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SCHEDULES

SCHEDULE 21

Section 73

EXEMPTIONS FROM STAMP DUTY AND SDRT: INTERMEDIARIES, REPURCHASES ETC

Intermediaries

- 1 (1) Section 80A of FA 1986 (exemption from stamp duty: sales to intermediaries) is amended as follows.
- (2) For subsections (1) to (3) substitute—
- “(1) Stamp duty shall not be chargeable on an instrument transferring stock of a particular kind on sale to a person or the person's nominee if—
- (a) the person is a member of a regulated market on which stock of that kind is regularly traded; and
 - (b) the person is an intermediary and is recognised as such by the market in accordance with arrangements approved by the Commissioners.
- (1A) Stamp duty shall not be chargeable on an instrument transferring stock of a particular kind on sale to a person or the person's nominee if—
- (a) the person is a member of a multilateral trading facility, or a recognised foreign exchange, on which stock of that kind is regularly traded;
 - (b) the person is an intermediary and is recognised as such by the facility or exchange in accordance with arrangements approved by the Commissioners; and
 - (c) the sale is effected on the facility or exchange.
- (1B) Stamp duty shall not be chargeable on an instrument transferring stock of a particular kind on sale to a person or the person's nominee if—
- (a) the person is an intermediary who is approved for the purposes of this section by the Commissioners; and
 - (b) stock of that kind is regularly traded on a regulated market.
- (1C) Stamp duty shall not be chargeable on an instrument transferring stock of a particular kind on sale to a person or the person's nominee if—
- (a) the person is an intermediary who is approved for the purposes of this section by the Commissioners;
 - (b) stock of that kind is regularly traded on a multilateral trading facility or a recognised foreign exchange; and
 - (c) the sale is effected on the facility or exchange.
- (2) Stamp duty shall not be chargeable on an instrument transferring stock of a particular kind on sale to a person or the person's nominee if—
- (a) the person is a member of a regulated market, a multilateral trading facility or a recognised foreign options exchange;

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- (b) options to buy or sell stock of that kind are regularly traded on, and are listed by or quoted on, that market, facility or exchange;
 - (c) the person is an options intermediary and is recognised as such by that market, facility or exchange in accordance with arrangements approved by the Commissioners; and
 - (d) stock of that kind is regularly traded on a regulated market.
- (2A) Stamp duty shall not be chargeable on an instrument transferring stock of a particular kind on sale to a person or the person's nominee if—
- (a) the person is a member of a regulated market, a multilateral trading facility or a recognised foreign options exchange;
 - (b) options to buy or sell stock of that kind are regularly traded on, and are listed by or quoted on, that market, facility or exchange;
 - (c) the person is an options intermediary and is recognised as such by that market, facility or exchange in accordance with arrangements approved by the Commissioners; and
 - (d) the sale is effected on a relevant qualifying exchange on which stock of that kind is regularly traded or is effected on a relevant qualifying exchange pursuant to the exercise of a relevant option and options to buy or sell stock of that kind are regularly traded on, and are listed by or quoted on, that exchange;
- and in paragraph (d) “relevant qualifying exchange” means a multilateral trading facility, a recognised foreign options exchange or a recognised foreign exchange.
- (2B) Stamp duty shall not be chargeable on an instrument transferring stock of a particular kind on sale to a person or the person's nominee if—
- (a) the person is an options intermediary who is approved for the purposes of this section by the Commissioners;
 - (b) options to buy or sell stock of that kind are regularly traded on, and are listed by or quoted on, a regulated market, a multilateral trading facility or a recognised foreign options exchange; and
 - (c) stock of that kind is regularly traded on a regulated market.
- (2C) Stamp duty shall not be chargeable on an instrument transferring stock of a particular kind on sale to a person or the person's nominee if—
- (a) the person is an options intermediary who is approved for the purposes of this section by the Commissioners;
 - (b) options to buy or sell stock of that kind are regularly traded on, and are listed by or quoted on, a regulated market, a multilateral trading facility or a recognised foreign options exchange; and
 - (c) the sale is effected on a relevant qualifying exchange on which stock of that kind is regularly traded or is effected on a relevant qualifying exchange pursuant to the exercise of a relevant option and options to buy or sell stock of that kind are regularly traded on, and are listed by or quoted on, that exchange;
- and in paragraph (c) “relevant qualifying exchange” means a multilateral trading facility, a recognised foreign options exchange or a recognised foreign exchange.”

