

**Draft Saving Gateway Accounts Regulations.**

**These draft regulations have been published by the Treasury in advance of the consideration of clauses of the Saving Gateway Accounts Bill by the Public Bill Committee in the House of Commons.**

**They have been published for the information of Members, and remain subject to discussion and consideration.**

**These draft regulations incorporate the draft regulations in relation to eligibility for Saving Gateway accounts, which were published on 12<sup>th</sup> January.**

**2 February 2009**





the “qualifying balance” of a Saving Gateway account (see section 8(2));

“the relevant date” (see section 1(3));

“relevant person” (see section 17(2));

“Saving Gateway account” (see section 1(1));

(b) except where the context otherwise requires—

“account”, except in regulations 8, 21 and 23, means a Saving Gateway account;

“appointed day” means the day appointed under section 30 of the Act [for specific purposes];

“building society bonus” excludes any bonus, distribution of funds or the conferring of rights in relation to shares—

(a) in connection with an amalgamation, transfer of engagements or transfer of business of a building society, and

(b) mentioned in section 96 or 100 of the Building Societies Act 1986,

and “payment under a building society bonus scheme” shall be construed accordingly;

“credit union” means a society registered as a credit union under the Industrial and Provident Societies Act 1965, or the Credit Unions (Northern Ireland) Order 1985;

“electronic communications” includes any communications by a telecommunications system (within the meaning in the Telecommunications Act 1984);

“electronic signature” has the meaning given by section 7(2) of the Electronic Communications Act 2000;

“FISMA 2000” means the Financial Services and Markets Act 2000;

“ITA 2007” means the Income Tax Act 2007;

“ITTOIA 2005” means the Income Tax (Trading and Other Income) Act 2005;

“interest”, in regulation 22, where paid by a building society, includes a dividend paid by the society in respect of a share account held with the society (and “dividend” includes any distribution, whether or not described as a dividend);

“the Management Act” means the Taxes Management Act 1970;

“notice” means notice in writing; and “notify” shall be construed accordingly;

“reference number”, except in regulation 5(1), means an eligible person’s reference number as stated on his or her notice of eligibility;

“tax year” means a period beginning with 6<sup>th</sup> April in one year and ending with 5<sup>th</sup> April in the next, and “the tax year 2009-10” means the tax year beginning with 6<sup>th</sup> April 2009;

“UK institution” means an institution which is incorporated in, or formed under the law of any part of, the United Kingdom.

(2) The table below indexes other definitions in these Regulations:

| <i>Term defined</i>               | <i>Regulation</i> |
|-----------------------------------|-------------------|
| “account holder”                  | 10(1)(a)          |
| “agreed terms”                    | 10(1)(h)          |
| “the disqualifying circumstances” | 16                |
| “the eligibility window”          | 3(3)              |

**Eligible persons – entitlement to working tax credit or child tax credit**

**3.—**(1) A person is an eligible person by reason of entitlement (alone or with another person) to working tax credit or child tax credit, within the meaning in section 3(4) of the Act, only if he or she satisfies the following conditions.

(2) Those conditions are—

*Condition 1*

There is a decision in accordance with the provision made by and under sections 18 to 21 of the Tax Credits Act 2002 ( a “final award”) that the person was entitled (alone or with another person) to working tax credit or child tax credit for the tax year 2009-10, or a subsequent tax year.

*Condition 2*

- (a) The relevant income for that tax year (“the relevant tax year”) did not exceed £16,040, or
- (b) the person’s entitlement to working tax credit or child tax credit for the relevant tax year arose by virtue of section 7(2) of that Act (automatic entitlement where the claimant or one of the claimants is entitled to a prescribed social security benefit).

Where a higher amount is determined for the purposes of section 7(1)(a) of that Act (income threshold for child tax credit) in relation to the relevant tax year, that higher amount shall be substituted for the figure of £16,040 in paragraph (a).

*Condition 3*

The final award for the relevant tax year (and calculation of the relevant income) has not been overturned.

*Condition 4*

The eligibility window for that final award has not ended.

- (3) In paragraph (2)—

the “eligibility window”, in relation to a final award, means the period—

- (a) beginning when that final award was made, and
- (b) ending 12 months after the date of that final award, or the date on which a final award is made in relation to that person for a tax year later than the relevant tax year (whichever is earlier);

“relevant income”, in relation to a person or persons and a tax year, means the relevant income determined in accordance with section 7 of the Tax Credits Act 2002, and with regulations made under that section, in relation to a claim by the person or persons for working tax credit or child tax credit for the tax year.

**Eligible persons – connection with the U.K.**

**4.—**(1) The connection with the United Kingdom mentioned in section 3(1)(b) of the Act is that the person is ordinarily resident in the United Kingdom.

(2) A Crown servant posted overseas or his or her partner shall be treated as ordinarily resident in the United Kingdom.

- (3) A person shall be treated as ordinarily resident in the United Kingdom if he or she is—

- (a) exercising in the United Kingdom his or her rights as a worker pursuant to Council Regulation (EEC) No. 1612/68, or
- (b) exercising a right to reside in the United Kingdom pursuant to Council Directive No. 2004/38/EC.

(4) A person who is in the United Kingdom as a result of his or her deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom shall be treated as being ordinarily resident in the United Kingdom.

- (5) In paragraph (2)—

“Crown servant posted overseas” has the meaning in regulation 5(2) of the Tax Credits (Residence) Regulations 2003;

the “partner” of a Crown servant posted overseas means a person falling within the description in regulation 6(1) (read with regulation 2(1)) of those Regulations.

### **Notices of eligibility**

5.—(1) The notice of eligibility to be issued under section 2(1) of the Act shall contain (in addition to the expiry date) the following particulars—

- (a) the full name of the eligible person; and
- (b) his or her Saving Gateway reference number.

(2) The notice shall be issued by being sent to the eligible person by post, except in a case where there is a person acting under regulation 13(8), in which case it may be sent to that person.

(3) The expiry date (when the notice shall cease to be valid) shall be the date 3 months from the date of issue of the notice.

(4) A further notice of eligibility may be issued to an eligible person at the discretion of the Commissioners, where the expiry date of a previous notice has passed, and the person has not opened a Saving Gateway account.

### **Opening of account by a person who has received a notice of eligibility**

6.—(1) For the purposes of these Regulations, an account is opened with an approved account provider on the date when all the following conditions are satisfied (but no later than the expiry date specified in the notice of eligibility):

#### Condition 1

The applicant produces his or her notice of eligibility to the approved account provider or, where the approved account provider's business systems provide for the opening of accounts without production of the relevant notice of eligibility, the applicant makes a true declaration to the approved account of the following information:

- (a) the expiry date of the notice, and
- (b) the applicant's reference number (as stated on the notice).

#### Condition 2

The applicant enters into agreed terms with the approved account provider (see regulation 10(1)(h)) which includes the application and declaration required by regulation 13.

#### Condition 3

Where that application is not in writing the applicant has agreed, or is treated as having agreed, the contents of the copy of the declaration required by regulation 13(2).

#### Condition 4

[DN: any Distance Marketing Directive provision required?]

(2) Where—

- (a) an account is opened in accordance with paragraph (1), and
- (b) there is a right to cancel (or automatic cancellation of) the agreed terms, and the period during which it may be exercised or occur has not expired,

the account shall not be treated as open for the purposes of regulation 24 (monthly return and financial claim) and regulation 5(4) until the period during which that right may be exercised or cancellation occur has expired without the right being exercised or cancellation occurring.

### **Maturity period**

7.—(1) Subject to paragraph (3), the maturity period for an account is the period—

- (a) beginning simultaneously with the first month of the account's operation (see section 4(4) of the Act), and
- (b) ending with the last day of the twenty fourth month of the account's operation.

(2) The approved account provider must credit the account with the amount of the maturity payment, or pay the maturity payment to the account holder, within 14 days from the end of the maturity period for the account.

(3) If the account holder of an account dies before the end of the account's maturity period calculated under paragraph (1), paragraph (2) shall not apply and the account provider shall pay to the account holder's personal representatives an amount ( a "death payment") equal to the amount of the maturity payment to which the account holder would have become entitled if the maturity period for the account had ended immediately before the death.

