

Community investment tax relief

Who is likely to be affected?

Individuals and companies investing in community development finance institutions (CDFI) and CDFIs themselves

General description of the measure

The measure relaxes the rules for claiming relief and allows the carry forward of unused relief into later years as long as at least part of the investment remains for the relevant period. It also introduces a restriction on the amount of both equity and loans that companies can invest in CDFIs.

The measure also relaxes the onward lending rules for CDFIs by altering the annual dates for calculating whether the prescribed level of onward lending has been attained, from the anniversary of a CDFI's accreditation date to the anniversary of an investment first being made in the CDFI in an accreditation period. Onward reporting dates will also be based around that new anniversary. A new obligation is created for a CDFI to report the first investment date.

Policy objective

The measure is intended to encourage investment into CDFIs and to allow more time for CDFIs to meet the required onward lending limits. The limit on corporate investment relief reflects European State aid rules.

Background to the measure

The continuation of the tax relief was announced Budget 2011 along with a consultation on how the relief could be made more effective.

An informal consultation with CDFIs followed, closing in early 2012. The proposed changes arising from this consultation; the carry forward of relief and the amended SI, were announced at Budget 2012.

State aid approval from the European Commission expired in October 2012. In order for the UK to continue the relief, community investment tax relief (CITR) is being amended to meet State aid de minimis requirements. A restriction for corporate investors has been introduced as a result.

Detailed proposal

Operative date

As regards availability of relief, the measure will have effect for all investments made by individuals from 6 April 2013 and by companies from 1 April 2013.

For CDFIs the change in the reporting date will apply to those CDFIs whose first accreditation date is after 1 April 2012 and where the first investment in that accreditation period is made after 1 April 2013.

Current law

Investment by individuals is covered in Part 7 Income Tax Act 2007. Companies are covered by Part 7 Corporation Tax Act 2010. Regulations in relation to the operation of CDFIs are contained in Statutory Instrument 2003/96.

The current law allows both individuals and companies to invest in CDFIs by way of equity or loan and to receive a tax relief of 5 per cent of the amount invested over a period of 5 years as long as the investment remains. Some withdrawal is permitted from the third year but tax relief on the withdrawn amounts does not continue. There is no limit to the amount an individual or company can invest in a CDFI.

The operation and, specifically, the onward lending limits for CDFIs in SI 2003/96 require CDFIs to invest at least 25 per cent of the fund by the first anniversary of the accreditation date with further limits of 50 per cent by the second anniversary and 75 per cent by the third and each subsequent anniversary. The onward lending must be in qualifying enterprises in disadvantaged communities or areas. Annual reporting dates are calculated by reference to the accreditation date.

Proposed revisions

Legislation will be introduced in Finance Bill 2013 to allow the unused balance of the five per cent annual relief to be carried forward and used in a later year as long as some part of the investment still remains within the CDFI. Carry forward will not however be permitted beyond the five year investment period.

To meet with the State aid de minimis requirements limits are being introduced for the amounts that companies can invest in CDFIs. The new limits for equity investment and investment by loan will be a maximum of the equivalent of €200,000 in any three year period. HM Revenue & Customs (HRMC) will issue guidance on how companies should calculate the de minimis aid.

SI 2003/96 will be amended to alter the anniversary dates for onward lending by CDFIs (and the annual reporting cycle) from the anniversary of accreditation to the anniversary of the date on which an investment qualifying for the relief is first raised and create a new requirement for CDFI's to report that date of first investment.

Summary of impacts

Exchequer impact (£m)	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
	-	negligible	negligible	negligible	negligible	negligible
	This measure is expected to have a negligible impact on the Exchequer. Any impact will be set out at Budget 2013.					
Economic impact	The measure is not expected to have any significant economic impacts.					
Impact on individuals and households	Around 3,000 individuals have claimed tax relief through CITR since its inception in 2002. Some individual investors will benefit by not losing income tax relief in a year where their tax liability was less than the relief due, with unused relief being carried forward to later years.					
Equalities impacts	As a tax relief, the impact is only on those who make investment, and the scale of impact depends on the amount of tax relief secured under CITR, rather than any equality measure.					

