EXPLANATORY MEMORANDUM TO THE STAMP DUTY RESERVE TAX (INVESTMENT EXCHANGES AND CLEARING HOUSES) (THE LONDON STOCK EXCHANGE) REGULATIONS 2008

2008 No. 52

1. This explanatory memorandum has been prepared by the Commissioners for HM Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

2. Description

The instrument contains regulations that remove the charge to stamp duty reserve tax when, as a result of transactions effected on the London Stock Exchange, shares in UK companies are transferred either to SIS x-clear AG or by SIS x-clear AG to a clearing member of the London Stock Exchange, or to the London Clearing House Limited. The regulations will apply to share transfers that take place on or after 4th February 2008 or in relation to conditional agreements where the condition is satisfied on or after that date.

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

None

4. Legislative Background

Sections 116 and 117 of the Finance Act 1991 enable the Treasury to make regulations in relation to recognised investment exchanges and their members, and recognised clearing houses and their nominees. Recognised investment exchanges include regulated markets and multilateral trading facilities within the meaning of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments. Regulations under these sections have been made previously in respect of virt-x Exchange Ltd. (S.I.1995/2051.); the London International Financial Futures and Options Exchange (S.I.1997/2429.); OM London Exchange Limited (S.I.1999/3262.); Jiway Ltd. (S.I.2000/2995.); London Stock Exchange (S.I.2001/255.), EDX London Ltd (S.I.2004/3218) and Eurex Clearing AG (SI 2007/1097).

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As this instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

7. Policy background

When shares in UK companies are traded on the London Stock Exchange the clearing and settlement process will involve a number of transfers of those shares, each of which is potentially chargeable to Stamp Duty Reserve Tax. These Regulations will

ensure that multiple charges to Stamp Duty Reserve Tax will not arise when shares are cleared through SIS x-clear AG. By removing multiple charges to Stamp Duty Reserve Tax, the Regulations improve liquidity in the securities markets.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is none.

9. Contact

Miles Harwood at HM Revenue and Customs, Tel: 020 7147 2801 or e-mail: Miles.Harwood@hmrc.gsi.gov.uk, can answer any queries regarding the instrument.