EXPLANATORY MEMORANDUM TO

THE TAXATION OF INSURANCE SECURITISATION COMPANIES REGULATIONS 2007

2007 No. 3402

THE TAXATION OF SECURITISATION COMPANIES (AMENDMENT No. 2) REGULATIONS 2007

2007 No. 3401

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

2. Description

2.1 These two instruments contains regulations relating to the taxation of securitisation companies which are also insurance companies. The second instrument amends certain provisions of the Taxation of Securitisation Companies Regulations 2006 (SI 2006 No.3296) ("the 2006 Regulations").

2.2 The Regulations have effect for periods of account beginning after 1 January 2007 and current on 28th December 2007.

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

None

4. Legislative Background

The first instrument set out a code of taxation for insurance companies which are also securitisation companies. The code is a modified version of the 2006 Regulations. The second instrument makes amendments to the 2006 regulations which are consequential on the first regulations.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

7.1 The 2006 Regulations introduced new tax rules with effect for accounting periods beginning on or after 1 January 2007 for securitisation companies involved in securitisation of financial assets.

7.2 Securitisation companies are special purpose vehicles which issue securities to third party investors where the securities are backed by assets transferred to it from another company. Such an arrangement is known as a 'capital market arrangement' as defined in Schedule 2A to the Insolvency Act 1986. A securitisation company typically acts as a conduit in which income flows from the securitised assets are channelled to the investor in the form of interest on the securities. It will normally retain only a small cash profit over the life of the securitisation. As a consequence of changes in accounting standards, the statutory accounts of such a company are no longer a reliable basis for its tax liability. Instead, a securitisation company involved in the securitisation of financial assets, and which meets certain other conditions, is taxed on its retained cash profit rather than its statutory accounts.

7.3 The 2006 regulations are not entirely suitable for insurance companies. The accounting considerations are different and it will not necessarily be the case that only a small cash profit is retained. The first instrument therefore sets out a separate code for insurance companies which is a modified version of the 2006 Regulations.

8. Impact

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

9. Contact

Richard Thomas at HM Revenue and Customs Tel: 020 7147 2558 or e-mail: Richard.thomas@hmrc.gsi.gov.uk can answer any queries regarding the instruments.