Impact on business including civil society organisations	<p>This measure is expected to have a negligible impact on businesses and civil society organisations.</p> <p>Businesses already taking advantage of the scheme will face one-off costs in familiarising themselves with the updated regulations, and there will be no change in ongoing administrative burdens.</p> <p>Businesses newly wishing to take advantage of the scheme may face negligible one-off and ongoing administrative costs.</p> <p>Around 120 companies have made investments under the scheme, and fewer than 10 will be affected by the investment cap. They will see a reduction in the amount they can invest and in the maximum relief available,</p>
Operational impact (£m) (HMRC or other)	<p>There will be a small operational impact on HMRC, however, with only around 3,100 total investors since 2002 the annual impact would be very small.</p>
Other impacts	<p><u>Small firms impact test:</u> the scheme only impacts those companies who choose to invest in CDFIs. The majority of the investment by businesses is made by large companies, but any company of any size can invest and will benefit from a tax relief which would negate any cost related with using the scheme and making the claim. There would be a negligible impact on small and large businesses using the scheme.</p> <p>Other impacts have been considered and none have been identified.</p>

Monitoring and evaluation

The measure will be kept under review through monitoring the uptake of the relief in terms of the numbers of companies and individuals claiming the relief; the amount of relief claimed; and the amount of the associated investment.

Further advice

If you have any questions about this change, please contact Des Ryan on 020 7147 0818 (email: des.ryan@hmrc.gsi.gov.uk).

1 Community investment tax relief

Schedule 1 makes provision about community investment tax relief.

SCHEDULES

SCHEDULE 1

Section 1

COMMUNITY INVESTMENT TAX RELIEF

Income tax: carry forward of relief

- 1 Part 7 of ITA 2007 (community investment tax relief) is amended as follows.
- 2 In section 335 (form and amount of CITR) in subsection (3) for “this purpose” substitute “the purposes of this section and section 335A”.

- 3 After section 335 insert –

“335A Carry forward of CITR

- (1) This section applies if –
 - (a) the investor is entitled to a tax reduction for a relevant tax year under section 335 in respect of the investment, but
 - (b) the amount of the tax reduction is not fully deducted at Step 6 for that relevant tax year.
- (2) The amount (“the excess amount”) not deducted is treated as follows.
- (3) For each subsequent relevant tax year for which the investor –
 - (a) is entitled to a tax reduction under section 335 in respect of the investment, and
 - (b) makes a claim under this subsection,
 the investor is also entitled to a tax reduction under this subsection which is given effect at Step 6.
- (4) The amount of the tax reduction under subsection (3) for any relevant tax year is the excess amount so far as it has not been deducted at Step 6 for any earlier relevant tax year by virtue of that subsection.
- (5) In this section “Step 6” means Step 6 of the calculation in section 23.”
- 4 In section 357 (attribution of CITR) after subsection (4) insert –

“(4A) In the case of CITR under section 335A, in subsection (4)(a) the reference to the year is to be read as a reference to the year mentioned in section 335A(1)(a).”
- 5 (1) Section 361 (disposal of securities or shares during 5 year period) is amended as follows.
 - (2) For subsection (3) substitute –

“(3) Subsections (3A) to (3H) apply if –

- (a) the disposal is a qualifying disposal, and
 - (b) the investor has made a claim under section 335 in respect of the former investment for a tax year (“tax year X”).
 - (3A) Subsection (3B) applies if the total of the following CITR does not exceed A –
 - (a) any CITR attributable to the former investment in respect of tax year X given under section 335, and
 - (b) any CITR attributable to the former investment in respect of later tax years given under section 335A where tax year X is the tax year mentioned in section 335A(1)(a).
 - (3B) All CITR falling within subsection (3A)(a) or (b) must be withdrawn.
 - (3C) If the total of the CITR falling within subsection (3A)(a) or (b) exceeds A, that total must be reduced by A.
 - (3D) For the purposes of subsection (3C) CITR given in a later tax year must be reduced before CITR given in an earlier tax year.
 - (3E) For the purposes of subsections (3A) and (3C) “A” is an amount equal to 5% of the amount or value of the consideration (if any) which the investor receives for the former investment.
 - (3F) If –
 - (a) the total of the CITR falling within subsection (3A)(a) or (b) (“B”) is less than
 - (b) the amount (“C”) which is equal to 5% of the invested amount in respect of the former investment for tax year X,“A” is to be reduced by multiplying it by the fraction –
$$\frac{B}{C}$$
 - (3G) If the amount of CITR attributable to the former investment in respect of a tax year has been reduced before the CITR is obtained, the amount referred to in subsection (3F) as B is to be treated for the purposes of that subsection as the amount it would have been without the reduction.
 - (3H) Subsection (3G) does not apply to a reduction by virtue of section 358 (attribution: bonus shares).”
- (3) Omit subsections (5) to (7).
- 6 The amendments made by paragraphs 1 to 5 above have effect in relation to investments made on or after 6 April 2013.