- (3) In subsection (6) (meaning of sale being on an exchange)—

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- (a) after “effected on” insert “ a facility or ”,
 - (b) for “subsection (1) or (2) above” substitute “ this section ”, and
 - (c) for “the exchange” (in each place) substitute “ the facility or exchange ”.
 - (4) After that subsection insert—
 - “(6A) The Commissioners may approve a person for the purposes of this section only if the person is authorised under the law of an EEA State to provide any of the investment services or activities listed in Section A 2 or 3 of Annex I to the Directive (execution of orders on behalf of clients and dealing on own account), whether or not the person is authorised under the Directive.”
 - (5) The amendments made by this paragraph have effect in relation to any instrument executed on or after 1st November 2007.
- 2 (1) Section 80B of FA 1986 (exemption from stamp duty on sales to intermediaries: supplementary) is amended as follows.
 - (2) In subsection (2)—
 - (a) after the definition of “collective investment scheme” insert—

““the Directive” means Directive [2004/39/EC](#) of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, as amended from time to time;”
 - (b) omit the definition of “EEA exchange”, and
 - (c) in the definition of “EEA State”, for “means a State which” substitute “ , in relation to any time, means a State which at that time is a member State or any other State which at that time ” and insert at the end “ (as modified or supplemented from time to time) ”.
 - (3) After that subsection insert—

“(2A) Each of the following expressions—
“multilateral trading facility”, and
“regulated market”,
has the same meaning in section 80A above as it has for the purposes of the Directive.”
 - (4) After subsection (5) insert—

“(5A) The Treasury may by regulations amend section 80A above and this section (as they have effect for the time being) in order to extend the exemption from duty under that section.”
 - (5) In subsection (7) (power for regulations to provide for stamp duty to be chargeable at a rate not exceeding 0.1%), for “subsection (1) or (2)” substitute “ any of subsections (1) to (2C) ”.
 - (6) The amendments made by this paragraph have effect in relation to any instrument executed on or after 1st November 2007.
- 3 (1) Section 88A of FA 1986 (exemption from SDRT: sales to intermediaries) is amended as follows.
 - (2) For subsections (1) to (3) substitute—

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- “(1) Section 87 above shall not apply as regards an agreement to transfer securities of a particular kind to B or B's nominee if—
- (a) B is a member of a regulated market on which securities of that kind are regularly traded; and
 - (b) B is an intermediary and is recognised as such by the market in accordance with arrangements approved by the Commissioners for Her Majesty's Revenue and Customs (“the Commissioners”).
- (1A) Section 87 above shall not apply as regards an agreement to transfer securities of a particular kind to B or B's nominee if—
- (a) B is a member of a multilateral trading facility, or a recognised foreign exchange, on which securities of that kind are regularly traded;
 - (b) B is an intermediary and is recognised as such by the facility or exchange in accordance with arrangements approved by the Commissioners; and
 - (c) the agreement is effected on the facility or exchange.
- (1B) Section 87 above shall not apply as regards an agreement to transfer securities of a particular kind to B or B's nominee if—
- (a) B is an intermediary who is approved for the purposes of this section by the Commissioners; and
 - (b) securities of that kind are regularly traded on a regulated market.
- (1C) Section 87 above shall not apply as regards an agreement to transfer securities of a particular kind to B or B's nominee if—
- (a) B is an intermediary who is approved for the purposes of this section by the Commissioners;
 - (b) securities of that kind are regularly traded on a multilateral trading facility or a recognised foreign exchange; and
 - (c) the agreement is effected on the facility or exchange.
- (2) Section 87 above shall not apply as regards an agreement to transfer securities of a particular kind to B or B's nominee if—
- (a) B is a member of a regulated market, a multilateral trading facility or a recognised foreign options exchange;
 - (b) options to buy or sell securities of that kind are regularly traded on, and are listed by or quoted on, that market, facility or exchange;
 - (c) B is an options intermediary and is recognised as such by that market, facility or exchange in accordance with arrangements approved by the Commissioners; and
 - (d) securities of that kind are regularly traded on a regulated market.
- (2A) Section 87 above shall not apply as regards an agreement to transfer securities of a particular kind to B or B's nominee if—
- (a) B is a member of a regulated market, a multilateral trading facility or a recognised foreign options exchange;
 - (b) options to buy or sell securities of that kind are regularly traded on, and are listed by or quoted on, that market, facility or exchange;

