EXPLANATORY MEMORANDUM TO

THE INDIVIDUAL SAVINGS ACCOUNT (AMENDMENT NO. 2) REGULATIONS 2013

2013 No. 623

1. This explanatory memorandum has been prepared by HM Revenue & Customs on behalf of HM Treasury, and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument secures that no tax disadvantage accrues to savers who withdrew and reinvested sums from their cash ISAs because of the fact that they were affected by the technical difficulties within Royal Bank of Scotland Group in 2012.

2.2 It also removes the rule that ISA managers must send annual reminders to their investors at the start of a tax year about not subscribing to more than one ISA of the same type in that tax year and not exceeding the ISA subscription limits.

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

3.1 None.

4. Legislative Context

4.1 The instrument amends the Individual Savings Account Regulations 1998 (S.I. 1998/1870).

4.2 Regulation 2(2) inserts into S.I. 1998/1870 a new regulation 5E under which the favourable tax position is retained for savers who are certified to their ISA manager by Royal Bank of Scotland Group as having been affected by the technical incident within that company during the period 19 June to 6 July 2012 (to 22 July 2012 for Ulster Bank), who as a result withdrew sums from their cash ISAs in that period, and who later in the tax year re-subscribed up to the same total amount into a cash account held with the same ISA manager.

4.3 The amounts are also disregarded for the purposes of the ISA managers' reporting duties to HM Revenue and Customs in regulation 31 of S.I. 1998/1870.

4.4 Section 701(4) of the Income Tax (Trading and Other Income) Act 2007 and section 151(2) of the Taxation of Chargeable Gains Act 1992 allow these changes to have effect in relation to times before they are made since they do not impose or increase any tax liability.

4.5 Regulation 2(3) revokes regulation 30(1) of S.I. 1998/1870, under which ISA account managers must, at the start of each tax year, remind their subscribers not to subscribe to more than one ISA of the same type in that tax year or exceed the ISA subscription limits.

5. Territorial Extent and Application

5.1 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

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

7.1 ISAs are tax advantaged savings accounts, introduced in 1999. They allow eligible individuals to save in a cash and/or stocks and shares account, without being taxed on any income or gains arising from, or received in relation to, those savings.

7.2 S.I. 1998/1870 sets out the relevant ISA rules - including the maximum amount which can be subscribed to an account in a year and the rules concerning the information which must be provided by ISA managers to ISA investors.

7.3 The instrument makes provision for certain ISA reinvestments to be made over and above the normal annual subscription limits, where the investment is a consequence of RBS Group's technical difficulties in 2012. These technical difficulties mean that some ISA investors may have been unable to access funds held in their non-ISA accounts.

7.4 Under current ISA rules an investor is allowed to subscribe up to a specified amount each year. If an amount is withdrawn and then replaced, that replacement counts as a fresh subscription against the annual limit. Where an investor has already subscribed the maximum amount to their ISA and makes a withdrawal, they cannot make any ISA subscriptions until the next financial year and cannot therefore replace the withdrawn money. Similarly, where the amount withdrawn is greater than the remaining subscription capacity, not all of the withdrawn amount can be replaced.

7.5 This instrument provides that an investor who made a withdrawal from a cash ISA as a consequence of technical failures in RBS Group may replace, in a single transaction, up to the amount withdrawn. Such a reinvestment will not count as a fresh subscription for the purposes of the ISA subscription limits. The investor will be required to make the reinvestment on or before 5 April 2013.

7.6 S.I. 1998/1870 also requires ISA managers to issue, annually, a notice to investors informing them of the rules pertaining to the number of accounts which can be subscribed to annually and the subscription limits for those accounts.

7.7 This instrument will remove that requirement.

- Consolidation

7.8 There are no plans to consolidate the regulations governing ISAs.

8. Consultation outcome

8.1 This instrument implements measures which were announced on 24 January 2013 http://www.hmrc.gov.uk/isa/bulletin48.pdf.

8.2 No adverse comments or difficulties have been identified with the proposed changes.

9. Guidance

9.1 HMRC's Guidance Notes for ISA managers will be updated to reflect the changes to the ISA rules. The Guidance Notes are available at http://www.hmrc.gov.uk/isa/isagn.htm .

10. Impact

10.1 The impact on business, charities or voluntary bodies is that it will remove the requirement on all ISA managers to issue annual notices to investors. This should lead to cost savings. Some ISA managers will also process ISA reinvestment subscriptions, which may create additional operational demands for these managers. The number of such subscriptions is likely to be low.

10.2 The impact on the public sector is negligible.

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 applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is the same for all savers and ISA managers. It is anticipated that the impact of the legislation will be to reduce administrative burdens on all ISA managers.

11.3 The basis for the final decision on what action to take to assist small business is as described in paragraph 11.2.

12. Monitoring and review

12.1 HMRC will continue to review compliance with the ISA rules using the information provided annually by ISA managers.

13. Contact

Simon Turner at HM Revenue & Customs Tel: 0300 054 6588 or email: simon.turner@hmrc.gsi.gov.uk can answer any queries regarding the instrument on behalf of HM Treasury.