

1st February 2016

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Charities, Savings and International
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Dear Simon

Response to consultation relating to the new Innovative Finance Individual Savings Account

We are writing in response to the consultation published on 8 December 2015 relating to establishing the new Innovative Finance ISA ("IF ISA") through the Individual Savings Account (Amendment No.2) Regulations 2016 (the "ISA Amendment Regulations"). These proposals will amend the Individual Savings Account Regulations 1998 ("ISA Regulations").

As you know, TISA long argued for the inclusion of P2P within ISAs for the choice they give to savers and investors, as well as the encouragement of more competition in retail financial services. We are therefore pleased that the Government has given careful consideration to the technical means by which their objectives can be achieved. We set out below some considerations for HMRC and how our wider recommendations on simplification of ISAs can meet these objectives as well as encourage competition.

About TISA

Proposed amendments to Regulation 14 of the ISA Regulations – ISA account manager qualifications

We understand that the current draft ISA Amendment Regulations envisage it being possible for operators of peer-to-peer ("P2P") lending platforms, which are authorised to carry out Article 36H activities under the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (the "RAO"), to obtain approval from HMRC to become an IF ISA manager ("Authorised P2P Provider"). As you know, it will be possible for each ISA investor to take out a single IF ISA, in addition to a Stocks & Shares ISA and a Cash ISA, provided that the annual allowance is not exceeded. Therefore, the current proposals will likely require any ISA investor, which wishes to invest in P2P, to open an individual IF ISA with a single Authorised P2P Provider.

In the Draft Explanatory Memorandum to the ISA Amendment Regulations one of the reasons given for the proposed legislation is to "increase choice for ISA investors by introducing a new form of tax-advantaged account".

TISA welcomed this but, it seems that this choice will be greatly limited by requiring an ISA investor to only gain an exposure to the investments offered through a single Authorised P2P Provider (as

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each Authorised P2P Provider is likely to only permit its own loan arrangements to be held through its own IF ISA, rather than those of its competitors). As the P2P lending industry develops it is likely that customer demand and advancements in technology will lead to the establishment of so-called "investor platforms".

An investor platform would not operate a P2P lending platform itself but, instead, would make available loans that can then be entered into by the investor through various Authorised P2P Providers. This is in essence similar to the existing arrangements in place in respect of stocks and shares ISAs whereby investors can gain exposure to a range of eligible securities from different providers but through a single platform (e.g. Hargreaves Lansdown or FundsNetwork). At present, investor platforms are unlikely to carry on the regulated activity of operating an electronic system in relation to lending as set out in Article 36H of the RAO (depending on the exact structure that is involved). On this basis, the current draft ISA Amendment Regulations would not permit investor platforms to satisfy the requirements in Regulation 14 of the ISA Regulations and become registered as an ISA account manager. By way of analogy, under the existing stocks and shares ISA regime, a company that only issues its own shares cannot register as an ISA account manager (as it would not generally carry on any of the regulated activities listed in Regulation 14 of the ISA Regulations, but a firm that offers the shares issued by a number of companies would be eligible to register as an ISA manager (on the basis that it generally would carry on one or more of the regulated activities listed in Regulation 14 of the ISA Regulations). The opposite would be true in relation to the IF ISA. An Authorised P2P Provider that only offers investors the loan opportunities on its own platform would be eligible to register as an ISA manager. However, an investor platform that offers loans provided by a number of Authorised P2P Providers is unlikely to be eligible to register as an ISA manager.

In view of this, we would suggest that further thought is given to allowing investor platforms to become registered as IF ISA managers. This would have a number of benefits, including:

1. Encouraging price and non-price competition between Authorised P2P Providers;
2. ISA investors being able to "spread their risk" by investing in loans provided through different Authorised P2P Providers. For example, investor platforms would allow ISA investors to better manage the risks posed by investing in IF ISAs, as they will let ISA investors pick balanced IF ISA portfolios, with varied risk ratings and exposure to a number of different underlying loan. By way of example, P2P platforms may focus on investors providing loans to property opportunities, individuals or businesses – of course these different investment types carry different risk profiles and IF ISA investors that allow investors to spread their risk across different P2P investment classes will allow investors to manage risk in a more intelligent manner;
3. Reducing platform dependency and failure risk for individual ISA investors. By providing ISA investors with the ability to invest across a number of platforms, with ease and from a single place, users will be able to quickly and efficiently invest across multiple platforms thus reducing this failure risk;
4. Providing investors with a single point of contact when it comes to arranging IF ISA transfers, reporting and administration. Transfer requirements will present a significant administrative burden for P2P platforms. If this role was taken on by a specialist investor platform, which

5. has the correct infrastructure to process transfer requests, then this burden will be taken away from P2P platforms, allowing them to focus on their P2P business. The existing Stocks & Shares ISA market benefits from the existence of a number of TPAS that help deliver efficiency gains to firms and customers.
6. Giving investors the means to quickly compare the offerings made by a number of P2P platforms easily and in one place. This will improve ease of use and accessibility to the P2P industry for many. Benefits will include increasing consumer choice and allowing investors to form balanced P2P portfolios, as well as enhancing competition in the market;
7. Creating greater alignment with the current ISA regime, which better suits the risk appetites of individual investors. The current ISA regime tends to group ISAs into low, medium and high risk portfolios. We believe that P2P investor platforms will be best placed to offer users similar portfolios in IF ISAs, due to their being able to collate P2P investment opportunities from a wide range of P2P providers and therefore provide more suitable products for users;
8. Enabling existing ISA managers to offer IF ISA investments. This would enable a new segment of investors (and intermediaries) to participate in IF ISAs, improve the distribution capability of the P2P lending platforms and increase the ease with which investors can invest. The risk with single platform IF ISAs is that the tax benefits offered by IF ISAs will be focused on the existing early adopters of the industry rather than increasing participation in the industry;
9. Fostering innovation and competition across the P2P lending sector. By enabling investors to invest through more than one Authorised P2P Provider, investors would be encouraged to invest at least part of their ISA portfolio via smaller, niche platforms that often focus on specific sectors of the lending market, and
10. Encouraging the growth of a broad based P2P sector. Investor platforms will help to balance the market and will encourage competition between larger and smaller Authorised P2P Providers.

We recommend amending the restrictions on the qualifications to become registered as an ISA manager to allow firms that are currently registered to offer stocks and shares ISAs to also manage the IF ISA. This will allow investors with stocks and shares ISAs held with existing ISA managers to participate with the new IF ISA regime with their existing ISA manager. We believe that the current draft ISA Amendment Regulations exclude certain business models which would be beneficial for investors and the P2P market in general and thus we recommend that the role of investor platforms and existing online ISA managers (such as wrap platforms) should be considered and addressed in the ISA Amendment Regulations.

Conclusion

TISA supports the extension of ISAs to include P2P.

We believe it will give savers and investors more choice and improve competition.

But we believe that the current restrictions on the number of ISAs inhibit competition, quite apart from the specific issues we have highlighted above.

We recommend that ISA customers can invest in more than one of each ISA type, provided that the total invested in any one ISA year does not exceed the overall ISA allowance. Thus, an investor could



take out more than one IF ISA in a year; an investor would not be precluded from taking out a Cash ISA with one institution, merely because it had taken out a Help to Buy ISA with another institution.

This would simplify matters for customers as well as encourage more competition.

If you would like to discuss this response in more detail, please let me know.

We have sent a copy of this response to Edward Odell and Laura Forster at HM Treasury.

With best wishes

Yours sincerely

Jeffrey Mushens
Technical Policy Director