

2007 No. 1097

TAXES

The Stamp Duty and Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) (Eurex Clearing AG) Regulations 2007

<i>Made</i>	- - - -	<i>29th March 2007</i>
<i>Laid before the House of Commons</i>		<i>30th March 2007</i>
<i>Coming into force</i>	- -	<i>23rd April 2007</i>

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

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) (Eurex Clearing AG) Regulations 2007 and shall come into force on 23rd April 2007.

(2) These Regulations shall have effect—

- (a) for the purposes of the charge to stamp duty, in relation to instruments executed on or after 23rd April 2007;
- (b) for the purposes of the charge to stamp duty reserve tax—
 - (i) in the case of agreements to transfer equities which are not conditional, in relation to agreements made on or after 23rd April 2007;
 - (ii) in the case of agreements to transfer equities which are conditional, in relation to agreements where the condition is satisfied on or after that date.

Interpretation

2.—(1) In these Regulations—

“clearing member” means—

- (a) a member of Eurex Clearing AG who—
 - (i) is also a member of the Eurex exchange (as defined by this regulation); and
 - (ii) is permitted by that exchange and that clearing house to clear options contracts; or
- (b) a member of Eurex Clearing AG who—
 - (i) is not a member of the Eurex exchange; and

(a) 1991 c. 31. Section 116 was amended by section 432(1) of, and paragraph 5 of Schedule 20 to, the Financial Services and Markets Act 2000 (c. 8).

(ii) is permitted by that clearing house to clear options contracts on behalf of a member of that exchange who is not a clearing member (as defined by this regulation), in his capacity as such a member;

“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) 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;

“Eurex Clearing AG” means Eurex Clearing Aktiengesellschaft, a company registered in Germany which is a recognised clearing house under the Financial Services and Markets Act 2000(b) in its capacity as a person providing clearing services in connection with a transaction made on the Eurex exchange or otherwise permitted to be cleared by the rules of that clearing house;

“the Eurex exchange” means either one of the investment exchanges known as Eurex Deutschland and Eurex Zurich;

“option” means an option, to buy or sell equities, which—

- (a) is listed by and traded on the Eurex exchange (as defined by this regulation); or
- (b) is otherwise permitted to be cleared by the rules of Eurex Clearing AG.

Prescription of recognised clearing house

3. For the purposes of sections 116 and 117 of the Finance Act 1991 Eurex Clearing AG is prescribed as a recognised clearing house.

Transfers of securities to Eurex Clearing AG – prescribed circumstances

4. A charge to stamp duty or to stamp duty reserve tax shall be treated as not arising where, as a result of the exercise of an option, equities are transferred or issued, or agreed to be transferred or issued, to—

- (a) Eurex Clearing AG, or
- (b) a person whose business is or includes holding such equities as a nominee for Eurex Clearing AG.

Transfers of securities from Eurex Clearing AG – prescribed circumstances

5. A charge to stamp duty or to stamp duty reserve tax shall be treated as not arising where, in order to meet an obligation to receive equities resulting from the exercise of an option, equities are transferred, or agreed to be transferred, from—

- (a) Eurex Clearing AG, or
- (b) a person whose business is or includes holding such equities as a nominee for Eurex Clearing AG,

to a clearing member or a nominee of a clearing member.

(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).

(b) 2000 c. 8.

29th March 2007

Claire Ward
Kevin Brennan
Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in accordance with sections 116 and 117 of the Finance Act 1991 (c. 31) that a charge to stamp duty or stamp duty reserve tax shall be treated as not arising in prescribed circumstances.

Regulation 1 provides for citation, commencement and effect.

Regulation 2 makes provision for the interpretation of some terms used.

Regulation 3 prescribes Eurex Clearing AG as a prescribed recognised clearing house.

Regulation 4 provides that a charge to stamp duty or stamp duty reserve tax shall be treated as not arising in relation to a transfer of securities, or agreement to transfer securities, resulting from the exercise of an option, to Eurex Clearing AG (or its nominee) either in its capacity as a clearer of transactions on the Eurex Deutschland or Eurex Zurich exchanges or where the transaction is otherwise permitted to be cleared by the rules of Eurex Clearing AG.

Regulation 5 provides that a charge to stamp duty or stamp duty reserve tax shall be treated as not arising in relation to a transfer of securities, or agreement to transfer securities, resulting from the exercise of an option to receive securities, from Eurex Clearing AG (or its nominee) to a clearing member or his nominee.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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