STATUTORY INSTRUMENTS

2001 No. 255

TAXES

The Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) (The London Stock Exchange) Regulations 2001

Made - - - -	*1st February 2001*
Laid before the House of Commons	*2nd February 2001*
Coming into force	*26th February 2001*

The Treasury, in exercise of the powers conferred upon them by sections 116(3) and (4) and 117 of the Finance Act 1991**(a)**, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) (The London Stock Exchange) Regulations 2001 and shall come into force on 26th February 2001.

Interpretation

2. In these Regulations unless the context otherwise requires—

"Board of directors" means the Board of directors of London Stock Exchange plc;

"clearing participant" means a member (as defined by this regulation) who is also a member of The London Clearing House Limited and who as such is permitted by the Board of directors and that clearing house to clear transactions made on the Exchange for a traded security;

"client" means a person who gives instructions to a participant for equity securities to be purchased or, as the case may be, sold on the Exchange;

"equity securities" means stocks and shares which are issued or raised by a company but does not include stocks and shares issued or raised by a company not incorporated in the United Kingdom unless—

(a) they are registered in a register kept in the United Kingdom by or on behalf of the company, or

(b) in the case of shares, they are paired, within the meaning of section 99(6A) of the Finance Act 1986**(b)**, with shares issued by a company incorporated in the United Kingdom;

(a) 1991 c. 31.

(b) 1986 c. 41. Subsections (3) to (6A) of section 99 were substituted for subsections (3) to (6) of that section by section 144(2) of the Finance Act 1988 (c. 39). Section 99(6A) was amended by section 113(2) of the Finance Act 1990 (c. 29).

"the Exchange" means the London Stock Exchange;

"member" in relation to London Stock Exchange plc means a person approved by the Board of directors as a participant;

"nominee" means a person whose business is or includes holding equity securities as a nominee for The London Clearing House Limited acting in its capacity as a person providing clearing services in connection with a transaction made on the Exchange, or as a nominee for a clearing participant (as the case may be);

"non-clearing participant" means a participant other than a clearing participant;

"participant" means a participant in the Exchange;

"section 117" means section 117 of the Finance Act 1986.

Prescribed persons for the purposes of section 117

3. For the purposes of section 117—

(a) The London Clearing House Limited is a recognised clearing house which is prescribed;

(b) London Stock Exchange plc is a recognised investment exchange which is prescribed and, in relation to that exchange, a member who is a clearing participant is prescribed as a description of member of that exchange.

Prescribed circumstances for the purposes of section 117

4.—(1) In the circumstances prescribed by paragraph (2) below, a charge to stamp duty reserve tax shall be treated as not arising.

(2) The circumstances prescribed are where, in connection with a transaction made on the Exchange—

(a) equity securities of a particular kind are agreed to be transferred—

(i) from a clearing participant or a nominee of a clearing participant to another clearing participant or nominee, or

(ii) from a non-clearing participant or a client to a clearing participant or a nominee of a clearing participant, or

(iii) from a clearing participant or a nominee of a clearing participant to The London Clearing House Limited or to a nominee of that clearing house, or

(iv) from a person other than a clearing participant to The London Clearing House Limited or to a nominee of that clearing house, as a result of a failure by a clearing participant to fulfil his obligations in respect of the transaction concerned to transfer equity securities to The London Clearing House Limited or to a nominee of that clearing house, or

(v) from The London Clearing House Limited or a nominee of that clearing house to a clearing participant or a nominee of a clearing participant; and

(b) the person to whom those securities are agreed to be transferred under any of the agreements specified in sub-paragraph (a) above ("the relevant agreement") is required on receipt of those shares to transfer equity securities under a matching agreement to another person or, in the case of an agreement falling within paragraph (iv) of that sub-paragraph, would have been so required if the failure referred to in that paragraph had not occurred.

(3) In paragraph (2) above—

(a) "matching agreement" means an agreement under which—

(i) the equity securities agreed to be transferred are of the same kind as the equity securities agreed to be transferred under the relevant agreement, and

(ii) the number and transfer price of the equity securities agreed to be transferred are identical to the number and transfer price of the equity securities agreed to be transferred under the relevant agreement;

(b) references to The London Clearing House Limited are references to that clearing house in its capacity as a person providing clearing services in connection with a transaction made on the Exchange;

(c) references to a clearing participant are references to a clearing participant in his capacity as such.

Consequential provision

5.—(1) Equity securities which are the subject of an agreement specified in regulation 4(2)(a) shall be dealt with by a clearing participant who is a party to the agreement in a separate designated account, and not otherwise.

(2) In paragraph (1) above "designated account" means an account designated by The London Clearing House Limited for a clearing participant in connection with the equity securities concerned.

Clive Betts
Greg Pope

1st February 2001 — Two of the Lords Commissioners of Her Majesty's Treasury

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations exempt from stamp duty reserve tax ("SDRT") certain agreements to transfer equity securities made in the course of trading in those securities on The London Stock Exchange. The agreements exempted are those involving clearing participants in that Exchange (and nominees of such clearing participants) and The London Clearing House (and a nominee of that clearing house).

Regulation 1 provides for citation and commencement, and regulation 2 for interpretation.

Regulation 3 prescribes, for the purposes of the exemption from SDRT, The London Clearing House as a recognised clearing house and London Stock Exchange plc as a recognised investment exchange.

Regulation 4 prescribes the circumstances in which SDRT will not be charged.

Regulation 5 makes consequential provision to the effect that equity securities which are the subject of a prescribed agreement shall be dealt with by a clearing participant in a separate designated account.

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