

2007 No. 3339

CORPORATION TAX

**The Taxation of Securitisation Companies (Amendment)
Regulations 2007**

<i>Made</i>	- - - -	<i>3rd December 2007</i>
<i>Laid before the House of Commons</i>		<i>4th December 2007</i>
<i>Coming into force</i>	- -	<i>27th December 2007</i>

The Treasury make the following Regulations in exercise of the power conferred by section 84 of the Finance Act 2005(a).

Citation, commencement and effect

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

(2) Subject to paragraph (3), these Regulations have effect from the beginning of periods of account beginning on or after 1st January 2007 and current on 3rd December 2007.

(3) Regulation 2(2) does not apply to a company to which the Taxation of Securitisation Companies Regulations 2006(c) applies in relation to a capital market arrangement in existence on 3rd December 2007.

Amendments to the Taxation of Securitisation Companies Regulations 2006

2.—(1) The Taxation of Securitisation Companies Regulations 2006 are amended as follows.

(2) In regulation 2 (interpretation) in paragraph (1) in the definition of “financial asset”—

(a) in subparagraph (a) at the beginning insert “subject to paragraph (b)(ii)”; and

(b) for paragraph (b) substitute—

“(b) does not include—

(i) shares (other than shares in a securitisation company which is party to the capital market arrangement);

(ii) derivative contracts as defined for the purposes of Schedule 26 to the Finance Act 2002(d) where the underlying subject matter is or includes shares (other

(a) 2005 c. 7. Section 84 was amended by section 101(1), (5) and (6) and section 178 of, and Part 3(19) of Schedule 26 to, the Finance Act 2006 (c. 25) and section 59(4) to (6) of the Finance Act 2007 (c. 11).

(b) S.I. 2007/3338.

(c) S.I. 2006/3296.

(d) 2002 c. 23. Derivative contracts are defined in paragraph 2 of Schedule 26 and paragraph 2 has been amended by article 3 of S.I. 2004/2201 and article 3 of S.I. 2006/3269.

than shares in a securitisation company which is party to the capital market arrangement) or land;

(iii) loan relationships with embedded derivatives within section 94A(1) of the Finance Act 1996 (loan relationships with embedded derivatives)(a) where the underlying subject matter of the embedded derivative is or includes shares or land;

(iv) relevant assets within paragraph 7(1) of Schedule 6 to the Finance (No. 2) Act 2005 (loan relationships with embedded derivatives)(b) where the underlying subject matter of any embedded derivative is or includes shares or land.”.

(3) In regulation 3 (scope of these Regulations) in paragraph (2)(c) for “regulation 13” substitute “regulations 13 and 13A”.

(4) In regulation 6 (meaning of “asset-holding company”) in paragraph (3) after “company’s” insert “initial”.

(5) In regulation 7 (meaning of “intermediate borrowing company”)—

(a) in paragraph (2) after sub-paragraph (a) insert—

“(aa) a partnership that would be an asset-holding company if it were a company,”

(b) in paragraph (3) after “company’s” insert “initial”.

(6) In regulation 8 (meaning of “warehouse company”)—

(a) renumber regulation 8 as 8(1);

(b) at the end insert—

“(2) For the purposes of these Regulations the business of a warehouse company described in paragraph (1) shall be referred to as a “warehouse arrangement”.”.

(7) In regulation 10 (meaning of “retained profit”) in paragraph (1)—

(a) for “or a” substitute “, a”;

(b) after “transaction” insert “or a warehouse arrangement”.

(8) In regulation 12 (securitisation companies that have an unallowable purpose) in paragraph (4) in the definition of “tax advantage” for “section 709(1)” substitute “section 840ZA”(c).

(9) After regulation 13 insert—

“Securitisation companies to which section 83 of the Finance Act 2005 does not apply

13A. These Regulations do not apply to a company in a case where—

(a) section 83(1) of the Finance Act 2005 does not apply by virtue of an election under regulation 2 of the Securitisation Companies (Application of Section 83(1) of the Finance Act 2005: Accounting Standards) Regulations 2007, and

(b) the company continues to be party to the arrangement or transaction referred to in paragraph (1)(b) of regulation 2 of those Regulations.”.

