EXPLANATORY MEMORANDUM TO

THE INDIVIDUAL SAVINGS ACCOUNT (AMENDMENT) REGULATIONS 2020

2020 No. 30

1. Introduction

1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) on behalf of Her Majesty's Treasury and is laid before the House of Commons by Command of Her Majesty.

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

2. Purpose of the instrument

2.1 This instrument will amend the Individual Savings Account Regulations 1998 (SI 1998/1870) (the "ISA Regulations") to enable investments in a Child Trust Fund (CTF) to be transferred to an Individual Savings Account (ISA) post maturity and for any transferred investments to be disregarded for the purposes of the overall ISA subscription limit.

2.2 This instrument also introduces a minor technical amendment to the definition of "recognised UCITS" to ensure that the definition remains effective after the United Kingdom leaves the European Union (see 8.1 below).

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 Regulation 3(b) makes a minor technical amendment to the definition of "recognised UCITS" within the ISA Regulations. The effect of this amendment is to ensure that the definition remains effective following amendments to the Financial Services and Markets Act 2000. This will ensure that ISA investors can continue to hold shares or units in recognised UCITS funds within their stocks and shares ISA after the United Kingdom leaves the European Union. Regulation 5 makes consequential provision.

3.2 Regulations 3(b) and 5 of this instrument are to come into force immediately after the coming into force of the Taxes (Amendment) (EU Exit) Regulations 2019 (SI 2019/689).

3.3 By virtue of paragraph 1 of Schedule 5 to the European Union (Withdrawal Agreement) Bill 2019-20, (the "WAB"), if passed into law, SI 2019/689 would come into force, in line with HM Government policy, on the implementation period completion day ("IP completion day", as defined in the Bill, 31st December 2020 at 11 pm). The provisions of Regulation 3(b) and 5 would then come into force immediately afterwards.

3.4 However, should paragraph 1 of Schedule 5 not pass into law then Regulations 3(b) and 5 of this instrument will come into force on exit day (as defined in the Interpretation Act 1978, 11 pm on 31 January 2020). This would mean that those regulations would come into force on a day which is less than 21 days after the laying of this instrument, in breach of 'the 21 day rule'.

3.5 Whilst HM Treasury uses its best endeavours to comply with 'the 21 day rule', it considers that a shorter period between the laying of the instrument and its coming into force in this instance to be both proportionate and necessary, because Regulations 3(b) and 5 need to come into force immediately after the coming into force of the Taxes (Amendment) (EU Exit) Regulations 2019 (SI 2019/689).

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.6 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 ISAs are tax-advantaged savings accounts. Any growth or interest arising from an account is not subject to income tax or Capital Gains Tax.

6.2 The ISA rules are set out in the ISA Regulations which are made under powers in the Taxation of Chargeable Gains Act 1992 and the Income Tax (Trading and Other Income) Act 2005.

7. Policy background

What is being done and why?

7.1 CTF accounts will start to mature in September 2020 when the first children reach 18. Without regulatory change the investments would lose their tax advantaged status at maturity. Any subsequent transfer of funds from a mature CTF to an ISA would count towards the annual subscription limit. In contrast, an equivalent Junior ISA does not lose its tax advantaged status at maturity and any transfer to an ISA does not count towards the annual subscription limit.

7.2 The ISA Regulations specify the maximum amount which can be subscribed to an ISA annually and provide exemptions to that amount, including where funds in a CTF are transferred to a Junior ISA. Regulation 4ZA of the ISA Regulations provides the overall subscription limits for accounts other than Junior ISA accounts.

7.3 The instrument inserts new regulations 5DZ and 5DZA into the ISA Regulations. These regulations ensure that funds in a maturing CTF account can be transferred to an ISA and that the investments transferred will be disregarded for the purposes of the annual ISA subscription limit.

7.4 Regulation 5DZ of the ISA Regulations provides for circumstances where, under regulation 13A of the Child Trust Fund Regulations 2004 (2004/1450) (the "CTF Regulations"), instructions are given by the person who holds the matured child trust fund as to what is to be done with the investments in the account. It provides that a subscription made by a transfer of funds from a maturing CTF under regulation 13A of the CTF Regulations is disregarded for the purposes of the overall ISA subscription limit under regulation 4ZA. However, in such circumstance, a subscription to a Lifetime ISA is subject to the overall Lifetime ISA payment limit under regulation 4ZA. This is consistent with the approach taken for maturing Junior ISAs.

