EXPLANATORY MEMORANDUM TO

THE NATIONAL SAVINGS BANK (AMENDMENT) (NO. 2) REGULATIONS 2011

2011 No. 2288

1. This explanatory memorandum has been prepared by the Treasury and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the National Savings Bank Regulations 1972 S.I. 1972/764 (the “1972 Regulations”) and the National Savings Bank (Investment Deposits) (Limits) Order 1977 S.I. 1977/1210 (the “1977 Order”). These Regulations modernise the National Savings and Investments (“NS&I”) Investment Account and make it a more cost-effective account to administer.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Deposits into an Investment Account are investment deposits in the National Savings Bank and are subject to the National Savings Bank Act 1971 (the “Act”), and detailed rules set out in the 1972 Regulations and the 1977 Order.

4.2 The Treasury wish to change the way the Investment Account operates, as set out in paragraph 7 below, and to do so need to amend the 1972 Regulations and the 1977 Order.

4.3 NS&I offers accounts other than Investment Accounts. However almost all of the amendments made by these Regulations do not affect those other accounts either because this is specified in the amending provisions or because the provisions amended do not apply to them by virtue of:

(a) regulation 2A of the 1972 Regulations and article 3ZA of the 1977 Order, which prevent certain provisions applying to accounts first made available since 10 July 2003 under terms and conditions set by the Treasury (such as the Direct ISA, the Direct Saver and the Easy Access Savings Account); and

(b) regulation 29M of the 1972 Regulations, which prevents certain provisions applying to individual savings accounts (a type of account that pays interest free of UK income tax, such as the Direct ISA and the Cash ISA).

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

- ***What is being done and why***

7.1 Deposits into Investment Accounts are managed by NS&I, an executive agency of the Treasury which is also a separate government department, on behalf of the Director of Savings, a statutory office-holder. NS&I is engaged in a programme to modernise its products, as part of its remit to provide the Government with cost-effective retail financing. The Investment Account is NS&I's oldest account product.

<u>Passbooks, transaction records and statements</u>

7.2 The Investment Account is currently operated as a passbook account (see regulations 16 to 19 of the 1972 Regulations). To modernise the Investment Account, regulations 14 and 15 of these Regulations amend the 1972 Regulations to require the Director of Savings to cease issuing and updating passbooks. Instead, customers will be sent a transaction record by post after each deposit or withdrawal is made. Customers will be provided with an annual statement and will also be able to obtain a statement at any time upon request.

<u>Deposits and withdrawals</u>

7.3 In order to achieve cost efficiencies, regulations 16 and 20 of these Regulations make amendments narrowing the current transaction options by requiring that:

(a) first deposits into Investment Accounts are generally to be made by cheque, postal order or banker's draft sent to NS&I in the post;

(b) all subsequent deposits into Investment Accounts are to be made either by cheque, postal order or banker's draft sent to NS&I in the post, or by electronic transfer; and

(c) the Director of Savings is to make repayments by crossed warrant sent to the customer in the post, or by electronic transfer.

<u>Children's accounts</u>

7.4 Currently children aged seven and over can open and manage an Investment Account by themselves. An Investment Account can be opened on behalf of a child under seven years of age, but, until that child obtains control at the age of seven, withdrawals can only be made by a person considered by the Director of Savings to be a proper person to do so (see regulations 5, 6 and 25 of the 1972 Regulations).

7.5 Regulations 9(a)(i), 10 and 17 of these Regulations increase the age at which children may open and manage an Investment Account to sixteen. Until a child reaches the age of sixteen, an account can be opened in the name of the child and managed for them by a person appearing to be responsible for their welfare. The increase in the age at which children can open and manage Investment Accounts addresses the concern that children may have difficulties managing an account operated by post. It also brings the relevant age into line with that set for most of NS&I's other account products (Direct Saver, Direct ISA and Cash ISA).

7.6 To reduce the disruption caused by these amendments, a child who holds an Investment Account and is already entitled to manage it (by virtue of being at least seven years old) when the amendments take effect on 21 May 2012 will be allowed to continue to do so.

Repaying deposits without an application for withdrawal

7.7 The power of the Director of Savings to repay deposits in Investment Accounts (see regulation 47 of the 1972 Regulations) is to be broadened and its effect made more explicit. Regulation 29 of these Regulations inserts a new regulation 47A into the 1972 Regulations which will assist the Director of Savings to ensure compliance with the 1972 Regulations and the 1977 Order, and will bring NS&I's position in relation to Investment Accounts more in line with that of commercial banks, which tend to benefit from extensive termination clauses in the terms and conditions of their account products.

