

New UK Legislation Raises Prospect of 1.5% Stamp Tax Charge on Equity Financings

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The [Retained EU Law \(Revocation and Reform\) Act 2023](#) became law in the UK on 29 June 2023. Broad in scope, the Revocation and Reform Act will, with effect from the end of this year, sweep away a number of European Union-derived laws and rights that survived Brexit, unless positive steps are taken to retain those laws or rights.

The UK may therefore be on course to repeal legislation that preserves in UK law an EU-derived prohibition on imposing UK stamp taxes (at a rate of 1.5%) on issuances and certain transfers of shares to a depositary receipt issuer or clearance service. This prohibition has benefited a number of businesses – including UK-parented groups with American depositary shares listed on US exchanges, or whose shares trade directly through the Depositary Trust Company – for more than a decade, and it has helped ensure that the UK remains an attractive jurisdiction in which to establish public companies.

The Revocation and Reform Act confers powers on the UK government to save particular laws or rights from repeal, if it wishes to do so – it is therefore hoped that steps will be taken sooner rather than later to retain the current legal position so that the 1.5% stamp tax charge will not apply in respect of issuances of shares or transfers of shares which are integral to a raising of capital (whether by using these powers or by some other means, such as via new legislation). An opportune moment to do this would be on tax “Legislation Day” (18 July 2023), when draft legislation to be included in a forthcoming Finance Bill is expected to be published. However, in the absence of a clear indication from the government as to its stance from a policy perspective – beyond a simple reference to the matter on a government “dashboard” – there remains considerable uncertainty as to what the outcome will be.

Cooley is among those working to ensure that the UK government is aware of the importance of the government clarifying its policy in respect of this issue as soon as possible – and taking action before the end of the year to retain the current position.

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