Corporation tax: carry forward of relief

- 7 Part 7 of CTA 2010 (community investment tax relief) is amended as follows.
- 8 (1) Section 220 (form and amount of CITR) is amended as follows.
- (2) For subsection (3) substitute –
- “(3) The amount of that reduction for the relevant accounting period is 5% of the invested amount in respect of the investment for the period.”

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- (3) In subsection (4) for “this purpose” substitute “the purposes of this section and section 220A”.
- 9 After section 220 insert –
- “220A Carry forward of CITR**
- (1) This section applies if –
- (a) the investor is entitled to a reduction in its liability for corporation tax for a relevant accounting period under section 220 in respect of the investment, but
 - (b) the amount of the reduction is not fully deducted at Step 2 for that relevant accounting period.
- (2) The amount (“the excess amount”) not deducted is treated as follows.
- (3) For each subsequent relevant accounting period for which the investor –
- (a) is entitled to a reduction in its liability for corporation tax under section 220 in respect of the investment, and
 - (b) makes a claim under this subsection,
- the investor is also entitled to a reduction in its liability for corporation tax under this subsection.
- (4) The amount of the reduction under subsection (3) for any relevant accounting period is the excess amount so far as it has not been deducted at Step 2 for any earlier relevant accounting period by virtue of that subsection.
- (5) In this section “Step 2” means the second step in paragraph 8(1) of Schedule 18 to FA 1998 (calculation of tax payable).”
- 10 In section 240 (attribution of CITR) after subsection (4) insert –
- “(4A) In the case of CITR under section 220A, in subsection (4)(a) the reference to the period is to be read as a reference to the period mentioned in section 220A(1)(a).”
- 11 (1) Section 244 (disposal of securities or shares during 5 year period) is amended as follows.
- (2) For subsection (3) substitute –
- “(3) Subsections (3A) to (3H) apply if –
- (a) the disposal is a qualifying disposal, and
 - (b) the investor has made a claim under section 220 in respect of the former investment for an accounting period (“period X”).
- (3A) Subsection (3B) applies if the total of the following CITR does not exceed A –
- (a) any CITR attributable to the former investment in respect of period X given under section 220, and
 - (b) any CITR attributable to the former investment in respect of later accounting periods given under section 220A where period X is the accounting period mentioned in section 220A(1)(a).
- (3B) All CITR falling within subsection (3A)(a) or (b) must be withdrawn.

- (3C) If the total of the CITR falling within subsection (3A)(a) or (b) exceeds A, that total must be reduced by A.
- (3D) For the purposes of subsection (3C) CITR given in a later accounting period must be reduced before CITR given in an earlier accounting period.
- (3E) For the purposes of subsections (3A) and (3C) “A” is an amount equal to 5% of the amount or value of the consideration (if any) which the investor receives for the former investment.
- (3F) If—
- (a) the total of the CITR falling within subsection (3A)(a) or (b) (“B”) is less than
 - (b) the amount (“C”) which is equal to 5% of the invested amount in respect of the former investment for period X,
- “A” is to be reduced by multiplying it by the fraction—
- $$\frac{B}{C}$$
- (3G) If the amount of CITR attributable to the former investment in respect of an accounting period has been reduced before the CITR is obtained, the amount referred to in subsection (3F) as B is to be treated for the purposes of that subsection as the amount it would have been without the reduction.
- (3H) Subsection (3G) does not apply to a reduction by virtue of section 241 (attribution: bonus shares).”
- (3) Omit subsections (5) to (7).
- 12 The amendments made by paragraphs 7 to 11 above have effect in relation to investments made in accounting periods beginning on or after 1 April 2013.

