

EXPLANATORY MEMORANDUM TO
THE STAMP DUTY AND STAMP DUTY RESERVE TAX (INVESTMENT
EXCHANGES AND CLEARING HOUSES) REGULATIONS No.2 2009

2009 No. 194

1. This explanatory memorandum has been prepared by HM Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. **Purpose of the instrument**

The instrument contains regulations that remove the charge to stamp duty or stamp duty reserve tax when, as a result of the execution of trades on the SmartPool multilateral trading facility, shares in UK companies are transferred between clearing members of European Central Counterparty Limited ('EuroCCP'), by non-clearing members (or their nominees) to clearing members (or their nominees), and to or from EuroCCP itself.

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

It is regretted that the 21 day rule is not being complied with in this instance. SmartPool had to wait longer than expected for its Financial Services Authority approval to come through and this was not received until 26 January, by which time SmartPool had already made a public statement that it would be launching its new market on 23 February. To avoid delaying the launch and to facilitate the smooth introduction of the new platform without inconveniencing intended participants, it is necessary to break the 21-day rule in this case.

4. **Legislative Context**

- 4.1 When shares in UK companies are traded on the SmartPool trading platform, the use of a central counterparty to clear and settle the transactions will involve a number of transfers of those shares, each of which is potentially chargeable to stamp duty or stamp duty reserve tax.

- 4.2 These Regulations will ensure that multiple charges to stamp duty or stamp duty reserve tax will not arise when shares are transferred between non-clearing and clearing members of EuroCCP or when passing through EuroCCP itself.

5. **Territorial Extent and Application**

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 By removing multiple charges to stamp duty or stamp duty reserve tax, these Regulations will improve liquidity in the securities markets.

- *Consolidation*

7.2 As this instrument does not amend another instrument, no consolidation of relevant legislation is deemed necessary.

8. Consultation outcome

8.1 This instrument followed a request for stamp relief from, and consultation with, both EuroCCP and SmartPool representatives.

9. Guidance

9.1 No HM Revenue & Customs guidance or other form of publicity is deemed necessary other than publication of the new instrument.

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 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 HM Revenue & Customs will continually monitor the practical application of the new regulations.

13. Contact

Simon English at HM Revenue and Customs, Tel: 020 7147 2808 or e-mail: Simon.English@hmrc.gsi.gov.uk, can answer any queries regarding the instrument.