(4) A death payment shall be made within 14 days of the end of the month in which the account provider receives sufficient evidence of the death of the account holder and of the status of the personal representatives.

### **Account ceasing to be a Saving Gateway account (and rollover certificates)**

**8.**—(1) An account ceases to be a Saving Gateway account—

- (a) on the death of the account holder;
- (b) for the purposes of section 8(4) of the Act, when the account provider has credited the account with the amount of the maturity payment, or paid the maturity payment to the account holder; or
- (c) for all other purposes, at the end of the maturity period for the account.

(2) Where an account ceases to be a Saving Gateway account under paragraph (1)(c) for the purposes there mentioned ("on maturity"), if the account holder so requires by notice to the account provider, given within 6 months of that date, the account provider shall give to the account holder a certificate containing the information mentioned in paragraph (3) and the declaration mentioned in paragraph (4).

(3) The information mentioned in this paragraph is—

- (a) the account holder's full name;
- (b) his or her permanent address including postcode;
- (c) the name of the account provider with which the account was held on maturity;
- (d) the number allocated to it by that account provider;
- (e) the date on which it matured; and
- (f) the credit balance of the account (if any) on maturity, and the amount of the maturity payment made or to be made.

(4) The declaration mentioned in this paragraph is a declaration by the account provider that the account was a Saving Gateway account throughout its maturity period and that the information given in the certificate is correct.

### **Government contribution rate**

**9.** In the calculation of  $A \times B$  to determine the maturity payment in relation to a Saving Gateway account in section 8(1) of the Act, the multiplier B is 50 pence.

## **PART 2**

### **Other requirements to be satisfied in relation to accounts**

#### **General requirements for accounts**

**10.**—(1) A Saving Gateway account must satisfy the requirements that—

- (a) it is the account of a single person ("the account holder");
- (b) the account holder is or has been an eligible person;

- (c) no person may open more than one Saving Gateway account in their lifetime;
- (d) it is a cash deposit account (including a share account held with a building society within the meaning of the Building Societies Act 1986);
- (e) the account is denominated in sterling;
- (f) the account is covered by the Financial Services Compensation Scheme, or another deposit-guarantee scheme introduced and officially recognised in a Member State [or EEA State] in accordance with Article 3(1) of Council Directive 94/19/EEC;
- (g) the account must not be held on behalf of a person other than the account holder; and
- (h) the account must at all times be managed in accordance with these Regulations by an approved account provider and under terms agreed and recorded in an agreement (the “agreed terms”) made between the account provider and the account holder.

(2) Apart from other requirements of these Regulations the agreed terms shall include the conditions that—

- (a) if the account is held by the account holder until the end of the account’s maturity period, the account provider shall pay the account holder a maturity payment (see section 8 of the Act);
- (b) if the account holder dies before the end of the account’s maturity period, the account provider shall pay a death payment in accordance with regulation 7(3);
- (c) there is no restriction on the maximum amount or on timing of withdrawals of the credit balance of the account;
- (d) the account provider shall permit payment of sums into the account by cheque, direct debit, standing order, direct credit (other than standing order) or cash;
- (e) no deductions or withdrawals from the account (by way of charges or otherwise) shall be made by the account provider, and the account provider shall have no right of set-off or lien against the money in the account;
- (f) the account provider shall satisfy himself that any person to whom he delegates any of his functions or responsibilities under the agreed terms is competent to carry out those functions or responsibilities;
- (g) on the instructions of the account holder (“the transfer instructions”) and within such time as is stipulated by the account holder in the transfer instructions, the whole of an account shall be transferred free of expense to another approved account provider subject to and in accordance with regulation 19;
- (h) where the account is transferred to the approved account provider by a transfer under regulation 19, that no charges or expenses are due in respect of that transfer;
- (i) the account provider shall notify the account holder if by reason of any failure to satisfy the provisions of these Regulations an account is or will become no longer exempt from tax by virtue of regulation 22.

(3) The time stipulated in transfer instructions shall be subject to any reasonable business period (not exceeding 30 days) of the approved account provider required for the practical implementation of the instructions.

(4) In applying paragraph (1)(c), any account opened and closed as mentioned in regulation 6(2) shall be ignored.

#### **Limits on sums paid into the account**

**11.—**(1) The total of the sums paid into an account in a month (excluding any interest or other sums paid by the approved account provider under the agreed terms) shall not exceed £25.

(2) In calculating the limit in paragraph (1) withdrawals from the account shall be ignored.

### **Statements for an account**

**12.**—(1) The account provider must issue a statement for the account—

- (a) at least six monthly, and
- (b) where an account is transferred to another account provider under regulation 19, as at the transfer date.

(2) The statement date in the case of a six monthly statement must be the end of the sixth, twelfth, eighteenth or twenty fourth month of the account's operation, as the case may be.

(3) The statement shall be issued to the account holder within 30 days of the statement date.

(4) Statements shall include the following information—

- (a) the full name of the account holder;
- (b) his or her address, including postcode;
- (c) the statement date;
- (d) the balance of the account at the previous statement date (if any), and otherwise at the opening of the account;
- (e) all payments into and withdrawals from the account during the statement period ending on the statement date;
- (f) a provisional calculation of the maturity payment (based on the qualifying balance achieved between the opening of the account and the statement date); and
- (g) the closing balance of the account at the statement date.

### **Conditions for application to open an account**

**13.**—(1) An application by a person who has received a notice of eligibility ("the applicant") to open an account with an approved account provider must be made to the approved account provider, and satisfy the conditions in paragraphs (2) to (4).

(2) An application must incorporate a true declaration by the applicant that he or she—

- (a) has not previously opened a Saving Gateway account (excepting any account opened and closed as mentioned in regulation 6(2)); and
- (b) is ordinarily resident in the United Kingdom, or is so treated as ordinarily resident under regulation 4(2) to (5);

and where the application is not in writing, must authorise the approved account provider to record the terms of the declaration in a written declaration made on behalf of the applicant.

(3) An application must contain—

- (a) the applicant's full name,
- (b) his or her address, including postcode,
- (c) the reference number, as stated on his or her notice of eligibility; and
- (d) an authorisation to the approved account provider to make on the account holder's behalf any claims to relief from tax in respect of the account.

(4) Where the application is not in writing, the approved account provider shall make the written declaration mentioned in paragraph (2), and notify the applicant of its contents, and such declaration shall take effect from the date on which the applicant agrees the contents (subject to any corrections), and if he or she neither agrees or disagrees with the contents within 14 days, he or she shall be treated as having agreed them.

(5) An account provider shall decline to accept an application if he has reason to believe that—

- (a) the notice of eligibility has expired, or is not or might not be genuine,
- (b) the applicant's declaration (see Condition 1 in regulation 6(1) if applicable, and paragraph (2) of this regulation) or application is or might be untrue, or contains matters which are or might be untrue, or

(c) any requirement of money-laundering legislation is not satisfied.

(6) An application made under this regulation shall be regarded as in writing if it is made—

- (a) by telephonic facsimile transmission containing the signature of the individual, or
- (b) by electronic communication containing an electronic signature of the individual.

(7) Declarations made by the account provider under paragraph (4) shall be regarded as made in writing if they are produced by electronic means, and the copy of the declaration to be sent to the applicant in accordance with paragraph (4) may be sent by telephonic facsimile transmission or by electronic communication.

(8) Where a person is or may be entitled to a benefit or tax credit specified in section 3(2) of the Act but is unable for the time being to make a claim for that benefit or tax credit, the following persons may act for that person—

- (a) a receiver appointed by the Court of Protection with power to make a claim for a benefit or tax credit on behalf of that person;
- (b) in Scotland, a tutor, curator or other guardian acting or appointed in terms of law who is administering the estate of that person;
- (c) in Northern Ireland, a controller appointed by the High Court, with power to make a claim for a benefit or tax credit on behalf of that person;
- (d) where there is no person mentioned in sub-paragraphs (a) to (c), a person appointed on behalf of the person under—
  - (i) regulation 33(1) of the Social Security (Claims and Payments) Regulations 1987<sup>(2)</sup>,
  - (ii) regulation 33(1) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987<sup>(3)</sup>, or
  - (iii) regulation 18(3) of the Tax Credits (Claims and Notifications) Regulations 2002<sup>(4)</sup>.

