EXPLANATORY MEMORANDUM TO

THE STAMP DUTY AND STAMP DUTY RESERVE TAX (BX SWISS AG) (RECOGNISED FOREIGN EXCHANGE AND RECOGNISED FOREIGN OPTIONS EXCHANGE) REGULATIONS 2014

2014 No. 2942

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

2. Purpose of the instrument

These regulations specify BX Swiss AG as a recognised foreign exchange and a recognised foreign options exchange for the purposes of stamp duty and stamp duty reserve tax (SDRT) relief.

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

None

4. Legislative Context

4.1 The trading of UK securities on BX Swiss AG can result in charges to stamp duty and SDRT.

4.2 Sections 80B(3) and 80B(4) of the Finance Act 1986 permit the Treasury to make regulations to specify a market which is not in the European Economic Area (EEA) as a recognised foreign exchange and/or a recognised foreign options exchange.

4.3 Members of a recognised foreign exchange and a recognised foreign options exchange can apply for intermediary status and options intermediary status, respectively, and obtain relief from stamp duty and SDRT under section 80A and 88A of the Finance Act 1986.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

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

7.1 BX Swiss AG, often referred to as BX Berne eXchange, operates under rules similar to those of an equivalent EEA exchange. Furthermore, it is subject to the Swiss Federal Act on Stock Exchanges and Securities Trading Act (SESTA) and is regulated by the Swiss Financial Market Supervisory Authority (FINMA).

7.2 On 20 November 2013, BX Swiss AG launched the trading of foreign securities and is planning to introduce UK securities. Transactions in UK securities can result in charges to stamp duty and SDRT.

7.3 These regulations, which specify BX Swiss AG as a recognised foreign exchange and a recognised foreign options exchange, will enable its members to apply for intermediary status and/or options intermediary status in accordance with arrangements approved by HM Revenue and Customs and obtain eligibility for stamp duty and SDRT relief when purchasing UK securities. This will improve liquidity on the exchange and the functioning of the stock market.

- **Consolidation**

7.4 Not applicable.

8. Consultation outcome

This instrument follows a request from, and consultation with BX Swiss AG. BX Swiss AG will enter into an arrangement with HM Revenue and Customs to allow its members to apply for intermediary status and/or options intermediary status and obtain stamp duty and SDRT relief.

9. Guidance

No HM Revenue and Customs guidance or other form of publicity is deemed necessary other than publication of the new instrument.

10. Impact

10.1 Designating a market as a recognised foreign exchange and/or a recognised foreign options exchange; and enabling its members to obtain relief from stamp duty and SDRT will allow UK companies to access a broader global investor base. There is no impact on charities or voluntary bodies.

10.2 There is no impact on the public sector.

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

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

HM Revenue and Customs will continually monitor the practical application of the new regulation.

13. Contact

Anne Berriman at HM Revenue and Customs (tel: 03000 585901/email: anne.berriman@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.