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STATUTORY INSTRUMENTS

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**1992 No. 572**

**INCOME TAX**

**The Income Tax (Stock Lending)  
(Amendment) Regulations 1992**

<i>Made</i>	- - - -	<i>9th March 1992</i>
<i>Laid before the House of Commons</i>	- - - -	<i>9th March 1992</i>
<i>Coming into force</i>	- -	<i>22nd March 1992</i>

The Treasury, in exercise of the powers conferred on them by section 129(4) of the Income and Corporation Taxes Act 1988(1), hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Income Tax (Stock Lending) (Amendment) Regulations 1992 and shall come into force on 22nd March 1992.

**Interpretation**

2. In these Regulations, “the principal Regulations” means the Income Tax (Stock Lending) Regulations 1989(2) and “regulation” means a regulation of those Regulations.

**Amendments to the principal Regulations**

3. In regulation 2(1)—

(a) after the definition of “Board” there shall be inserted—

““Board of directors” means the Board of directors of LIFFE (A & M);”;

(b) after the definition of “gilt-edged securities” there shall be inserted—

““LIFFE” means The London International Financial Futures and Options Exchange;

“LIFFE (A & M)” means The London International Financial Futures Exchange (Administration and Management);”;

(c) after the definition of “market maker” there shall be inserted—

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(1) 1988 c. 1; section 129 was amended by section 57 of the Finance Act 1991 (c. 31).

(2) S.I. 1989/1299; amended by S.I. 1990/2552.

““member” means a member of LIFFE (A & M) who is recognised as such by the Board of directors;”;

(d) after the definition of “the Taxes Act 1988” there shall be added—

““United Kingdom equity securities” means shares issued by a company which—

- (a) have been admitted to the Official List of the Stock Exchange, or are permitted to be dealt in on the Unlisted Securities Market of the Stock Exchange, or
- (b) where the company issuing the shares is not resident in the United Kingdom, are registered in a register kept in the United Kingdom by or on behalf of that company.”.

4. In regulation 4 after paragraph (b) there shall be inserted—

“(ba) in relation to an arrangement under which United Kingdom equity securities are to be transferred to a member, the conditions specified in regulation 6A, or”.

5. After regulation 6 there shall be inserted—

**“Conditions relating to the transfer of United Kingdom equity securities to members of LIFFE (A & M)**

6A.—(1) The conditions specified in this regulation in relation to an arrangement mentioned in subsection (1) are that—

- (a) the person referred to as A in the principal section is an approved borrower;
- (b) the person referred to as B in the principal section is an approved moneybroker;
- (c) the arrangement takes a form approved by the Board;
- (d) the securities to be transferred under the arrangement are United Kingdom equity securities of a particular kind;
- (e) save where sub-paragraph (f)(ii) applies, the contract of sale mentioned in subsection (1) is entered into by A—
  - (i) as an options market maker at the date of the contract by way of a hedge against the likelihood of his being obliged to receive securities of the kind referred to in sub-paragraph (d) on a future exercise of options which he has bought or sold, or
  - (ii) as an options principal trader at the date of the contract by way of a hedge against the likelihood of his being obliged to receive such securities on a future exercise of options which he has bought or sold;
- (f) the arrangement is entered into by A—
  - (i) for the purposes referred to in paragraphs (i) or (ii) of sub-paragraph (e), or
  - (ii) in order to meet his obligation to deliver such securities under the contract, where the contract results from the earlier exercise of an option by or against him;
- (g) the number of such securities contracted to be sold by A—
  - (i) where paragraph (i) of sub-paragraph (e) applies, does not result in the total number of securities of that kind contracted to be sold by A under that contract and other like contracts for the purpose referred to in that paragraph, exceeding as at the date of the contract the Max limit applicable on that date in respect of securities of that kind, or

