

EXPLANATORY MEMORANDUM TO

THE STAMP DUTY AND STAMP DUTY RESERVE TAX (EUROPEAN CENTRAL COUNTERPARTY N.V.) REGULATIONS 2014

2014 No. 9

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

This instrument revokes the Stamp Duty and Stamp Duty Reserve Tax (European Multilateral Clearing Facility N.V.) Regulations 2011 (SI 2011/668), (the regulations which prescribe European Multilateral Clearing Facility N.V. (EMCF) as a recognised clearing house) and replaces them with new regulations to reflect EMCF's change of name to European Central Counterparty N.V.

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

None

4. Legislative Context

4.1 Transactions in securities can result in charges to stamp duty or stamp duty reserve tax (SDRT). These transactions are routinely done on a stock exchange or a multilateral trading facility and effected through a clearing house, generally referred to as a 'central counterparty'.

4.2 The Treasury can make regulations under section 116 and section 117 Finance Act 1991 to prescribe an entity as a recognised clearing house, ensuring that the clearing house can obtain relief and that just a single stamp duty/SDRT charge will arise on what is essentially a single purchase by the ultimate buyer.

4.3 EMCF, a major clearing provider, was prescribed as a recognised clearing house for the purposes of the relief from stamp duty and stamp duty reserve tax in 2011.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 On 14 March 2013, EMCF announced plans to combine with another recognised clearing house, European Central Counterparty Limited (EuroCCP). The combination entails EMCF continuing as the single operating entity and changing its name to European Central Counterparty N.V.

7.2 This instrument, which revokes the Stamp Duty and Stamp Duty Reserve Tax (European Multilateral Clearing Facility N.V.) Regulations 2011 (SI 2011/668) and replaces them with new regulations to reflect EMCF's change of name, will maintain clarity within the legislation and avoid confusion in the markets.

8. Consultation outcome

8.1 The instrument follows an informal consultation with EMCF and EuroCCP.

8.2 The reorganisation will build on the strengths of both clearing houses. EMCF will continue as the single operating entity and simply change its name to European Central Counterparty N.V.

8.3 Regulations which prescribe EuroCCP as a recognised clearing house will eventually become obsolete and will be revoked in due course, once EuroCCP has confirmed that it has cleared its historic trades.

9. Guidance

9.1 No HMRC guidance or other form of publicity is deemed necessary other than publication of the new instrument.

10. Impact

10.1 The instrument will maintain clarity within the legislation and avoid any confusion in the markets. There is no other impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 HMRC will review the changes as part of its normal assurance process.

13. Contact

Anne Berriman at HMRC, tel: +44 (0)3000 585 901 or email:
anne.berriman@hmrc.gsi.gov.uk can answer any queries regarding the instrument.