Cooley

UK Government Announces Repeal of 1.5% Stamp Tax Charge on Issuances, Certain Transfers of Shares to Depositary Receipt Issuers, Clearance Services

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In a welcome move, the UK government issued a statement yesterday confirming its intention to repeal the 1.5% charge to UK stamp taxes on issuances of securities and any 'exempt capital-raising transfer' to a depositary receipt issuer or clearance service with effect from 1 January 2024. **Draft legislation** also has been published for inclusion in a future Finance Bill.

The statement provides much-needed certainty to UK-parented groups whose shares trade on non-UK exchanges, such as groups with American depositary shares listed in the US or shares trading directly through the Depository Trust Company, and to groups that are considering becoming listed on such exchanges.

As explained in **this July 2023 client alert**, concerns had arisen from the enactment in June of the Retained EU Law (Revocation and Reform) Act 2023. The Revocation and Reform Act will, from the end of this year, repeal a number of EU-derived laws and rights that survived Brexit. This raised the prospect that UK statutory provisions, which have been disapplied for more than 10 years, could apply once again (and so give rise to stamp tax charges at 1.5%) to issuances of shares, and transfers that are integral to the raising of capital, to a depositary receipt issuer or clearance service. In the absence of a clear statement by the government to the contrary, there has been considerable uncertainty as to what the likely outcome would be.

It is therefore very helpful that the government has issued its statement shortly after the return of Parliament following its summer recess. By emphasising the importance of the 'competitiveness of the UK's tax code', the statement echoes representations made by Cooley and others since the Revocation and Reform Act became law.

The government has launched a technical consultation on the draft legislation, which Cooley will take part in. Areas of focus for this consultation will include potential differences between what constitutes an 'exempt capital-raising transfer' under the new legislation and what counted as 'integral to the raising of capital' under the old EU-derived exemption, as well as potential timing complications raised by the fact that the draft legislation may not become law until after 1 January 2024, albeit with retrospective effect.

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