regulation

The financial sector is subject to many regulatory provisions of which the development of some is still evolving following the financial crisis. Each is designed to ensure the safety of the financial system, the protection of customers and the effective functioning of the European Union Single Market.

Many of the Action Plans address, directly or indirectly, the taxation of financial instruments and transactions of the financial sector, whether as a whole or aspects thereof. As such, it is critical that the implementation of the Action Plans supports, rather than undermines, or conflicts with, the regulatory environment and the Single Market.

Adherence to the BEPS Action Plans

The recommendations of the Action Plans fall into a number of categories – minimum standards, reinforced international standards, best practices and analytical reports. In some cases, defensive rules are provided (e.g. Action 2 – Hybrids) to ensure that stand-alone implementation is effective.

The OECD has highlighted that the consistent implementation of the BEPS Action Plans – on an international level – is key to ensuring their effectiveness at combating tax avoidance. We believe that adherence to the BEPS Action Plans is not only important for governments, but also ensures that the competitive position of businesses in the European Union is not harmed by the superimposition of other political objectives on an already ambitious and challenging BEPS implementation package.

Coordination with further OECD work

We note that some of the issues within the Action Plans are to be the subject of further OECD work and some of these areas are specific to the financial sector (e.g. Action 4 – Interest). Any implementation of the OECD's recommendations at EU level should be developed in line with the final conclusions from this further OECD work in order to ensure consistency.

Practical measures

Any measures developed should be practical and administratively effective for both taxpayers and tax authorities. In order to achieve this, careful consultation with taxpayers and recognition of current systems is required. Implementation requires clear definition of responsibilities and sufficient lead time to ensure that they are effective, efficient and do not act as a deterrent to entry into the market.

The financial sector may be considered to be in a position to support the efficient running of the tax system (e.g. through the operation of withholding and reporting). If this is the case, we would urge that any obligations imposed on the sector be developed in close consultation with the sector to ensure that aims are effectively and efficiently achieved.

We would be very pleased to discuss these principles with you in greater detail in support of the BEPS process and its application by the European Union.