Corporation tax: limit on State aid

- 13 (1) In Part 7 of CTA 2010 (community investment tax relief) after section 220A (as inserted by paragraph 9 above) insert—
- “220B Limit on State aid**
- (1) The reductions that may be made in the amount of the investor’s liability for corporation tax under section 220 or 220A for an accounting period (“the current accounting period”) are limited as follows.
 - (2) The sum of the following amounts must not exceed €200,000—
 - (a) so far as it represents aid granted to the investor, the total amount of reductions made in the amount of the investor’s liability for corporation tax under section 220 or 220A—
 - (i) for the current accounting period, or
 - (ii) any earlier accounting period which ends during the relevant 3-year period, and
 - (b) the total of any de minimis aid granted to the investor during the relevant 3-year period which does not fall within paragraph (a).

- (3) In subsection (2) “the relevant 3-year period” means the period of 3 years ending at the end of the current accounting period.
 - (4) Subsection (2) is to be read as if it were contained in Article 2 of Commission Regulation (EC) No. 1998/2006 (de minimis aid).”
- (2) The amendment made by this paragraph has effect for the purpose of limiting CITR in respect of investments made on or after 1 April 2013.
 - (3) CITR in respect of investments made before that date is to be ignored for the purposes of section 220B(2) of CTA 2010.

EXPLANATORY NOTE

COMMUNITY INVESTMENT TAX RELIEF

SUMMARY

1. This clause and Schedule make provision for carry forward provisions for community investment tax relief (CITR), for both individuals and corporate investors. They introduce a restriction for corporate investors of the amounts of relief they can receive under the scheme. This restriction is to ensure that the scheme comes within EU rules authorising unnotified State aid if it meets de minimis criteria.

DETAILS OF THE SCHEDULE

2. Paragraph 1 amends Part 7 Income Tax Act 2007 (ITA 2007) (dealing with CITR for investors that are not companies) as set out in the paragraphs following.
3. Paragraph 2 amends section 335 ITA 2007 as a consequence of the introduction of the new section 335A.
4. Paragraph 3 introduces a new section 335A. This section allows the carried forward of any unused relief to a later year in which the investor is entitled to relief in respect of the investment.
5. Paragraph 4 amends the attribution rules in s357 ITA 2007 in relation to any loans, securities or shares.
6. Paragraph 5 amends the rules for the withdrawal of relief to include the new carry forward provisions where a reduction is withdrawn under section 335 (5) ITA. It amends s361 substituting new subsections (3) and (3A) to (3H) for existing subsections (3) to (7).
7. Paragraph 6 provides that the commencement date applicable to the changes in Paragraphs 1 to 5 is 6 April 2013 and provides that those changes are only to take effect from that date for investments made on or after 6 April 2013.
8. Paragraph 7 amends Part 7 of Corporation Tax Act 2010 (CTA 2010) (CITR for company investors) as set out in the paragraphs following.
9. Paragraph 8 amends s220 CTA 2010 as a consequence of the new section 220A carry forward provision.

10. Paragraph 9 introduces a new section 220A. This section allows the carry forward of any unused relief to a later year in which the investor is entitled to relief in respect of the investment.
11. Paragraph 10 amends the attribution rules in s240 CTA 2010 in relation to any loans, securities or shares.
12. Paragraph 11 amends the rules for the withdrawal of relief to include the new carry forward provisions where a reduction is withdrawn under s220 (5) CTA 2010. It amends section 244 CTA 2010 substituting new subsections (3) and (3A) to (3H) for existing subsections (3) to (7).
13. Paragraph 12 provides that the commencement date for these changes will be 1 April 2013 and provides that the changes to CTA 2010 will only take effect in relation to investments made in accounting periods beginning on or after 1 April 2013.
14. Paragraph 13 introduces a new section 220B in Part 7 CTA 2010. This section places limits on the amounts of CITR tax relief an investor company can obtain in any 3 year period. That limit is the difference between the total aid in that period from CITR and any carry forward relief (s220B (2)(a) plus de minimis aid from other sources (s220 (2)(b), and €200,000. Aid from CITR is only relevant if it results from investments made on or after 1 April 2013, although de minimis aid received by the company in the period prior to April 2013 will be included under subsection (2) (b). HM Revenue & Customs will issue separate guidance on how companies should calculate aid received by way of CITR.

