

EXPLANATORY MEMORANDUM TO
THE UNDERTAKINGS FOR COLLECTIVE INVESTMENT IN TRANSFERABLE
SECURITIES (AMENDMENT) REGULATIONS 2012

2012 No. 2015

1. This explanatory memorandum has been prepared by Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of these Regulations is to correct defects in other legislation resulting from minor errors in the transposition of Directive 2009/65/EC of the European Parliament and Council on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (O.J. L 302, 17.11.09, page 32) ("the Recast UCITS Directive").

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

3.1 None.

4. Legislative Context

4.1 The Recast UCITS Directive was implemented in the UK by the Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/1613) ("the implementing Regulations").

4.2 The implementing Regulations made amendments to the Financial Services and Markets Act 2000 (c.8) and secondary legislation made under it, in order to give effect to the recast UCITS Directive.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Financial Secretary to the Treasury, Mark Hoban, has made the following statement regarding Human Rights:

"In my view the provisions of the Undertakings for Collective Investment in Transferable Securities (Amendment) Regulations 2012, are compatible with the Convention rights."

7. Policy background

- *What is being done and why*

7.1 These Regulations correct the effects of several minor errors in the implementing Regulations. The errors related to

- 7.1.1 the exercise of the FSA's power of intervention in relation to collective investment scheme management companies authorised in other EEA States,
- 7.1.2 the definition of a collective investment scheme constituted in another EEA State, and
- 7.1.3 definitions relating to certain mergers involving UK collective investment schemes.

- *Consolidation*

7.2 The Treasury does not have plans to consolidate FSMA or secondary legislation made under FSMA at this time. Commercial publishers produce consolidated versions of FSMA, and of secondary legislation made under it, both in electronic and hard copy versions.

8. Consultation outcome

8.1 The Treasury and the FSA consulted jointly on the draft implementing Regulations in 2010. We are not aware of any problems having resulted from the minor errors that are corrected by these Regulations.

9. Guidance

9.1 The Treasury is not providing any guidance in relation to these Regulations.

10. Impact

10.1 No impact on the costs of business or the voluntary sector is foreseen.

11. Regulating small business

11.1 This legislation applies to small business.

11.2 It is not necessary to take steps to mitigate the effect of this legislation on small business, because it will have no impact on the costs of business.

12. Monitoring & review

12.1 The Treasury is required to review the operation and effect of the implementing Regulations within five years from the date on which they come into force, and publish a report.

13. Contact

Jonathan Gee at HM Treasury Tel: 0207 270 6275 or email:
Jonathan.Gee@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.