

**EXPLANATORY MEMORANDUM TO**  
**THE BANK LEVY (DOUBLE TAXATION RELIEF) (SINGLE RESOLUTION FUND**  
**LEVY) REGULATIONS 2016**

**[2016] No. [XXXX]**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by HM Revenue and Customs (“HMRC”) 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 This statutory instrument provides a mechanism for relieving double taxation in respect of the bank levy imposed by Schedule 19 to the Finance Act 2011 and the contributions within Articles 69 or 70 of Regulation (EU) No 806/2014 (“the SRM Regulations”) raised from entities by a national resolution authority and transferred to the single resolution fund (established by the SRM Regulation) in accordance with the agreement between participating Member States on the transfer and mutualisation of contributions to the fund.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Select Committee on Statutory Instruments*

- 3.1 This statutory instrument will have effect in relation to periods of account ending on or after 1st January 2016. The authority to make provisions with retrospective effect is contained in paragraph 67(3)(a) of Schedule 19 to the Finance Act 2011.

*Other matters of interest to the House of Commons*

- 3.2 Disregarding minor or consequential changes, the territorial application of this instrument includes Scotland and Northern Ireland and is not a financial instrument that relates exclusively to England, Wales and Northern Ireland.

**4. Legislative Context**

- 4.1 The instrument is made using the power contained within paragraph 67 of Schedule 19 to the Finance Act 2011, which allows Regulations to be made in order to provide a mechanism for relieving double taxation in respect of the bank levy and an equivalent foreign levy.
- 4.2 It is subject to the affirmative procedure as the relieving of double taxation will be on a unilateral basis. This is due to the absence of a relevant double taxation treaty to provide bilateral relief.

**5. Extent and Territorial Application**

- 5.1 The extent of this instrument is all of the United Kingdom.
- 5.2 The territorial application of this instrument is all of the United Kingdom.

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

- 6.1 The Financial Secretary to the Treasury, Jane Ellison has made the following statement regarding Human Rights:

“In my view the provisions of the Bank Levy (Double Taxation Relief) (Single Resolution Fund Levy) Regulations 2016 are compatible with the Convention rights.”

## **7. Policy background**

### *EU membership*

- 7.1 On 23 June, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

### *What is being done and why*

- 7.2 Bank levies were proposed in a paper by the International Monetary Fund to the G20 entitled “A Fair and Substantial Contribution by the Financial Sector” following the 2008 global banking crisis. A number of countries have introduced such levies, with the bank levy being introduced in The United Kingdom via Schedule 19, Finance Act 2011.
- 7.3 As many banks operate in two or more countries they may be subject to two or more levies and suffer juridical double taxation.
- 7.4 As double taxation is often a hindrance to commerce in the United Kingdom, Part 7 of Schedule 19 allows the Treasury to make provisions to alleviate double taxation in respect of bank levies.

## **8. Consultation outcome**

- 8.1 HMRC has consulted informally with the banking sector. Due to the small number of businesses affected by this incidence of double taxation HMRC considered that formal consultation was not necessary and instead provided draft copies of the legislation directly to every impacted business in the UK. They are in principle supportive of the introduction of a mechanism to relieve double taxation in respect of the bank levy imposed by Schedule 19 to the Finance Act 2011 and the contributions within Articles 69 or 70 of the SRM Regulations.

## **9. Guidance**

- 9.1 The Bank Levy Manual (published on HMRC internet site) contains a chapter outlining how double taxation relief for the bank levy operates.
- 9.2 This will be updated after the instrument comes into force to include comprehensive guidance around relief for contributions made under the SRM regulations.

## **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 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.
- 11. Regulating small business**
- 11.1 The legislation does not apply to activities that are undertaken by small businesses.
- 12. Monitoring & review**
- 12.1 HMRC will monitor and review the legislation to ensure that the bank levy is operating efficiently and tax is being paid and relief given as intended.
- 13. Contact**
- 13.1 Charlotte Hopwood at HM Revenue and Customs Telephone: 03000 585 950 or email: [charlotte.hopwood@hmrc.gsi.gov.uk](mailto:charlotte.hopwood@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.