#### **Account provider – qualifications and Commissioners’ approval**

**14.**—(1) This regulation specifies the circumstances (“qualifying circumstances”) in which a person may be approved by the Commissioners as an account provider.

(2) The qualifying circumstances are the following—

- (a) the person must make an application to the Commissioners for approval in a form specified by the Commissioners;
- (b) the person must undertake with the Commissioners (subject to regulation 13(5))—
  - (i) to accept properly completed applications from any person who has received a notice of eligibility, and transfers of an account under regulation 19 arranged by any account holder; or
  - (ii) in the case of a credit union, to accept properly completed applications from any person who has received a notice of eligibility, and transfers of an account under regulation 19 arranged by any account holder, if he or she is a member, or fulfils or is treated as fulfilling a qualification for admission to membership, of the credit union;
- (c) the person must demonstrate to the satisfaction of the Commissioners that the person can correctly operate the procedures in regulation 24;
- (d) an approved account provider must be—
  - (i) a UK institution which has permission under Part 4 of FISMA 2000 to carry on the regulated activity of accepting deposits (within the meaning in section 22 of that Act, taken with Schedule 2 and any order made under section 22);

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<sup>(2)</sup>  
<sup>(3)</sup>  
<sup>(4)</sup>

S.I. 2002/2014.

- (ii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to FISMA 2000 which has permission under paragraph 15 of that Schedule to accept deposits (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule); or
  - (iii) [banks incorporated outside the EEA authorised to accept deposits through a branch in the UK];
- (e) an approved account provider must not be prevented from acting as such by any limitation or requirement imposed under section 42 or 43 of FISMA 2000, or by any prohibition imposed by or under any rules made by the Financial Services Authority under that Act;
- (f) an account provider which is an [EEA firm within (d)(ii) or bank within (d)(iii) above] and which has a branch or business establishment in the United Kingdom but does not intend to carry out all its functions as an account provider at that branch or business establishment, must fulfil one of the requirements mentioned in regulation 15.
- (3) The terms of the Commissioners' approval may include conditions designed to ensure that the provisions of these Regulations are satisfied.

### **Approved account provider – appointment of tax representative**

**15.—**(1) This regulation specifies the requirements mentioned in regulation 14(2)(f).

(2) The first requirement is that—

- (a) a person who falls within section 698(2) of ITTOIA 2005 is for the time being appointed by the account provider to be responsible for securing the discharge of the duties mentioned in paragraph (5) which fall to be discharged by the account provider, and
- (b) his or her identity and the fact of the appointment have been notified to the Commissioners by the account provider.

(3) The second requirement is that there are for the time being other arrangements with the Commissioners for a person other than the account provider to secure the discharge of such duties.

(4) The third requirement is that there are for the time being other arrangements with the Commissioners designed to secure the discharge of such duties.

(5) The duties mentioned in this paragraph are those that fall to be discharged by an account provider under the Act and these Regulations.

(6) The appointment of a person in pursuance of the first requirement shall be treated as terminated in circumstances where—

- (a) the Commissioners have reason to believe that the person concerned—
  - (i) has failed to secure the discharge of any of the duties mentioned in paragraph (5), or
  - (ii) does not have adequate resources to discharge those duties, and
- (b) the Commissioners have notified the account provider and that person that they propose to treat his or her appointment as having terminated from the date specified in the notice.

(7) Where, in accordance with the first requirement, a person is at any time responsible for securing the discharge of duties, the person concerned—

- (a) shall be entitled to act on the account provider's behalf for any of the purposes of the provisions relating to the duties;
- (b) shall secure (where appropriate by acting on the account provider's behalf) the account provider's compliance with and discharge of the duties; and
- (c) shall be personally liable in respect of any failure of the account provider to comply with or discharge any such duty as if the duties imposed on the account provider were imposed jointly and severally on the account provider and the person concerned.

### **Account provider – withdrawal by Commissioners of approval**

**16.**—(1) This regulation specifies the circumstances (“the disqualifying circumstances”) in which the Commissioners may by notice withdraw their approval of a person as an account provider.

- (2) The disqualifying circumstances are that the Commissioners have reason to believe—
- (a) that any provision of the Act or these Regulations, or any term of an undertaking given in accordance with regulation 14(2)(b) or condition under regulation 14(3), is not or at any time has not been satisfied, either in respect of an account managed by the account provider or otherwise; or
  - (b) that a person to whom they have given approval to act as an account provider is not qualified so to act.
- (3) The notice to which paragraph (1) refers shall specify—
- (a) the date from which the Commissioners’ approval is withdrawn; and
  - (b) the disqualifying circumstances.

(4) On receiving the notice referred to in paragraph (1), subject to any appeal under section 23(1)(b) of the Act, the account provider shall notify the account holder of the right to transfer the account under regulation 19, and the notice shall inform the account holder of the rights under regulation 18(3).

### **Approved account provider ceasing to act**

**17.** A person shall give notice to the Commissioners and to the account holder of an account which it manages of its intention to cease to act as the approved account provider not less than 30 days before it so ceases so that its obligations to the Commissioners under the account can be conveniently discharged at or about the time it ceases so to act, and the notice to the account holder shall inform him or her of the right to transfer the account under regulation 19, and of the rights under regulation 18(3).

### **Account provider ceasing to qualify**

**18.**—(1) A person shall cease to qualify as an approved account provider and shall notify the Commissioners within 30 days of the relevant event in sub-paragraphs (a) to (e), of that relevant event, where—

- (a) the person no longer fulfils the conditions of regulation 14;
- (b) in the case of a company—
  - (i) a resolution has been passed or a petition has been presented to wind it up,
  - (ii) its directors have made a proposal under Part 1 of the Insolvency Act 1986 for a composition in satisfaction of its debts or a scheme of arrangement of its affairs, or
  - (iii) a receiver or manager of its property has been appointed;
- (c) an application has been made for a bank insolvency order or a bank administration order;
- (d) [corresponding provisions for partnerships]; or
- (e) in the case of [an EEA firm or bank within regulation 14(2)(d)(ii) or (iii)], action corresponding to that described in sub-paragraph (b) to (d) has been taken by or in relation to the institution under the law of an EEA State or other State.

(2) On giving the notice referred to in paragraph (1), the person shall also notify the account holder of the right to transfer the account under regulation 19, and the notice shall inform the account holder of the rights under paragraph (3).

- (3) Where an account holder—
- (a) receives a notice under paragraph (2), or regulation 16(4) or 17, and

(b) within 30 days of the sending of the notice, transfers the account to another approved account provider (“the transferee”) pursuant to regulation 19, the period between the account provider ceasing to act or qualify as an approved account provider, and the transfer to the transferee, shall be ignored in determining whether the account has at all times been managed by an approved account provider.

### **Transfer of accounts to other account providers**

**19.**—(1) Where—

- (a) arrangements are made by the account holder to transfer an account from one approved account provider to another approved account provider,
- (b) an account is so transferred in consequence of an approved account provider ceasing to act or to qualify as an account provider, or
- (c) arrangements are made by an account provider (subject to complying with regulation 17) to transfer all its accounts to another approved account provider,

the transfer shall be treated as a transfer of the account.

(2) Any transfer relating to an account shall be made directly between one account provider (“the transferor”) and another approved account provider (“the transferee”), and the account shall not be affected for the purposes of these Regulations by reason of the transfer

(3) The account holder shall make a fresh application under regulation 13 (with any necessary modifications to reflect the fact that it is made on a transfer) to the transferee.

(4) The transferor shall on the date of the transfer give the transferee a notice containing the information mentioned in paragraph (5) and the declaration mentioned in paragraph (6).

(5) The information mentioned in this paragraph is—

- (a) the date of the transfer,
- (b) the account holder’s full name and reference number,
- (c) the date of the opening of the account, and the expected end of the maturity period under regulation 7(1)(b),
- (d) the qualifying balance of the account achieved up to the date of the transfer, and
- (e) the total of the sums paid into the account (calculated in accordance with regulation 11(1) and (2)) in the month in which the transfer is made.

