Venture Capital Schemes Policy Team
HM Revenue & Customs
Room 3/63
100 Parliament Street
London
SW1A 2BQ

1st February 2017

Dear Sirs,

Tax-advantaged venture capital schemes – streamlining the advance assurance service – Consultation Response

Please see below for our responses to the questions contained in the above consultation.

Question 1. In what context are you responding to this consultation; e.g. investor, investee company, fund manager, industry body representative.

Answer: UK Business Angels Association (UKBAA) is the national trade association for angel and early-stage investment, representing over 160 member organisations and around 18,000 investors. Our members include angel networks, syndicates, individual investors, early-stage VCs, equity crowdfunding platforms, accelerators, professional advisers and intermediaries.

Question 2. Which tax-advantaged scheme or schemes have you used?

Answer: Our members are using EIS, SEIS and SITR. Research undertaken for our 'Nation of Angels' report (2014) showed that 9 in 10 angels have been using the EIS and SEIS schemes to support their investments.

Question 3. What would be the impact of increasing response times, including any increase in costs and / or administrative burdens?

Answer: We have reached out to our membership to seek their views on this consultation and the overwhelming majority have indicated that advance assurance (AA) is a core requirement for them when assessing a business; and that AA gives them the confidence to invest in early-stage and potentially high-risk businesses. Increasing response times is likely to deter investors from making investments, since it will impact on the whole decision-making process and their ability to make investments in a timely manner. It will also increase the risk of the whole investment deal breaking down. Extending the length of the response time is likely to severely impact on entrepreneurs' access to the investment they need to grow their business and potentially resulting in failure to access this vital source of funding. There will also be a knock-on effect on other parts of the finance supply chain and the more this slows down, the less likely it is that investments will take place. Increased response times could create uncertainty for investors and deter them from wanting to continue to engage with early-stage businesses (they could instead start to look for less high-risk deals).

Question 4. What would be the impact of withdrawing the advance assurance service?

Answer: Withdrawing the AA service is not an acceptable option for our investor members. Notably this is likely to make investing in high-risk businesses a much less attractive option because it would bring additional uncertainty and risk at a time when investors are making a decision about whether or not to invest in a business. Having the ability to identify any issues with the investment proposed and the capacity to make any adjustments to ensure it meets SEIS/EIS/SITR requirements is critical in terms of ensuring investors have the confidence they need to make the investment.

The consultation paper suggests that AA is potentially unnecessary and that professional advisers could take on this role. With the increased complexity of the rules around EIS since 2015 State Aid changes, this requires constant updating of knowledge of the technicalities. This would not inspire confidence from angel investors or increase their certainty and is likely to deter many from investing. Businesses in the early phases could find it extremely challenging to pay for professional advisors, particularly since advisors' fees would go up to reflect the shift of the burden of responsibility from government to them. As AA has generally become a core requirement of many investors as part of the due diligence process, there could be a huge difference between the ability to access finance of companies that could and could not afford to incur professional advisor costs (due to the withdrawal of AA).

UKBAA's objective is to encourage more people around the whole of the UK to become investors and support the UK's entrepreneurs. As such, we work to raise awareness about the opportunity afforded by the EIS and SEIS scheme – if there is uncertainty around the scheme (created as a result of the withdrawal of AA) there could be a knock-on impact on our capacity to attract new investors at a time when it is so important to encourage a substantial pool of private investment support.

Question 5. How could the advance assurance service be changed to focus on cases where there is greatest uncertainty? What would be the impact of such changes?

Answer: There is some support among our members for focusing on companies that are making their first AA application and also those that are seeking a significant level of investment. We believe that the current complexity of the EIS scheme rules introduced under the 2015 and 2016 Finance Acts creates too many areas of potential ambiguity and uncertainty and so it is likely that many applications that may seem less complex could still fall foul of the rules. We would therefore prefer to maintain a full AA service, but one that is streamlined.

Our members indicated that streamlining the service would be very welcome and introducing an online service to help speed up and/or fast track very straightforward AA applications is overall the most favoured approach.