Authorising payments to third parties

7.8 Regulation 18 of these Regulations inserts a new regulation 26A into the 1972 Regulations, under which a customer may, with the approval of the Director of Savings, authorise a third party to request or receive payment from that customer's Investment Account. This provision clears up the previous uncertainty as to who could make applications for withdrawals, brings the provisions governing Investment Accounts into line with those governing Premium Bonds (regulation 7(3) of the Premium Savings Bonds Regulations 1972 (S.I. 1972/765)) and Savings Certificates (regulation 6(3) of the Savings Certifications Regulations 1991 (S.I. 1991/1031)) and allows the Director of Savings to set a policy consistent with both the obligations contained in money laundering legislation and relevant industry guidance.

Trust accounts

7.9 Regulations 9, 11 and 12 of these Regulations make it possible for a broader range of trust money to be deposited in Investment Accounts. The limitations preventing accounts from being opened in the name of more than two trustees, or where the relevant trust has more than two beneficiaries (see regulation 5(2) of the 1972 Regulations) are to be removed. However, to ensure that this change does not result in costly administrative difficulties for NS&I, the Director of Savings may require that where there are more than two trustees, those trustees nominate no more than two of their number to manage the account. Regulation 13 of these Regulations also removes the opportunity for a trustee and a beneficiary to invest jointly (see regulation 9 of the 1972 Regulations); this facility has been very seldom used and removing it will simplify the operation of the Investment Account.

Maximum investment limit

7.10 The maximum amount that a person may invest in Investment Accounts (whether in one or more accounts) is £1,000,000. For this purpose deposits in a joint account count in full against the maximum investment limit of each customer (see article 3 of the 1977 Order). Regulation 34 of these Regulations amends the 1977 Order so that customers are to be treated as holding only an equal share of such deposits. This amendment will remove a disincentive which discourages customers from investing jointly.

7.11 Regulation 36(a)(ii) of these Regulations permits the Director of Savings to accept deposits in Investment Accounts in excess of a customer's maximum investment limit where the deposits are made by way of transfer from an account of a type which is to be closed by the Director of Savings. This amendment will allow customers who have made deposits in other types of accounts (some of which have a £2,000,000 maximum investment limit) greater flexibility on closure.

Minimum deposit

7.12 To make transactional cost efficiencies, regulation 20 of these Regulations introduces a minimum deposit amount, which varies depending upon the means by which the deposit is made: £20 where the deposit is made by cheque, postal order or banker's draft; or £1 where the deposit is made by electronic transfer.

Minimum balance

7.13 Accounts with very small balances are disproportionately costly for NS&I to administer. Therefore, regulation 37 of these Regulations amends the 1977 Order to introduce a minimum balance of £1.

Closed period

7.14 Regulation 7 of these Regulations introduces a provision preventing the Director of Savings from accepting applications to open an Investment Account during the period commencing on 28 November 2011 and ending on 20 May 2012 (the "closed period"). Existing customers will be able to transact as normal during the closed period. The purpose of the closed period is to prevent customer confusion while NS&I is in the process of communicating the changes that are being made.

Treasurer's Accounts

7.15 Treasurer's Accounts were offered to friendly societies and certain other organisations in the past. However, all such accounts were closed in 2007. Regulation 21 revokes provisions relating to these accounts.

- ***Consolidation***

7.16 It is intended that the rules set out in the 1972 Regulations and the 1977 Order, and the enactments that amend each of them, will be consolidated within eighteen months of these Regulations being made.

8. Consultation outcome

8.1 No consultation was conducted in relation to these Regulations.

9. Guidance

9.1 No guidance has been produced for this legislative change. However, NS&I will provide information and guidance to customers ahead of the proposed changes. This guidance will be published on NS&I's website (www.nsandi.com) and will be communicated personally to customers where possible.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 While no specific review of these amendments is planned, the Treasury keeps all legislation governing NS&I under review, to ensure that NS&I is able to carry out its functions effectively.

13. Contact

13.1 Jackie Paterson-Borland at NS&I (Tel: 020 7932 6701 or email: jackie.paterson-borland@nsandi.com can answer any queries regarding the instrument.