EXPLANATORY MEMORANDUM TO

THE CHILD TRUST FUNDS (AMENDMENT) REGULATIONS 2023

2023 No. 269

1. Introduction

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

2. Purpose of the instrument

2.1 This instrument amends the Child Trust Funds (CTF) Regulations to reflect developments in other legislation, clarify the position in cases of doubt and provide additional safeguards for investors.

3. Matters of special interest to Parliament

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

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction which the instrument forms part of the law of) is the United Kingdom.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 A Child Trust Fund is a tax-advantaged savings account for children born between 1 September 2002 and 2 January 2011. The CTF rules, including which investments qualify for inclusion and the circumstances in which monies can be withdrawn from a CTF before the age of 18 years are set out in the Child Trust Fund Regulations 2004 (S.I. 2004/1450) ("the CTF Regulations"), which this instrument amends.

6.2 Regulation 2 defines "recognised Undertakings for Collective Investments in Transferable Securities (UCITS)" for CTF purposes. Recognised UCITS is defined with reference to section 236A of the Financial Services and Markets Act 2000 (FSMA).

6.3 Regulations 10 and 13C prescribe the information which must be included in CTF provider statements to account holders, including the child's name, current address, and date of birth.

6.4 Regulation 12 specifies the kind of investments which may be held in a CTF. Shares (including those in an Investment Trust) must be acquired via a public offer and cannot (other than in prescribed circumstances) be acquired prior to listing or admission to trading.

6.5 Regulations 16, 19 and 20 require CTF providers to notify HMRC and investors where their approval is withdrawn, they intend to cease acting, or no longer qualify. Managers must advise investors of their ability to either transfer their account to an CTF provider of their choosing or, by default, be included within a bulk transfer to another provider chosen by the departing provider.

6.6 Regulation 18A permits withdrawals from a CTF where a child is terminally ill. Terminal illness is defined with reference to the relevant social security legislation of the individual jurisdictions.

6.7 This instrument is made under powers set out in the Child Trust Funds Act 2004.

7. Policy background

What is being done and why?

7.1 The instrument amends the CTF Regulations to accommodate developments in other legislation, clarify the position in cases of doubt, provide additional safeguards for investors and protect the integrity of the tax-free savings landscape.

7.2 This instrument will amend the definition of recognised UCITS in regulation 2 to reference section 271A of FSMA, enabling overseas collective investment schemes recognised by the Financial Conduct Authority to be held within a CTF.

7.3 The instrument will amend regulations 10 and 13C so that the child's address and date of birth are not required to be included in statements for CTF accounts or matured CTFs, providing safeguards against identity theft.

7.4 The instrument will amend regulation 12 to clarify the language relating to qualifying investments in a CTF, ensuring that the requirements for shares in an investment trust reflect those for shares which are not in an investment trust.

7.5 The instrument will amend regulations 16, 19 and 20 to introduce additional investor protections by requiring the departing CTF provider to transfer all CTFs to a successor, prior to HMRC's acceptance of their departure. This ensures the accounts remain under management until account maturity.

7.6 This instrument will also amend regulation 18A to refer to the new Northern Ireland legislation and permit withdrawals where the death of the child is expected within 12 months.

<u>Why is it being changed?</u>

7.7 The Overseas Funds Regime (OFR) provides recognition for authorised overseas collective investment schemes who wish to market to retail investors in the United Kingdom. Schedule 9 of The Financial Services Act provides for the OFR by inserting relevant sections into FSMA. Section 271A of FSMA sets out the requirements for becoming authorised. The existing regulations do not reflect the introduction of the OFR.

7.8 CTF providers have expressed concern that the statutory requirement to include a range of personal information in provider statements of account introduces a risk of identity fraud, particularly in the context of maturing accounts.

7.9 Successive changes to the CTF Regulations, and regulation 7 in particular, have led to a lack of clarity regarding the requirement for shares in an Investment Trust to be acquired prior to listing or admission to trading.

7.10 A CTF provider who has its approval withdrawn, ceases to act, or to qualify, is required to advise investors of their options. Where an account has not been transferred to another CTF provider the investor risks losing their tax advantage. In the context of work elsewhere, consideration has been given to whether existing regulations provide sufficient consumer protection and aid consumer understanding.

7.11 The change is consequential on The Social Security (Terminal Illness) Act (Northern Ireland) 2022 which has amended the definition of terminal illness from one where death is expected within six months to one where death is expected within 12 months. However, the Northern Ireland Assembly cannot alter legislation outside its competence.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 There are no plans to consolidate the CTF Regulations.

10. Consultation outcome

10.1 Regular discussions take place with Industry representatives and CTF providers on the operational design of CTF, potential improvements, and to clarify misapprehensions. A technical consultation on the operational consequences of the changes took place between 21 November and 11 December 2022. These discussions have informed the proposed changes to the process design and reporting timescales, which will better accommodate the practical operation of CTFs.

11. Guidance

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

12. Impact

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

12.2 There will be a positive impact on children, their families and friends. The changes to notice requirements will ensure the continuation of the tax advantaged status of accounts where account providers change or cease to act. The measure relating to terminally ill children in Northern Ireland will ensure that such children continue to be able to withdraw their funds when needed.

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 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 that offer CTFs, such as smaller financial mutuals (friendly societies and co-operatives) and credit unions.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses (employing up to 50 people). HMRC will continue to monitor the impact of this instrument, as well as the cumulative effect of the CTF Regulations, on small businesses through its regular engagement with the CTF industry and representative bodies.

13.3 The basis for the final decision on what action to take to assist small businesses is that no action is required because the changes to the notice requirements are anticipated to have a negligible administrative impact on CTF providers.

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 information provided annually and through regular contact with CTF providers and other groups.

14.2 The instrument does not include a statutory review clause in accordance with section 28(3)(a) of The Small Business, Enterprise and Employment Act 2015 because it amends a provision to vary tax.

15. Contact

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

15.2 Andrew Edwards, Deputy Director for Pensions, Savings and Charities at HMRC can confirm that this Explanatory Memorandum meets the required standard.

15.3 Andrew Griffith MP, Economic Secretary to the Treasury can confirm that this Explanatory Memorandum meets the required standard.