EXPLANATORY MEMORANDUM TO

THE CHILD TRUST FUNDS (AMENDMENT) REGULATIONS 2020

2020 No. 29

1. Introduction

1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) on behalf of Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument will amend the Child Trust Fund Regulations 2004 (S.I. 2004/1450) (the "CTF Regulations") to ensure that investments in Child Trust Fund (CTF) accounts can retain their tax advantaged status post maturity.

2.2 This instrument also introduces a minor technical amendment to the definition of "recognised UCITS" to ensure that the definition remains effective after the United Kingdom leaves the European Union (see 8.1 below).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 Regulation 3(b) makes a minor technical amendment to the definition of "recognised UCITS" within the CTF Regulations. The effect of this amendment is to ensure that the definition remains effective following amendments to the Financial Services and Markets Act 2000. This will ensure that CTF investors can continue to hold shares or units in recognised UCITS funds within their CTF after the United Kingdom leaves the European Union. Regulation 5 makes consequential provision.

3.2 Regulations 3(b) and 5 of this instrument are to come into force immediately after the coming into force of Regulations 10 to 13 of the Tax Credits and Child Trust Funds (Amendment) (EU Exit) Regulations 2019 (SI 2019/713).

3.3 By virtue of paragraph 1 of Schedule 5 to the European Union (Withdrawal Agreement) Bill 2019-20 (the "WAB"), if passed into law, Regulations 10 to 13 of SI 2019/713 would come into effect, in line with HM Government policy, on the implementation period completion day ("IP completion day", as defined in the Bill, 31^{st} December 2020 at 11 pm). The provisions of Regulation 3(b) and 5 would then come into force immediately afterwards.

3.4 However, should paragraph 1 of Schedule 5 not pass into law, then Regulations 3(b) and 5 of this instrument will come into force on exit day (as defined in the Interpretation Act 1978, 11 pm on 31 January 2020). This would mean that those regulations would come into force on a day which is less than 21 days after the laying of this instrument, in breach of 'the 21 day rule'.

3.5 Whilst HM Treasury uses it best endeavours to comply with 'the 21 day rule', it considers that a shorter period between the laying of the instrument and its coming into force in this instance to be both proportionate and necessary, because Regulations 3(b) and 5 need to come into force immediately after the coming into force of Regulations 10 to 13 of SI 2019/713.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.6 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 CTFs are tax-advantaged savings accounts for children born between 1 September 2002 and 2 January 2011. Any growth or interest arising from an account is not subject to income tax or Capital Gains Tax.

6.2 CTFs are regulated by the CTF Regulations, which are made under powers set out in the Child Trust Funds Act 2004 (the "CTF Act").

7. Policy background

What is being done and why?

7.1 CTF accounts will start to mature in September 2020 when the first children reach 18. Without regulatory change the investments would not be subject to the CTF Regulations at maturity and would lose their tax advantaged status. This is a particular concern where the account holder has become disconnected from their account and cannot therefore provide instructions on its future. Section 7B of the CTF Act was introduced by the Deregulation Act 2015 and provides that regulations may make provision to ensure investments in CTF accounts can retain their tax advantaged status post maturity in the absence of instructions.

7.2 The instrument inserts new regulations 13A, 13B and 13C into the CTF Regulations. These regulations ensure that funds in a maturing CTF account can retain their tax advantaged status post maturity, including where no instructions have been received by the CTF provider.

7.3 Regulation 13A of the CTF Regulations provides for situations where instructions have been given by the person who holds the child trust fund (the young person) as to the future of the investments in the mature child trust fund. The person will be free to withdraw funds, transfer them to another account, transfer them to an Individual Savings Account (ISA) or ISAs, or any combination thereof. Amendments to the ISA Regulations 1998 (S.I. 1998/1870) will provide that any funds transferred to an ISA will not be subject to annual subscription limit but will be subject to the Lifetime ISA payment limit. This is consistent with the approach taken for maturing Junior ISAs.

7.4 Regulation 13B of the CTF Regulations will provide that where a CTF provider has received no instructions on the future of the investments from the account holder, those investment must be placed, at maturity, in a 'protected account' pending receipt of instructions. The 'protected account' can be a 'matured CTF account', or an equivalent ISA offered by the original CTF provider. The Regulation also provides that funds in either 'protected account' will retain their tax advantaged status, and the general terms and conditions which applied before maturity.