BACKGROUND

15. CITR was introduced in 2002 to encourage investment in disadvantaged communities.
16. To date it has raised in excess of £72 million from individual and corporate investors.
17. Investors invest into Community Development Finance Institutions which, in turn, invest in businesses in disadvantaged communities.
18. Previously a notified State aid, the scheme will become a de minimis aid within the meaning of Article 2 of the Commission Regulation (EC) No 1998/2006 as a result of these changes.
19. If you have any questions about this change, or comments on the draft legislation, please contact Des Ryan on 020 7147 0618 (email: des.ryan@hmrc.gsi.gov.uk).

2013 No. xx

INCOME TAX

CORPORATION TAX

**The Community Investment Tax Relief (Accreditation of
Community Development Finance Institutions) (Amendment)
Regulations 2013**

Made - - - - ***
Laid before the House of Commons ***
Coming into force - - ***

The Treasury make these Regulations in exercise of the powers conferred by sections 340(2)(b), (4), (5) and (6) and 341 of the Income Tax Act 2007(a).

Citation, commencement and effect

1. These Regulations may be cited as the Community Investment Tax Relief (Accreditation of Community Development Finance Institutions) (Amendment) Regulations 2013.
2. These Regulations come into force on 1 April 2013.
3. Regulations 6 to 10 and 11(3) and (4) take effect only in relation to a CDFI whose current accreditation period starts on or after 1 April 2013, and regulation 11(1) takes effect only in relation to investments made in a CDFI on or after 1 April 2013.

Amendment of S.I. 2003/96

4. The Community Investment Tax Relief (Accreditation of Community Development Finance Institutions) Regulations 2003(b) are amended as follows.
5. In regulation 2(c)—
 - (a) omit the definition of “the Director of Enterprise Environment”,
 - (b) before the definition of “investment”, insert—

““the first investment” in relation to an investment made in a CDFI means the first investment made in the CDFI in its current period of accreditation;”,

(a) 2007 c.3.
(b) S.I. 2003/96; relevant amending instruments are S.I. 2008/383 and 2009/2748.
(c) Regulation 2 was amended by S.I. 2008/383 and S.I. 2009/2748.

- (c) in the definition of “investment”, for “paragraph 2 of Schedule 16 to the Finance Act 2002” substitute “section 221 of the Corporation Tax Act 2010”, and
- (d) in the definition of “qualifying investment”, for “paragraph 8 of Schedule 16 to the Finance Act 2002” substitute “section 225 of the Corporation Tax Act 2010”.

6. In regulation 8(1)(a)—

- (a) in sub-paragraph (a) for “the date the CDFI was first granted accreditation (“the accreditation date”)” substitute “the date the first investment was made in the CDFI”, and
- (b) in each of sub-paragraphs (b), (c) and (d) for “the accreditation date” substitute “the date the first investment was made in the CDFI”.

7. After regulation 12 insert—

“Notice of first investment in a CDFI

12A.—(1) A CDFI must notify the Secretary of State in writing of the date the first investment is made in the CDFI, no later than three months after that date.

(2) A CDFI that does not comply with paragraph (1) is liable to a penalty of £500 payable to the Department for Business, Innovation and Skills.

(3) But paragraph (2) does not apply if in the opinion of the Secretary of State the CDFI had a reasonable excuse for failing to comply with paragraph (1).”

8. In regulation 13(b)—

- (a) in paragraph (1)(a), for “the date on which the CDFI was last granted accreditation” substitute “the date the first investment was made in the CDFI”, and
- (b) in paragraph (2), for “the date accreditation was granted” substitute “the date the first investment was made in the CDFI”.

9. In regulation 15A(1)(c), for “the date that the CDFI was first granted accreditation”, substitute “the date the first investment was made in the CDFI”.

10. In regulation 15B(1)(d), for “the date a CDFI was first granted accreditation” substitute “the date the first investment was made in a CDFI”.

11.—(1) Schedule 1 is amended as follows.

(2) In paragraph 4(e)—

- (a) in sub-paragraph (1) omit the words “or equity investment in”, and
- (b) in sub-paragraph (3)—
 - (i) in paragraph (a) omit “or equity investments”,
 - (ii) in paragraph (b) omit “or investment”, and
 - (iii) for “shall determine which of those loans or investments shall not” substitute “shall determine which of those loans shall not”.

