

2019 No. 515

EXITING THE EUROPEAN UNION

STAMP DUTY

STAMP DUTY RESERVE TAX

**The Stamp Duty and Stamp Duty Reserve Tax (Amendment)
(EU Exit) Regulations 2019**

Made - - - - - *7th March 2019*

Laid before the House of Commons *8th March 2019*

Coming into force in accordance with regulation 1

The Treasury make these Regulations in exercise of the powers conferred by sections 80B(5A), 80C(9), 88B(3A) and 89AA(8) of the Finance Act 1986(a) and section 217(1) to (3) and (7) of the Finance Act 2012(b).

Citation and commencement

1. These Regulations may be cited as the Stamp Duty and Stamp Duty Reserve Tax (Amendment) (EU Exit) Regulations 2019 and come into force on exit day.

Finance Act 1986

2.—(1) The Finance Act 1986 is amended as follows.

(2) In section 80A(6A)(c)—

- (a) the words from “is authorised”, in the first place they occur, to the end become paragraph (a) of that subsection;
- (b) in paragraph (a), after “EEA State” insert “or Gibraltar”; and

(a) 1986 c. 41. Section 80B was inserted by Section 97(1) of the Finance Act 1997 (c.16) and subsection (5A) was inserted by paragraph 2(4) of Schedule 21 to the Finance Act 2007 (c. 11). Section 80C was inserted by section 98(1) of the Finance Act 1997. Section 88B was inserted by Section 102(1) of the Finance Act 1997 and subsection (3A) was inserted by paragraph 4(4) of Schedule 21 to the Finance Act 2007. Section 89AA was inserted by Section 103(1) of the Finance Act 1997.

(b) 2012 c. 14.

(c) Section 80A was inserted by section 97(1) of the Finance Act 1997 and subsection (6A) was inserted by paragraph 1 of Schedule 21 to the Finance Act 2007.

(c) after that paragraph insert—

“or

(b) has permission under the Financial Services and Markets Act 2000^(a) to carry on any of the investment services or activities in paragraph 2 or 3 of Part 3 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001^(b).”.

(3) In section 80B^(c)—

(a) in subsection (2)—

(i) in the definition of “quoted or listed options”, for “an EEA exchange” substitute “a multilateral trading facility, a regulated market”;

(ii) insert at the appropriate places—

““multilateral trading facility” means—

(a) a UK multilateral trading facility, within the meaning of Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments^(d);

(b) an EU multilateral trading facility, within the meaning of that Regulation; or

(c) a multilateral system, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments (in the system and in accordance with non-discretionary rules) in a way which results in a contract in accordance with Part 2 of the Financial Services (Markets in Financial Instruments) Act 2018 of Gibraltar^(e),

and in paragraph (c) “multilateral system”, “investment firm”, “market operator” and “financial instrument” have the same meanings as they have for the purposes of that Regulation;”;

““regulated market” means—

(a) a UK regulated market, within the meaning of Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments;

(b) an EU regulated market, within the meaning of that Regulation; or

(c) a regulated market, within the meaning of that Regulation, which is authorised and functions regularly and in accordance with Part 3 of the Financial Services (Markets in Financial Instruments) Act 2018 of Gibraltar;”;

(b) omit subsection (2A);

(c) in subsection (3)(a) after “in” insert “the United Kingdom, Gibraltar or”; and

(d) in subsection (4)(a) after “in” insert “the United Kingdom, Gibraltar or”.

(4) In section 80C^(f)—

(a) in subsection (2A)(a)—

(i) the words from “is authorised”, in the first place they occur, to the end become sub-paragraph (i) of that paragraph;

(ii) in sub-paragraph (i), after “EEA State” insert “or Gibraltar”; and

(iii) after that sub-paragraph insert—

(a) 2000 c. 8.

(b) S.I. 2001/544, amended by S.I. 2006/3384; there are other amending instruments but none is relevant.

(c) Subsection (2) was amended by S.I. 2001/3629 and paragraph 2(2) of Schedule 21, and Part 4(2) of Schedule 27, to the Finance Act 2007. Subsection (2A) was inserted by paragraph 2(3) of Schedule 21 to the Finance Act 2007.

(d) Regulation (EU) No. 600/2014 is amended by S.I. 2018/1403 with effect from exit day.

(e) L.N. 2017/135.

(f) Subsection (2A) was inserted by paragraph 5(3), subsection (7) was amended by paragraph 5(6), and subsection (7A) was inserted by paragraph 5(7), of Schedule 21 to the Finance Act 2007.

“or

- (ii) has permission under the Financial Services and Markets Act 2000 to carry on any of the investment services or activities in paragraph 2 or 3 of Part 3 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”;

- (b) in subsection (7) insert at the appropriate places—

““multilateral trading facility” has the meaning given in section 80B(2);”;

““regulated market” has the meaning given in section 80B(2).”; and

- (c) omit subsection (7A).

- (5) In section 88A(6A)(a)—

- (a) the words from “is authorised”, in the first place they occur, to the end become paragraph (a) of that subsection;

- (b) in paragraph (a), after “EEA State” insert “or Gibraltar”; and

- (c) after that paragraph insert—

“or

- (b) has permission under the Financial Services and Markets Act 2000 to carry on any of the investment services or activities in paragraph 2 or 3 of Part 3 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.