(6) The declaration mentioned in this paragraph is a declaration by the transferor that—

- (a) it has fulfilled all its obligations to the account holder, the Commissioners or otherwise, which are imposed by these Regulations;
- (b) it has transferred to the transferee or its nominee all the funds in the account;
- (c) it will forward any further payment received in respect of the account to the transferee, on receipt of the payment; and
- (d) the information contained in the notice is correct.

### **Recoupment of maturity payments and death payments etc.**

**20.**—(1) Where—

- (a) the account holder was not an eligible person at the relevant date;
- (b) there is a breach of section 6(2)(a) or (b) of the Act in relation to an account;
- (c) there is a breach of Condition 1 in regulation 6(1) in relation to an account; or
- (d) there is a breach of regulation 10(1)(c) or 13(2) in relation to an account;

the account is void and the persons mentioned in paragraph (3) shall account to the Commissioners for any maturity payment or death payment wrongly made in respect of the account.

(2) Where—

- (a) a person was entitled to a benefit under the terms of section 3(1)(a) of the Act., or was an eligible person by reason of entitlement to working tax credit or child tax credit under the terms of regulation 3, but such entitlement has been overturned, or it has subsequently been determined that payment of the relevant benefit or tax credit should not have been made, or should have been made at a different rate; or
- (b) an amount is paid by the Commissioners to an account provider in pursuance of the Act, due to a mis-statement in a monthly return or financial claim, or a mistake by an officer of Revenue and Customs;

the persons mentioned in paragraph (3) shall account to the Commissioners for any maturity payment, death payment or overpayment wrongly made in respect of the account.

(3) The persons mentioned in paragraphs (1) and (2) are—

- (a) the account provider (to the extent that it has assets in its possession or control);
- (b) the account holder, or former account holder (to the extent that the payments have been made or credited to the account holder);
- (c) any person in whom the maturity payments, death payments or overpayments, or any property directly or indirectly representing any of them, is vested (whether beneficially or otherwise);

and they shall be jointly and severally liable.

(4) [Time limits]

(5) Where a person accountable under this regulation is notified by the Commissioners that an amount is due from him or her under it, that amount shall be treated for the purposes of Part 6 of the Management Act (collection and recovery) as if it were tax charged in an assessment and due and payable.

### **“Repair” of invalid accounts**

**21.**—(1) Except in the case of a breach of regulation 10(1)(b) or (c) or 13(2), or the case mentioned in regulation 20(2)(a), (where no repair of an account is possible), it is an overriding requirement to be satisfied in relation to an account that the account provider and account holder, as the case may be, take any steps necessary to remedy any breach of these Regulations.

(2) Where a breach is remedied as mentioned in paragraph (1), the account shall, to the extent of that breach, be treated as having been a valid account at all times, except for the purposes of sections 19 to 21 of the Act (penalties).

## **PART 3**

### **Requirements relating to tax and administration of accounts**

#### **Exemption from tax of account income, maturity payments and death payments**

**22.** Subject to compliance with these Regulations (and in particular with regulation 10)—

- (a) no tax shall be chargeable on the account provider or his nominee, or on the account holder, in respect of—
  - (i) interest paid or credited in respect of an account;
  - (ii) profit share return from arrangements falling within section 52 of the Finance Act 2005, paid or credited by a financial institution (within the meanings in Chapter 5 of Part 2 of that Act), in respect of an account;
  - (iii) a payment under a building society bonus scheme, so far as the bonus is calculated by reference to an account (and if paid directly by the society into the account, the payment shall not count towards the payment limits in regulation 11);

- (b) any gain or loss accruing on and attributable to a maturity payment or death payment shall not be a chargeable gain or allowable loss for capital gains tax purposes; and
- (c) income arising from an account shall not be regarded as income for any income tax purposes (including section 629 of ITTOIA 2005).

**Assessments for withdrawing relief and recovering tax**

**23.**—(1) Where—

- (a) any relief or exemption from tax given in respect of income or gains under an account is found not to be due or to be excessive, or
- (b) the full amount of tax in respect of the income or gains under an account has not otherwise been fully accounted for and paid to the Commissioners on behalf of the account holder,

an assessment to tax may be made by the Commissioners in the amount or further amount which in their opinion ought to be charged.

(2) An assessment to which paragraph (1) refers may be made on the account provider or on the account holder.

(3) If the assessment is made to recover tax in respect of income under an account it shall be made under section 369 of ITTOIA 2005.

**Monthly return and financial claim**

**24.**—(1) In this regulation—

“month” means a calendar month;

“initial return period”, in relation to an account provider, means the period—

- (a) beginning on the date on which the approval of the provider takes effect, or the appointed day (whichever is the later), and
- (b) ending simultaneously with the end of the then current month.

(2) The following provisions of this regulation apply to an account provider in relation to—

- (a) that provider’s initial return period, and
- (b) each succeeding month,

during which, or any part of which, it acted as an account provider.

(3) Within—

- (a) 14 days of the end of a provider’s initial return period, and
- (b) 7 days of the end of any succeeding period mentioned in paragraph (2),

the account provider shall deliver by means of electronic communications to the Commissioners, a return for that period, in a form specified by the Commissioners.

(4) The return shall include a declaration of the information in paragraph (5), and a claim as mentioned in paragraph (6).

(5) The information (to be given in relation to the return period) is—

- (a) the total number of accounts opened by the account provider in accordance with regulation 6;
- (b) the total number of accounts transferred to the account provider in accordance with regulation 19;
- (c) for each account opened or transferred—
  - (i) the account holder’s full name and date of birth,
  - (ii) the account holder’s reference number, and
  - (iii) the date of opening or transfer of the account;

- (d) for accounts whose twelfth month of operation ends simultaneously with the end of the return period, a provisional calculation of the aggregate maturity payments, based on the qualifying balances achieved between their opening and the end of the return period;
- (e) the total number of accounts closed before the end of the account's maturity period (and the total number of accounts closed due to the death of the account holder);
- (f) for each account so closed other than due to the death of the account holder, the account holder's full name and reference number;
- (g) for each account so closed due to the death of the account holder—
  - (i) the account holder's full name;
  - (ii) the account holder's reference number;
  - (iii) the date of death; and
  - (iv) the amount of the death payment made or due to be made;
- (h) the total of maturity payments credited or due to be credited in respect of accounts whose maturity period ended during the return period;
- (i) for each account whose maturity period ended during the return period—
  - (i) the account holder's full name;
  - (ii) the account holder's reference number; and
  - (iii) the amount of the maturity payment credited or due to be credited to the account;
- (j) the total of death payments made or due to be made to personal representatives;

or a statement, in each relevant case, that there were no items falling within the relevant category.

(6) The claim (where there is an item falling with paragraph (5)(g) or (h)) is a claim for payment of an amount equal to those maturity payments and death payments, as the case may be.

(7) Paragraph (5)(a) to (c) shall apply notwithstanding any transfer of the account to another provider under regulation 19, before the end of the return period in question.

(8) The Commissioners (subject to checking and if necessary correcting the amount of the claim) shall pay the account provider—

- (a) where the return is made by the due date in paragraph (3), within 7 days of the due date, and
- (b) where the return is made later than the due date, within 7 days of receipt of the return.

(9) Where the Commissioners require further information to verify a claim, the 7 days shall be calculated from the date on which the information is received.

### **Records to be kept by account provider**

**25.—**(1) An account provider shall at all times keep sufficient records to enable it to show that the requirements of the Act and of these Regulations have been satisfied.

(2) In particular, an account provider shall produce (when required to do so by an officer of Revenue and Customs)—

- (a) any application made under regulation 13 (where an account has been opened);
- (b) account statements for an account;
- (c) working papers supporting the calculation of each amount returned under regulation 24(5)(g)(iv) or (i)(iii); and
- (d) evidence of the date on which a maturity payment or death payment was made;

or electronic copies, within the period of 3 years from when the record was made, issued or given, or the account ceased to be a Saving Gateway account (whichever is later), notwithstanding any transfer of the account pursuant to regulation 19.

