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STATUTORY INSTRUMENTS

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**2008 No. 164**

**STAMP DUTY  
STAMP DUTY RESERVE TAX**

**The Stamp Duty and Stamp Duty Reserve Tax  
(Investment Exchanges and Clearing Houses) (Eurex  
Clearing AG) (Amendment) Regulations 2008**

<i>Made</i>	- - - -	<i>28th January 2008</i>
<i>Laid before the House of Commons</i>	- - - -	<i>29th January 2008</i>
<i>Coming into force</i>	- -	<i>19th February 2008</i>

The Treasury make the following Regulations in exercise of the powers conferred on them by sections 116 and 117 of the Finance Act 1991(1).

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Stamp Duty and Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) (Eurex Clearing AG) (Amendment) Regulations 2008 and shall come into force on 19th February 2008.

(2) These Regulations shall have effect—

- (a) for the purposes of the charge to stamp duty, in relation to instruments executed on or after 19th February 2008;
- (b) for the purposes of the charge to stamp duty reserve tax—
  - (i) in the case of agreements to transfer equities which are not conditional, in relation to agreements made on or after 19th February 2008;
  - (ii) in the case of agreements to transfer equities which are conditional, in relation to agreements where the condition is satisfied on or after that date.

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(1) 1991 c. 31. Section 116 was amended by section 432(1) of, and paragraph 5 of Schedule 20 to, the Financial Services and Markets Act 2000 (c. 8).

## Interpretation

2. In these Regulations, “the principal Regulations” means the Stamp Duty and Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) (Eurex Clearing AG) Regulations 2007(2).

## Amendment of the principal Regulations

3. The principal Regulations are amended as follows.

4.—(1) Regulation 2 (interpretation) is amended as follows.

(2) In the definition of “clearing member”, in paragraph (1)(b)(ii), for the words “a member of that exchange who is not a clearing member” substitute “a non-clearing member”.

(3) In the definition of “Eurex Clearing AG”, delete the words from “in its capacity” to the end.

(4) Insert the following definition before the definition of “option”—

““non-clearing member” means a member of the Eurex exchange who is not a clearing member, in his capacity as such or in his capacity as a person who is a party to a transaction with a clearing member which is otherwise permitted to be cleared by the rules of Eurex Clearing AG;”.

5.—(1) Regulation 3 (prescription of recognised clearing house) is amended as follows.

(2) For regulation 3, substitute—

### “Prescription of recognised investment exchanges and recognised clearing house

3. For the purposes of sections 116 and 117 of the Finance Act 1991—

(a) Eurex Deutschland is prescribed as a recognised investment exchange;

(b) Eurex Zurich is prescribed as a recognised investment exchange; and

(c) Eurex Clearing AG is prescribed as a recognised clearing house.”

6. At the end of Regulation 4, insert—

“Here, and in regulation 5, references to Eurex Clearing AG are references to that clearing house in its capacity as a person providing clearing services in connection with a transaction made on the Eurex exchange or otherwise permitted to be cleared by the rules of that clearing house.”

7.—(1) Regulation 5 (transfers of securities from Eurex Clearing AG – prescribed circumstances) is amended as follows.

(2) In paragraph (a), delete “or”.

(3) After paragraph (b), insert—

“(c) a non-clearing member, or

(d) a person whose business is or includes holding such equities as a nominee for a non-clearing member,”.

(4) In consequence of the amendments made by this regulation, in the heading of regulation 5 of the principal Regulations, after the words “Eurex Clearing AG”, insert “or a non-clearing member”.

28th January 2008

*Frank Roy*  
*Steve McCabe*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

The Stamp Duty and Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) (Eurex Clearing AG) 2007 (S.I. 2007/1097) (“the principal Regulations”) make provision in accordance with sections 116 and 117 of the Finance Act 1991 (c. 31) that a charge to stamp duty or stamp duty reserve tax shall be treated as not arising in prescribed circumstances.

These Regulations amend the principal Regulations to take account of an extension to those prescribed circumstances.

Regulation 3 of these Regulations amends regulation 2 of the principal Regulations in order to clarify the definition of the non-clearing members of the Eurex exchange who are within the extended prescribed circumstances.

Regulation 4 of these Regulations amends regulation 3 of the principal Regulations in order to prescribe Eurex Deutschland and Eurex Zurich as recognised investment exchanges for the purposes of section 116(1) and 117(1) of the Finance Act 1991.

Regulation 5 of these Regulations amends regulation 5 of the principal Regulations in order to bring transfers of equities from non-clearing members or their nominees to clearing members or their nominees within the prescribed circumstances.

These Regulations also make other minor amendments to the principal Regulations.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.