(3) In paragraph 9—

- (a) For sub-paragraph (a), substitute—
 - “(a) for the first year following the date the first investment is made in the CDFI, the date the investment is made by that CDFI, and”, and
- (b) in sub-paragraph (b) for “accreditation date” substitute “date the first investment is made in the CDFI”.

(a) Regulation 8 was amended by S.I. 2008/383.
(b) Regulation 13 was relevantly amended by S.I. 2008/383.
(c) Regulation 15A was inserted by S.I. 2008/383.
(d) Regulation 15B was inserted by S.I. 2008/383.
(e) Paragraph 4 of Schedule 1 was amended by S.I. 2008/383.

(4) In paragraph 11(1)(a)—

(a) for paragraph (i), substitute—

“(i) for the first year following the date the first investment is made in the CDFI, the date the investment is made by that CDFI, and”, and

(b) in paragraph (ii), for “accreditation date” substitute “date the first investment is made in the CDFI”.

12. In the following provisions, for “Director of Enterprise Environment” substitute “Secretary of State”—

- (a) regulation 7(4);
- (b) regulation 12(1), (2) and in each place in (3);
- (c) regulation 13(5);
- (d) regulation 15(3);
- (e) regulation 16(2)(c) and (3); and
- (f) paragraphs 2(2) and 4(3) of Schedule 1(a).

Signed

Signed

Date

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 7 of each of the Income Tax Act 2007 and the Corporation Tax Act 2010 provide for community investment tax relief for investments made by individuals and companies in any body which is accredited as a community development finance institution (“CDFI”) under the Community Investment Tax Relief (Accreditation of Community Development Finance Institutions) Regulations 2003 (“the 2003 regulations”).

These Regulations amend the 2003 regulations as follows. A new concept of the “first investment” in a CDFI is introduced (regulation 5(b)), together with a new obligation to report the date of the first investment in a CDFI (regulation 7). The CDFI’s onward lending requirements are amended so as to be calculated by reference to the anniversary of the first investment date (regulation 6). The requirement for a CDFI to report periodically on certain matters is realigned, so that the reporting date is calculated by reference to anniversaries of the first investment (regulations 8 to 10). Amendments are made to the description of some of the circumstances in which an investment made by a CDFI is not a “relevant investment” for the purpose of the onward lending requirements at regulation 8 of the 2003 regulations (regulation 11). Finally, references to “Secretary of State” are substituted for “Director of Enterprise Environment” (regulations 5(a) and 12), and legislative references to the Finance Act 2002 are updated to references to the Corporation Tax Act 2010 (regulation 5(c) and (d)).

A Tax Information and Impact Note covering this instrument was published on 11 December alongside amendments to community investment tax relief and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.

(a) These provisions were relevantly amended by S.I. 2008/383.

EXPLANATORY MEMORANDUM TO

**THE COMMUNITY INVESTMENT TAX RELIEF (ACCREDITATION OF
COMMUNITY DEVELOPMENT FINANCE INSTITUTIONS) (AMENEDMENT)
REGULATIONS 2013**

1. This explanatory memorandum has been prepared by HM Revenue & Customs and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Instrument amends the Community Investment Tax Relief (Accreditation of Community Development Finance Institutions) Regulations 2003 S.I. 2003/96 (“the 2003 regulations”). The new Regulations come into force on 1 April 2013, with changes to the relevant anniversary dates taking effect only for Community Development Finance Institutions accredited on or after that date, and a change the rules about what is a “relevant investment” taking effect only in respect of investments made on or after that date.

It introduces new investment terms for a Community Development Finance Institution (CDFI), allowing 12 months from the date of the first investment is received to meet the onward investment criteria, and anniversaries therefrom, as opposed to the current 12 months from accreditation and anniversaries therefrom. It also introduces a requirement that a CDFI notify the Secretary of State of the first investment date.

The annual reporting dates are also changed from the accreditation date anniversaries to the investment date anniversaries.

The description of some of the circumstances in which an investment made by a CDFI is not a “relevant investment” for the purpose of the onward lending requirements at regulation 8 of the 2003 regulations, by removing one such circumstance

The Instrument also removes references to the Director of Enterprise Environment and replaces these with Secretary of State, and updates legislative references to the Finance Act 2002 to references to those provisions as rewritten to the Corporation Tax Act 2010.

