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STATUTORY INSTRUMENTS

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**2008 No. 52**

**STAMP DUTY RESERVE TAX**

The Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) (The London Stock Exchange) Regulations 2008

<i>Made</i>	- - - -	<i>14th January 2008</i>
<i>Laid before the House of Commons</i>	- - - -	<i>14th January 2008</i>
<i>Coming into force</i>	- -	<i>4th February 2008</i>

The Treasury make the following Regulations in exercise of the powers conferred on them by sections 116(3) and (4) and 117 of the Finance Act 1991(1).

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) (The London Stock Exchange) Regulations 2008 and shall come into force on 4th February 2008.

(2) These Regulations shall have effect—

- (a) in the case of agreements to transfer equities which are not conditional, in relation to agreements made on or after 4th February 2008;
- (b) in the case of agreements to transfer equities which are conditional, in relation to agreements where the condition is satisfied on or after that date.

**Interpretation**

2.—(1) In these Regulations—

“Board of directors” means the Board of directors of London Stock Exchange plc(2);

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(1) 1991 c. 31. Section 116(4) was amended by paragraph 5 of Schedule 20 to the Financial Services and Markets Act 2000 (c. 8) and by paragraph 7 of Schedule 21 to the Finance Act 2007 (c. 11).

(2) The London Stock Exchange plc is a recognised investment exchange which is prescribed for the purposes of section 117 of the Finance Act 1991 (c. 31) by regulation 3(b) of the Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) (The London Stock Exchange) Regulations 2001 (S.I. 2001/255).

“clearing participant” means a member (as defined by this regulation) who is also a member of x-clear and who as such is permitted by the Board of directors and that clearing house to clear transactions made on the Exchange for a traded security;

“client” means a person who gives instructions to a participant for equity securities to be purchased or, as the case may be, sold on the Exchange;

“equity securities” means stocks and shares which are issued or raised by a company but does not include stocks and shares issued by a company not incorporated in the United Kingdom unless—

- (a) they are registered in a register kept in the United Kingdom by or on behalf of the company; or
- (b) in the case of shares, they are paired, within the meaning of section 99(6A) of the Finance Act 1986(3), with shares issued by a company incorporated in the United Kingdom;

“the Exchange” means the London Stock Exchange;

“member” in relation to London Stock Exchange plc means a person approved by the Board of directors as a participant;

“nominee” means a person whose business is or includes holding equity securities as a nominee for x-clear acting in its capacity as a person providing clearing services in connection with a transaction made on the Exchange, or as a nominee for a clearing participant (as the case may be);

“non-clearing participant” means a participant other than a clearing participant;

“participant” means a participant in the Exchange;

“section 117” means section 117 of the Finance Act 1991;

“x-clear” means SIS x-clear *Aktiengesellschaft*, a company registered in Switzerland which is a recognised clearing house under the Financial Services and Markets Act 2000(4).

### **Prescription of recognised clearing house**

- 3. For the purposes of section 117 x-clear is a recognised clearing house which is prescribed.

### **Prescribed circumstances for the purposes of section 117**

4.—(1) In the circumstances prescribed by paragraph (2) below, a charge to stamp duty reserve tax shall be treated as not arising.

(2) The circumstances prescribed are where, in connection with a transaction made on the Exchange—

- (a) equity securities of a particular kind are agreed to be transferred from—
  - (i) a clearing participant or a nominee of a clearing participant to another clearing participant or nominee, or
  - (ii) a non-clearing participant or a client to a clearing participant or a nominee of a clearing participant, or
  - (iii) a clearing participant or a nominee of a clearing participant to x-clear or to a nominee of that clearing house, or

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(3) 1986 c. 41. Subsections (3) to (6A) of section 99 were substituted for subsections (3) to (6) by section 144(2) of the Finance Act 1988 (c. 36). Subsection (6A) was amended by section 113(2) of the Finance Act 1990 (c.29). The whole of Part 4 of the 1986 Act is to be repealed from a date to be appointed (see sections 110 and 111(1) of the 1990 Act.

(4) 2000 c. 8.

- (iv) a person other than a clearing participant to x-clear or to a nominee of that clearing house, as a result of a failure by a clearing participant to fulfil his obligations in respect of the transaction concerned to transfer equity securities to x-clear or to a nominee of that clearing house, or
  - (v) The London Clearing House Limited<sup>(5)</sup> or a nominee of that clearing house to x-clear or a nominee of that clearing house, or
  - (vi) x-clear or a nominee of that clearing house to The London Clearing House Limited or a nominee of that clearing house, or
  - (vii) x-clear or a nominee of that clearing house to a clearing participant or a nominee of a clearing participant; and
- (b) the person to whom those securities are agreed to be transferred under any of the agreements specified in sub-paragraph (a) above (“the relevant agreement”) is required on receipt of those shares to transfer equity securities under a matching agreement to another person or, in the case of an agreement falling within paragraph (iv) of that sub-paragraph, would have been so required if the failure referred to in that paragraph had not occurred.
- (3) In paragraph (2) above—
- (a) “matching agreement” means an agreement under which—
    - (i) the equity securities agreed to be transferred are of the same kind as the equity securities agreed to be transferred under the relevant agreement, and
    - (ii) the number and transfer price of the equity securities agreed to be transferred are identical to the number and transfer price of the equity securities agreed to be transferred under the relevant agreement;
  - (b) references to x-clear and to The London Clearing House Limited are references to those clearing houses in their capacity as persons providing clearing services in connection with a transaction made on the Exchange;
  - (c) references to a clearing participant are references to a clearing participant in his capacity as such.

### **Consequential provision**

5.—(1) Equity securities which are the subject of an agreement specified in regulation 4(2)(a) shall be dealt with by a clearing participant who is a party to the agreement in a separate designated account, and not otherwise.

(2) In paragraph (1) above “designated account” means an account designated by x-clear for a clearing participant in connection with the equity securities concerned.

14th January 2008

*Dave Watts*  
*Alan Campbell*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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(5) The London Clearing House Limited is a recognised clearing house which is prescribed for the purposes of section 117 of the Finance Act 1991 (c. 31) by regulation 3(a) of the Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) (The London Stock Exchange) Regulations 2001 (S.I. 2001/255).

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations exempt from stamp duty reserve tax (“SDRT”) certain agreements to transfer equity securities made in the course of trading in those securities on the London Stock Exchange (“the Exchange”). The agreements exempted are those involving clearing participants in the Exchange (and their nominees) and SIS x-clear *Aktiengesellschaft* (“x-clear”) (and nominees of that clearing house) through whom transactions on the Exchange are cleared. The Regulations also exempt transactions on the Exchange between x-clear and the London Clearing House Limited (transactions on the Exchange involving clearing participants in that clearing house are separately exempted under the Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) (The London Stock Exchange) Regulations 2001 (S.I. 2001/255)).

Regulation 1 provides for citation, commencement and effect and regulation 2 contains definitions.

Regulation 3 prescribes x-clear as a recognised clearing house for the purpose of the exemption and regulation 4 prescribes the circumstances in which stamp duty reserve tax will not be charged.

Regulation 5 makes consequential provision requiring equity securities which are agreed to be transferred in the prescribed circumstances to be dealt with in a separate designated account.

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