### **Information to be provided to the Commissioners**

26. The Commissioners may by notice require any relevant person to furnish them, within such time (not being less than 14 days) as may be provided in the notice, such information about any account (including copies of or extracts from any books or other records) as they may reasonably require for the purposes of the Act or these Regulations.

### **Inspection of records by officer of Revenue and Customs**

27. The Commissioners may by notice require any relevant person, within such time (not being less than 14 days) as may be provided in the notice, to make available for inspection at a place within the United Kingdom by an officer of Revenue and Customs authorised for that purpose all documents (including books and other records) in his possession or under his control relating to Saving Gateway accounts.

[Regulations on appeals, and interest on late payments to be added: Sol HMRC]

*Name*

*Name*

2009 Two of the Lords Commissioners of Her Majesty's Treasury



## **Notes to explain draft Saving Gateway Accounts Regulations**

1. The Saving Gateway Accounts Bill, which was introduced in the House of Commons on 4 December 2008, contains powers for regulations to be made in connection with various aspects of the Saving Gateway.

2. Following a written statement to Parliament by the Economic Secretary to the Treasury on 12 January, draft regulation 3 (Eligible persons – entitlement to working tax credit or child tax credit), draft regulation 4 (Eligible persons – connection with the U.K.) and accompanying notes to explain the draft regulations were published ahead of the Second Reading of the Bill.

3. Ahead of the consideration of clauses of the Saving Gateway Accounts Bill by the Public Bill Committee in the House of Commons, further draft regulations are being published. The detail of these regulations remains subject to discussion and consideration, and comments are welcomed from potential account providers, their representative bodies and other interested parties. This publication of draft regulations does not therefore constitute a formal laying of regulations before Parliament.

4. These notes accompany these draft regulations. They provide an explanation of these draft regulations, but do not form part of the draft of the regulations.

5. There are some areas to be dealt with in regulations that are not covered in full by this draft, or which are currently subject to square brackets within the draft. This is because further consideration on the drafting of these provisions is required. These areas are:

- Details of commencement of regulations;
- A potential provision at draft regulation 5 relating to Directive 2002/65/EC – the Distance Marketing Directive;
- Provisions concerning banks based outside the UK or EEA at draft regulations 14 and 18;
- Provision at regulation 18 concerning circumstances in which providers that are partnerships may cease qualify to offer Saving Gateway accounts;
- The time limits within which the Commissioners of HM Revenue and Customs may recover any monies due under regulation 20;
- Provisions in relation to appeals arising under clause 23 of the Saving Gateway Accounts Bill; and
- Provisions in relation to interest on late payments, to be made under clause 13 of the Saving Gateway Accounts Bill.

6. Where possible and appropriate, some indication has been provided in this note of the Government's intended use of regulation-making powers in these areas.

## **PART 1** **Introductory**

### **Draft regulation 1 – Citation and Commencement**

7. This draft regulation gives the title by which the regulations are to be known (the Saving Gateway Accounts Regulations 2009) and will provide details of when these regulations come into force for various purposes.

### **Draft regulation 2 – Interpretation**

8. This draft regulation provides details of how certain terms used in these regulations are to be interpreted.

### **Draft regulation 3 – Eligible persons – entitlement to working tax credit or child tax credit**

9. This draft regulation sets out the circumstances in which a person will be eligible for the Saving Gateway as a result of their entitlement, whether individually or jointly with another person, to working tax credit or child tax credit.

10. *Paragraph (2)* sets out four conditions that must be met. The *first condition* is that a final tax credit award for 2009-10, or a subsequent tax year, has been made. The relevant legislative provisions on final tax credit awards, which are made annually and after the end of the relevant tax year, are at sections 18 to 21 of the Tax Credits Act 2002.

11. The *second condition* is that either:

(i) the relevant income against which this final tax credit award is calculated does not exceed £16,040 or, in tax years subsequent to 2009-10, does not exceed the relevant income threshold established for the purposes of child tax credit by regulations made under section 7(1)(a) of the Tax Credits Act 2002; or

(ii) entitlement to this final tax credit award arose through an entitlement to one of the social security benefits prescribed under section 7(2) of the Tax Credits Act 2002.

12. The provision at *paragraph (2)(a)* means that the relevant income threshold that applies for the purposes of determining eligibility for the Saving

Gateway by reference to tax credits will be linked to the child tax credit income threshold, as uprated annually<sup>5</sup>.

13. *Paragraph (3)* sets out that for the purposes of assessing eligibility for the Saving Gateway, 'relevant income' has the same meaning as at section 7 of the Tax Credits Act 2002.

14. The provision at *paragraph (2)(b)* means that people who receive working tax credit or child tax credit by virtue of their entitlement to a prescribed social security benefit, will also be eligible for the Saving Gateway once they have received a final tax credit award, without any conditions having to be met in relation to income. The social security benefits prescribed for these purposes are listed at regulation 4 of the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002 (SI 2002/2008) and include certain awards of income support, income-based jobseeker's allowance and state pension credit.

15. The *third condition* is that the final tax credit award for the relevant tax year (and the amount of relevant income on which this award was based) has not been overturned.

16. The *fourth condition* limits the length of time for which a final tax credit award will make a person an 'eligible person'<sup>6</sup> for Saving Gateway purposes. This limit ("the eligibility window") is set out in *paragraph (3)*, and is the shorter period of: 12 months from the date of the relevant final award, or until the issue of a final tax credit award for a subsequent tax year.

#### **Draft regulation 4: Eligible persons – connection with the U.K.**

17. Clause 3(1)(b) of the Saving Gateway Accounts Bill ('the Bill') specifies that an individual must have a connection with the United Kingdom of a kind prescribed by regulations in order to be eligible for the Saving Gateway. *Paragraph (1)* of draft regulation 4 sets out that the requisite connection with the United Kingdom is that the person must be ordinarily resident in the United Kingdom.

18. *Paragraph (2)* provides that Crown servants posted overseas, and their partners, shall be treated as being ordinarily resident in the United Kingdom for the purposes of the Saving Gateway.

19. *Paragraph (3)* provides that a person who is exercising in the United Kingdom rights as a worker under Council Regulation (EEC) No.1612/68 or a person exercising a right to reside in the United Kingdom under Council Directive No. 2004/38/EC shall be treated as being ordinarily resident for Saving Gateway purposes.

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<sup>5</sup> The child tax credit income threshold is £15,575 in 2008-09. At the Pre Budget Report, the Government announced that it will be uprated to £16,040 in 2009-10.

<sup>6</sup> Clause 3(1) of the Saving Gateway Accounts Bill

20. *Paragraph (4)* provides that a person shall be treated as being ordinarily resident in the United Kingdom if that person is in the United Kingdom as a result of their deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.

21. *Paragraph (5)* sets out that, for the purposes of paragraph (2), the meaning of “Crown servant posted overseas” and of “partner” of a Crown servant is the same as that used in the Tax Credits (Residence) Regulations 2003 (SI 2003/654).

### **Draft regulation 5 – Notices of eligibility**

22. This draft regulation sets out details concerning the content, method of issue and expiry date of the notice of eligibility<sup>7</sup> to be issued by the Commissioners for Her Majesty’s Revenue and Customs (‘the Commissioners’). The notice will advise the recipient of their eligibility for a Saving Gateway account (‘an account’) as defined at clause 1 of the Bill. In order to open an account, a person must be in possession of an unexpired notice.

23. *Paragraph (1)* provides that the notice shall contain the full name of the person to whom it is issued, and their Saving Gateway reference number. This reference number will be issued by the Commissioners.

24. *Paragraph (2)* provides that the notice should be issued to the eligible person by post, except where someone else acts on their behalf under the provisions listed in draft regulation 13(8). Where this exception applies, the notice may be sent to that other person.

25. *Paragraph (3)* sets out that a notice shall be valid for three months from its date of issue.

26. *Paragraph (4)* sets out that after a notice of eligibility has expired, the Commissioners may, at their discretion, issue a further notice to an eligible person who has not opened an account. It is intended that such further notices will be issued to eligible individuals on request, although this paragraph would also permit a general issue of notices to eligible individuals who have not opened an account that remained open beyond any cooling-off period offered by the provider, but whose initial notice of eligibility has expired.

