
STATUTORY INSTRUMENTS

2013 No. 1744

CHILD TRUST FUNDS

The Child Trust Funds (Amendment No. 2) Regulations 2013

<i>Made</i>	- - - -	<i>11th July 2013</i>
<i>Laid before Parliament</i>		<i>12th July 2013</i>
<i>Coming into force</i>	- -	<i>5th August 2013</i>

The Treasury make these Regulations exercising their powers in section 3(1) to (3) and (5), section 7 and section 28(1), (2) and (3)(b) and (d) of the Child Trust Funds Act 2004(1).

Citation and commencement

1. These Regulations may be cited as the Child Trust Funds (Amendment No. 2) Regulations 2013 and come into force on 5th August 2013.

Amendment of the Child Trust Funds Regulations 2004

2. The Child Trust Funds Regulations 2004(2) are amended as follows.

3. In regulation 2(1)(b) (interpretation)—

(a) for the definitions of “EEA Agreement” and “EEA State” substitute—

““EEA Agreement” means the agreement on the European Economic Area signed at Oporto on 2nd May 1992, together with the Protocol adjusting that Agreement signed at Brussels on 17th March 1993, as modified or supplemented from time to time;

“EEA State”, in relation to any time, means a state which at that time is a member State, or any other state which at that time is a party to the EEA Agreement;”,

(b) in the definition of “recognised stock exchange”, for “section 841 of the Taxes Act” substitute “section 1005 of ITA 2007”.

4. After regulation 2(1) (interpretation) insert—

“(1A) In these Regulations—

(1) 2004 c. 6.

(2) S.I. 2004/1450. Relevant amending instruments are S.I. 2010/582 and S.I. 2004/2676.

- (a) a “bulk transfer of accounts” occurs where two or more accounts are transferred, without a break in the management of the accounts, by an account provider (“the transferor”) direct to another account provider (“the transferee”)—
 - (i) pursuant to an agreement made between the transferor and the transferee where the transfers are not made pursuant to requests made by the person who is the registered contact in relation to the accounts transferred; or
 - (ii) pursuant to an insurance business transfer scheme or a banking business transfer scheme under Part 7 (Control of Business Transfers) of FISMA 2000;
 - (b) a “group transfer of accounts” occurs where a bulk transfer of accounts is made between account providers that are members of the same group of companies when the transfer occurs;
 - (c) two companies are members of the same group of companies if—
 - (i) one is a 75% subsidiary of the other, or
 - (ii) both are 75% subsidiaries of a third company.”.
5. In regulation 12 (qualifying investments for an account)—
- (a) in paragraph (2)(a) for the words “officially listed on a recognised stock exchange (see paragraph (3))” substitute “either officially listed on a recognised stock exchange or, in the European Economic Area, admitted to trading on a recognised stock exchange (see paragraph (3))”;
 - (b) in paragraph (3) before “if” insert “, or the condition as to admission to trading in paragraph (2)(a),”;
 - (c) in paragraph (3)(a) before “within” insert “or admitted to such trading” and before “, would be qualifying investments” insert “or trading”.
6. For regulation 19 and its heading (account provider ceasing to act (or ceasing to accept Revenue allocated accounts)), substitute—

“Account provider’s intention to make a bulk transfer of accounts or to cease to act as an account provider

- 19.—(1) An account provider must give notice to the Board if the account provider—
- (a) intends to cease to act as an account provider; or
 - (b) intends to make a bulk transfer of accounts.
- (2) An account provider must give notice to the person who is the registered contact (or, if there is no registered contact, the named child) if the account provider—
- (a) intends to cease to act as an account provider; or
 - (b) intends that the account will be one of the accounts transferred in a bulk transfer of accounts.
- (3) The notices described in paragraphs (1) and (2) must—
- (a) specify whether the account provider—
 - (i) intends to cease to act as an account provider; or
 - (ii) intends to make a bulk transfer of accounts;
 - (b) where the notice specifies an intention to cease to act as an account provider—
 - (i) specify the day on or after which the account provider intends to cease to act as an account provider; and

- (ii) be given no less than 30 days before that day;
- (c) where the notice specifies an intention to make a bulk transfer of accounts—
 - (i) specify the day on or after which the account provider intends to make the first transfer in the bulk transfer of accounts;
 - (ii) be given no less than 30 days before that day; and
 - (iii) advise the name and address of the person to whom the account provider intends to transfer accounts.
- (4) The notice described in paragraph (2) must also—
 - (a) identify the account to which it relates;
 - (b) in the case of a notice under paragraph (2)(a), advise the registered contact of the right to transfer the account under regulation 21 and of his rights under regulation 20(3);
 - (c) in the case of a notice under paragraph (2)(b)—
 - (i) advise the registered contact that the account may be transferred otherwise than in a bulk transfer of accounts, such that regulation 21 applies, if sufficient instructions are provided to enable the account provider to do so; and
 - (ii) advise the day by which the account provider must receive sufficient instructions for the account to be transferred otherwise than in a bulk transfer of accounts.
- (5) Where an account provider intends to make a bulk transfer of accounts in consequence of an intention to cease to act as an account provider, such intention may be specified in a single notice to the Board or to a registered contact (or, if there is no registered contact, the named child) (as appropriate, respectively) provided the requirements of paragraphs (3), (4)(a) and (c) are met.

Account provider ceasing to accept Revenue allocated accounts

19A. A person shall give notice to the Board of his intention to cease to accept further Revenue allocated accounts under regulation 6, not less than 30 days before he so ceases.”.

