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Mr.

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## **Clarification of the meaning of "beneficial owner" in the OECD Model Tax Convention**

Dear Mr. Owens,

The German Fund Association of Investment and Asset Management (BVI) represents the interests of the German investment fund and asset management industry. Its 90 members currently manage more than 8,700 investment funds with assets under management in excess of € 1,4 trillion. The units of these funds are held by more than 15 million unit holders.

We welcome the opportunity to provide comments on the discussion draft proposing changes to the Commentary on Articles 10, 11 and 12 of the OECD Model Tax Convention aimed at clarifying the meaning of "beneficial owner". BVI fully supports the OECD approach to clarify the meaning of "beneficial owner" in the OECD Model Tax Convention and to amend the Commentary on Article 10, 11 and 12 accordingly.

In principle we share the opinion that the recipient of dividends, interests or royalties is the "beneficial owner" of that dividends, interests or royalties where he has the full right to use and enjoy these payments unconstrained by a contractual or legal obligation to pass the payments received to another person.

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However, to avoid any uncertainty regarding the qualification of a Collective Investment Vehicle (CIV) as the beneficial owner of dividends, interests or royalties it receives, we would appreciate if a cross reference to 6.14 of the Commentary on Article 1 would be included in 12.4 of the Commentary on Article 10, in 10.2 of the Commentary on Article 11 and in 4.3 of the Commentary on Article 12. It should clearly be stated that with regard to the qualification of a CIV as the beneficial owner of the payments it receives 6.14 of Commentary on Article 1 is decisive. Otherwise one could question, whether a CIV qualifies as the beneficial owner according to definition given in the Commentary on Article 10, 11 and 12 due to the listed examples which do not qualify as "beneficial owner".

Should you require any further clarification on the point raised above, please do not hesitate to contact us.

Yours sincerely

A handwritten signature in blue ink that reads 'Peter Maier'. The signature is written in a cursive style with a large initial 'P' and 'M'.

Peter Maier

A handwritten signature in blue ink that reads 'Dr. Gabriele Lange'. The signature is written in a cursive style with a large initial 'G' and 'L'.

Dr. Gabriele Lange