
STATUTORY INSTRUMENTS

2010 No. 2236

The Stamp Duty and Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) Regulations (No. 5) 2010

Prescribed circumstances for the purposes of sections 116 and 117

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

(2) The circumstances prescribed are where, in connection with a transaction made on the UBS MTF, conditions A, B and C are met.

(3) Condition A is that traded securities are transferred, or agreed to be transferred, from—

- (a) a clearing participant or its nominee to another clearing participant or its nominee;
- (b) a non-clearing firm or its client, or nominee of a non-clearing firm or its client, to a clearing participant or its nominee;
- (c) a clearing participant or its nominee to either EuroCCP or X-CLEAR, or to their nominees;
- (d) a person other than a clearing participant to either EuroCCP or X-CLEAR, or to their nominees, as a result of a failure by a clearing participant to fulfil its obligations in respect of the transaction concerned to transfer traded securities to either EuroCCP or X-CLEAR, or to their nominees;
- (e) either EuroCCP or X-CLEAR, or their nominees, to a clearing participant or its nominee;
- (f) EuroCCP or its nominee to X-CLEAR or its nominee; or
- (g) X-CLEAR or its nominee to EuroCCP or its nominee.

(4) Condition B is that the person to whom those securities are agreed to be transferred under any of the agreements specified in paragraph (3) (“the relevant agreement”) is required on receipt of those securities to transfer traded securities under a matching agreement to another person or, in the case of an agreement falling within paragraph 3(d), would have been so required if the failure referred to in that paragraph had not occurred.

(5) Condition C is that traded securities which are the subject of a relevant agreement shall be dealt with by a clearing participant, who is a party to the relevant agreement, in a separate designated account.

(6) In this regulation—

- (a) “designated account” means an account designated by EuroCCP or X-CLEAR, for a clearing participant, in connection with the traded securities concerned;
- (b) a “matching agreement” means an agreement under which—
 - (i) the traded securities agreed to be transferred are of the same kind as the traded securities agreed to be transferred under the relevant agreement; and
 - (ii) the number and transfer price of the traded securities agreed to be transferred are identical to the number and transfer price of the traded securities agreed to be transferred under the relevant agreement.