

SCHEDULE 8
RELIEF FOR ALTERNATIVE FINANCE INVESTMENT BONDS

PART 2

ISSUE, TRANSFER AND REDEMPTION OF RIGHTS UNDER
BOND NOT TO BE TREATED AS CHARGEABLE TRANSACTION

The relief

- 4 For the purposes of this Act—
- (a) the bond-holder under an alternative finance investment bond is not treated as having an interest in the bond assets,
 - (b) the bond-issuer under such a bond is not treated as a trustee of the bond assets.

Relief not available where bond-holder acquires control of underlying asset

- 5 (1) Paragraph 4 does not apply if control of the underlying asset is acquired by—
- (a) a bond-holder, or
 - (b) a group of connected bond-holders.
- (2) A bond-holder (BH), or a group of connected bond-holders, acquires control of the underlying asset if—
- (a) the rights of bond-holders under an alternative finance investment bond include the right of management and control of the bond assets, and
 - (b) BH, or the group, acquires sufficient rights to enable BH, or the members of the group acting jointly, to exercise the right of management and control of the bond assets to the exclusion of any other bond-holders.
- 6 (1) But paragraph 5(1) does not apply (and accordingly, section 564S of the Income Tax Act 2007 applies by virtue of paragraph 4) in either of the following cases.
- (2) The first case is where—
- (a) at the time that the rights were acquired BH (or all the connected bond-holders) did not know and had no reason to suspect that the acquisition enabled the exercise of the right of management and control of the bond assets to the exclusion of other bond-holders, and
 - (b) as soon as reasonably practicable after BH (or any of the bond-holders) becomes aware that the acquisition enables that exercise, BH transfers (or some or all of the bond-holders transfer) sufficient rights for that exercise no longer to be possible.
- (3) The second case is where BH—
- (a) underwrites a public offer of rights under the bond, and
 - (b) does not exercise the right of management and control of the bond assets.
- (4) In this paragraph, “underwrite”, in relation to an offer of rights under a bond, means to agree to make payments of capital under the bond in the event that other persons do not make those payments.