

2007 No. 3402

CORPORATION TAX

**The Taxation of Insurance Securitisation Companies
Regulations 2007**

<i>Made</i>	- - - -	<i>4th December 2007</i>
<i>Laid before the House of Commons</i>		<i>5th December 2007</i>
<i>Coming into force</i>	- -	<i>28th December 2007</i>

The Treasury make the following Regulations in exercise of the power conferred by section 84 of the Finance Act 2005(a).

Preliminary

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Taxation of Insurance Securitisation Companies Regulations 2007 and shall come into force on 28th December 2007 immediately after the coming into force of the Taxation of Securitisation Companies (Amendment No. 2) Regulations 2007(b).

(2) These Regulations have effect from the beginning of periods of account beginning on or after 1st January 2007 and current on 4th December 2007.

Interpretation

2.—(1) In these Regulations—

“capital market arrangement” and “capital market investment” have the same meaning as in section 72B(1) of the Insolvency Act 1986(c) (see paragraphs 1, 2 and 3 of Schedule 2A to that Act);

“ICTA” means the Income and Corporation Taxes Act 1988(d);

“independent persons” means persons who are not connected with a company (and see paragraph (3));

“insurance special purpose vehicle” and “Insurance Prudential Sourcebook” have the same meanings as in section 431(2) of ICTA(e).

(a) 2005 c.7. Section 84 was amended by section 101(1), (5) and (6) and section 178 of, and Part 3(19) of Schedule 26 to, the Finance Act 2006 (c.25) and section 59(4) to (6) of the Finance Act 2007 (c. 11).

(b) S.I. 2007/3401.

(c) 1986 c.45. Section 72B was inserted by section 250(1) of the Enterprise Act 2002 (c. 40) and Schedule 2A was inserted by section 250(2) of, and Schedule 18 to, that Act. Paragraph 1 of Schedule 2A was amended by S.I. 2003/1468 and S.I. 2003/2093.

(d) 1988 c. 1.

(e) These definitions were inserted by articles 2 and 4(1) and (2)(c) of S.I. 2006/3270.

(2) Section 839 of ICTA(a) (connected persons) applies for the purposes of the definition of “independent persons”, except that in applying the definition of “control” in that section a person is not to be treated as a participator in a company by reason only that he is a loan creditor of the company.

Scope of these Regulations

3.—(1) These Regulations make provision as to the application of the Corporation Tax Acts in relation to an insurance securitisation company.

(2) The Regulations deal with the following matters—

- (a) they define “insurance securitisation company” (see regulation 4);
- (b) they provide that the Regulations do not apply if an insurance securitisation company has an unallowable purpose (see regulation 5);
- (c) they make provision for the application of accounting standards to an insurance securitisation company (see regulation 6);
- (d) they make supplementary provision in relation to the application, modification and non-application of provisions of the Corporation Tax Acts (see regulations 7 to 11).

Insurance securitisation companies

Meaning of insurance securitisation company

4.—(1) For the purposes of these Regulations an “insurance securitisation company” means a company that is an insurance special purpose vehicle and—

- (a) meets conditions A to C, or
- (b) whose liabilities representing debtor relationships are owed wholly or mainly to a note-issuing company or intermediate borrowing company within the Taxation of Securitisation Companies Regulations 2006(b).

(2) Condition A is that the company is within section 84(2)(a) of the Finance Act 2005.

(3) Condition B is that the securities that represent the capital market investment referred to in section 84(2)(a)(ii) of that Act are issued wholly or mainly to independent persons.

(4) Condition C is that the total value of the capital market investments made under the capital market arrangement referred to in section 84(2)(a)(iii) of that Act is at least £10 million.

Insurance securitisation companies that have an unallowable purpose

5.—(1) These Regulations do not apply or will cease to apply to an insurance securitisation company that—

- (a) has an unallowable purpose, or
- (b) at any time has had an unallowable purpose.

(2) Where these Regulations cease to apply by virtue of this regulation the accounting period of the company shall end.

(3) For the purpose of these Regulations an insurance securitisation company has an unallowable purpose if the purpose for which the company is a party to—

- (a) the capital market arrangement,
- (b) any related transaction, or
- (c) any transaction in pursuance of the capital market arrangement,

(a) 1988 c. 1. Section 839 was amended by paragraph 20 of Schedule 17 to the Finance Act 1995 (c. 4), paragraph 341 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5) and S.I. 1988/745.
(b) S.I. 2006/3296, amended by S.I. 2007/3339 and S.I. 2007/3401.

includes a purpose which is not amongst the business or other commercial purposes of the company.