7. In regulation 20 (account provider ceasing to qualify), in paragraph (3)(a), for the reference to “19(1)” substitute “19(2)(a)”.

8. In regulation 21 (transfer of accounts to other account providers)—

- (a) in paragraph (1)(a) after “(“the transferee”),” omit “or”;
- (b) in paragraph (1)(b) after “qualify as an account provider,” add “or”;
- (c) after paragraph (1)(b) insert—

“(c) an account is transferred in a bulk transfer of accounts or in a group transfer of accounts,”;

(d) after paragraph (3)—

- (i) for “(3A)” substitute “(3H)”;
- (ii) insert before that paragraph (3H)—

“(3A) Paragraph (3) does not apply where an account is transferred in a bulk transfer of accounts.

(3B) Where an account is transferred in a bulk transfer of accounts, a subscription to the account after the transfer may only be made if—

- (a) an application to the transferee in relation to the account in accordance with regulation 13 has been made; or
- (b) the subscription is permitted by virtue of paragraph (3C);

and regulation 13(2) is then modified for the purposes of this paragraph as if the words “applied for” were replaced with “following the transfer”.

(3C) A subscription to an account is permitted by this paragraph where—

- (a) the account has been transferred to the transferee in a bulk transfer of accounts pursuant to a scheme described in regulation 2(1A)(a)(ii) or pursuant to a transfer of the type described in regulation 2(1A)(b); and
- (b) the most recent application in accordance with regulation 13 relating to the transferred account made before its transfer is available to the transferee.

(3D) For the purposes of paragraph (3C)(b), an application in accordance with regulation 13 as described in that paragraph is available to a transferee if paragraph (3E) or (3F) applies.

(3E) This paragraph applies where the application described in paragraph (3C)(b) (or a copy of it) is held by the transferee.

(3F) This paragraph applies where—

- (a) the application described in paragraph (3C)(b) (or a copy of it) is held by the transferor; and
- (b) the transferee can require the transferor to make it available to the transferee for any purpose necessary to ensure the transferee’s compliance with these regulations.

(3G) An account transferred in accordance with this regulation in a bulk transfer of accounts is an account opened pursuant to an application in accordance with regulation 13 for the purposes of these Regulations whether or not an application in accordance with regulation 13 as described in paragraph (3B)(a) is made.”.

9. In regulation 31 (records to be kept by account provider), after paragraph (2) insert—

“(3) Where an account is transferred by an account provider (“the transferor”) to another account provider (“the transferee”) in a group transfer of accounts, any records (or copies of records) kept by the transferor in respect of the account at the time when it is transferred shall be treated for the purposes of this regulation as kept by the transferee for so long as sub-paragraphs (a), (b) and (c) of paragraph (4) apply.

(4) For the purposes of paragraph (3)—

- (a) this sub-paragraph applies as if the records described in paragraph (3) are kept by the transferor;
- (b) this sub-paragraph applies if the transferor and transferee are members of the same group of companies; and
- (c) this sub-paragraph applies if the transferee can require the transferor to make the records available to the transferee for any purpose necessary to ensure the transferee’s compliance with these regulations.”.

10. In the Schedule (stakeholder accounts)—

- (a) in paragraph 2(2)(a)(via) after “stock exchange” insert “or, in the European Economic Area, admitted to trading on a recognised stock exchange”; and
- (b) in paragraph 2(6) in the definition of “equities” after “exchange” insert “or, in the European Economic Area, admitted to trading on a recognised stock exchange”.

11th July 2013

Mark Lancaster
Anne Milton
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Child Trust Fund Regulations 2004 (S.I. 2004/1450) (“the Regulations”).

The definitions of “EEA Agreement” and “EEA State” in the Regulations are being updated by regulation 3(a) in light of changes to the membership of the EEA and in order to ensure consistency with definitions in other enactments.

Regulation 3(b) amends the definition of “recognised stock exchange” in the Regulations to update this in line with changes made to the definition by section 1005 of the Income Tax Act 2007.

Regulation 4 inserts a definition of ‘bulk transfer of accounts’ and ‘group transfer of accounts’ in the Regulations.

Regulation 5 amends regulation 12 of the Regulations to include shares in a company which are admitted to trading on a recognised stock exchange in the European Economic Area as qualifying investments.

Regulation 6 substitutes regulation 19 of the Regulations making provision in respect of the timing and content of the notices given where an account provider intends to cease to be an account provider for the purposes of the Regulations or to make a bulk transfer of accounts. It also re-numbers regulation 19(2) (in respect of the giving of notice to the Board in cases where an account provider intends to cease to accept further Revenue allocated accounts) as regulation 19A.

Regulation 7 makes a consequential change to regulation 20(3) as a result of amendments to regulation 19.

Regulation 8 amends regulation 21(1) to provide that an account transferred in a bulk transfer of accounts is to be treated as having been transferred under the Regulations. Regulation 8 amends regulation 21 of the Regulations by inserting new regulations 21(3A)-(3G) so that a further regulation 13 application is unnecessary where a child trust fund account is transferred in a bulk transfer of accounts but will be required subsequently in some cases to permit further subscriptions to it. The existing paragraph (3A) is renumbered as paragraph (3H).

Regulation 9 amends regulation 31 of the Regulations so that an account manager’s obligation to retain records under that regulation may also be fulfilled if, following a bulk transfer of accounts between two companies in the same group of companies, the records are retained by the company making the transfer for so long as both companies remain in the same group of companies and can be made available at the request of the transferee company.

Regulation 10 amends the Schedule to make changes for stakeholder accounts consistent with the modification to regulation 12.

A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sector is foreseen.