

EXPLANATORY MEMORANDUM TO
THE COMMUNITY INVESTMENT TAX RELIEF (AMENDMENT OF
INVESTMENT LIMITS) REGULATIONS 2023

2023 No. 518

1. Introduction

- 1.1 This explanatory memorandum has been prepared by His Majesty’s Revenue and Customs (HMRC) and is laid before the House of Commons by Command of His Majesty.
- 1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument amends Parts 7 of the Income Tax Act 2007 (ITA 07) and Corporation Tax Act 2010 (CTA 10) to increase the limits that apply to the amounts of capital that Community Development Finance Institutions (CDFIs) can raise from corporate and individual investors and on which those investors can claim Community Investment Tax Relief (CITR).
- 2.2 The instrument amends the Community Investment Tax Relief (Accreditation of Community Development Finance Institutions) Regulations 2003 (S.I. 2003/96) to raise the limits that apply to ‘relevant investments’ made by a CDFI.
- 2.3 This instrument also amends a superseded cross reference for published loan ‘reference rates’ in S.I. 2003/96.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 This instrument relies on section 105 of the Deregulation Act 2015 (“the Deregulation Act”) to make a single instrument, rather than two separate instruments each making a small number of changes. Regulations 2 and 3 are made under order-making powers in section 348 of ITA 07 and section 229 of CTA 10 respectively; regulation 4 is made under regulation-making powers in sections 340 and 341 of ITA 07. Section 105 of the Deregulation Act has not been cited in the preamble to the instrument on the basis that it is materially parallel to provisions in the Interpretation Act 1978.
- 3.2 The amendments made by regulations 2 and 3 apply to accreditation periods ending on or after the date that this instrument comes into force. Authority for this limited retrospective effect is provided by section 348(7) of ITA 07 and section 229(7) of CTA 10.

4. Extent and Territorial Application

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. European Convention on Human Rights

- 5.1 Victoria Atkins MP, Financial Secretary to the Treasury, has made the following statement regarding Human Rights:

“In my view the provisions of the Community Investment Tax Relief (Amendment of Investment Limits) Regulations 2023 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 The primary legislation in Parts 7 of the ITA 07 and CTA10 makes provisions relating to the accreditation of CDFIs and for the entitlement and claims to CITR for individual and corporate investors who make qualifying investments in CDFIs.
- 6.2 Chapter 2 of Part 7 of ITA 07 provides for regulations to be made for the accreditation of CDFIs. Regulation 8 of S.I. 2003/96 requires that, as a condition of accreditation, a CDFI must deploy specified proportions of its investment fund in relevant investments in qualifying enterprises at the first, second and third anniversaries of accreditation and at all times thereafter.
- 6.3 Regulation 11 of S.I. 2003/96 defines the meaning of ‘relevant investment’ and Schedule 1 specifies which investments are not relevant investments. Paragraph 2 of Schedule 1 defines investments which are not relevant investments in respect of loans to profit-distributing enterprises and paragraph 4 of schedule 1 provides the same for non-profit-distributing enterprises. To qualify as relevant investments loans to profit-distributing enterprise are required to be at or over a defined market rate and both definitions include limits on the amounts that can be invested.
- 6.4 This instrument amends those limits, increasing the amounts that CDFIs can invest in both profit-distributing and non-profit distributing enterprises as relevant investments.
- 6.5 Chapters 3 of Part 7 ITA 07 and Chapter 2 of Part 7 CTA 10 define the conditions for ‘qualifying investments’ on which CITR may be claimed. These include the requirement that an investor must have received a valid tax relief certificate from the CDFI in which the investment has been made. Limits are set on the total amount of ‘tax relief certificates’ a CDFI can issue in any three year ‘accreditation period’ depending on whether they are a retail CDFI (investing directly into qualifying enterprises) or a wholesale CDFI (providing finance to other CDFIs). The legislation also contains powers to allow the Treasury to substitute any amount for these limits.
- 6.6 This instrument increases these limits thereby increasing the amounts of investment CDFIs can receive and on which individual and corporate investors can claim CITR.

7. Policy background

What is being done and why?

- 7.1 Introduced in 2003, the CITR scheme is intended to stimulate private investment in disadvantaged communities by providing a tax incentive to individuals and companies that invest in CDFIs which in turn invest in enterprises located in or serving those communities.
- 7.2 The limits on investments raised by a CDFI that can qualify for CITR and on the amounts for on-lending in relevant investments have not changed since the introduction of CITR and therefore have fallen by over 50% in real terms since 2003.

- 7.3 Replacing the existing limits that apply to relevant investments will enable CDFIs to meet demand for larger loans and to lower the rates at which they can lend to disadvantaged businesses. The limits will be increased from £100,000 to £250,000 for investments in profit-distributing enterprises and from £250,000 to £375,000 for investments in non-profit distributing enterprises.
- 7.4 The limits on the investment funds that CDFIs can raise and that can qualify for CITR has constrained growth of the sector, restricting CDFIs from scaling up to meet demand from institutional investors and reducing their efficiency. Increasing the limits from £10 million to £25 million for retail CDFIs and from £20 million to £100 million for wholesale CDFIs will allow them to attract more institutional investment, enabling faster growth in the sector.
- 7.5 With larger investment funds CDFIs will also be able to serve increasing retail demand, reducing unnecessary costs and therefore the interest rates charged on lending to the enterprises the scheme is intended to support.
- 7.6 Additionally, this instrument also updates a cross reference to the location of published market rates for the purpose of determining whether loans to profit-distributing enterprise are relevant investments.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 There are no plans to consolidate the amended instrument in the immediate future.

10. Consultation outcome

- 10.1 The changes being made follow informal consultation with both accredited and unaccredited CDFIs (there are around 50 CDFIs of which 34 are accredited for CITR) and their representative body.

11. Guidance

- 11.1 Guidance in relation to these changes will be incorporated into HMRC's Community investment tax relief manual (<https://www.gov.uk/hmrc-internal-manuals/community-investment-tax-relief-manual>).

12. Impact

- 12.1 The impact on business, charities or voluntary bodies is that for those qualifying, the opportunities for investment in or to obtain support from CDFIs will be increased. The costs of familiarisation with the changes are expected to be negligible. There are not expected to be any continuing costs.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 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 regulatory burdens on small businesses.
- 13.3 The basis for the final decision on what action to take to assist small businesses is that these changes will not impose any additional obligations on those small businesses which may seek funding from a CDFI.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that HMRC and the Department for Business, Energy and Industrial Strategy will continue to review the annual returns of CDFIs and the claims to CITR by individual and corporate investors.
- 14.2 The instrument does not include a statutory review clause because of a tax exemption in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

- 15.1 Alex Buckley at HMRC, email: venturecapitalschemes.policy@hmrc.gov.uk, can be contacted with any queries regarding the instrument.
- 15.2 Tessa Robins, Deputy Director for CT Innovation & Growth, at HMRC can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Victoria Atkins MP, Financial Secretary to the Treasury can confirm that this Explanatory Memorandum meets the required standard.