### **Draft regulation 6 – Opening of an account by a person who has received a notice of eligibility**

27. This draft regulation sets out the conditions that must be met for a Saving Gateway account to be opened by an approved account provider,<sup>8</sup>

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<sup>7</sup> Clause 2(1) of the Bill

<sup>8</sup> Clause 4(1) of the Bill

and also clarifies the impact of an account cooling-off period on the provider's monthly return, which is referred to at draft regulation 24.

28. *Paragraph (1)* provides that an account is opened when the conditions set out in this draft regulation are met, provided that this is no later than the expiry date specified in the notice of eligibility (see draft regulation 5).

29. The *first condition* is that the account applicant produces their notice of eligibility to the account provider or, where sight of this notice is not required by the provider, the account applicant declares their Saving Gateway reference number and the expiry date of their notice to the account provider.

30. The *second condition* is that the account applicant and approved account provider enter into terms under which the account will be managed (see draft regulation 10(1)(g)) and that these terms include the account application and the declaration, both of which are referred to in detail at draft regulation 13.

31. The *third condition* is relevant to cases in which an account application is not in writing. In such cases, the applicant must have agreed, or be treated as having agreed, the declaration required under draft regulation 13(2). This declaration is that that the applicant has not previously opened a Saving Gateway account that remained open beyond any cooling-off period offered by the account provider, and is ordinarily resident in the UK for the purposes of paragraph (2) to (5) of draft regulation 4.

32. The Government is giving further consideration to whether an additional condition is required in relation to the Directive 2002/65/EC – the Distance Marketing Directive. This Directive provides increased protection, and greater choice, for consumers throughout the European Economic Area by setting minimum standards for information that must be provided to consumers before entering into a financial services contract by distance means. The Directive also provides a cooling-off period for certain products and services, during which a consumer may cancel a contract without penalty.

33. *Paragraph (2)* sets out that an account is not treated as having been opened, for the purposes of the account provider's monthly return referred to at draft regulation 24, until any right to cancel agreed terms has expired. The effect would be that when completing their monthly return, account providers would not be required to report any accounts unless and until they remain open beyond any cooling-off period offered. In addition, it is intended that any account opened but subsequently closed within such a period will not count as a Saving Gateway account for the purposes of draft regulation 5(4) (notices of eligibility).

## **Draft regulation 7 - Maturity Period**

34. This draft regulation specifies the maturity period<sup>9</sup> for an account - that is, the period in which deposits will count towards an account's qualifying balance<sup>10</sup> for the purposes of calculating the maturity payment<sup>11</sup> due to the account holder. It also sets out time limits for the making of maturity payments by the account provider. Arrangements are also provided for circumstances in which an account holder dies before the end of an account's maturity period.

35. *Paragraph (1)* specifies a maturity period of 24 months for most accounts, with the first of these 24 months being that in which the account is opened. Clause 4(4) of the Bill provides that account months will be calendar months, with the exception of the first month, which will begin with the day on which the account is opened and end with the last day of that calendar month. *Paragraph (2)* provides that at the end of this maturity period, the account provider must make the maturity payment to the account holder within 14 days.

36. The exception to the above rules is those cases in which the account holder dies prior to the end of the maturity period. *Paragraph (3)* concerns these cases, and would require an account provider to pay the account holder's personal representative an amount equal to the maturity payment earned by the account holder prior to his or her death (a 'death payment'<sup>12</sup>). *Paragraph (4)* sets out that this payment must be made with 14 days of the appropriate evidence being presented to the account provider.

37. This draft regulation reflects the Government's proposals for the time periods within which account providers will be required to make payments of the maturity payment to account holders, and of the death payment to account holders' personal representatives. However, the Government will continue to discuss these proposals with potential providers, their representative bodies and other interested parties.

## **Draft regulation 8 - Accounts ceasing to be a Saving Gateway account (and rollover certificates)**

38. This draft regulation concerns when an account ceases to be a Saving Gateway account for certain purposes set out in the Bill and these regulations. It also provides for a process to facilitate the rollover of sums within an account that has ceased to be a Saving Gateway account into a different product, such as an Individual Savings Account (ISA).

39. *Paragraph (1)* provides that where the account holder dies during the maturity period, the account will cease to be a Saving Gateway account on the death of the account holder.

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<sup>9</sup> Clause 4(2)(a) of the Bill

<sup>10</sup> Clause 8(2) of the Bill

<sup>11</sup> Clause 4(2)(a) of the Bill

<sup>12</sup> Clause 4(2)(b) of the Bill

40. In other cases, this paragraph provides that, for most purposes of the Bill, an account will cease to be a Saving Gateway account at the end of the maturity period specified in draft regulation 7. However, for the purposes of section 8(4) of the Bill, an account will not cease to be a Saving Gateway account until the maturity payment has been made by the account provider. This will ensure that the requirements of draft regulation 14(2) concerning the timing of maturity payments, will continue to apply after the end of the maturity period, even though for all other purposes the account has ceased to have Saving Gateway status.

41. *Paragraphs (2) to (4)* set out a requirement on account providers, within 6 months of the end of an account's maturity period, to provide certain information to an account holder on request. This would take the form of a certificate, containing the information specified in *paragraph (3)* and a declaration of the account's previous status as a Saving Gateway account.

42. The Government intends to amend the Individual Savings Accounts Regulations 1998<sup>13</sup> to provide that the balance of an account at maturity and the maturity payment in respect of this account, can rollover into an ISA outside the normal annual subscription limit. The certificate that would be issued under this draft regulation would facilitate this process where the account and ISA were held with different account providers. A certificate would not be required if the Saving Gateway account and the ISA were held with the same provider.

#### **Draft regulation 9 - Government contribution rate**

43. This draft regulation sets out that the maturity payment due to the account holder will be calculated at a rate of 50p for each whole pound in the qualifying balance of the account (see clause 8(1) of the Bill).

### **PART 2**

#### **Other requirements to be satisfied in relation to accounts**

##### **Draft regulation 10 – General requirements for accounts**

44. This draft regulation sets out some of the main features, requirements and conditions for Saving Gateway accounts.

45. *Paragraph (1)(c)* specifies that an eligible person will only be able to open one account in their lifetime. However, *paragraph (4)* confirms that in relation to this restriction, any account closed within a cooling-off period offered by the account provider should be ignored.

46. *Paragraph (1)* also sets out a number of account requirements, including that the account must be covered by the Financial Services

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<sup>13</sup> SI 1998/1870

Compensation Scheme or a similar deposit guarantee scheme. Other requirements include that the account must be a cash deposit account that is denominated in sterling, and must be managed in accordance with terms agreed between an account holder and an approved account provider (see draft regulation 14). The account must be held by a single person that is or has been an eligible person, and must not be held on behalf of any person other than the account holder.

47. *Paragraph (2)* lists a number of conditions that must be included within the account terms. These are that:

- (a) the account provider is required to pay the maturity payment to the account holder at the end of the maturity period;
- (b) the account provider is required to make a death payment in cases where the account holder dies before the end of the account's maturity period;
- (c) there is no restriction on the maximum amount or timing of withdrawals of the credit balance of an account. This stipulation would not prevent an account provider from setting a minimum amount for a withdrawal;
- (d) the account provider shall permit payment of sums into the account by certain specified methods;
- (e) the account provider shall not levy charges against the balance of the account;
- (f) where an account provider delegates responsibility for any of its functions or responsibilities, it must be satisfied that the person to whom the function or responsibility is delegated is competent to carry these out;
- (g) and (h) account holders shall have the option of transferring their account to another approved account provider, free of charge; and
- (i) the account provider shall notify the account holder if an account has lost or will lose its tax exempt status due to a failure to satisfy any requirement of these regulations.

48. *Paragraph (3)* sets out that the time limit for processing an account transfer shall be subject to any reasonable business period of the approved account provider, but that this shall not be longer than 30 days.

