

**2007 No. 3338**

**CORPORATION TAX**

**The Securitisation Companies (Application of Section 83(1) of the Finance Act 2005: Accounting Standards) Regulations 2007**

*Made* - - - - *3rd December 2007*  
*Laid before the House of Commons* *4th December 2007*  
*Coming into force* - - *27th December 2007*

The Treasury make the following Regulations in exercise of the powers conferred by section 83(7A) and (7B) of the Finance Act 2005(a).

**Citation and commencement**

1. These Regulations may be cited as the Securitisation Companies (Application of Section 83(1) of the Finance Act 2005: Accounting Standards) Regulations 2007 and shall come into force on 27th December 2007.

**Application of section 83(1) of the Finance Act 2005: accounting standards**

2.—(1) This regulation applies where—

- (a) subsection (1) of section 83 of the Finance Act 2005 (application of accounting standards to securitisation companies)(b) applies to a company in relation to a period of account ending before 1st January 2008, and
- (b) the company—
  - (i) became party to a capital market arrangement referred to in subsection (3)(c)(c) of that section or a related transaction before 1st January 2008 and continues to be party to that arrangement or transaction, or
  - (ii) is a warehouse company where any of the financial assets referred to in subsection (6) of that section were acquired before 1st January 2008.

(2) Subsection (1) of section 83 of the Finance Act 2005 shall apply in relation to periods of account ending on or after 1st January 2008 but before 1st January 2017.

This is subject to paragraph (3).

(3) Paragraph (2) shall not apply to a company that elects that the paragraph shall not apply to it.

(4) An election under paragraph (3)—

- (a) must be made in writing to Her Majesty's Revenue and Customs,

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(a) 2005 c. 7. Subsections (7A) and (7B) were inserted by section 59(3) of the Finance Act 2007 (c. 11).  
(b) Section 83(1) was amended by section 101(1) and (6) and section 178 of the Finance Act 2006 (c. 25).  
(c) Section 83(3)(c) was amended by Part 3(19) of Schedule 26 to the Finance Act 2006.

- (b) must be made before the end of the first accounting period ending on or after 1st January 2008, and
- (c) is irrevocable.

**Modification of provisions of, and made under, the Corporation Tax Acts**

3.—(1) This regulation applies in relation to the first period of account of a securitisation company in the case of which section 83(1) of the Finance Act 2005 does not apply by virtue of that section itself or regulation 2 (“the first period”) where—

- (a) the company continues to be party to a capital market arrangement or a related transaction, or
- (b) the company would continue to be a warehouse company if that section continued to apply.

(2) Where this regulation applies—

- (a) there shall be treated as arising any adjustment that would have been made in accordance with section 64 of the Finance Act 2002 (adjustment on change of basis)(a) in any previous period of account had section 83 of the Finance Act 2005 not applied to that period;
- (b) in relation to the Loan Relationships and Derivative Contracts (Change of Accounting Practice) Regulations 2004(b)—
  - (i) the prescribed period in regulation 3A shall be treated as beginning with the first period, and
  - (ii) there shall be treated as prescribed by regulation 4 any debit or credit that would have been brought into account in accordance with regulation 3 in any previous period had section 83 of the Finance Act 2005 not applied to that period.

This is subject to paragraph (3).

(3) Any amount brought into account on the application of this regulation must be just and reasonable in the circumstances and with regard to whether as a result any amounts cease to be brought into account or are brought into account more than once.

**Interpretation**

4. For the purposes of these Regulations—

- (a) “party” to a capital market arrangement or a related transaction includes a party to an agreement which—
  - (i) forms part of the arrangement,
  - (ii) provides for the raising of finance as part of the arrangement, or
  - (iii) is necessary for the purposes of implementing the arrangement;
- (b) one or more transactions are to be regarded as related transactions, in the case of any capital market arrangement, if it would be reasonable to assume, from either or both of—
  - (i) the likely effect of the transactions, and
  - (ii) the circumstances in which the transactions are entered into or effected,
 that none of the transactions would have been entered into or effected independently of the arrangement;
- (c) transactions are not prevented from being related transactions, in the case of any capital market arrangement, just because the transactions—

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(a) 2002 c. 23; section 64 was amended by paragraphs 575 and 576 of Schedule 1 to, the Income Tax (Trading and Other Income) Act 2005 (c. 5).  
 (b) S.I. 2004/3271, amended by S.I. 2004/3347, S.I. 2005/3383, 2006/3238 and 2007/950.

- (i) are not between the same parties, or
- (ii) are not between the parties to the capital market arrangement.

*Claire Ward*  
*Alan Campbell*

3rd December 2007

Two of the Lords Commissioners of Her Majesty's Treasury

## EXPLANATORY NOTE

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

Section 83(1) of the Finance Act 2005 (c. 7) requires securitisation companies to use UK generally accepted accounting practice as it stood at 31 December 2004 as the basis for tax computations for periods of account beginning on or after 1st January 2005 and ending before 1st January 2008. These Regulations extend the application of that provision to periods of account ending before 1st January 2017 in relation to companies to which the provision applied in a period of account ending before 1st January 2008, subject to a company electing that the extension shall not apply. The Regulations also make provision for bringing into account in the first period in which section 83(1) does not apply items not previously taken into account.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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