

1 Tax consequences of financial sector regulation

- (1) Section 221 of FA 2012 (tax consequences of financial sector regulation) is amended as follows.
- (2) In subsection (1) after “imposed” insert “, or which appears to the Treasury likely to be imposed,”.
- (3) After subsection (4) insert—
 - “(4A) Where regulations under this section make provision about the tax consequences of any regulatory requirement which appears to the Treasury likely to be imposed by any EU legislation or enactment—
 - (a) the regulations may be made (and, accordingly, may have effect) before the EU legislation or enactment is adopted, passed or made, and
 - (b) failure after the regulations are made to adopt, pass or make the EU legislation or enactment does not affect the validity of the regulations.”

EXPLANATORY NOTE

SECTION 212 FINANCE ACT 2012: INSURERS' SOLVENCY 2 REGULATORY CAPITAL SECURITIES

SUMMARY

1. This measure makes changes to an existing Regulation making power to ensure that it allows further Regulations to be made to deal with the tax consequences of future European Union or UK regulatory requirements. In particular it will allow Regulations to prescribe the tax treatment of insurer's Solvency II compliant instruments issued in advance of agreement to Solvency II.

DETAILS OF THE CLAUSE

2. Clause 1 inserts new subsections (1) and (4A) into section 221 of Finance Act 2012. These ensure that the Regulation making power in section 221 applies to regulatory requirements which are likely to be imposed in the future.

BACKGROUND NOTE

3. UK regulatory authorities may, for financial stability reasons, encourage financial service firms to issue regulatory capital with certain features to comply with future European Union or UK regulatory requirements. The power in s221 Finance Act 2012 allows the Treasury to make Regulations prescribing the tax consequences of regulatory requirements which are in force at the date that the Regulations are made. This change ensures that the power will allow the Treasury to make Regulations in advance of the relevant legislation coming into force.

4. If you have any questions about this change, or comments on the legislation, please contact Fiona Hay on 03000 585882 (email: fiona.hay@hmrc.gsi.gov.uk).