

2004 No. 3218

TAXES

The Stamp Duty and Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) Regulations 2004

<i>Made</i> - - - -	<i>8th December 2004</i>
<i>Laid before the House of Commons</i>	<i>8th December 2004</i>
<i>Coming into force</i> - -	<i>1st February 2005</i>

The Treasury, in exercise of the powers conferred on them by sections 116 and 117 of the Finance Act 1991(a), make the following Regulations:

Citation, commencement and effect

1.—(1) These regulations may be cited as the Stamp Duty and Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) Regulations 2004 and shall come into force on 1st February 2005.

(2) These Regulations have effect—

- (a) for the purposes of stamp duty, in relation to instruments executed on or after 1st February 2005;
- (b) for the purposes of stamp duty reserve tax—
 - (i) in the case of an agreement to transfer equities which is not conditional, where the agreement is made on or after 1st February 2005;
 - (ii) in the case of an agreement to transfer equities which is conditional, where the condition is satisfied on or after that date.

Interpretation

2. In these Regulations, except where otherwise provided—

“clearing member” means a member of EDX London who is also a member of LCH.Clearnet and who as such is permitted by EDX London and that clearing house to clear futures and options contracts registered by LCH.Clearnet resulting from transactions relating to equities executed on EDX London or reported to it under the rules of EDX London;

“EDX London” means EDX London Limited, a company registered in England and Wales (registered number 4567917) which is a recognised investment exchange under the Financial Services and Markets Act 2000(b);

“equities” means stocks and shares which are issued or raised by a company but does not include stocks and shares issued or raised by a company not incorporated in the United Kingdom unless—

(a) 1991 c. 31.
(b) 2000 c. 8.

(a) they are registered in a register kept in the United Kingdom by or on behalf of the company; or

(b) in the case of shares, they are paired, within the meaning of section 99(6A) of the Finance Act 1986(a), with shares issued by a company incorporated in the United Kingdom;

“futures contract” means a futures contract or a forward contract conferring rights and obligations to buy or sell equities which is listed by or traded on EDX London or which may be reported to EDX London under the rules of EDX London;

“LCH.Clearnet” means LCH.Clearnet Limited, a company registered in England and Wales (registered number 4743602) which is a recognised clearing house under the Financial Services and Markets Act 2000;

“member” means a member of EDX London;

“non-clearing member” means a member who is not a clearing member;

“option” means an option, to buy or sell securities, which is listed by and traded on EDX London or which may be reported to EDX under the rules of EDX London.

Prescription of recognised investment exchange and recognised clearing house

3. For the purposes of sections 116 and 117 of the Finance Act 1991—

- (a) EDX London is a prescribed recognised investment exchange;
- (b) LCH.Clearnet is a prescribed recognised clearing house.

Transfers of securities to LCH.Clearnet — prescribed circumstances

4. No charge to stamp duty or to stamp duty reserve tax arises where, as a result of the exercise of options or the expiration of a futures contract, equities of a particular kind are transferred or issued or agreed to be transferred or issued to—

- (a) LCH.Clearnet; or
- (b) a person whose business is or includes holding such securities as a nominee for LCH.Clearnet.

Here, and in regulation 5, references to LCH.Clearnet are references to that clearing house in its capacity as a person providing clearing services in connection with a transaction made on EDX London or reported to EDX London pursuant to the rules of EDX London.

Transfers of securities to or from members of EDX London — prescribed circumstances

5. No charge to stamp duty or to stamp duty reserve tax arises where, in order to meet an obligation to receive securities resulting from the exercise of options or the expiration of a futures contract, equity securities of a particular kind are transferred or agreed to be transferred from—

- (a) a non-clearing member or a nominee of a non-clearing member to a clearing member or a nominee of a clearing member; or
- (b) LCH.Clearnet or a nominee for LCH.Clearnet to a clearing member or a nominee of a clearing member.

Here, references to a clearing member are references to a clearing member in his capacity as such.

Joan Ryan
Nick Ainger

8th December 2004

Two of the Lords Commissioners of Her Majesty's Treasury

(a) 1986 c. 41. Subsections (3) to (6A) of section 99 were substituted for subsections (3) to (6) by section 144(2) of the Finance Act 1988 (c. 36). Subsection (6A) was amended by section 113(2) of the Finance Act 1990 (c. 29). The whole of Part 4 of the 1986 Act is to be repealed from a date to be appointed (*see* sections 110 and 111(1) of the 1990 Act).

EXPLANATORY NOTE

(This note is not part of the Regulations)

With effect from 20th October 1997 (being the day appointed by S.I. 1997/2428 (C.95)), sections 97, 98, 102, and 103 of the Finance Act 1997 (c.16) introduced new rules conferring relief from stamp duty and stamp duty reserve tax for intermediaries trading in United Kingdom securities, and similar relief in connection with stock borrowing and sale and repurchase arrangements.

These Regulations, which have effect from 1st February 2005, confer relief for persons, other than intermediaries, trading on EDX London or reporting such trades to EDX London pursuant to the rules of EDX London.

Regulation 1 provides for the citation, commencement and effect of the Regulations, and regulation 2 for interpretation of some terms used in them.

Regulation 3 prescribes EDX London as a prescribed recognised investment exchange, and LCH.Clearnet as a prescribed recognised clearing house, for the purposes of the Regulations.

Regulation 4 exempts from stamp duty or stamp duty reserve tax transfers of securities, or agreements to transfer securities, to LCH.Clearnet (or its nominee) in its capacity as a clearer of transactions on EDX London resulting from the exercise of options or the expiration of futures contracts.

Regulation 5 exempts from stamp duty or stamp duty reserve tax transfers of securities, or agreements to transfer securities, resulting from the exercise of options to receive securities, in cases where the transfer or agreement to transfer is from a member of EDX London who is not authorised to clear transactions on that exchange, or his nominee, to a member who is so authorised (a “clearing member”), or his nominee. It also exempts transfers from LCH.Clearnet Limited (in its capacity as a clearer of transactions on EDX London) or its nominee to a clearing member or his nominee.

These Regulations do not impose new costs on business.

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Exchanges and Clearing Houses) Regulations 2004**

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