#### **Draft regulation 11 – Limits on sums paid into the account**

49. This draft regulation sets out that the total monthly deposits into any Saving Gateway account (excluding interest or other sums paid by the account provider under the agreed terms of the account), shall not exceed

£25. It also clarifies that in calculating this limit any account withdrawals shall be ignored. An account holder may not, for example, deposit £35 in one month, even if they also withdraw £10 in that month.

50. The effect is that the maximum that can be deposited into a Saving Gateway account by the account holder is £600 (24 months x £25) and the maximum maturity payment payable to an account holder will be £300 (£600 x 50p).

### **Draft regulation 12 – Statements for an account**

51. This draft regulation sets out rules on the form, content and frequency of account statements, including the requirement at *paragraph (1)* that statements be issued to the account holder at least six monthly and where an account is transferred.

52. *Paragraph (2)* defines the 'statement date' in the case of a six monthly statement as the end of the sixth, twelfth, eighteenth and twenty fourth month of the account's operation. *Paragraph (3)* requires account providers to issue statements within 30 days of this statement date.

53. *Paragraph (4)* specifies the information that the statement shall include.

54. The Government will continue to discuss the requirements for statements with account providers, their representative bodies and other interested parties.

### **Draft regulation 13 – Conditions for application to open an account**

55. This draft regulation relates to the application process. The draft regulation also sets out the circumstances in which an account provider shall decline to accept such an application, and in which a person may act on behalf of an eligible person in matters relating to the Saving Gateway.

56. *Paragraphs (1) to (4)* specify conditions relating to the application process for a Saving Gateway account. These include that the applicant must provide a true declaration that they: (i) have not previously opened a Saving Gateway account (other than an account that was closed within a cooling-off period); and (ii) are ordinarily resident in the United Kingdom for the purposes of paragraphs (2) to (5) of draft regulation 4.

57. Further matters in relation to this declaration are set out at *paragraph (4)*, which provides arrangements for securing this declaration when an account application is not made in writing, and *paragraphs (6) and (7)*, which provide that certain applications made by telephone facsimile transmission or electronic means shall be regarded as having been made in writing.

58. *Paragraph (3)* sets out what information must be included on an application for an account, including the necessary authorisation for the

account provider in relation to relief from tax in respect of the account (see draft regulation 22).

59. *Paragraph (5)* sets out the circumstances in which an account provider shall decline to accept an application. These are when the account provider has reason to believe that the notice of eligibility has expired or might not be genuine, or that the account applicant's declaration or application is not, or may not, be true. An account provider should also not open an account where any requirement of money-laundering legislation is not satisfied.

60. *Paragraph (8)* sets out the circumstances in which an appointee or similar may act for a person in relation to the Saving Gateway. This includes where a receiver, tutor, curator or other guardian or controller has been appointed by the Courts, or where a person is appointed to act on an eligible person's behalf under relevant social security and tax credit legislation.

#### **Draft regulation 14 - Account provider – qualifications and Commissioners' approval**

61. This draft regulation sets out the circumstances in which a person may be approved by the Commissioners as an account provider.

62. *Paragraph (1)* defines the circumstances – referred to as the 'qualifying circumstances' - in which a person may be approved by the Commissioners as an account provider. *Paragraph (2)* lists these qualifying circumstances, which include that the person has applied to the Commissioners in the specified form and, subject to the exceptions set out at draft regulation 13(5), undertakes to accept properly completed applications and transfers of Saving Gateway accounts.

63. *Paragraph (2)(b)(ii)* sets out an exception for credit unions. Because of their membership criteria, it may not be possible for some credit unions to offer accounts to all applicants. The effect of this paragraph is that a credit union will not be required to open an account for a person who is unable to fulfil its membership criteria.

64. *Paragraph 2(c)* sets out that in order to be approved as a Saving Gateway provider, a person must demonstrate to the satisfaction of the Commissioners that they can correctly submit the monthly return and financial claim required under draft regulation 24.

65. *Paragraph 2(d) and (e)* concern the regulatory requirements and the authorisations or permissions required to be approved by the Commissioners to offer Saving Gateway accounts. These are that a person must have the appropriate permission or authorisation under the Financial Services and Markets Act 2000 to accept deposits. Such authorisation or permission is granted by the Financial Services Authority (FSA). To be approved by the Commissioners, an account provider must also not be prevented from acting as such by any limitation or requirement imposed under section 42 or 43 of the Financial Services and Markets Act 2000.

66. The Financial Services and Markets Act 2000 provides the framework within which the FSA operates. It equips the FSA with powers, including the power to authorise persons to carry out regulated activities. Sections 42 and 43 of Financial Services and Markets Act 2000 allow the FSA to give permission for applicants to carry on regulated activities, such as accepting deposits and, where appropriate, to impose conditions or require that specified action should, or should not, be taken.

67. *Paragraph (2)(f)* provides that further requirements will apply in relation to those account providers that do not intend to carry out all of their functions as an approved provider of the Saving Gateway in the United Kingdom. These requirements are set out in draft regulation 15.

68. *Paragraph (3)* provides that the terms under which the Commissioners approve a person to offer Saving Gateway accounts may include conditions designed to ensure that the provisions of these Regulations are satisfied.

#### **Draft regulation 15 – Approved account provider – appointment of a tax representative**

69. This draft regulation sets out further conditions that must be met before a person that does not intend to carry out all its functions as an account provider in the United Kingdom can be approved to offer Saving Gateway accounts. These concern the appointment of a UK-based tax representative to discharge relevant duties relating to Saving Gateway accounts. The regulation also sets out the entitlements, liabilities and requirements of representatives, and the circumstances in which their appointment may be considered by the Commissioners to have been terminated.

#### **Draft regulation 16 – Account provider – withdrawal by Commissioners of approval**

70. This draft regulation sets out the circumstances in which approval to offer Saving Gateway accounts may be withdrawn by the Commissioners, the form by which such a withdrawal should be notified to the account provider, and the requirements upon account providers in such cases.

71. *Paragraph (1)* sets out the purpose of this draft regulation and introduces the ‘disqualifying circumstances’ in which approval to offer Saving Gateway accounts may, by notice, be withdrawn by the Commissioners. These disqualifying circumstances are set out at *paragraph (2)* and are when the Commissioners have reason to believe that the approved account provider:

- has at any time failed to satisfy any provision of the Saving Gateway legislation;
- has at any time failed to satisfy the terms of an undertaking set out at draft regulation 14(2)(b) to accept properly completed applications for Saving Gateway accounts; or

- is not qualified to provide Saving Gateway accounts.

72. *Paragraph (3)* specifies the content of the notice by which the Commissioners should notify an account provider that its approval to offer Saving Gateway accounts is withdrawn.

73. *Paragraph (4)* sets out a requirement upon an account provider whose approval to offer Saving Gateway accounts is withdrawn to notify their account holders of their right to transfer their account under draft regulation 19 and the circumstances, set out in draft regulation 18(3), in which such a transfer will not affect the account's status as a Saving Gateway account. This requirement is subject to any appeal made by the account provider, under clause 23(1)(b) of the Bill, against withdrawal of its approval to offer Saving Gateway accounts.

#### **Draft regulation 17 – Approved account provider ceasing to act**

74. This draft regulation sets out arrangements for when an approved account provider intends to cease to act as an account provider. In such circumstances, the provider is required to give not less than 30 days notice of this intention to the Commissioners and account holders. Its notice to account holders should include details of their right to transfer their account under draft regulation 19 and the circumstances, set out in draft regulation 18(3), in which such a transfer will not affect the account's status as a Saving Gateway account.

#### **Draft regulation 18 – Account provider ceasing to qualify**

75. This draft regulation sets out the procedures to be followed where an approved provider ceases to qualify to offer Saving Gateway accounts.

76. *Paragraph (1)* sets out the circumstances in which an account provider will cease to qualify to offer accounts, and requires providers that have ceased to qualify to give notice of this fact to the Commissioners within 30 days.

77. An account provider will cease to qualify to offer accounts if they no longer fulfil the regulatory and other conditions (set out at draft regulation 14) under which their approval to offer accounts was granted by the Commissioners, or if they are subject to a winding up petition or resolution, insolvency, administration or similar.

