EXPLANATORY MEMORANDUM TO

THE INVESTMENT TRANSACTIONS (TAX) REGULATIONS 2014

2014 No. 685

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and 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 These Regulations contain provisions to provide a new consolidated 'white list' of investment transactions for the purposes of authorised investment funds, exempt unauthorised unit trusts, investment trust companies and for calculating reportable income from an offshore reporting fund.

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

None

4. Legislative Context

4.1 The Authorised Investment Funds (Tax) Regulations 2006 (S.I .2006/964), the Offshore Funds (Tax) Regulations 2009 (S.I, 2009/3001), the Investment Trust (Approved Company) (Tax) Regulations 2011 (S.I, 2011/2999) and the Unauthorised Unit Trusts (Tax) Regulations 2013 (2013/2819) each contain a "white list" which are provisions specifying certain types of transactions as "investment transactions" which will not be characterised as a trading transaction for tax purposes if the fund concerned meets certain conditions set out in those Regulations. This instrument replaces those white lists so that the specification of "investment transactions" appears in one set of Regulations only.

4.2 This instrument also extends the categories of "investment transactions" to give effect to the changes announced by the Government following a formal consultation on expanding the 'white list'

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

7.1 These Regulations give effect to the changes announced by the Government following a formal consultation on expanding the 'white list' and substitute the current provisions for authorised investment funds (regulation 14F to 14N of the Authorised Investment Funds (Tax) Regulations 2006), offshore reporting funds (regulation 81 to 89 of the Offshore Funds (Tax) Regulations 2009), investment trust companies (regulation 33 to 41 of the Investment Trust (Approved Company) (Tax) Regulations 2011) and exempt unauthorised unit trusts (regulation 24 of the Unauthorised Unit Trusts (Tax) Regulations 2013) with a new consolidated list..

7.2 As part of the UK Investment Strategy published at Budget 2013 the lists have been expanded to include two new transactions and the four existing lists are consolidated into a single list. For further clarity the replacement list refers to defined terms that already exist in related parts of the Corporation Tax Acts rather than repeating those definitions.

7.3 Consolidating the lists provides greater clarity and consistency and will minimise the amending provisions required if the list is updated.

7.4 The list of investment transactions will also be available in one place for common reference by users.

7.5 The new list includes an amendment broadening the definition of tradable carbon credits and a new transaction to include traded life insurance policies.

8. Consultation outcome

8.1 An initial consultation document was published on 22 July 2013[1] setting out the Government's broad proposals to extend the investment transactions 'white list'.

8.2 A second consultation setting out a proposal to combine the existing white lists and reduce the length of the consolidated list together with a summary of responses on the first consultation was published on 20 December 2013[2].

8.3 Stakeholders welcomed the Government's proposals to extend and consolidate the lists and all responses were supportive.

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[1] See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/224483/130716_Draft_condoc_white_list__final.pdf

[2] See https://www.gov.uk/government/consultations/investment-management-exemption-and-collective-investment-schemes-expanding-the-white-list

9. Guidance

9.1 The relevant guidance in the HMRC Savings and Investment Manual and International Manual will be updated to reflect the extension and consolidation of the white list into one instrument.

10. Impact

10.1 The Tax Information and Impact Note covering this instrument was published on 20 December 2013 and is available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/268302/ime-ci-tiin.pdf. It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on small firms employing up to 20 people, the approach taken is that the proposed amendments are broadly beneficial as they provide information in one place for users. Excluding companies with fewer than 20 employees would not achieve the policy objective.

11.3 No indication was given by small firms responding to the consultation that they would have any difficulty understanding and operating the legislation. HMRC will however provide assistance to small firms through the usual contact channels for customers requiring assistance, and by publishing guidance.

12. Monitoring & review

12.1 HMRC and HM Treasury will also continue to liaise with stakeholders from time to time to discuss the implementation of the proposed new rules as part of continuing engagement with industry.

13. Contact

13.1 If you have any questions about this change, please contact Graeme Webster on 03000 585820 (e-mail:graeme.webster@hmrc.gsi.gov.uk) for matters relating to the Investment Manager Exemption or John Buckeridge on 03000 585701 (email: john.buckeridge@hmrc.gsi.gov.uk) for matters relating to authorised investment funds, offshore reporting funds, investment trust companies or exempt unauthorised unit trusts.