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STATUTORY INSTRUMENTS

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**2006 No. 3296**

**The Taxation of Securitisation Companies Regulations 2006**

*Preliminary*

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Taxation of Securitisation Companies Regulations 2006 and shall come into force on the day after the day on which they are made.

(2) These Regulations have effect for periods of account beginning on or after 1st January 2007.

**Interpretation**

2.—(1) In these Regulations—

“asset-holding company” has the meaning given by regulation 6;

“capital market arrangement” and “capital market investment” have the same meaning as in section 72B(1) of the Insolvency Act 1986<sup>(1)</sup> (see paragraphs 1, 2 and 3 of Schedule 2A to that Act);

“commercial paper funded company” has the meaning given by regulation 9;

“financial asset” has the meaning it has for generally accepted accounting practice (subject to paragraph (2)) but—

(a) includes derivative contracts as defined for the purposes of Schedule 26 to the Finance Act 2002 (see paragraph 2 (1) of that Schedule <sup>(2)</sup>) whether otherwise constituting an asset or a liability, and

(b) does not include shares (other than shares in a securitisation company which is party to the capital market arrangement);

“ICTA” means the Income and Corporation Taxes Act 1988<sup>(3)</sup>;

“independent persons” means persons who are not connected with a company (and see paragraph (3));

“intermediate borrowing company” has the meaning given by regulation 7;

“note-issuing company” has the meaning given by regulation 5;

“related transaction” is to be construed in accordance with paragraphs (4) and (5);

“retained profit” is to be construed in accordance with regulation 10;

“securitisation company” has the meaning given by regulation 4;

“specified regulations” means regulations 14 (corporation tax charge) and 16 to 20 (application, modification and non-application of provisions of the Corporation Tax Acts);

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(1) 1986 c.45. Section 72B was inserted by section 250(1) of the Enterprise Act 2002 (c. 40) and Schedule 2A was inserted by section 250(2) of, and Schedule 18 to, that Act. Paragraph 1 of Schedule 2A was amended by S.I. 2003/1468 and S.I. 2003/2093.

(2) 2002 c. 23. Paragraph 2(1) was amended by articles 2 and 3 of S.I. 2004/2201.

(3) 1988 c. 1.

“warehouse company” has the meaning given by regulation 8.

(2) For the purposes of these Regulations whether an asset acquired, held or managed by a company is a financial asset shall be determined at the time that asset is first acquired, held or managed by that company.

(3) Section 839 of ICTA(4) (connected persons) applies for the purposes of the definition of “independent persons”, except that in applying the definition of “control” in that section a person is not to be treated as a participator in a company by reason only that he is a loan creditor of the company.

(4) For the purpose of these Regulations one or more transactions are to be regarded as related transactions, in the case of any arrangements, if it would be reasonable to assume, from either or both of—

- (a) the likely effect of the transactions, and
- (b) the circumstances in which the transactions are entered into or effected,

that none of the transactions would have been entered into or effected independently of the arrangements.

(5) Transactions are not prevented from being related transactions, in the case of any arrangements, just because the transactions—

- (a) are not between the same parties, or
- (b) are not between the parties to the capital market arrangements.

### **Scope of these Regulations**

**3.—**(1) These Regulations make provision as to the application of the Corporation Tax Acts in relation to a securitisation company.

(2) The Regulations deal with the following matters—

- (a) they define “securitisation company” and related expressions (see regulations 4 to 10);
- (b) they specify securitisation companies to which specified regulations do not apply (see regulations 11 to 12);
- (c) they specify companies to which these Regulations do not apply (see regulation 13);
- (d) they make provision as to profit of a securitisation company to be brought into account for an accounting period for corporation tax purposes (see regulation 14);
- (e) they make supplementary provision (see regulations 15 to 21).

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(4) 1988 c. 1. Section 839 was amended by section 74 of, and paragraph 20 of Schedule 17 to, the Finance Act 1995 (c. 4), section 882 of, and paragraph 341 of Schedule 1 to, the Income Tax (Trading and Other Income) Act 2005 (c. 5), and S.I. 1988/745.