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

3.1 By virtue of paragraph 5 of Schedule 2 to the Corporation Tax Act 2010 references in the 2003 regulations to the Finance Act 2002 are already to be read as references to the provisions as rewritten to the Corporation Tax 2010. The updating amendments in this Instrument makes the position clear from the face of the 2003 regulations.

4. Legislative Context

4.1 The instrument is being made as a result of an informal consultation with industry in which the restrictive nature of the accreditation date anniversary for onward lending was an issue raised. The instrument extends the period and gives CDFIs a full 12 months to meet the criteria. The reporting dates have been amended to coincide with these new periods.

4.2 Community Investment Tax Relief was an approved State aid but following discussions with the European Commission is now a de minimis State aid. Included in the consequent changes to CTIR is a new limits as to the amount of equity investment that can be made by a CDFI into a qualifying enterprise. That is being imposed under the accreditation rules issued by the Department for Business, Innovation and Skills (BIS). Schedule 1 is amended to reflect the changes in these rules.

4.3 The instrument updates legislative references from Finance Act 2002 to Corporation Tax Act 2010 to reflect the rewriting of the relevant legislation.

4.4 The Secretary of State requested that references to the Director of Enterprise be amended to references to the Secretary of State as all powers are delegated through him.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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 Community Investment Tax Relief (CITR) is given to investors investing in accredited CDFIs which invest in small or medium sized enterprises in disadvantaged areas. CDFIs are accredited by the Department for Business, Innovation and Skills (BIS) and their operation is governed by the Statutory Instrument now amended.

CDFIs previously had one year from the accreditation date to meet the onward lending criteria of at least 25% of the investment fund being invested in relevant enterprises. This became 50% at the second anniversary of accreditation and 75% at anniversaries thereafter. As CDFIs could not raise investments qualifying for CITR until they had been accredited this meant that the first period could often be significantly shorter than 12

months. By changing the criteria to 12 months from the first investment this will allow CDFIs greater flexibility to meet the onward lending requirements.

CDFIs have to make an annual return to BIS detailing the investments made. Previously the return date was the anniversaries of the accreditation date, these will now be aligned with the first investment date.

7.2 De minimis State aid guidelines restrict the amount of aid that can be given to a maximum of €200,000 in any three year period. BIS are issuing revised accreditation rules which affect the amount of equity investment a CDFI can make. Consequently the reference to equity investments as relevant investments must meet these rules and the part of paragraph 4 of Schedule 1 that deals with equity investments will no longer apply.

7.3 To ensure the Instrument reflects current legislation and powers the rewritten legislation is now referenced and the Secretary of State given the roles previously assigned to the Director for Enterprise Investment.

8. Consultation outcome

8.1 CDFIs represent a small community within the social investment sector, in total around 70 CDFIs of which 20 are accredited. An informal consultation was undertaken with both accredited and unaccredited CDFIs, their representative body and other social enterprises on the authorisation of the Exchequer Secretary to the Treasury. 28 responses were received (20 from CDFIs, 6 from other social enterprises and 2 from other Government Departments). The changes proposed in the amendments to this instrument arise from that consultation.

The proposal to amend the anniversary dates for complying with the onward investment limits was widely suggested and agreed within the industry.

8.2 The amendments to the legislative references and the Secretary of State are tidying up exercises and have not been consulted on.

8.3 The amendments in respect of the de minimis State aid requirements have not been consulted on as they are being undertaken to ensure that the UK continues to meet its obligations under European Community law..

9. Guidance

9.1 The monitoring of investments and the annual returns by CDFIs is undertaken by BIS who will be issuing relevant guidance.

10. Impact

A Tax Information and Impact Note covering this instrument was published on 11 December 2012 alongside amendments to community investment tax relief and is

available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm> . [xxxxx]
It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The amendments are being undertaken on behalf of BIS who administer the regulations in relation to CDFIs. BIS will continue to monitor and review the outcomes in the normal manner

13. Contact

Des Ryan at HM Revenue and Customs Tel: 020 7147 0818 or email:
des.ryan@hmrc.gsi.gov.uk can answer any queries regarding the instrument.