78. *Paragraph (2)* sets out that the account provider must also notify the account holders of their right to transfer their account under draft regulation 19 and the circumstances, set out in *paragraph (3)* of this draft regulation, in which such a transfer will not affect the account's status as a Saving Gateway account.

#### **Draft regulation 19 – Transfer of accounts to other account providers**

79. This draft regulation sets out the circumstances in which a Saving Gateway account may be transferred from one account provider to another, and provides requirements in relation to such transfers.

80. *Paragraph (1)* provides that an account may be transferred from one account provider to another when arrangements are made by the account holder; when an account provider ceases to act, or to qualify to act, as such; or where arrangements are made by the account provider to transfer all of its accounts to another approved provider.

81. *Paragraph (2)* sets out the process for transfers and provides that the status of a transferred account under these regulations shall not be affected by the transfer.

82. *Paragraph (3)* sets out a requirement that, where an account is transferred, the account holder must make a new application to the new provider. This application will be as set out in draft regulation 13, with any modifications necessary to reflect the fact that this is a transferred, rather than a new, account.

83. *Paragraph (4)* sets out that the transferring provider will give to the new provider a notice containing the information specified in *paragraph (5)*, and the declaration required by *paragraph (6)*. The information required includes certain account details, including the qualifying balance achieved to date. The declaration required includes confirmation that at the time of transfer all obligations concerning the account have been fulfilled by the transferring provider, and that this provider will forward any further payments to the account to the new account provider on receipt.

84. The Government recognises that some potential account providers remain concerned about the potential costs and complexity of transferring accounts. It will continue to work with potential account providers, their representative bodies and other interested parties on the detail of the transfer process and on the cases in which transfers should be permitted.

#### **Draft regulation 20 - Recoupment of maturity payments and death payments etc.**

85. This draft regulation sets out the circumstances in which the Commissioners may recoup payments made in relation to the Saving Gateway, specifies from whom payments may be recouped, and also provides other details concerning the recoupment of payments that are made under the scheme.

86. *Paragraph (1)* sets out the circumstances in which accounts will be void, where there will be a requirement to account to the Commissioners for maturity or death payments that were wrongly made. These circumstances include breaches in relation to the eligibility of the account holder, the account opening process and declaration, and the opening of more than one Saving Gateway account.

87. *Paragraph (2)* sets out other circumstances in which there will be a requirement to account to the Commissioners for a maturity payment, death payment or overpayment that has been wrongly made. These relate to where a person's entitlement to a qualifying benefit, or their tax credit award, has been overturned so as to impact upon entitlement for a Saving Gateway account; or where an amount has been paid to an account provider by mistake or as a result of a mis-statement on an account provider's monthly return and financial claim.

88. *Paragraph (3)* lists the persons from whom recoupment may be sought by the Commissioners in certain circumstances and provides that these persons shall be jointly and severally liable. These persons are the account provider; the account holder (or former account holder); and any other person in whom the payment is vested.

89. *Paragraph (4)* will provide for the time limits within which the Commissioners may require any payment that is due under this draft regulation. It is intended that these time limits will be consistent with those which apply to other comparable functions of HMRC, as far as appropriate.

90. *Paragraph (5)* sets out that any amount due under this draft regulation will be treated as if it were tax charged in an assessment and due and payable. This will enable the Commissioners to use powers available to them in relation to collection and recovery under Part 6 of the Taxes Management Act 1970.

#### **Draft regulation 21 – “Repair” of invalid accounts**

91. This draft regulation concerns circumstances in which there is a breach in the account rules, but it is not appropriate to withdraw the account's Saving Gateway status without providing an opportunity for this breach to be repaired.

92. *Paragraph (1)* sets out the circumstances in which it may be possible to 'repair' an account and places a requirement on the account provider or account holder to take any steps necessary to remedy the breach. This will apply to any breach, other than where the account holder is not an eligible person or has opened more than one purported Saving Gateway account (apart from accounts closed during a cooling-off period offered by the provider). Where any of these exceptions apply, repair of the account is not possible.

93. *Paragraph (2)* sets out that where such a breach is remedied, the account is treated as if it had always been valid for all purposes of the scheme, other than any penalties that may be charged under clause 19 to 21 of the Bill. This will ensure that where a breach is remedied in accordance with this draft regulation, the account holder can still receive a maturity payment at the end of the account's maturity period.

## PART 3

### Requirements relating to tax and administration of accounts

#### **Draft regulation 22 – Exemption from tax of account income, maturity payments and death payments**

94. This draft regulation provides that tax shall not be chargeable on an account holder or an account provider (or his or her nominee) on amounts by way of interest, profit share return, or building society bonus earned in respect of a Saving Gateway account. It also provides that gains or losses from maturity or death payments shall not be a chargeable gain for capital gains tax purposes, and that income arising from an account shall not be treated as income for the purposes of income tax.

#### **Draft regulation 23 – Assessments for withdrawing relief and recovering tax**

95. This draft regulation sets out the circumstances in which the Commissioners may make an assessment to tax in respect of an account. This includes where tax relief was claimed but was not properly due. It also provides that this assessment may be made upon the account provider or account holder, and sets out details of how certain assessments to recover tax in respect of income should be made.

#### **Draft regulation 24 – Monthly return and financial claim**

96. This draft regulation sets out the frequency, content and form of the account provider's monthly return and financial claim to the Commissioners. This claim will include all maturity or death payments that are due to be paid by the account provider in relation to Saving Gateway accounts. It also sets out the time limits within which the Commissioners should make any payments due to the account provider on such a claim.

97. The effect of *paragraph (1) to (3)* is that the provider's 'return period' should be a full calendar month, except in the case of the provider's first return. This first return period will run from the date on which the provider's approval to offer accounts takes effect, to the end of that month.

98. The account provider will be required to provide their return and financial claim to the Commissioners, by electronic means, within seven days of end of each return period, with the exception of the provider's first return, which will be due within 14 days of the end of this return period. The Government will continue to discuss these time limits with potential account providers, their representative bodies and other interested parties.

99. *Paragraphs (4) to (6)* set out the details that will be required on the return, including details of accounts opened, transferred or closed within the return period. Details, and a financial claim, will also be required for any maturity or death payments made or due to be made to an account holder or personal representative.

100. *Paragraph (7)* provides that certain information requirements will apply to the account provider, even where an account has been transferred to another provider within the return period.

101. *Paragraphs (8) and (9)* set out that, subject to checking and correction of claims and any further information required to verify a claim, the Commissioners will settle claims submitted by the due date within seven days of this due date. Where the return and claim is submitted late, or further information is required to verify a claim, the Commissioners will settle the claim, subject to checking and correction, within seven days of the receipt of this claim or information.

#### **Draft regulation 25 – Records to be kept by the account provider**

102. This draft regulation sets out requirements for the retention and production by account providers of records relating to Saving Gateway accounts. *Paragraph (1)* requires an account provider to retain sufficient records to demonstrate that the statutory rules of the scheme have been satisfied.

103. *Paragraph (2)* specifies the records that an account provider must produce when required to do so by an officer of HM Revenue and Customs. These are applications for accounts that have been opened, account statements, certain working papers relating to the calculation of claims, and evidence of the date on which maturity and death payments have been made. This requirement will last for 3 years from the later of: when the record was made, issued or given; or when the account to which the record relates ceased to be a Saving Gateway account. These requirements apply even where an account has been transferred to another provider. The specified records can be retained in electronic form, for example by storing an image of the documents.

#### **Draft regulation 26 – Information to be provided to the Commissioners**

104. This draft regulation requires any relevant person<sup>14</sup> to provide to the Commissioners such information as they may reasonably require for the purposes of these regulations. This information shall be provided following the issue of a notice by the Commissioners, and in the time specified in that notice (which must not be less than 14 days).

#### **Draft regulation 27 – Inspection of records by officer of Revenue and Customs**

105. This draft regulation provides that the Commissioners may, by notice of not less than 14 days, require any relevant person to make records relating to any Saving Gateway account (including records kept on computer) available for inspection at a location in the UK.

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<sup>14</sup> As defined in clause 17(2) of the Bill