

**EXPLANATORY MEMORANDUM TO
THE FINANCIAL SERVICES AND MARKETS ACT 2000 (COLLECTIVE INVESTMENT
SCHEMES) (AMENDMENT) ORDER 2015**

2015 No. 754

1. This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 The purpose of this Order is to exempt funds that consist of investments that are eligible for Social Investment Tax Relief from the provisions in the Financial Services and Markets Act 2000 (“the 2000 Act”) which apply to collective investment schemes, including certain restrictions on promotion, in order to align their regulatory treatment with that of funds consisting of investments that are eligible for tax relief under the Enterprise Investment Scheme.
3. **Matters of special interest to the Select Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative context**
 - 4.1 The Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001 (“the 2001 Order”) sets out categories of arrangements which do not amount to collective investment schemes for the purposes of Part 17 of the 2000 Act and therefore are not subject to the restrictions on promotion in section 238 of that Act.
 - 4.2 This Order amends the 2001 Order so that funds which consist of investments eligible for Social Investment Tax Relief under Part 5B of the Income Tax Act 2007 and which comply with certain other requirements (“SITR funds”) do not amount to collective investment schemes.
 - 4.3 In addition, this Order corrects a minor drafting error in the 2001 Order in the description of exempt funds that consist of investments eligible for tax relief under the Enterprise Investment Scheme under Part 7 of the Income and Corporation Taxes Act 1988 (“EIS funds”). The procedure for the issue of the instrument free of charge has not been applied, by agreement with the SI Registrar, because the correction is not the main purpose of this Order and this Order is aimed at the same audience as the 2001 Order.
5. **Territorial extent and application**
 - 5.1 This instrument applies to the whole of the United Kingdom.
6. **European Convention on Human Rights**
 - 6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 Social Investment Tax Relief (“SITR”) was introduced in the Finance Act 2014 to encourage and facilitate retail investment into social enterprises. The promotion of SITR funds is currently restricted to a limited range of potential investors such as high net worth individuals and certified sophisticated investors. The Government has identified this as a barrier to developing the market for social investment.
- 7.2 This Order aligns the treatment of SITR funds with the regulatory treatment of EIS funds which pose a similar level of investor risk and which may be promoted to the general public. This will place social and commercial enterprises that are seeking private investment on a more equal footing and encourage further investment into social enterprises.

8. Consultation outcome

- 8.1 The changes made by this instrument were subject to consultation with the Financial Conduct Authority. The FCA did not raise any concerns about the changes. There was no public consultation on these changes.

9. Guidance

- 9.1 Guidance on Social Investment Tax Relief can be found on the GOV.UK website at <https://www.gov.uk/government/collections/social-investment-tax-relief>. The Government does not intend to issue any additional guidance in relation to the changes made by this instrument

10. Impact

- 10.1 An impact assessment has not been produced for this instrument as no significant impact on the costs of business or the voluntary sector is foreseen.

11. Regulating small business

- 11.1 There will be no specific regulation of small business as a result of this Order.

12. Monitoring and review

- 12.1 The Government will monitor the uptake of SITR in terms of numbers of investors and investees, amounts of investment and the distribution of levels of investment. The Government will evaluate the impact of the scheme on social enterprises’ performance and the associated social benefit.

13. Contact

- 13.1 Marc Connolly at HM Treasury (Tel: 0207 270 5276 or email: marc.connolly@hmtreasury.gsi.gov.uk) can answer any queries regarding the instrument.