

EXPLANATORY MEMORANDUM TO
THE INDIVIDUAL SAVINGS ACCOUNT (AMENDMENT) REGULATIONS
2010

2010 No. 835

1. 1.1 This explanatory memorandum has been prepared by H.M. Revenue & Customs and is laid before the House of Commons by Command of Her Majesty.
- 1.2 This memorandum contains information for the Select Committee on Statutory Instruments

2. Purpose of the instrument

- 2.1 These regulations amend the Individual Savings Account Regulations 1998 (S.I. 1998/1870).
- 2.2 They amend the existing ISA regulations to allow individuals who have lost capital invested in certain ISAs managed by Keydata Investment Services Ltd (“Keydata”) to reinvest in another ISA by 5 April 2011, without affecting their annual subscription limits.

3. Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 The amendment (see regulation 3, which inserts regulation 5B in the principal Regulations) has effect in relation to events occurring from 30 December 2009, and therefore has retrospective effect (but wholly for relieving taxpayers). The regulation-making power in Section 701(4) of the Income Tax (Trading and Other Income) Act 2005 allows for this.

4. Legislative Context

- 4.1 The ISA is a tax advantaged savings account, introduced in 1999. The ISA scheme allows individuals to save, through ISA accounts, without being taxed on any income or gains that they receive from those savings.
- 4.2 The principal Regulations provide that an investor cannot subscribe more than a certain amount to a stocks and shares ISA in any one tax year. They also provide that a transfer can only be made directly between one ISA account manager and another and, except in limited circumstances, they do not allow for any reinvestment of withdrawn funds with another ISA manager other than as a subscription subject to the annual subscription limit.

- 4.3 The amendments made by regulation 3 of these regulations are required to enable Keydata ISA investors who invested via a Keydata ISA in SLS Capital S.A. Secure Income Bonds, issues 1, 2 or 3 and who lost their capital, to reinvest an equivalent amount up to the maximum shown on the certificate in a single payment with another ISA account manager by 5 April 2011. The reinvestment will be treated as a transfer and will not count towards the annual limit on subscriptions.

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

- 7.1 Keydata, an ISA manager, went into administration on 8 June 2009.
- 7.2 It was subsequently found that a number of individuals had lost the capital they had invested via their Keydata ISAs, in a Luxembourg company, SLS Capital S.A.. Many of these individuals have or will receive compensation from the Financial Services Compensation Scheme. Without a change to the ISA Regulations these individuals had lost the benefit of the ISA allowances they had used to make the original Keydata investment and would only be able to reinvest in another ISA to the extent that the annual subscription limit allowed.
- 7.3 The amendments made by these regulations allow affected individuals to reinvest in another ISA straightaway without the reinvestment counting towards their annual subscription limit. The amount they can reinvest is the total amount originally invested in their Keydata ISA, and they must make the reinvestment in a single sum by 5 April 2011.
- 7.4 This policy was announced on 13 November 2009. Keydata's Administrators wrote to all affected individuals on 30 December 2009, explaining the reinvestment process and providing a certificate showing the maximum amount they could reinvest with a new ISA manager. The Regulations are therefore retrospective to that date.

8. Consultation outcome

- 8.1 A formal consultation was not undertaken. However, in December 2009 HMRC informed all ISA managers of the reinvestment process and the certificates that individuals would be producing for

reinvestment. No ISA manager is compelled to accept the reinvestments allowed by this Regulation.

9. Guidance

- 9.1 HMRC Guidance Notes for ISA managers will be updated to reflect the changes to the ISA Regulations. The Guidance Notes are available at: <http://www.hmrc.gov.uk/isa/isa-guidance-notes-2008.pdf>

10. Impact

- 10.1 An Impact Assessment has not been produced for this instrument as it has a negligible impact on business, charities or voluntary bodies. This measure offers ISA managers the opportunity to benefit from the business from former Keydata ISAs.
- 10.2 There is no impact on the public sector.

11. Regulating small business

- 11.1 The legislation applies to small business.
- 11.2 In principle all ISA managers will be affected by these minor changes to the ISA regulations. No action is considered necessary as it is considered that no small managers will be disproportionately affected by these minor changes.

12. Monitoring & review

- 12.1 The amendments to the principal Regulations will allow individuals who lost the capital they invested in a Keydata ISA to reinvest an equivalent amount in another ISA.
- 12.2 The impact of the measure will be monitored under HMRC's broader plans for monitoring trends and developments in the savings and investments sector. HMRC collects data on ISA investments and uses it to publish annual statistics and that this policy will be monitored as part of that process.

13. Contact

- 13.1 Stephen Lig at HM Revenue & Customs, telephone 020 7147 2827 or email: steve.lig@hmrc.gsi.gov.uk, can answer any queries regarding the instrument.