

EXPLANATORY MEMORANDUM TO
THE COMMUNITY INVESTMENT TAX RELIEF (ACCREDITATION OF
COMMUNITY DEVELOPMENT FINANCE INSTITUTIONS) (AMENEDMENT)
REGULATIONS 2013

2013 No. 417

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

2. Purpose of the instrument

2.1 The Instrument amends the Community Investment Tax Relief (Accreditation of Community Development Finance Institutions) Regulations 2003 S.I. 2003/96 (“the 2003 regulations”). The new Regulations come into force on 1 April 2013, with changes to the relevant anniversary dates taking effect only for Community Development Finance Institutions accredited on or after that date, and a change the rules about what is a “relevant investment” taking effect only in respect of investments made on or after that date.

2.2 It introduces new investment terms for a Community Development Finance Institution (CDFI), allowing 12 months from the date of the first investment is received to meet the onward investment criteria, and anniversaries therefrom, as opposed to the current 12 months from accreditation and anniversaries therefrom. It also introduces a requirement that a CDFI notify the Secretary of State of the first investment date.

2.3 The annual reporting dates are also changed from the accreditation date anniversaries to the investment date anniversaries.

2.4 The description of some of the circumstances in which an investment made by a CDFI is not a “relevant investment” for the purpose of the onward lending requirements at regulation 8 of the 2003 regulations, by removing one such circumstance.

2.5 The Instrument also removes references to the Director of Enterprise Environment and replaces these with Secretary of State, and updates legislative references to the Finance Act 2002 to references to those provisions as rewritten to the Corporation Tax Act 2010.

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

3.1 By virtue of paragraph 5 of Schedule 2 to the Corporation Tax Act 2010 references in the 2003 regulations to the Finance Act 2002 are already to be read as references to the

provisions as rewritten to the Corporation Tax 2010. The updating amendments in this Instrument makes the position clear from the face of the 2003 regulations.

4. Legislative Context

4.1 The instrument is being made as a result of an informal consultation with industry in which the restrictive nature of the accreditation date anniversary for onward lending was an issue raised. The instrument extends the period and gives CDFIs a full 12 months to meet the criteria. The reporting dates have been amended to coincide with these new periods.

4.2 Community Investment Tax Relief was an approved State aid but following discussions with the European Commission is now a de minimis State aid. Included in the consequent changes to CTIR is a new limits as to the amount of equity investment that can be made by a CDFI into a qualifying enterprise. That is being imposed under the accreditation rules issued by the Department for Business, Innovation and Skills (BIS). Schedule 1 is amended to reflect the changes in these rules.

4.3 The instrument updates legislative references from Finance Act 2002 to Corporation Tax Act 2010 to reflect the rewriting of the relevant legislation.

4.4 The Secretary of State requested that references to the Director of Enterprise be amended to references to the Secretary of State as all powers are delegated through him.

5. Territorial Extent and Application

5.1 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 Community Investment Tax Relief (CITR) is given to investors investing in accredited CDFIs which invest in small or medium sized enterprises in disadvantaged areas. CDFIs are accredited by the Department for Business, Innovation and Skills (BIS) and their operation is governed by the Statutory Instrument now amended.

CDFIs previously had one year from the accreditation date to meet the onward lending criteria of at least 25% of the investment fund being invested in relevant enterprises. This became 50% at the second anniversary of accreditation and 75% at anniversaries thereafter. As CDFIs could not raise investments qualifying for CITR until they had been

accredited this meant that the first period could often be significantly shorter than 12 months. By changing the criteria to 12 months from the first investment this will allow CDFIs greater flexibility to meet the onward lending requirements.

CDFIs have to make an annual return to BIS detailing the investments made. Previously the return date was the anniversaries of the accreditation date, these will now be aligned with the first investment date.

7.2 De minimis State aid guidelines restrict the amount of aid that can be given to a maximum of €200,000 in any three year period. BIS are issuing revised accreditation rules which affect the amount of equity investment a CDFI can make. Consequently the reference to equity investments as relevant investments must meet these rules and the part of paragraph 4 of Schedule 1 that deals with equity investments will no longer apply.

7.3 To ensure the Instrument reflects current legislation and powers the rewritten legislation is now referenced and the Secretary of State given the roles previously assigned to the Director for Enterprise Investment.

8. Consultation outcome

8.1 CDFIs represent a small community within the social investment sector, in total around 70 CDFIs of which 20 are accredited. An informal consultation was undertaken with both accredited and unaccredited CDFIs, their representative body and other social enterprises on the authorisation of the Exchequer Secretary to the Treasury. 28 responses were received (20 from CDFIs, 6 from other social enterprises and 2 from other Government Departments). The changes proposed in the amendments to this instrument arise from that consultation.

The proposal to amend the anniversary dates for complying with the onward investment limits was widely suggested and agreed within the industry.

8.2 The amendments to the legislative references and the Secretary of State are tidying up exercises and have not been consulted on.

8.3 The amendments in respect of the de minimis State aid requirements have not been consulted on as they are being undertaken to ensure that the UK continues to meet its obligations under European Community law.

9. Guidance

9.1 The monitoring of investments and the annual returns by CDFIs is undertaken by BIS who will be issuing relevant guidance.

10. Impact

10.1 A Tax Information and Impact Note covering this instrument was published on 11 December 2012 alongside amendments to community investment tax relief and is available on the HMRC website at <http://www.hmrc.gov.uk/tiin/2012/tiin2334.pdf>. It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The amendments are being undertaken on behalf of BIS who administer the regulations in relation to CDFIs. BIS will continue to monitor and review the outcomes in the normal manner.

13. Contact

Des Ryan at HM Revenue and Customs Tel: 020 7147 0818 or email: des.ryan@hmrc.gsi.gov.uk can answer any queries regarding the instrument.