
STATUTORY INSTRUMENTS

2009 No. 194

The Stamp Duty and Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) Regulations (No. 2) 2009

Prescribed circumstances for the purposes of sections 116 and 117

4.—(1) In the circumstances prescribed by paragraph (2) below, the charge to stamp duty and the charge to stamp duty reserve tax shall be treated as not arising.

(2) The circumstances prescribed are where, in connection with a transaction made on the Facility conditions A and B are met.

(3) Condition A is that traded securities of a particular kind are transferred, or agreed to be transferred, from—

- (a) a clearing participant or a nominee of a clearing participant to another clearing participant or nominee, or
- (b) a non-clearing firm or its client to a clearing participant or a nominee of a clearing participant, or
- (c) a clearing participant or a nominee of a clearing participant to EuroCCP or to a nominee of that clearing house, or
- (d) a person other than a clearing participant to EuroCCP or to a nominee of that clearing house, as a result of a failure by a clearing participant to fulfil his obligations in respect of the transaction concerned to transfer traded securities to EuroCCP or to a nominee of that clearing house, or
- (e) EuroCCP or a nominee of that clearing house to a clearing participant or a nominee of a clearing participant.

(4) Condition B is that the person to whom those securities are agreed to be transferred under any of the agreements specified in paragraph (3) above (“the relevant agreement”) is required on receipt of those securities to transfer traded securities under a matching agreement to another person or, in the case of an agreement falling within sub-paragraph (d), would have been so required if the failure referred to in that sub-paragraph had not occurred.

(5) In paragraph (4)—

- (a) “matching agreement” means an agreement under which—
 - (i) the traded securities agreed to be transferred are of the same kind as the traded securities agreed to be transferred under the relevant agreement, and
 - (ii) the number and transfer price of the traded securities agreed to be transferred are identical to the number and transfer price of the traded securities agreed to be transferred under the relevant agreement;
- (b) references to EuroCCP are references to that clearing houses in its capacity as a person providing clearing services in connection with a transaction made on the Facility;
- (c) references to a clearing participant are references to a clearing participant in his capacity as such.