

**TO:**

**Anthony Dempsey**

Head of Unit  
External Aspects of the Internal Market  
DG Markt

**Martin Merlin**

Head of Unit  
Financial Services Policy  
DG Markt

By email: [markt-stakeholders@ec.europa.eu](mailto:markt-stakeholders@ec.europa.eu)

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**Re: EU Financial Services Regulatory Dialogue with China, Japan, Russia, India and Brazil**

Leaseurope is the trade body representing the European leasing and automotive rental industry. Within its membership, the Federation counts 47 member associations in 34 European countries. In 2008, European leasing firms granted new leasing volumes in the region of €316 billion and were responsible for financing on average 28% of European investment excluding real estate. This clearly illustrates that leasing is a significant source of finance for European businesses' investment needs.

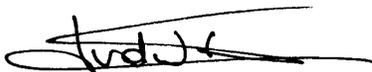
Leaseurope welcomes the European Commission's initiative to foster regulatory dialogue between the European Union and key partners such as China, Japan, Russia, India and Brazil. Having identified growth opportunities, many European leasing companies have established activities in these countries and, as the Commission has correctly identified, in the current economic environment, a dialogue aiming to foster regulatory convergence and improve market access will be key driver for European firms to consider establishing new activities or to develop their activities in these markets further.

Following the Commission's invitation of 30 January 2009, and in order to contribute to the debate, Leaseurope has surveyed its members on the existence of regulatory or market access issues, requesting feedback from European leasing firms who are active in the above mentioned markets.

Leasing companies with activities in Russia and China responded to this consultation, the findings of which are briefly summarised below. It appears that one of the most important of these issues relates to the uncertainty of VAT treatment, which can lead to companies having to charge more for their products. This does not favour the development of the leasing industry in these countries in spite of the true economic benefits that the product offers. Ultimately, a European leasing firm's decision to set up operations in these countries may be affected by this lack of legal certainty. Although VAT treatment is not the main focus of these current discussions, Leaseurope urges the Commission to bear these issues in mind going forward.

We hope that the information below will provide some useful food for thought in regulatory dialogues going forward. Please do not hesitate to contact me or Jacqueline Mills ([j.mills@leaseurope.org](mailto:j.mills@leaseurope.org), +32 2 778 05 66) if you require any further information on the issues raised in this letter.

Yours sincerely,



Tanguy van de Werve  
LEASEUROPE DIRECTOR GENERAL

## **Regulatory/market access issues encountered by European leasing firms operating in China**

- Leasing companies operating in China are subject to abnormally stringent booking limits. This obviously hampers a firm's ability to conduct business and takes on different forms:
  - i) The total lease portfolio cannot exceed 10 times the level of equity. Moreover, the presence of collateral (e.g. bank guarantees) is not recognised.
  - ii) Certain types of assets are not eligible as leased assets. For instance, software may not represent more than half of a total investment project financed by leasing. Such restrictions hamper a leasing firm's ability to finance businesses' investment needs and may result in businesses having to forgo investment opportunities altogether.
  
- Given the Chinese VAT regime, few businesses are eligible to recover the VAT on the purchase of an asset. This leaves Chinese lessees with two options:
  - i) To request that the lessor finances the net asset amount and recovers the VAT itself.
  - ii) To finance the asset including VAT, in which case the lessor would provide a type of long term treasury facility to the lessee. This makes a lease more expensive for the client.

Overall, there is a general lack of transparency regarding the VAT regime as an additional "business tax" is levied on lease rentals.

- Lessors operating in China experience funding constraints:
  - i) Not only do the same regulated bank loan spreads apply to leasing companies as to "corporates", direct bond issuance is also strictly limited
  - ii) Domestic players have an unfair competitive advantage compared to foreign companies as, although arm's length principles should govern these transactions in theory, leasing subsidiaries of Chinese banks can benefit from funding from their groups at lower prices in practice.

## **Regulatory/market access issues encountered by European leasing firms operating in Russia**

- The most frequently cited causes for concern of European leasing firms operating in Russia relate to issues of VAT: recovery delays, a lack of transparency inherent to the VAT system and a very negative attitude of local taxation authorities:
  - i) According to Russian law, lessors can either seek to recover VAT or choose to offset VAT over the life of the lease contract. This latter option, which is often chosen for practical reasons as the former meets with resistance from tax authorities, implies that a lessor will have to effectively wait until the contract nears its term before having fully recouped the VAT. This makes leasing more expensive for leasing firms and ultimately their customers.
  - ii) Local tax authorities may deny VAT recovery entirely, citing either formal reasons or accusing the tax payer of not being “of good faith”. Again, this uncertainty leads to leasing firms increasing the price of their products. Moreover, the denial of VAT recovery, even on illegitimate grounds, may lead to criminal investigations against a firm’s management if the amount denied exceeds approximately €40 000 and tax authorities believe the amount is due.
- The main consequence of the precarious VAT situation in Russia is that foreign investors are wary of entering the Russian leasing market. In order to remedy these VAT related issues, it has been suggested that the Russian government should set up a working group to examine the existing situation and to compare it with the positive experiences of other countries. Leasing industry specialists would be willing to contribute to this debate.
- Fiscal legislation and in particular tax depreciation rules change frequently.
- Several issues arise around the importation of goods into Russia and the customs duties imposed on these goods. More detailed information on these cases can be supplied to the Commission if necessary.
- Leasing firms have noted that the level of corruption of civil servants is high. This appears to be a general tendency throughout various segments of the administration.