EXPLANATORY MEMORANDUM TO

THE STAMP DUTY AND STAMP DUTY RESERVE TAX (ICE CLEAR EUROPE LIMITED) REGULATIONS 2013

2013 No. 1382

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.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 These regulations remove multiple charges to stamp duty and stamp duty reserve tax (SDRT) from transactions made on a recognised investment exchange or over the counter and which are transferred through a recognised clearing house (also known as a central counterparty), its members and their nominees. The regulations ensure that stamp duty and SDRT charges are only paid once, as intended, by the ultimate purchaser.

2.2 In these regulations, the recognised clearing house is Ice Clear Europe Limited ('ICE').

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

3.1 None.

4. Legislative Context

4.1 When shares in UK companies are traded on a recognised stock exchange or over the counter, the use of a central counterparty (CCP) to clear and settle the transactions will involve a number of transfers of those shares, each of which is potentially chargeable to stamp duty or SDRT.

4.2 Sections 116 and 117 of the Finance Act 1991 permit the Treasury to make regulations to remove such multiple charges in respect of what is essentially a single sale and purchase. These regulations will ensure that multiple charges to stamp duty or SDRT will not arise when shares are transferred between non-clearing and clearing members of ICE and between prescribed clearing houses.

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 ICE is authorised by the Financial Conduct Authority and is a recognised clearing house under the Financial Services and Markets Act 2000. As such it is a CCP. The interposition of a CCP between the ultimate seller and the ultimate purchaser in share trades results in a chain of transfers of chargeable securities each of which potentially attracts a charge to stamp duty or SDRT.

7.2 These regulations will maintain liquidity in the securities markets by ensuring that multiple charges to stamp duty or SDRT do not arise in respect of what is essentially a single transaction.

- ***Consolidation***

7.3 Not applicable.

8. Consultation outcome

8.1 This instrument follows an approach by, and consultation with, LIFFE, the financial futures and options operated by LIFFE Administration and Management, and ICE, recently appointed to act as CCP to transactions on the LIFFE platform. The wording has been agreed with both LIFFE and ICE.

9. Guidance

9.1 No HM Revenue and Customs guidance or other form of publicity is required, beyond publication of the new instrument.

10. Impact

10.1 The regulations will maintain the liquidity of the securities markets by ensuring that multiple stamp duty or SDRT charges do not arise.

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 HMRC website at http://www.hmrc.gov.uk/the library/tiins.htm.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 HM Revenue and Customs will monitor the practical application of the new regulations.

13. Contact

Miles Harwood at the HM Revenue & Customs Tel: 020 7147 2801 or email: miles.harwood@hmrc.gsi.gov.uk can answer any queries regarding the instrument.