EXPLANATORY MEMORANDUM TO

THE STAMP DUTY AND STAMP DUTY RESERVE TAX (INVESTMENT EXCHANGES AND CLEARING HOUSES) REGULATIONS (No 3) 2010

2010 No. 1877

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 multilateral trading facility operated by BATS Trading Limited ("BATS MTF") and which are transferred through certain recognised clearing houses, their members and their nominees. These regulations ensure the stamp charges are only paid once, as intended, by the ultimate purchaser.

2.2 In these regulations the recognised clearing houses are European Multilateral Clearing Facility N.V. ("EMCF"), European Central Counterparty Limited ("EuroCCP"), LCH.Clearnet Limited ("LCH.Clearnet") and SIX X-CLEAR AG ("X-CLEAR").

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

3.1 Following the Select Committee's report of 2 December 2009, amendments to Sections 116 & 117 Finance Act 1991 now explicitly include members of clearing houses to benefit from clearing relief.

4. Legislative Context

4.1 When shares in UK companies are traded on the BATS MTF, 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 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 transaction. 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 EMCF, EuroCCP, LCH.Clearnet and X-CLEAR and their nominees.

4.3 This instrument revokes and replaces the Stamp Duty and Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) Regulations (No. 6) 2009 so as to include EuroCCP as a prescribed clearing house able to trade under these provisions.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 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 BATS Trading Limited is authorised by the Financial Services Authority to operate a multilateral trading facility. The interposition of clearing houses between the ultimate seller and the ultimate purchaser in share trades result in a chain of transfers of securities each of which potentially attracts a charge to stamp duty or SDRT.

7.2 These regulations will improve liquidity in the securities markets by removing multiple charges to stamp duty and SDRT.

- ***Consolidation***

7.3 Not applicable.

8. Consultation outcome

8.1 This instrument followed a request for stamp relief from, and consultation with, representatives from BATS Trading Limited, European Multilateral Clearing Facility N.V., European Central Counterparty Limited, LCH.Clearnet Limited and SIX X-CLEAR AG.

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 monitor the practical application of the new regulations.

13. Contact

Andrew Hewitt at HM Revenue and Customs, Tel: 020 7147 0092 or e-mail: andrew.hewitt@hmrc.gsi.gov.uk, can answer any queries regarding the instrument.