EXPLANATORY MEMORANDUM TO

THE STAMP DUTY AND STAMP DUTY RESERVE TAX (INVESTMENT EXCHANGES AND CLEARING HOUSES) (REVOCATION) REGULATIONS 2015

2015 No. 1779

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) 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

The instrument revokes

- Stamp Duty and Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) Regulations (No. 9) 2009 (SI 2009/1828) (the "2009 Regulations"); and

- Stamp Duty Reserve Tax (European Central Counterparty Limited) Regulations 2011 (SI 2011/667) (the "2011 Regulations").

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

None.

4. Legislative Context

4.1 The Treasury can make regulations under section 116 and section 117 Finance Act 1991 to prescribe an entity as a recognised clearing house or as a recognised investment exchange. A recognised clearing house (also known as a central counterparty), its members and their nominees can obtain relief from stamp taxes when clearing transactions made on a recognised investment exchange or over the counter. The regulations ensure that stamp tax charges are only paid once by the ultimate purchaser.

4.2 The 2009 Regulations prescribed LCH.Clearnet Limited as a recognised clearing house in connection with transactions on the London International Financial Futures and Options Exchange (LIFFE); and prescribed LIFFE Administration and Management (LIFFE A&M), the company that operated LIFFE, as a recognised investment exchange.

4.3 The 2011 Regulations prescribed European Central Counterparty Limited as a recognised clearing house.

4.4 The Stamp Duty and Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) (Revocation) Regulations 2015 revoke both the 2009 and 2011 Regulations as they are no longer required.

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

7.1 ICE Clear Europe Limited took over the clearing of transactions on LIFFE in 2013. All business of LIFFE A&M was transitioned to ICE Futures Europe Limited in 2014. As LCH.Clearnet Limited is no longer clearing transactions for LIFFE; and as LIFFE A&M is no longer trading, the 2009 Regulations can be revoked.

7.2 European Central Counterparty Limited combined with another recognised clearing house in 2013, and formed a new entity, European Central Counterparty N.V. As European Central Counterparty Limited is no longer trading, the 2011 Regulations can be revoked.

8. Consultation outcome

8.1 The instrument follows informal consultations.

8.2 LCH.Clearnet Limited has confirmed that it no longer provides clearing services in connection with transactions on LIFFE.

8.3 LIFFE A&M has confirmed that it is no longer trading.

8.4 European Central Counterparty Limited has confirmed that it is no longer trading.

9. Guidance

No HMRC guidance or other form of publicity is deemed necessary other than publication of the new instrument.

10. Impact

10.1 The instrument will maintain clarity within legislation and avoid any confusion in the markets. There is no other impact on business, 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 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

HMRC will review the changes as part of its normal assurance process.

13. Contact

Anne Berriman at HMRC, tel: +44 (0)3000 585901 or
email: anne.berriman@hmrc.gsi.gov.uk can answer any queries regarding the instrument.