7.5 Regulation 5DZ(2) also amends regulation 10A and 12B of the ISA Regulations to provide that a Lifetime ISA may be opened to receive investments from a mature CTF where the account holder is not resident in the United Kingdom at the time of account opening. Regulation 7 of this instrument amends regulation 12 to provide that other forms of ISA may be opened in the same circumstances. These changes are consistent with the approach taken for CTF to Junior ISA transfers and enable an account holder whose family is resident abroad to maintain a tax advantage account pending a return to the UK.

7.6 Regulation 5DZA of the ISA Regulations provides for circumstances where, under regulation 13B of the CTF Regulations, no instructions have been given by the account holder and there has been a transfer, by the account provider, of the investments in the mature CTF to an ISA. It provides that a subscription made by such a transfer is disregarded for the purposes of the overall subscription limit provided in regulation 4ZA. It further provides that, where a transfer has been made by the account provider, no further activity can take place until the account holder has completed an account application under regulation 12 of the ISA Regulations confirming, amongst other things, their residential status. Regulation 5DZA also makes consequential modifications to regulation 31 regarding returns of information by the account provider.

7.7 Regulation 2 of the ISA Regulations defines terms such as ‘account’ for ISA purposes. The instrument also amends regulation 2 of the ISA Regulations to include a definition of ‘Child Trust Funds Regulations’ and ‘CTF matured account’.

7.8 Amendments to the CTF Regulations will provide that investments in CTF accounts can retain their tax advantaged status post maturity while awaiting instructions from the account holder.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument is not being made under the European Union (Withdrawal) Act but relates to the withdrawal of the United Kingdom from the European Union because it contains a minor consequential amendment intended to ensure that European Economic Area based Undertaking for Collective Investments in Transferrable Securities (UCITS) continue to be qualifying investments for ISA purposes after the United Kingdom leaves the European Union.

9. Consolidation

9.1 There are no plans to consolidate the ISA Regulations.

10. Consultation outcome

10.1 An announcement was made at Budget 2018 that consultation would take place in spring 2019 on draft regulations which ensured investments in maturing CTF accounts could retain their tax advantaged status post maturity. A programme of informal discussions took place with CTF and ISA providers in late 2018 and the spring of 2019. Those discussion informed the draft regulations, on which a public consultation was undertaken in July – August 2019.

10.2 Eight providers and representative bodies for the savings industry responded to that consultation. The responses were positive and resulted in some minor drafting changes to the regulations and the introduction of changes which would ensure that a non-resident account holder could retain the benefits of a tax advantaged account post account maturity and pending a return to residency. A summary of responses is available at www.gov.uk/government/consultations/draft-regulations-maturing-child-trust-funds.

11. Guidance

11.1 HMRC's Guidance Notes for ISA providers will be updated to reflect the changes introduced by the Regulations. These are available at www.gov.uk/government/publications/guidance-notes-for-isa-managers

11.2 Guidance on ISAs is available at www.gov.uk/individual-savings-accounts.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies. The retention of the account's tax advantaged status post maturity only affects ISA managers. Any impact will be dependent on an account provider's commercial decision whether to accept the transfer of investments from CTFs post maturity.

12.2 The impact on account holders will depend on their individual circumstances but the changes will ensure that investments in CTF accounts can be transferred to an ISA post maturity and that investments transferred in this way will be disregarded for the purposes of the annual ISA subscription limit.

12.3 There is no, or no significant, impact on the public sector.

12.4 A Tax Information and Impact Note covering this instrument will be published on the website at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise the impact of the requirements on small businesses (employing up to 50 people).

13.3 The basis for the final decision on what action to take to assist small businesses is that no action is required, as the decision whether to accept instructions from the account holder to transfer investments from a mature CTF or to undertake a provider transfer from a mature CTF to an ISA is a commercial decision for the ISA manager.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is that HMRC will continue to review compliance with the ISA Regulations using the information provided annually by ISA managers as well as through regular contacts with ISA managers and other groups.

14.2 This instrument is exempt from the requirement to provide a review provision in accordance with section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015 (c.26) because it amends a provision to vary tax.

15. Contact

15.1 Helen Williams, at HMRC email: savings.audit@hmrc.gsi.gov.uk or telephone: 03000 512336, can be contacted with any queries regarding the instrument.

15.2 Guy Hooper, Deputy Director for Pensions, Savings and Charities policy at HM Revenue and Customs can confirm that this Explanatory Memorandum meets the required standard

15.3 John Glen the Economic Secretary to the Treasury can confirm that this Explanatory Memorandum meets the required standard.