
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 28th June 2013, amend the stamp duty legislation contained in Schedule 13 to the Finance Act 1999 (“Schedule 13”) and the stamp duty reserve tax legislation contained in Part IV of the Finance Act 1986 (“FA 86”). They amend the primary legislation to provide exemptions for certain transactions relating to certain collective investment schemes. The schemes concerned are contractual schemes provided for by a new section 235A of the Financial Services and Markets Act 2000 (“FSMA”) which was inserted by regulation 3 of the Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013 (“the principal Regulations”).

The principal Regulations amend FSMA to enable the UK regulator to authorise tax transparent collective investment schemes to be constituted by contractual arrangements. This authorisation is made under the Directive of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (2009/65/EC)(1), known as the “UCITS IV Directive”. These regulations amend the relevant primary legislation to provide an appropriate stamp duty and stamp duty reserve tax treatment for transactions relating to the new schemes.

These Regulations complement the Collective Investment Schemes (Tax Transparent Funds and Schemes of Reconstruction) Regulations 2013 which make amendments to provide an appropriate tax on the chargeable gains regime for the new contractual funds.

Regulation 3 inserts three new subsections, (7B), (7C) and (7D), into section 90 of FA 86. Subsection (7B) excepts from stamp duty reserve tax agreements to transfer chargeable securities in circumstances that it prescribes. Subsection (7C) defines the expressions “authorised contractual scheme”, “depository” and “units”. Subsection (7D) disapplies the exceptions where an agreement forms part of arrangements to avoid stamp duty or stamp duty reserve tax.

Regulation 5 inserts a new paragraph 25A into Schedule 13. Paragraph 25A(1) exempts from a stamp duty charge transfers on sale in circumstances that it prescribes which are the same circumstances prescribed in the new section 90(7B) of FA 86. Paragraph 25A(2) defines “authorised contractual scheme”, “depository” and “units” in the same terms as the new section 90(7C) of FA 86. Paragraph 25A(3) disapplies the exemptions where a transfer forms part of arrangements to avoid stamp duty or stamp duty reserve tax.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

(1) OJ No L 302, 17.11.2009, p32.