(4) If one of the purposes for which an insurance securitisation company is at any time a party to—

- (a) any capital market arrangement,
- (b) any related transaction in the case of any capital market arrangement, or
- (c) any transaction in pursuance of any capital market arrangement,

is a tax avoidance purpose, that purpose shall be taken to be a business or other commercial purpose of the company only where it is not the main purpose, or one of the main purposes, for which the company is party to the arrangements or transaction at that time.

(5) For the purpose of this regulation—

- (a) one or more transactions are to be regarded as related transactions, in the case of any arrangements, if it would be reasonable to assume, from either or both of—
 - (i) the likely effect of the transactions, and
 - (ii) the circumstances in which the transactions are entered into or effected,that none of the transactions would have been entered into or effected independently of the arrangements; and
- (b) transactions are not prevented from being related transactions, in the case of any arrangements, just because the transactions—
 - (i) are not between the same parties, or
 - (ii) are not between the parties to the capital market arrangements.

(6) In this regulation—

“tax avoidance purpose” means any purpose that consists in securing a tax advantage for any other person;

“tax advantage” has the same meaning as in section 840ZA of ICTA (tax avoidance) (a).

Application of accounting standards to insurance securitisation companies

6. For the purposes of the Corporation Tax Acts as they apply to an insurance securitisation company, generally accepted accounting practice shall be taken to be UK generally accepted accounting practice as it applied for a period of account ending on 31 December 2006 but excluding the application of Financial Reporting Standard 26 issued in December 2004 by the Accounting Standards Board.

Supplementary provisions

Application, modification and non-application of provisions of the Corporation Tax Acts

7. In relation to an insurance securitisation company the provisions of the Corporation Tax Acts have effect in accordance with regulations 8 to 11.

ICTA

8.—(1) ICTA has effect as follows.

(2) In section 209(2) (meaning of distribution)(b) paragraphs (b) to (f) shall not apply in relation to any interest paid or other distribution made by an insurance securitisation company.

(a) Section 840ZA of the Income and Corporation Taxes Act 1988 (c. 1) was inserted paragraph 225 of Schedule 1 to the Income Tax Act 2007 (c. 3).

(b) Section 209 was amended by section 31 of the Finance (No. 2) Act 1992 (c. 48), section 87(1) to (3) of, and Schedule 29 Part VIII(12) to, the Finance Act 1995 (c. 4), paragraph 11 of Schedule 14 and paragraph 6(1), (2)(b) and (4) of Schedule 34 to the Finance Act 1996, section 40(9) and (11) and 86(1) of the Finance Act 2000 (c. 17), section 102(1) and (3) of the Finance Act 2002 (c. 23) and sections 34(1) and 326 of, and Schedule 42 Part 2(2) to, Finance Act 2004.

(3) For the purposes of Chapter 4 of Part 10 (group relief) an insurance securitisation company shall not be treated as the member of any group or consortium.

The Taxation of Chargeable Gains Act 1992

9.—(1) Taxation of Chargeable Gains Act 1992(a) has effect as follows.

(2) Section 171 (transfers within a group: general provisions)(b) shall not apply if “company B” in subsection (1) of that section is an insurance securitisation company.

(3) Section 179A (reallocation within group of gain or loss accruing under section 179)(c) shall not apply if “company C” in that section is an insurance securitisation company.

The Finance Act 1996

10.—(1) The Finance Act 1996(d) has effect as follows.

(2) In Schedule 9 (loan relationships: special computational provisions)—

(a) paragraph 2 (late interest)(e) shall not apply if the person standing in the position of a creditor as respects a loan relationship within that paragraph is an insurance securitisation company;

(b) paragraph 12 (continuity of treatment: groups etc)(f) shall not apply if the “transferee company” or “transferor company” in subparagraph (1) of that paragraph is an insurance securitisation company;

(c) paragraph 17 (deeply discounted securities where companies have a connection) (g) shall not apply if the “issuing company” or the company standing in the position of a creditor in subparagraph (1) of that paragraph is an insurance securitisation company;

(d) paragraph 18 (deeply discounted securities of companies)(h) shall not apply if the “issuing company” or the company standing in the position of a creditor in subparagraph (1) of that paragraph is an insurance securitisation company.

