

# **Recent developments in TP: The UK HMRC's Transfer Pricing Group**

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# The Domestic background: 1

- **Spotlight on TP:**
  - **Review of Links with Large Business**
  - **NAO report on handling of Large Business**
- **Criticisms of HMRC's TP work:**
  - **Enquiries take too long**
  - **Lack of consistency**
  - **Lack of expertise and commercial understanding**

# The Domestic background:2

- TP is largest single risk registered on HMRC's risk systems – several billions of tax at stake
- Viewed as a growing risk – through increased restructurings/closing down of avoidance scheme
- PAC Hearing highlights growing political scrutiny of this area
- Need to pass on experience of working largest cases

# The International background

- Increased globalisation and volume of inter-affiliate trading
- Restructuring/supply chain re-engineering
- Greater focus on risk and reporting (FIN 48)
- Increased transfer pricing audit activity from foreign tax authorities

# The Transfer Pricing Group: Key Objectives

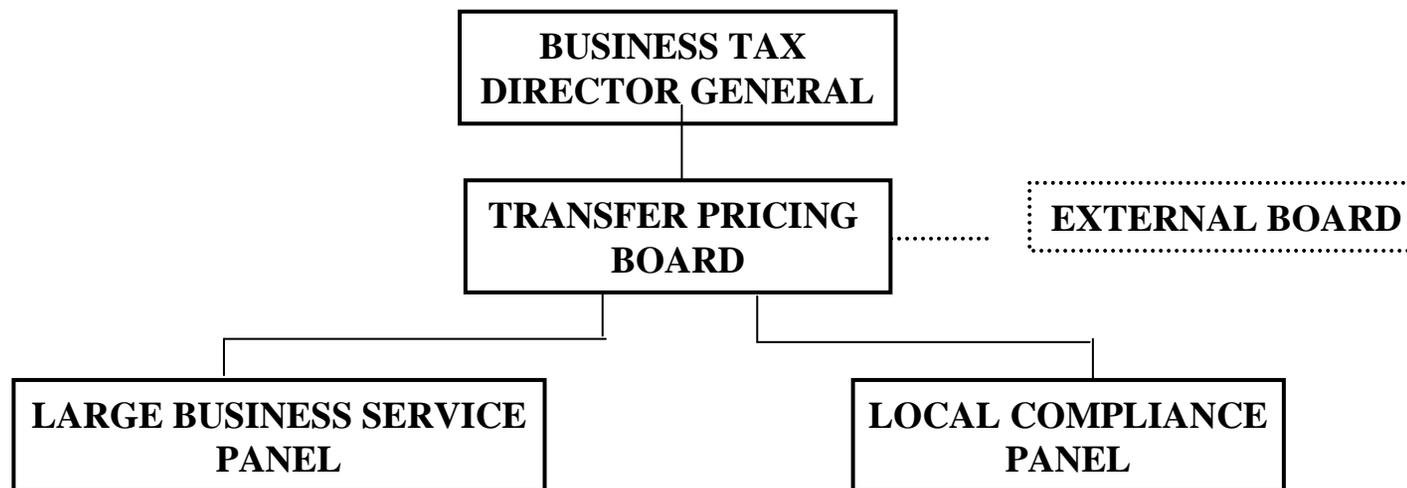
- From April 2008, introduce and embed a radical change in the way in which HMRC handles transfer pricing risk by creating and establishing a cross-directorate TPG

In order to:

- identify and prioritise moving legacy cases towards speedy settlement (30% in first year)
- improve customer satisfaction through earlier certainty and greater consistency
- typically reach resolution point within 18 months (36 months for more high value/complex cases)

# The Transfer Pricing Group: Structure

- The Transfer Pricing Group is made up of:
  - TP Panels and Board
  - New teams of Specialists – Transfer Pricing and others from across HMRC
- New External Board (from 2009)



# Governance of cases

- Existing case teams in LBS and Local Compliance remain responsible for risk assessment process
- Level of involvement of TPG in every risk assessment and enquiry will vary depending on the needs of case
- Every TP case has a nominated TP Specialist assigned to it
- Their key role is to provide specialist technical support and manage governance processes