- (ii) where paragraph (ii) of sub-paragraph (e) applies, does not result in the total number of securities of that kind contracted to be sold by A under that contract and other like contracts for the purpose referred to in that paragraph exceeding as at the date of the contract the Deltaplus limit applicable on that date in respect of securities of that kind, or the Max limit applicable on that date in respect of securities of that kind to which he would be subject if he were an options market maker, whichever is the less;
- (h) the number of such securities to be transferred to A under the arrangement, where paragraph (ii) of sub-paragraph (f) applies, does not exceed the amount, if any, by which the number of securities which he is obliged to deliver for the purpose specified in that paragraph exceeds the number of securities of that kind calculated by reference to the formula—

$$D + E - F$$

where—

D is the number of securities of that kind which he held at the time of exercise of the option referred to in that sub-paragraph, other than securities which he was obliged to deliver at that time as the result of an earlier agreement to sell securities which at the time of the agreement he did not own and had not agreed to purchase, which he had agreed to sell in order to hedge the likelihood of his having to receive such securities on a future exercise of options which he had bought or sold, and which did not exceed the appropriate limit at the time of the agreement,

E is the number of such securities which he was obliged to receive at that time as a result of the earlier exercise of other options by or against him, and

F is the number of such securities which he held at that time as a hedge against the likelihood of his having to deliver such securities on a future exercise of other options which he had bought or sold;

- (j) if, following the transfer under the arrangement of such securities to A for the purposes referred to in paragraph (i) or (ii) of sub-paragraph (e), the number of securities so transferred under the arrangement and other like arrangements and not transferred in return under such arrangements exceeds, at any time subsequent to the date of the transfer and for a period of six consecutive days, the appropriate limit as calculated from day to day in respect of securities of that kind, a contract to purchase such securities in order to enable the amount of the excess to be transferred in return under the arrangement is entered into by A prior to the expiry of the day following the end of that period;
- (k) if, following the transfer under the arrangement of such securities to A for the purpose specified in sub-paragraph (f)(ii) above, the number of securities of that kind transferred to him under the arrangement and other like arrangements and not transferred in return under such arrangements, exceeds, for a period of six consecutive days, the sum of—
  - (i) the appropriate limit, as calculated from day to day, in respect of securities of that kind which are required as a hedge against the likelihood of his having to deliver such securities on a future exercise of other options which he had bought or sold, and
  - (ii) the number of securities of that kind which are required to meet his obligation to deliver securities resulting from the exercise of other options by or against him,

a contract to purchase such securities in order to enable the amount of the excess to be transferred in return under the arrangement is entered into by A prior to the expiry of the day following the end of that period.

(2) The conditions specified in this regulation in relation to an arrangement mentioned in subsection (2) are—

- (a) that B is an approved moneybroker;
- (b) that the person referred to as C in the principal section, and any person for whom C is acting in connection with the arrangement as an agent or a nominee, is an approved lender;
- (c) that the arrangement takes a form approved by the Board.

### **Definitions relating to the conditions specified in regulation 6A**

**6B.** For the purposes of regulation 6A and this regulation—

“the appropriate limit” means—

- (a) where A is an options market maker in respect of United Kingdom equity securities of a particular kind at the time of the agreement referred to in regulation 6A(1)(h) or, as the case may be, during the period specified in regulation 6A(1)(j) or (k), the Max limit, and
- (b) where A is an options principal trader in respect of United Kingdom equity securities of a particular kind at the time or, as the case may be, during the period referred to in paragraph (a), the Deltaplus limit or the Max limit, whichever is the less;

“approved borrower” means a member who buys and sells options to buy or sell United Kingdom equity securities;

“approved lender” and “approved moneybroker” have the same meanings as in regulation 5;

“the Delta number” means the number which—

- (a) is calculated and published from time to time under the authority of the Board of directors in relation to each type of option and the price at which the option may be exercised, and
- (b) reflects the degree of probability of exercise of that option as determined by the Board of directors in the light of the current market price of the shares or stock to which the option relates;

“the Deltaplus limit” means, in relation to options entered into by A to buy or sell United Kingdom equity securities of a particular kind, the maximum number of such securities which is found by—

- (a) subject to paragraph (c), making the following calculation in respect of each relevant expiry month and each designated account—

$$G - H$$

where—

G is the number of such securities which he is likely to receive on the exercise of options expiring within that month, calculated by multiplying the most recently published Delta number by the number of securities in respect of each option which would be transferred if that option were exercised, and H is the number of securities which, adopting the same

method of calculation, he is likely to deliver, on the exercise of such options;