Question 6. In what way could the advance assurance service be limited to discrete aspects of the rules? Please provide details of the impact on your business, particularly any increase in costs and / or administrative burdens.

Answer: Whilst we wish a full AA service to be maintained, part of a solution could be to develop an online early-checking mechanism. If an application for AA is materially similar to a previous application (for example if a company is seeking follow-on funding), there could be some merit in the development of a simple online checking mechanism to help identify which aspects of the deal may need HMRC's attention. This 'pre-process' could enable the identification of issues that can be looked at and resolved at an early stage and avoid returning multiple times. However, it is vital that any service to look at discrete aspects of the rules is not a substitute for the full AA service.

There is some support among our members for streamlining or fast tracking applications for follow-on investments where the documentation and structures have already been cleared, and where there is very little substantial change; focusing mainly on those applications where there is significant change to the deal structure. However, there would need to be very clear guidelines for this as government would need to take responsibility for assessing what represents adequate disclosure from the entrepreneur/SME.

Question 7. How would a standard set of approved documents assist you? Would you be prepared to cooperate in devising a standard set of documents? Please provide details of any savings in costs and / or administrative burdens from using standard documents.

Answer: Publishing guidelines including standardised templates (of key documents), checklists and case studies of businesses and business structures that would normally comply with SEIS and EIS requirements could be helpful. Our members indicate that they strongly favour using standardised documents to help streamline the process.

UKBAA would be happy to collaborate on this – we have in the past supported the development of standard legal documentation for SEIS and EIS deals. This was welcomed by our community and helped reduce legal and professional intermediary fees, thus we are supportive of helping produce similar documents and hope the cost saving in the case of AA would be commensurate. We hope that this course of action could support early-stage businesses.

It is important to note that in order to ensure any new standard documentation is totally compliant and thus offering confidence to investors and entrepreneurs, we would want to ensure it is approved at HMRC level and regularly updated to reflect technical changes.

Again this documentation could be supportive, but would not replace the need for the AA service.

Question 8. Do you have any other suggestions to improve our advance assurance service?

Answer: Members have indicated that a system for tracking applications would be most helpful, as better visibility on expected response times can help companies manage the expectations of investors.

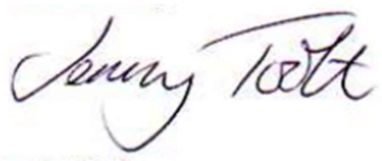
In our response above, we strongly oppose the withdrawal of the AA service. This would produce a significant reduction in EIS, SEIS and SITR and VCT investment, and would likely result in investment being directed towards more established, less-risky companies, contrary to the objectives of the venture capital schemes. Instead, HMRC should continue to focus on improving the operation of the service.

Ultimately, however, our experience is that the primary cause of delays to AA has been the additional complexity and ambiguity introduced to the schemes by the rule changes in the 2015 and 2016 Finance Acts, which were intended to secure EU State Aid approval.

Over the longer term, we see that there are opportunities arising from the UK's departure from the EU to rationalise the rules and better target the schemes towards instances of market failure. In the meantime, we feel that investors and entrepreneurs could benefit from more flexible and pragmatic approaches to the interpretation of the EU State Aid rules, reducing the complexity that is causing much of the delay and frustration.

I hope that our contribution to this consultation has been helpful and if there are any answers that require further clarification we would be pleased to provide more information.

Yours sincerely,



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ANNEX: UKBAA MEMBERS THAT CONTRIBUTED VIEWS TO THIS CONSULTATION

In addition to a wide number of individual angel investor members who we have consulted, we are grateful to the following organisations – all of which are part of the angel and early-stage investment ecosystem – for sharing their views with us as we compiled our response:

- Angel Groups
- Anvil Partners LLP
- Cambridge Capital Group
- ECI Partners
- Edition Capital
- Envestors
- Gannons
- Grocery Accelerator
- MMC Ventures
- Oxford Capital
- Sustainable Ventures Limited
- Venture Founders
- Viridis Navidas Capital Partners