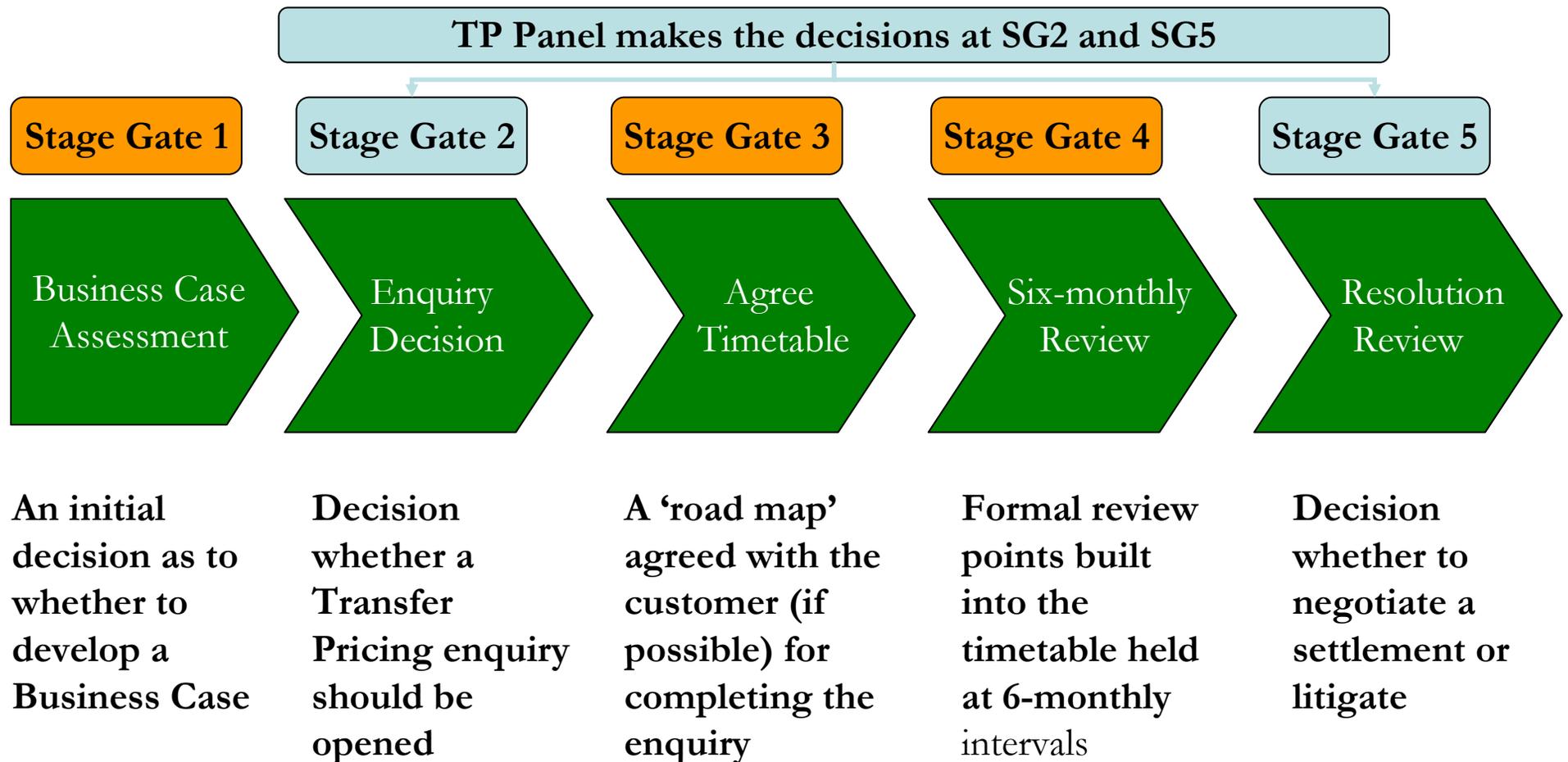
# The Transfer Pricing Group: Specialists

- **Around 60 Transfer Pricing Specialists based in teams in LBS and Local Compliance**
- **TPSs will be involved in all transfer pricing enquiries**
- **Other Specialists also involved – Economists and Investigators**
- **Also growing involvement of Audit Service**

# Transfer Pricing Group : Panels

- **Key feature of the TPG is creation of a standard and mandatory approvals process**
- **Based on Panels - one for Local Compliance cases and one for Large Business Service**
- **Representatives of each directorate involved in TP work sit on the panels**
- **Meet monthly**
- **Convene to consider case at every stage gate and decide whether a TP case is opened and provide settlement parameters/recommendation to litigate**
- **Escalation route to TP Board**

# The Stage Gates



# The Transfer Pricing Board

- **Accountable for the delivery of the TPG's objectives**
- **Sets strategic direction to ensure TP enquiries are worked effectively and in accordance with the governance procedures**
- **Considers all cases where litigation is proposed**
- **Recommends settlement parameters in appropriate cases**
- **In high value cases or where a large litigation is in prospect, will normally make a recommendation to the Business Tax DG or ExCom**

# The External Board

From 2009 a new External Board will meet with TP Board quarterly to:

- Discuss the strategy of the TP Group
- Monitor its progress,
- Provide general feedback on operation of governance arrangements and the Panels
- Give comments on new and emerging issues
- Help the TP Board develop workable approaches that take account of impact on business

# Impact on business

## More risk-based approach:

- Better selection of (fewer) cases
- Working with business not against them to resolve a case – action plans, timetables, designated contact points
- But expect business to be co-operative

## More real-time working:

- Willing to participate in real-time working but this cannot go beyond what we can legally provide (Section 85/APAs)

# Risk assessment

- **Guidance for conduct of transfer pricing enquiries – June 2008**
- **Risk assessment determines whether there is a TP issue that is high risk and also how much resource allocated to it**
- **Three main elements of risk**
  - **Fiscal (amount of tax potentially at risk)**
  - **Behavioural - linked the LBS Risk Framework - an understanding of strategy, systems and processes in place**
  - **Transactional – complexity/principle**

# Results

<b>Cases on hand at 1 April</b>	<b>667</b>
<b>Cases taken up</b>	<b>36</b>
<b>Cases settled</b>	<b>172 (26%)</b>
<b>Cases on hand at 30 Sept</b>	<b>521</b>

- **Current average take times – last quarter to Sept 08 is 28 months**

# Challenges we face

- **Still early days - “forming” stage – will take time to bed in**
- **New recruits – hence considerable need for training**
- **Major change for rest of HMRC**
- **More and more aggressive audits overseas**
- **Balancing needs for more certainty with other demands on resources**
- **Recession/impact of losses**
- **Formulary apportionment?**



**Thank you**

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