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- (c) B is an options intermediary and is recognised as such by that market, facility or exchange in accordance with arrangements approved by the Commissioners; and
 - (d) the agreement is effected on a relevant qualifying exchange on which securities of that kind are regularly traded or is effected on a relevant qualifying exchange pursuant to the exercise of a relevant option and options to buy or sell securities of that kind are regularly traded on, and are listed by or quoted on, that exchange;and in paragraph (d) “relevant qualifying exchange” means a multilateral trading facility, a recognised foreign options exchange or a recognised foreign exchange.
- (2B) Section 87 above shall not apply as regards an agreement to transfer securities of a particular kind to B or B's nominee if—
 - (a) B is an options intermediary who is approved for the purposes of this section by the Commissioners;
 - (b) options to buy or sell securities of that kind are regularly traded on, and are listed by or quoted on, a regulated market, a multilateral trading facility or a recognised foreign options exchange; and
 - (c) securities of that kind are regularly traded on a regulated market.
- (2C) Section 87 above shall not apply as regards an agreement to transfer securities of a particular kind to B or B's nominee if—
 - (a) B is an options intermediary who is approved for the purposes of this section by the Commissioners;
 - (b) options to buy or sell securities of that kind are regularly traded on, and are listed by or quoted on, a regulated market, a multilateral trading facility or a recognised foreign options exchange; and
 - (c) the agreement is effected on a relevant qualifying exchange on which securities of that kind are regularly traded or is effected on a relevant qualifying exchange pursuant to the exercise of a relevant option and options to buy or sell securities of that kind are regularly traded on, and are listed by or quoted on, that exchange;and in paragraph (c) “relevant qualifying exchange” means a multilateral trading facility, a recognised foreign options exchange or a recognised foreign exchange.”
- (3) In subsection (6) (meaning of sale being on an exchange)—
 - (a) after “effected on” insert “ a facility or ”,
 - (b) for “subsection (1) or (2) above” substitute “ this section ”, and
 - (c) for “the exchange” (in each place) substitute “ the facility or exchange ”.
- (4) After that subsection insert—
 - “(6A) The Commissioners may approve a person for the purposes of this section only if the person is authorised under the law of an EEA State to provide any of the investment services or activities listed in Section A 2 or 3 of Annex I to the Directive (execution of orders on behalf of clients and dealing on own account), whether or not the person is authorised under the Directive.”
- (5) The amendments made by this paragraph have effect in relation to any agreement to transfer securities—

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- (a) in a case where the agreement is conditional, if the condition is satisfied on or after 1st November 2007, and
 - (b) in any other case, if the agreement is made on or after that date.
- 4 (1) Section 88B of FA 1986 (exemption from SDRT on sales to intermediaries: supplementary) is amended as follows.
- (2) In subsection (2)—
- (a) after the definition of “collective investment scheme” insert—
 - ““the Directive” means Directive [2004/39/EC](#) of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, as amended from time to time;”,
 - (b) omit the definition of “EEA exchange”, and
 - (c) in the definition of “EEA State”, for “means a State which” substitute “, in relation to any time, means a State which at that time is a member State or any other State which at that time ” and insert at the end “ (as modified or supplemented from time to time) ”.
- (3) After that subsection insert—
- “(2A) Each of the following expressions—
- “multilateral trading facility”, and
 - “regulated market”,
- has the same meaning in section 88A above as it has for the purposes of the Directive.”
- (4) After subsection (3) insert—
- “(3A) The Treasury may by regulations amend section 88A above and this section (as they have effect for the time being) in order to extend the exemption from tax under that section.”
- (5) In subsection (5) (power for regulations to provide for SDRT to be chargeable at a rate not exceeding 0.1%), for “subsection (1) or (2)” substitute “ any of subsections (1) to (2C) ”.
- (6) In subsection (7) (regulations exercisable by statutory instrument and subject to annulment), for “(4)” substitute “ (3A) ”.
- (7) The amendments made by this paragraph have effect in relation to any agreement to transfer securities—
- (a) in a case where the agreement is conditional, if the condition is satisfied on or after 1st November 2007, and
 - (b) in any other case, if the agreement is made on or after that date.

