

[DRAFT] EXPLANATORY MEMORANDUM TO

**THE INDIVIDUAL SAVINGS ACCOUNT (AMENDMENT) REGULATIONS
2016**

2016 No. [XXXX]

1. This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) on behalf of HM Treasury and is laid before the House of Commons by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 This instrument amends the rules on how much a saver can pay into an Individual Savings Account (ISA) each year. It allows the terms and conditions of a ‘flexible’ ISA to permit savers to replace cash they have withdrawn from their account earlier in the year, without this replacement counting towards the annual ISA subscription limit (“annual subscription limit”).
3. **Matters of special interest to the Select Committee on Statutory Instruments.**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 ISA is a tax-advantaged savings product providing relief from tax to individuals. ISA rules are set out in the Individual Savings Account Regulations 1998 (S.I. 1998/1870) as amended (ISA Regulations).
 - 4.2 Regulation 4ZA specifies the annual subscription limit, which is subject to certain exceptions in regulation 5D.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to all of the United Kingdom.
6. **European Convention on Human Rights**
 - 6.1. As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.
7. **Policy background**
 - What is being done and why

- 7.1 The changes in this instrument are designed to increase the flexibility and choice available to ISA savers. This instrument will provide for the terms and conditions of an account (“flexible account”) to allow a saver to replace cash they have withdrawn from their ISA earlier in the year, without this replacement (“replacement subscription”) counting towards their annual subscription limit. The provision will not apply to Junior ISA accounts, which generally do not permit withdrawals to be made until the account matures.
- 7.2 The instrument will make amendments to the ISA Regulations to accommodate flexible accounts and replacement subscriptions. For example, new regulation 5DDB will provide for flexible accounts and regulation 5D (about subscriptions to be disregarded for the purpose of the annual subscription limit) will be amended to take account of replacement subscriptions. Minor consequential amendments will be made to other regulations.
- 7.3 ISA providers currently supply information on the amount that has been subscribed to an ISA during the year – both to HMRC (regulation 31) and to another provider on the transfer of an account (regulations 21 and 21A). These information requirements will be amended for flexible accounts, so that, for example, the ‘net’ (rather than total) subscriptions made to the account will be reported; and certain payments that do not count towards the ISA limit will be excluded. Further consequential changes will also be made to the information that ISA providers are required to supply to HMRC.

Consolidation

- 7.8 There are no plans to consolidate the ISA Regulations.

8. Consultation outcome

- 8.1 *****

9. Guidance

- 9.1 HMRC's Guidance Notes for ISA managers will be updated to reflect the changes to the ISA rules. The Guidance Notes are available at <http://www.hmrc.gov.uk/isa/isa-guidance-notes.pdf>

10. Impact

- 10.1 The changes could affect around 400 banks, building societies or other financial institutions that provide ISAs. While the cost of these changes will mainly fall on those providers who choose to offer flexibility in their account terms and conditions, there could also be some impact on other ISA providers. Overall the costs of these changes for businesses are expected to be negligible.

10.2 The impact on charities and voluntary bodies is expected to be negligible.

10.3 The impact on the public sector is expected to be negligible.

10.4 A Tax Information and Impact Note covering this instrument will be available on gov.uk.

11. Regulating small business

11.1 The instrument applies to small businesses that choose to offer flexible ISAs.

11.2 To minimise the impact of the requirements on small firms employing up to 20 people, the approach taken is to apply the same basic requirements as apply to all businesses offering ISAs and monitor the impact of these changes.

12. Monitoring & review

12.1 HMRC will continue to review compliance with the rules using the information provided annually by ISA managers as well as through regular contacts with ISA managers and other groups.

13. Contact

Simon Turner at HMRC can answer queries regarding the instrument on behalf of HM Treasury - Tel: 03000 546588 or email: <simon.turner@hmrc.gsi.gov.uk>.