

**EXPLANATORY MEMORANDUM TO**  
**THE STAMP DUTY AND STAMP DUTY RESERVE TAX (INVESTMENT**  
**EXCHANGES AND CLEARING HOUSES) REGULATIONS (No 4) 2010**

**2010 No. 1897**

1. This explanatory memorandum has been prepared by HM Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 These regulations remove multiple charges to stamp duty and stamp duty reserve tax (“SDRT”) from transactions made on the Frankfurt Stock Exchange, a regulated market, and the Open Market a multilateral trading facility both operated by Deutsche Borse AG (“the Deutsche Borse AG exchange”) and which are transferred through a recognised clearing house, their members and their nominees. These regulations ensure the stamp charges are only paid once, as intended, by the ultimate purchaser.
  - 2.2 In these regulations the recognised clearing house is Eurex Clearing AG (“Eurex Clearing”).
3. **Matters of special interest to the Select Committee on Statutory Instruments**
  - 3.1 Following the Select Committee’s report of 2 December 2009, amendments to Sections 116 & 117 Finance Act 1991 now explicitly include members of clearing houses to benefit from clearing relief.
4. **Legislative Context**
  - 4.1 When shares in UK companies are traded on the Deutsche Borse AG exchange, the use of a central counterparty to clear and settle the transactions will involve a number of transfers of those shares, each of which is potentially chargeable to stamp duty or SDRT.
  - 4.2 Sections 116 and 117 of the Finance Act 1991 permit the Treasury to make regulations to remove such multiple charges in respect of what is essentially a single sale and purchase transaction. These regulations will ensure that multiple charges to stamp duty or SDRT will not arise when shares are transferred between non-clearing and clearing members of Eurex Clearing and their nominees.
5. **Territorial Extent and Application**
  - 5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- *What is being done and why*

7.1 Deutsche Borse AG is authorised by the Hessisches Ministerium Für Wirtschaft, Verkehr und Landesentwicklung to operate both a regulated market and a multilateral trading facility. The interposition of clearing houses between the ultimate seller and the ultimate purchaser in share trades result in a chain of transfers of securities each of which potentially attracts a charge to stamp duty or SDRT.

7.2 These regulations will improve liquidity in the securities markets by removing multiple charges to stamp duty and SDRT.

- *Consolidation*

7.3 Not applicable.

## **8. Consultation outcome**

8.1 This instrument followed a request for stamp relief from, and consultation with, representatives from Deutsche Borse AG and Eurex Clearing AG.

## **9. Guidance**

9.1 No HM Revenue & Customs guidance or other form of publicity is deemed necessary other than publication of the new instrument.

## **10. Impact**

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 HM Revenue & Customs will monitor the practical application of the new regulations.

### **13. Contact**

Andrew Hewitt at HM Revenue and Customs, Tel: 020 7147 0092 or e-mail: [andrew.hewitt@hmrc.gsi.gov.uk](mailto:andrew.hewitt@hmrc.gsi.gov.uk), can answer any queries regarding the instrument.