The Finance Act 2002

11.—(1) The Finance Act 2002(i) has effect as follows.

(2) Paragraph 28 of Schedule 26 (derivative contracts: transactions within groups) shall not apply if the “transferee company” or “transferor company” in subparagraph (1) of that paragraph is an insurance securitisation company.

Alan Campbell

Steve McCabe

4th December 2007

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) 1992 c. 12.

(b) Section 171 has been relevantly amended by section 102 of, and paragraph 2 of Schedule 29 to, the Finance Act 2000 (c. 17).

(c) Section 179A was inserted by section 42(1) and (4) of the Finance Act 2002.

(d) 1996 c. 8.

(e) Paragraph 2 of Schedule 9 was amended by section 82 of, and paragraphs 1 and 22 of Schedule 25 to, the Finance Act 2002 (c. 23), sections 178 and 216 of, and paragraphs 1 and 2 of Schedule 37 and part 3(14) of Schedule 43 to, the Finance Act 2003, sections 48, 281 and 284 of, and paragraph 2 of Schedule 8 and paragraphs 43 and 45 of Schedule 35 to, the Finance Act 2004 and sections 40 and 70 of, and paragraph 2 of Schedule 8 and part 2(9) of Schedule 11 to, the Finance (No. 2) Act 2005.

(f) Paragraph 12(1) was relevantly amended by section 102 of, and paragraph 44(1), (4) and (5) of Schedule 29 to, the Finance Act 2000, articles 92 and 94 of S.I. 2001/3629 and regulation 9 of S.I. 2004/2200.

(g) Paragraph 17 of Schedule 9 to the Finance Act 1996 (c. 8) was amended by paragraphs 1 and 33 of Schedule 25 and Part 3(12) of Schedule 40 to the Finance Act 2002 (c. 23), paragraphs 4(2) and (3) of Schedule 34 and paragraphs 1 and 4 of Schedule 37 to the Finance Act 2003 (c. 14) and paragraphs 485 and 489(1) to (5) of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5).

(h) Paragraph 18 of Schedule 9 to the Finance Act 1996 was amended by paragraphs 1 and 34 of Schedule 25 and Part 3(12) of Schedule 40 to the Finance Act 2002 (c. 23), paragraphs 1 and 5 of Schedule 37 to the Finance Act 2003 (c. 14), paragraph 6 of Schedule 6 and Part 2(4) of Schedule 42 to the Finance Act 2004 (c. 12), and paragraphs 485 and 489(1), (6) to (8) of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5) and paragraph 3 of Schedule 8 and Part 2(9) of Schedule 11 to the Finance (No. 2) Act 2005 (c. 22).

(i) 2002 c. 23.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision as to the application of the Corporation Tax Acts in relation to an insurance securitisation company..

Regulation 1 provides for citation, commencement and effect. Authority for the limited retrospective effect is given by section 84(5)(b) of the Finance Act 2005 (c. 7).

Regulation 2 provides for the interpretation of a number of terms used in the Regulations.

Regulation 3 sets out the scope and application of the Regulations.

Regulation 4 defines an “insurance securitisation company”.

Regulation 5 provides that these Regulations do not apply to an insurance securitisation company which has, or has had, an unallowable purpose.

Regulation 6 provides that for the purposes of the Corporation Tax Acts as they apply to an insurance securitisation company, generally accepted accounting practice shall be taken to be UK generally accepted accounting practice as it applied for a period of account ending on 31 December 2006 but excluding the application of Financial Reporting Standard 26 issued in December 2004 by the Accounting Standards Board.

Regulations 7 to 11 make provision for the application, modification and non-application of provisions of the Corporation Tax Acts 1988.

Regulation 8 makes provisions in relation to the Income and Corporation Taxes Act 1988. Paragraph (2) disapplies parts of section 209 of the Income and Corporation Taxes Act 1988 (meaning of distribution) so only dividend payments by a securitisation company constitute “distributions” for the purposes of the Corporation Tax Acts. Paragraph (3) excludes group relief provisions in relation to securitisation companies.

Regulation 9 disapplies certain provisions relating to transactions within groups in the Taxation of Chargeable Gains Act 1992.

Regulation 10 disapplies provisions in Schedule 9 to the Finance Act 1996 (loan relationships: special computational provisions).

Regulation 11 disapplies provisions in Schedule 26 to the Finance Act 2002 (derivative contracts: transactions within groups).

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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