EXPLANATORY MEMORANDUM TO

THE STAMP DUTY AND STAMP DUTY RESERVE TAX (INVESTMENT EXCHANGES AND CLEARING HOUSES) REGULATIONS (No. 13) 2009

2009 No. 2975

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

The instrument contains regulations that remove the charge to stamp duty or stamp duty reserve tax when, as a result of the execution of trades on the NASDAQ OMX Europe Limited multilateral trading facility, shares in UK companies are transferred between clearing members of SIX X-CLEAR AG ('X-CLEAR'), European Multilateral Clearing Facility N.V. ('EMCF') and LCH.Clearnet Limited ('LCH'); by non-clearing members (or their nominees) to clearing members (or their nominees) and to or from X-CLEAR , EMCF and LCH itself; and between X-CLEAR, EMCF and LCH (or their nominees).

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

None

4. Legislative Context

4.1 When shares in UK companies are traded on the NASDAQ OMX Europe Limited trading platform, the use of a central counterparty 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 stamp duty reserve tax.

4.2 These Regulations will ensure that multiple charges to stamp duty or stamp duty reserve tax will not arise when shares are transferred between non-clearing and clearing members of X-CLEAR, EMCF and LCH or when passing through X-CLEAR, EMCF and LCH itself, or between X-CLEAR, EMCF and LCH.

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 negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

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

7.1 EMCF and X-CLEAR are two recognised clearing houses appointed by NASDAQ OMX Europe Limited to clear securities transactions undertaken on the NASDAQ trading facility. NASDAQ OMX Europe Limited believes financial benefits in terms of reduced costs and fees can be delivered to the securities markets by increasing further competition and interoperability amongst central clearing counterparties by permitting members of NASDAQ OMX Europe Limited the choice of clearing share transactions through the appointment of LCH in addition to X-CLEAR and/or EMCF.

7.2 Removing multiple charges to stamp duty or stamp duty reserve tax, these Regulations will improve liquidity in the securities markets.

- ***Consolidation***

7.3 As this instrument does not amend another instrument, no consolidation of relevant legislation is deemed necessary.

8. Consultation outcome

8.1 This instrument followed a request for stamp relief from, and consultation with, NASDAQ OMX Europe Limited, LCH and X-CLEAR/ EMCF representatives.

9. Guidance

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

10. Impact

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

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

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

13. Contact

Simon English at HM Revenue and Customs, Tel: 020 7147 2808 or e-mail: Simon.English@hmrc.gsi.gov.uk, can answer any queries regarding the instrument.