7.5 Regulation 13B will also make consequential amendments to ensure that references to 'account', 'child trust fund', 'named child', 'eligible child', 'child', 'registered contact and 'responsible person' are to be read as including the matured account and the holder of the matured account

7.6 Regulation 13C of the CTF Regulations will provide the conditions under which a matured CTF account must operate, including that the account holder cannot make subscriptions to the account, provide investment instructions, or transfer the account to another CTF manager. Once all of the investments have been transferred out of the matured account, the account must be closed.

7.7 Regulation 13C will also provide that regulations 14(2)(b)(vi) (provider information on ethical and equivalent investments), 18A (permitted withdrawals from an account where the child is terminally ill), 20A (transfers to other accounts for children) and 32(2)(b)(i),(ii) and (iv) (returns of information by account provider), are to be treated as omitted for the purposes of the 'matured account', as these are not relevant to matured CTF accounts.

7.8 The instrument also amends Regulation 2 of the CTF Regulations to include a definition of 'matured CTF account' and amends Regulation 10 of the CTF Regulations to require an account provider to provide an account statement following the account holder's 17th birthday.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument is not being made under the European Union (Withdrawal) Act but relates to the withdrawal of the United Kingdom from the European Union because it contains a minor consequential amendment intended to ensure that European Economic Area based Undertakings for Collective Investments in Transferrable Securities (UCITS) continue to be qualifying investments for CTF purposes after the United Kingdom leaves the European Union.

9. Consolidation

9.1 There are no plans to consolidate the CTF Regulations.

10. Consultation outcome

10.1 An announcement was made at Budget 2018 that consultation would take place in spring 2019 on draft regulations which ensured investments in maturing CTF accounts could retain their tax advantaged status post maturity. A programme of informal discussions took place with CTF and ISA providers in late 2018 and the spring of 2019. Those discussion informed the draft regulations, on which a public consultation was undertaken in July – August 2019.

10.2 Eight providers and representative bodies for the savings industry responded to that consultation. The responses were positive and resulted in some minor drafting changes to the regulations. A summary of responses is available at www.gov.uk/government/consultations/draft-regulations-maturing-child-trust-funds.

11. Guidance

11.1 HMRC's Guidance Notes for CTF providers will be updated to reflect the changes introduced by the Regulations. These are available at www.gov.uk/government/publications/child-trust-fund-guidance-notes-for-providers.

11.2 Guidance on CTFs is available at www.gov.uk/child-trust-funds.

12. Impact

12.1 The impact on business, charities or voluntary bodies is dependent on the number of accounts which remain with CTF providers post maturity. One-off costs will include adjusting systems to take account of the 'matured account' and minor reporting changes. On-going costs include providing limited information to HMRC on an annual basis of all matured CTF accounts they continue to manage. The retention of the account's tax advantaged status post maturity affects providers and holders of CTF accounts. There are approximately 70 approved CTF providers.

12.2 The impact on account holders will depend on their individual circumstances but is likely to particularly benefit those who are not engaged with their account as the changes ensure that investments in CTF accounts can retain their tax advantaged status post maturity.

12.3 There is no, or no significant, impact on the public sector.

12.4 A Tax Information and Impact Note covering this instrument will be published on the website at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise the impact of the requirements on small businesses (employing up to 50 people).

13.3 The basis for the final decision on what action to take to assist small businesses is that no action is required, as any impact will be dependent on the number of accounts which remain with CTF providers post maturity.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is that HMRC will continue to review compliance with the CTF Regulations using the information provided annually by CTF providers as well as through regular contacts with CTF providers and other groups.

14.2 This instrument is exempt from the requirement to make provision for review in accordance with section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015 (c.26) because it amends a provision to vary tax.

15. Contact

15.1 Helen Williams, at HMRC email: savings.audit@hmrc.gsi.gov.uk or telephone: 03000 512336, can be contacted with any queries regarding the instrument.

15.2 Guy Hooper, Deputy Director for Pensions, Savings and Charities policy at HM Revenue and Customs can confirm that this Explanatory Memorandum meets the required standard

15.3 John Glen the Economic Secretary to the Treasury can confirm that this Explanatory Memorandum meets the required standard.