(10) In regulation 19 (non-application of provisions of Schedule 9 to the Finance Act 1996) insert the following paragraphs at the end—

“(3) Paragraph 17 of that Schedule (deeply discounted securities where companies have a connection)(d) shall not apply if the person standing in the position of a creditor as respects a security within that paragraph is a securitisation company.

(a) 1996 c. 8; section 94A was inserted by paragraph 13 of Schedule 10 to the Finance Act 2004 (c. 9) and amended by paragraph 28(1) and (2) of Schedule 4 to the Finance Act 2005.

(b) 2005 c. 22.

(c) Section 840ZA of the Income and Corporation Taxes Act 1988 (c. 1) was inserted paragraph 225 of Schedule 1 to the Income Tax Act 2007 (c. 3).

(d) Paragraph 17 of Schedule 9 to the Finance Act 1996 (c. 8) was amended by paragraphs 1 and 33 of Schedule 25 and Part 3(12) of Schedule 40 to the Finance Act 2002 (c. 23), paragraphs 4(2) and (3) of Schedule 34 and paragraphs 1 and 4 of Schedule 37 to the Finance Act 2003 (c. 14) and paragraphs 485 and 489(1) to (5) of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5).

(4) Paragraph 18 of that Schedule (deeply discounted securities of close companies)(a) shall not apply if the person standing in the position of a creditor as respects a security within that paragraph is a securitisation company.”.

Claire Ward
Alan Campbell

3rd December 2007

Two of the Lords Commissioners of Her Majesty's Treasury

(a) Paragraph 18 of Schedule 9 to the Finance Act 1996 was amended by paragraphs 1 and 34 of Schedule 25 and Part 3(12) of Schedule 40 to the Finance Act 2002 (c. 23), paragraphs 1 and 5 of Schedule 37 to the Finance Act 2003 (c. 14), paragraph 6 of Schedule 6 and Part 2(4) of Schedule 42 to the Finance Act 2004 (c. 12), and paragraphs 485 and 489(1), (6) to (8) of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5) and paragraph 3 of Schedule 8 and Part 2(9) of Schedule 11 to the Finance (No. 2) Act 2005 (c. 22).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Taxation of Securitisation Companies Regulations 2006 (S.I. 2006/3296: “the Principal Regulations”).

Regulation 1 provides for citation, commencement and effect. Authority for the limited retrospective effect is given by section 84(5)(b) of the Finance Act 2005.

Regulation 2 amends the Principal Regulations as follows.

Paragraph (2) amends regulation 2 (interpretation) to restrict the definition of “financial asset” so that term does not include derivative contracts or loan relationships with embedded derivatives where the underlying subject matter is shares or land.

Paragraph (3) amends regulation 3 (scope of these Regulations) to insert a reference to the new regulation 13A inserted by these Regulations.

Paragraph (4) amends regulation 6 (meaning of “asset-holding company”) to allow debtor relationships with a lender other than the note issuer or intermediate borrowing company to exceed those with the note issuer or intermediate borrowing company after the commencement of the capital market arrangement.

Paragraph (5) makes the same amendment to regulation 7 (meaning of “intermediate borrowing company”) and further amends regulation 7 to allow a company to be an intermediate borrowing company if it has a creditor relationship with a partnership that would be an asset holding company if were a company.

Paragraph (6) amends regulation (8) (meaning of “warehouse company”) to define the business of a warehouse company as a “warehouse arrangement”.

Paragraph (7) amends regulation 10 (meaning of “retained profit”) to include the profit of a warehouse arrangement in the meaning of the expression “retained profit”.

Paragraph (8) amends regulation 12 (securitisation companies that have an unallowable purpose) to substitute a reference to a new definition of the expression “tax advantage”.

Paragraph (9) inserts a new regulation 13A which provides that the Principal Regulations shall not apply to companies that have elected that section 83(1) of the Finance Act 2005 shall not apply.

Paragraph (10) amends regulation 19 (non-application of provisions of Schedule 9 to the Finance Act 1996) to disapply paragraph 17 (deeply discounted securities where companies have a connection) and paragraph 18 (deeply discounted securities of close companies) of Schedule 9 to the Finance Act 1996 in relation to securitisation companies.

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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