- (6) In section 88B(b)—

- (a) in subsection (2)—

- (i) in the definition of “quoted or listed options”, for “an EEA exchange” substitute “a multilateral trading facility, a regulated market”; and

- (ii) insert at the appropriate places—

““multilateral trading facility” has the meaning given by section 80B(2);”;

““regulated market” has the meaning given by section 80B(2).”; and

- (b) omit subsection (2A).

- (7) In section 89AA(c)—

- (a) in subsection (2A)(a)—

- (i) the words from “is authorised”, in the first place they occur, to the end become sub-paragraph (i) of that paragraph;

- (ii) in sub-paragraph (i), after “EEA State” insert “or Gibraltar”; and

- (iii) after that sub-paragraph insert—

“or

- (ii) has permission under the Financial Services and Markets Act 2000 to carry on any of the investment services or activities in paragraph 2 or 3 of Part 3 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;”;

- (b) in subsection (6) insert at the appropriate places—

““multilateral trading facility” has the meaning given in section 80B(2);”;

““regulated market” has the meaning given in section 80B(2).”; and

(a) Section 88A was inserted by Section 102(1) of the Finance Act 1997 and subsection (6A) was inserted by paragraph 3(4) of Schedule 21 to the Finance Act 2007.

(b) Subsection (2) was amended by S.I. 2001/3629 and paragraph 4(2) of Schedule 21, and Part 4(2) of Schedule 27, to the Finance Act 2007. Subsection (2A) was inserted by paragraph 4(3) of Schedule 21 to the Finance Act 2007.

(c) Subsection (2A) was inserted by paragraph 6(3) of Schedule 21 to the Finance Act 2007. Subsection (6) was amended by paragraph 6(6) of Schedule 21, and Part 4(2) of Schedule 27, to the Finance Act 2007. Subsection (6A) was inserted by paragraph 6(7) of Schedule 21 to the Finance Act 2007.

- (c) omit subsection (6A).

The Stamp Duty and Stamp Duty Reserve Tax (Exchange Traded Funds) (Exemption) Regulations 2014

3.—(1) The Stamp Duty and Stamp Duty Reserve Tax (Exchange Traded Funds) (Exemption) Regulations 2014(a) are amended as follows.

(2) In regulation 2—

- (a) omit the definitions of “multilateral trading facility” and “regulated market”; and
(b) insert at the appropriate places—

““multilateral trading facility” means—

- (a) a UK multilateral trading facility, within the meaning of Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments;
(b) an EU multilateral trading facility, within the meaning of that Regulation; or
(c) a multilateral system, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments (in the system and in accordance with non-discretionary rules) in a way which results in a contract in accordance with Part 2 of the Financial Services (Markets in Financial Instruments) Act 2018 of Gibraltar,

and in paragraph (c) “multilateral system”, “investment firm”, “market operator” and “financial instrument” have the same meanings as they have for the purposes of that Regulation;”;

““regulated market” means—

- (a) a UK regulated market, within the meaning of Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments;
(b) an EU regulated market, within the meaning of that Regulation; or
(c) a regulated market, within the meaning of that Regulation, which is authorised and functions regularly and in accordance with Part 3 of the Financial Services (Markets in Financial Instruments) Act 2018 of Gibraltar;”;

““UCITS” means—

- (a) a UCITS within the meaning given by section 236A of the Financial Services and Markets Act 2000(b); or
(b) an undertaking established in Gibraltar which is a UCITS under the law of Gibraltar which implemented Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities(c). ”.

(3) In regulation 5, for paragraph (b) substitute—

“(b) is a UCITS.”.

Paul Maynard
Jeremy Quin

7th March 2019

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) S.I. 2014/911, amended by S.I. 2017/701.

(b) 2000 c. 8. Section 236A was inserted by regulation 6 of the Collective Investment Schemes (Amendment etc) (EU Exit) Regulations 2019 (S.I. 2019/325).

(c) OJ No. L 302, 17.11.2009, p.32. Directive 2009/65/EC was amended by Directive 2014/91/EU, OJ No. L 257, 28.8.2014, p.186.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Parts 3 and 4 of the Finance Act 1986 (c. 41) and the Stamp Duty and Stamp Duty Reserve Tax (Exchange Traded Funds) (Exemption) Regulations 2014 (S.I. 2014/911) to ensure the effective operation of that legislation after the withdrawal of the United Kingdom from the European Union.

Regulation 1 brings these Regulations into force on exit day. Regulation 2 adds references to the United Kingdom and Gibraltar to the Finance Act 1986 where references are already made to the European Union and European Economic Area. Regulation 3 does the same for references in the Stamp Duty and Stamp Duty Reserve Tax (Exchange Traded Funds) (Exemption) Regulations 2014.

A Tax Information and Impact Note has not been prepared for this Instrument as it contains no substantive changes to tax policy.

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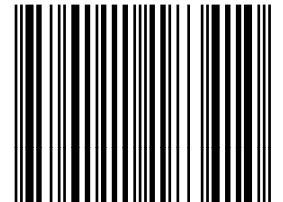
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