- (b) increasing the amount calculated in paragraph (a) by 20 per cent. of the sum of the number of such securities which he would be entitled or obliged to deliver and the number he would be entitled or obliged to receive, if those options were all exercised;
- (c) where at the time of calculation such options would expire, unless previously exercised, within a period of four weeks, making the calculation specified in paragraph (a) of the definition of the Max limit in this regulation in respect of those options for the relevant expiry month instead of the calculation referred to in paragraphs (a) and (b) of this definition;
- (d) where the amount calculated by reference to paragraphs (a) and (b) or the amount calculated by reference to paragraph (c) is a negative amount, treating that amount as zero;
- (e) aggregating the amounts so calculated in respect of all relevant expiry months and designated accounts;

“designated account” means an account designated for a member by the Board of directors in connection with options to buy or sell United Kingdom equity securities;

“the Max limit” means, in relation to options entered into by A to buy or sell United Kingdom equity securities of a particular kind, the maximum number of such securities which is found by—

- (a) making the following calculation in respect of each relevant expiry month and each designated account—

$$J - K$$

where—

J is the number of securities which he is likely to receive, and K is the number of securities which he is likely to deliver, on the exercise of options expiring within that month, on the assumption that—

- (i) the market price of the securities is at a figure which, having regard to paragraphs (ii) and (iii), would produce the maximum figure resulting from that calculation,
  - (ii) such options as give the holder the right to buy such securities at a price above that market price, or to sell such securities at a price below that market price, are not exercised, and
  - (iii) such options as give the holder the right to buy such securities at a price equal to or below that market price, or to sell such securities at a price equal to or above that market price, are exercised;
- (b) where the amount calculated by reference to paragraph (a) is a negative amount, treating that amount as zero;
  - (c) aggregating the amounts so calculated in respect of all relevant expiry months and designated accounts;

“option” means an option to buy or sell securities which is listed by and traded on LIFFE;

“options market maker” means a member who buys and sells, on his own account, options to buy or sell United Kingdom equity securities and who, at the time specified in regulation 6A(1)(e)(i), or at the times specified in regulation 6A(1)(h), (j) and (k) in connection with the appropriate limit, was recognised by the Board of directors as

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a market maker in relation to options in respect of United Kingdom equity securities of a particular kind and was acting in the capacity of a market maker in relation to those options.

“options principal trader” means a member who buys and sells, on his own account, options to buy or sell United Kingdom equity securities but who, at the times specified in regulation 6A(1)(e)(ii), or at the times specified in regulation 6A(1)(h), (j) and (k) in connection with the appropriate limit, was not recognised by the Board of directors as a market maker in relation to options in respect of United Kingdom equity securities of a particular kind or, if so recognised, was not acting in the capacity of a market maker in relation to those options;

“relevant expiry month” means a calendar month during which an option to buy or sell United Kingdom equity securities of a particular kind will expire, unless previously exercised.”

9th March 1992

*Irvine Patnick*  
*Gregory Knight*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which come into force on 22nd March 1992, are made under section 129(4) of the Income and Corporation Taxes Act 1988 (“Section 129”). They amend the Income Tax (Stock Lending) Regulations 1989 (S.I. 1989/1299, amended by S.I. 1990/2552) (“the principal Regulations”) in consequence of the merger of the London International Financial Futures Exchange and the London Traded Options Market of the London Stock Exchange to form the London International Financial Futures and Options Exchange (“LIFFE”). The Regulations specify the conditions which must be fulfilled before the relief from income tax and capital gains tax conferred by section 129 and by section 271(9) of the Taxation of Chargeable Gains Act 1992 (formerly section 149B(9) of the Capital Gains Tax Act 1979) can apply to transfers of securities to members of LIFFE.

Regulation 1 provides for citation and commencement and regulation 2 for interpretation.

Regulation 3 inserts new definitions in regulation 2(1) of the principal Regulations.

Regulation 4 amends regulation 4 of the principal Regulations so as to provide that the tax reliefs mentioned above shall not apply to transfers of United Kingdom equity securities to members of LIFFE unless the conditions specified in regulation 6A are fulfilled.

Regulation 5 inserts a new regulation 6A specifying the conditions in question, and a new regulation 6B containing definitions relating to those conditions.