OECD takes further steps to close tax avoidance gaps

> International tax rules expected to align taxation across countries
> Minimum standards aimed to tackle the abuse of tax treaties
> Anticipated challenges towards consistent plan implementation

On 5 October, the Organisation for Economic Cooperation and Development (OECD) published the BEPS Action Plan, which was then discussed and endorsed at the G20 Finance Ministers meeting on 8 October, in Lima, Peru.

The package comprises 15 detailed action plans on tax changes and over a thousand pages of technical material. Implementation is foreseen by the end of 2016, although some countries are expected to implement earlier.

Of these action plans, the three expected to have a major impact on the real estate investment vehicles in the years to come were identified.

Action 4: Limiting Base Erosion Involving Interest Deductions and Other Financial Payments
The final package recommends a limitation of interest deduction to a certain percentage of EBITDA, similar to local legislation in countries such as Germany. The OECD recommends a limit between 10% and 30%, leaving some flexibility for individual countries.

Action 6: Preventing the Granting of Treaty Benefits in Inappropriate Circumstances
This is an important topic for the global fund industry. However, the OECD package, while comprehensive, actually defers work on the matter of tax treaty access for non-listed funds, which is a critical aspect where INREV has focused its lobbying efforts. The OECD does recognise the economic importance of such investment vehicles and the need to ensure that treaty benefits are granted where appropriate, but completion of this part of the work has been deferred to the first half of 2016.

Action 13: Guidance on Transfer Pricing Documentation and Country-by-Country Reporting
Under this action plan, large multinational companies – global investors and funds alike – are required to file a country-by-country report for each tax jurisdiction where business is conducted. Reporting is expected to be performed annually and to contain details on revenue, profit before income tax or income tax paid and accrued. It also requires multinational enterprises (MNEs) to report their number of employees, stated capital, retained earnings and tangible assets.

The scope of reporting would include corporate groups with annual consolidated revenues in the immediately preceding fiscal year of €750 million and more, or a near equivalent amount in domestic currency as of January 2015. In addition, these new requirements increase the administrative burden for large corporate structures, and it is still unclear how local tax authorities will make practical use of the information.

As the OECD explicitly encouraged consultation with stakeholders on the action plans, INREV will continue its efforts to stay involved and work together with industry partners towards an outcome which is acceptable and workable for the real estate industry.

Three action plans expected to have major impact on real estate