Repurchases and stock lending

- 5 (1) Section 80C of FA 1986 (exemption from stamp duty: repurchases and stock lending) is amended as follows.
- (2) In subsection (1) (application of section), after “conditions set out in subsection” insert “ (2A) or ”.
- (3) After subsection (2) insert—

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“(2A) The conditions in this subsection are—

- (a) that A or B is authorised under the law of an EEA State to provide any of the investment services or activities listed in Section A 2 or 3 of Annex I to the Directive (execution of orders on behalf of clients and dealing on own account) in relation to stock of the kind concerned, whether or not A or B is authorised under the Directive; and
- (b) that stock of the kind concerned is regularly traded on a regulated market.”

(4) In subsection (3) (conditions for exemption)—

- (a) after “The conditions” insert “ in this subsection ”,
- (b) for “an EEA exchange” substitute “ a regulated market, a multilateral trading facility ”, and
- (c) after “on that” insert “ market, facility or ”.

(5) In subsection (6) (meaning of arrangement being on an exchange)—

- (a) after “effected on” insert “ a market, a facility or ”, and
- (b) for “the exchange” (in each place) substitute “ the market, facility or exchange ”.

(6) In subsection (7)—

- (a) after “In this section—” insert—
 - ““the Directive” has the meaning given in section 80B(2) above;
 - “EEA State” has the meaning given in section 80B(2) above;”, and
- (b) omit the definition of “EEA exchange” (together with the “and” at the end of it).

(7) After that subsection insert—

“(7A) Each of the following expressions—
 “multilateral trading facility”, and
 “regulated market”,
 has the same meaning in this section as it has for the purposes of the Directive.”

(8) The amendments made by this paragraph have effect in relation to any instrument executed on or after 1st November 2007.

6 (1) Section 89AA of FA 1986 (exemption from SDRT: repurchases and stock lending) is amended as follows.

(2) In subsection (1) (application of section), after “conditions set out in subsection” insert “ (2A) or ”.

(3) After subsection (2) insert—

“(2A) The conditions in this subsection are—
 (a) that P or Q is authorised under the law of an EEA State to provide any of the investment services or activities listed in Section A 2 or 3 of Annex I to the Directive (execution of orders on behalf of clients and dealing on own account) in relation to securities of the kind

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- concerned, whether or not P or Q is authorised under the Directive;
and
- (b) that securities of the kind concerned are regularly traded on a regulated market.”
- (4) In subsection (3) (conditions for exemption)—
- (a) after “The conditions” insert “ in this subsection ”,
- (b) for “an EEA exchange” substitute “ a regulated market, a multilateral trading facility ”, and
- (c) after “on that” insert “ market, facility or ”.
- (5) In subsection (5) (meaning of arrangement being on an exchange)—
- (a) after “effected on” insert “ a market, a facility or ”, and
- (b) for “the exchange” (in each place) substitute “ the market, facility or exchange ”.
- (6) In subsection (6)—
- (a) after “In this section—” insert—
- ““the Directive” has the meaning given in section 88B(2) above;
“EEA State” has the meaning given in section 88B(2) above;”, and
- (b) omit the definition of “EEA exchange”.
- (7) After that subsection insert—
- “(6A) Each of the following expressions—
“multilateral trading facility”, and
“regulated market”,
has the same meaning in this section as it has for the purposes of the Directive.”
- (8) The amendments made by this paragraph have effect in relation to any agreement to transfer securities—
- (a) in a case where the agreement is conditional, if the condition is satisfied on or after 1st November 2007, and
- (b) in any other case, if the agreement is made on or after that date.

Exemptions from stamp duty and SDRT in cases involving recognised investment exchanges

- 7 (1) In section 116 of FA 1991 (stamp duty: investment exchanges and clearing houses), subsection (4) is amended as follows.
- (2) After “In this section—” insert—
- “(aa) “the Directive” means Directive [2004/39/EC](#) of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, as amended from time to time;”.
- (3) In paragraph (b) (definition of “recognised investment exchange”), after “2000” insert “ , a regulated market within the meaning of the Directive or a multilateral trading facility within the meaning of the Directive ”.

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Consequential repeal

- 8 (1) In F(No.2)A 2005, omit section 50 (power to extend stamp duty and SDRT exemptions to recognised exchanges).
- (2) This paragraph comes into force on 1st November 2007.

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